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**AGENDA FOR DISCUSSION OF AMENDMENTS TO THE
INDEPENDENT BROADCASTING AUTHORITY BILL**

Discussed on Wednesday 25 August 1993

The following issues were referred to the Technical Committee and/or the Ad-Hoc Committee for consideration. The proposals are set out below:

1. Definitions:

- 1.1 "Election Period"
- 1.2 "Political Party"

It is recommended that these two issues are finalised after a joint meeting of the Technical Committees on the TEC, IEC and IBA.

2. Clause 2:

The Technical Committee is of the view that the proposals made by the DP concerning non-racism and non-sexism are in fact covered by sub-sections (1), (6), (7) and (9) of clause 2.

3. Clause 4 read with Schedule 1:

3.1 The issue of whether there may be two chairpersons of the Council has still to be resolved by the Negotiating Council.

3.2 The Ad-Hoc Committee has proposed that Schedule 1 be amended as follows:

3.2.1 The opening phrase to clause 1 should read:

"Councillors shall be appointed by a sub-committee, consisting of members of:

(1) The Negotiating Council or the Transitional Executive Council
....."

3.2.2 Clause 9 should read:

"The Sub-Committee shall submit to the Negotiating Council or the Transitional Executive Council or its successors, for its approval, a list of the one or more persons to be appointed to the Council, including, where appropriate, the person to be appointed as the chairperson of the

Council.

4. **Clause 5 (1) (d):**

This period cannot be decided in isolation and will be dealt with after the abovementioned joint meeting of the Technical Committees.

5. **Clause 6 (2):**

The Technical Committee requests the Negotiating Council to reconsider the existing clause 6 (2).

6. **Clause 19:**

The Technical Committee, acting on the instructions of the Negotiating Council, proposes that a new sub-section 4 be introduced which will read as follows:

"The requisite accounts and financial statements of the Authority shall be audited annually by the Auditor-General."

7. **Clause 26 (2):**

The Technical Committee, acting on the instructions of the Negotiating Council, proposes that clause 26 (2) be amended by the insertion of the phrase at the end of the clause of the words:

"..... and between the chairperson and other members of any committee."

8. **Clause 46 (2):**

This clause, together with clause 44 (which deals with the renewal of broadcasting licences) and clause 52 (which deals with the amendment of broadcasting licences) will be reworked by the Technical Committee so as to ensure that any existing economic rights which vest in a broadcasting licensee are not adversely affected.

9. **Clause 49 (6):**

The Technical Committee will reconsider this Clause so as to make the intention of the Negotiating Council absolutely clear.

10 **Clause 50 (1):**

The Ad Hoc Committee has proposed that Clause 50(1) be amended so that it reads as follows:

"Cross-media control of broadcasting services shall be subject to such limitations as determined by the Transitional Executive Council or Parliament, acting on the recommendation of the Authority, from time to time."

If this proposal is in principle acceptable to the Negotiating Council, the Technical Committee would probably need to make technical changes to the Clause for the purposes of drafting.

11 **Clause 51:**

The Technical Committee is of the view that this Clause ought to remain unchanged, for reasons which it will elaborate upon. The Negotiating Council needs to reach a firm decision on this Clause.

12 **Clause 59:**

Technical Committee still considering the proposal put forward by the South African Communist Party as regards this Clause.

13 **Clause 66(6):**

This Clause has been inserted as a result of the insertion of Clause 24(2) into the 11th Draft of the IMC Bill.

NEW SUBSECTION 66(6) PROPOSED FOR INSERTION IN IBA BILL

66(6) Where the Independent Media Commission established by section 2 of the Independent Media Commission Act, 1993, after due adjudication in terms of section 23 of that Act -

(a) has found a broadcasting licensee to have successively contravened the provisions of that Act;

(b) has made an order in terms of section 24(1)(c) of that Act; and

(c) has forwarded a certified copy of the said order and of the record of the adjudication proceedings relevant thereto to the Authority in accordance with the provisions of section 24(2) of that Act,

the Authority may, in relation to such broadcasting licensee make an order contemplated in subsection (1)(f) of this section as if such order were made pursuant to a finding of the Broadcasting Monitoring and Complaints Committee in terms of section 63(7) of this Act.

NEW CLAUSE TO BE INSERTED AFTER CLAUSE 22

1. ^{after} The Council may if it deems necessary ^{after} establish and appoint, in consultation with any regional legislature elected in terms of the Constitution Act of 1993, regional broadcasting committees.
2. The Council may establish and appoint such regional broadcasting committees for such purposes as it may deem necessary with a view to assisting it in the effective exercise and performance of its powers, functions and duties in the particular region.
3. The Council may delegate to a regional broadcasting committee such powers, functions and duties it deems necessary, including, and notwithstanding the provisions of Section 69(4), the power to grant, renew, amend or transfer any licence subject to the conditions and limitations the Council may impose.

**NOTE FROM THE MEDIA TECHNICAL COMMITTEE TO PLANNING
COMMITTEE**

We believe that in order for the IBA and IMC legislation to be effective, it is necessary for the Authority and the Commission respectively to have jurisdiction over all broadcasters who broadcast in South Africa, including the TBVC States.

We accordingly request the Planning Committee to approach the representatives of the TBVC States with a view to discussing proposals as to how this can best be achieved.

We wish to point out that this matter is extremely urgent, since both Bills need to be finalised by early next week.

AMENDMENTS TO IBA BILL:

50. Limitations on cross-media control of private broadcasting services:

- (1) Cross-media control of broadcasting services shall be subject to such limitations as ~~(from time to time)~~ determined by the Transitional Executive Council, acting on the recommendation of the Authority, or, where the Transitional Executive Council has dissolved in terms of section 5 of the Transitional Executive Council Act, 1993, by the National Assembly.
- (2) With a view to exercising its powers in terms of subsection (1) the Authority shall, conduct an inquiry, make its recommendations to the TEC which shall make its determination within 45 days of the constitution of the Authority, in accordance with the provisions of section 28, and shall, in doing so, inter alia have regard to:
 - (a).....
 - (b).....
- (3) If the Transitional Executive Council fails to make its determinations within the said 45 days, the maximum percentage referred to in section 50(2)(b) above shall be deemed as ~~25~~³⁰ percent.
- (4) The Authority may on good cause shown and taking into account the primary objects referred to in section 2, permit such newspaper, either alone or so associated, to own more than 25 percent of the shareholding of a private broadcasting service, subject to the approval of the National Assembly/parliament.
- (5) The Authority, may whenever it deems it necessary in view of developments in broadcasting technology or for the purpose of advancing the primary objects referred to in section 2, institute and conduct a public inquiry and make recommendations to the Minister regarding the amendment of any of the preceding subsections of section 50.
- (6) The recommendations contemplated in subsection (5) shall be tabled in Parliament by the Minister within 14 days of receipt thereof if Parliament is then in ordinary session or within 14 days after the commencement of its next ensuing session.

NB: Consequential amendments:

1. Section 84. Short title and date of commencement:

(1)(b) Section 49(6) and 50(4) shall come into operation on the first day of January, 1996.

2. Section 49(6)(a)

"...of the limitations contemplated in the preceding subsections, subject to the approval of the National Assembly/parliament."

2. Definitions:

"parliament" means the National Assembly and Senate as contemplated in the Constitution Act, 1993;

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change all references to "parliament" in the content of the Bill to "National Assembly".

Other amendments:

- * Delete Schedule 1 and amend 4(1) to include the principles to guide the appointment of the Authority.
- * Introduce a new 23(2) to take care of regional interests.
- * Section 51: "...organisation, body or alliance of a party political nature."