

**INDEPENDENT MEDIA COMMISSION
AND INDEPENDENT
TELECOMMUNICATIONS AUTHORITY**

TECHNICAL COMMITTEE REPORTS

FRIDAY 11 JUNE 1993

**TECHNICAL COMMITTEE ON INDEPENDENT MEDIA
COMMISSION AND THE INDEPENDENT
TELECOMMUNICATIONS AUTHORITY**

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FIRST REPORT OF THE TECHNICAL COMMITTEE ON INDEPENDENT MEDIA COMMISSION AND THE INDEPENDENT TELECOMMUNICATIONS AUTHORITY/ 13 MAY 1993.

1. THE INDEPENDENT MEDIA COMMISSION

The Committee feels that there should be an Act of Parliament setting up an Independent media Commission (to be appointed by the TEC/Multi-Party Forum) with powers to enforce compliance with a code of conduct for broadcasters. The code of conduct will inter alia require broadcasters to comply with guidelines relating to political broadcasts, political advertising, and fairness. The Act should make provision for the possibility that a broadcaster may be exempted from the jurisdiction of the Independent Media Commission if he subjects himself to a recognised self-regulatory body which will enforce the code of conduct. The IMC would also have the power to monitor the political content of state financed publications and state information services against pre-determined guidelines or criteria (Pierre Pretorius would prefer a separate body for this function). Furthermore, the IMC will have powers to monitor compliance with the said code, to enforce it (excluding suspension of licence), and to adjudicate upon it.

Issues that have arisen in this regard:

- a) The limits of the jurisdiction of the IMC vis-a-vis the IEC as regards disputes. The Committee's view is that the IMC should have power to adjudicate complaints made against all **broadcasters**, by political parties, organisations, administrations and other interested parties. The IEC will deal with disputes between **political parties** in relation to electoral matters.
- b) The Committee feels that under the umbrella of the IMC there should be a number of different Committees dealing with on the one hand political broadcasts and political advertising in the broadcast media, and on the other hand State publications and State Information Services.
- c) The Committee was unable to come to a final conclusion as to whether the IMC should be a body which outlives the TEC or not. Mr Dison is of the view that the IMC should be a transitional structure, whereas Mr Pretorius feels that the functions of the IMC in respect of the electronic media should become a permanent feature of the legislation (i.e as complaints tribunal)

2. THE INDEPENDENT TELECOMMUNICATIONS AUTHORITY

The Technical Committee is of the view that for practical purposes, bearing in mind the need to create independent broadcast regulatory mechanisms as a matter of urgency, the authority which should be set up initially should be a **broadcasting** authority only. We do not preclude the possibility that a structure that regulates point to point telecommunications might not be merged with the broadcasting authority in the longer term. However, in the short term the Technical Committee foresees that the broadcasting authority would only have jurisdiction over that part of the electromagnetic spectrum which is assigned for broadcasting use. In addition to this it would also regulate telecommunications **media** such as cable and satellite television.

Issues:

- a) It must be pointed out that this view of the Technical Committee constitutes a divergence from the terms of reference that have been circulated by the Planning Committee. We need guidance as to whether this route is acceptable to the political parties;
 - b) Issues which still need to be resolved in relation to a broadcasting authority and commission would be those such as funding of the broadcasting commission, ownership provisions, local content provisions and affirmative action and a code of conduct.
3. The Technical Committee is of the view that before the end of the month it could produce drafts of the two pieces of legislation that are required in this sector.

EXECUTIVE SUMMARY OF THE INDEPENDENT MEDIA COMMISSION BILL

1. The technical committee has prepared an early draft of a Bill to establish an Independent Media Commission.
 2. The objects of the Commission shall be:
 - 2.1 to ensure equitable treatment of political parties by broadcasting services; and
 - 2.2 to ensure that state-financed publications are not used to advance the interests of any political party;

so as to contribute towards the promotion and creation of a climate favourable to free political participation and a free and fair election.
 3. To achieve these objects, the Bill contains provisions on:
 - 3.1 political broadcasts on public sound broadcasting services;
 - 3.2 political advertisements on sound broadcasting services;
 - 3.3 equitable treatment of political parties by all broadcasting services;
 - 3.4 state-financed publications.
 4. The Commission shall comprise of seven persons to be appointed by the State President on the recommendation of the TEC/MPF.
 5. The Bill contains provisions to ensure the impartiality and necessary expertise of the Commission.
 6. The Bill contains provisions on hearings, inquiries and determinations by the Commission.
 7. The Commission shall dissolve on the completion of the first election.
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