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16 July 1993

Ms Melody Emmett
The Technical Committee on the Independent Media Commission &
The Independent Telecommunications Authority
World Trade Centre
KEMPTON PARK
1619

Dear Ms Emmett

INDEPENDENT MEDIA COMMISSION BILL

I refer to the eighth draft of the above Bill and comment as follows:

1. **DEFINITIONS**

"Party election broadcast"- the following should be added at the end of the sentence: "excluding news and news related programmes".

"Private broadcasting service" - I suggest that (b), (c) and (d) be deleted as a private broadcasting service could also generate revenue from other sources.

"Public sound broadcasting service" - The commercially operated broadcasting services provided by the SABC should not be regarded as "public". It should be regarded as "private" broadcasting services.

5. **PERSONS QUALIFIED TO BE MEMBERS OF THE COMMISSION**

(2) I suggest that the words "broadcasting media" should be replaced by the words "broadcast journalism".

(3)(c) This provision is also vague and difficult to comply with (as stated in footnote 2 in connection with paragraph (b)).

6. **PERSONS DISQUALIFIED FROM BEING MEMBERS OF INDEPENDENT MEDIA COMMISSION**

(d) I support the argument in footnote 3.

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7. **TERM OF OFFICE OF MEMBERS OF COMMISSION**

- (1) The words "the completion of the election" are too vague. I suggest that it should rather read "the acceptance of the results of the election".

11. **ESTABLISHMENT OF COMMITTEES**

- (6) This subsection refers to section 5(5), but there is no such section.

12. **APPOINTMENT OF EXPERTS**

All experts appointed under this section should apply to the same criteria as the Commission Members (stipulated in section 5(3) and (6)).

15. **PARTY ELECTION BROADCAST ON PUBLIC SOUND BROADCASTING SERVICES**

- (1) Refer to the comment on the definition "public sound broadcasting service".
- (2) Please add the following at the end of the subsection: "... taking into account the financial considerations of the broadcasting service".
- (5) As the licensee shall have no editorial control over any material which is to be broadcast, the licensee should be indemnified against any claims or legal action arising out of the broadcast of such material. The political parties should be legally responsible.
- (6) Please add the words "content and technical quality" before the word "standards".
- (7) As previously mentioned the commercially operated services of the SABC should also be treated as private broadcasting services.

16. **POLITICAL ADVERTISEMENTS ON SOUND BROADCASTING SERVICES**

- (4) Refer to the comment in section 15(5).

17. **PROHIBITION ON PARTY ELECTION BROADCASTS AND POLITICAL ADVERTISEMENTS ON TELEVISION BROADCASTING SERVICES**

I don't believe that a prohibition on party election broadcasts and political advertisements on television is necessary. I suggest that the following be added:

"No television broadcasting service is required to broadcast a party election broadcast or a political advertisement, but if any television broadcasting service broadcasts a party election broadcast or a political advertisement, such television broadcasting service shall comply with the provisions of sections 15 and 16".

18. **EQUITABLE TREATMENT OF POLITICAL PARTIES BY ALL BROADCASTING SERVICES**

News and news related programmes should be excluded from the application of this section.

20. **HEARINGS**

A subsection should be added to provide for a right to appeal to a court of law.

21. **ORDERS, PENALTIES AND RECOMMENDATIONS**

(1)(a) As previously mentioned the commercially operated services of the SABC should be regarded as private broadcasting services.

(1)(e) The SABC cannot find itself in the situation where its broadcast licence is suspended or revoked, because the SABC is under a statutory obligation to provide a broadcasting service.

26. **OFFENCES AND PENALTIES**

What does the word "person" refer to?

Please add the following after the words "shall be guilty of an offence and liable on conviction": "by a court of law".

GENERAL

How are the printed media going to be regulated during the election period? If they are going to be regulated by the Media Council, one could argue that the Broadcasting Complaints Commission of South Africa (BCCSA) could then regulate the broadcasting media.

Thank you.


W.J.J. HARMSE
GROUP CHIEF EXECUTIVE

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