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Local Area TV & Radio Channel Ten

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Dr. T. Eloff
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Dear Sir

**SUBMISSION TO THE TECHNICAL COMMITTEE ON THE INDEPENDENT MEDIA
 COMMISSION AND INDEPENDENT TELECOMMUNICATIONS AUTHORITY.**

Having read the fifth report of the technical committee in this regard, I enclose my submission and request that it be forwarded to the relevant parties.

As insufficient time was allowed for an adequate response, I request that provision be made for further comments during the parliamentary process.

Yours faithfully

Mr. G. Kennedy
 Broadcasting Manager

PREAMBLE

793

LOCAL AREA TELEVISION AND RADIO CHANNEL TEN SUBMISSION TO THE TECHNICAL COMMITTEE OF THE INDEPENDENT MEDIA COMMISSION AND THE INDEPENDENT TELECOMMUNICATIONS AUTHORITY

This draft bill fails hopelessly in acknowledging free enterprise and the existence of free market forces and appears merely to move control from one government appointed body to another.

It should not be the role of a regulatory structure, especially one that claims by its very name to be independent, to attempt to keep in place the existing structures of the SABC. The frequency allotment plan should be concerned only with technical matters, and not the specifics of an applicants' objectives.

The IBA should administer the electromagnetic spectrum, allocate frequencies, regulate technical specifications and enforce a code of conduct. It should not concern itself in any way whatsoever with the feasibility, viability or profitability of a station. It is an undeniable right of any individual to invest his or her money, within the parameters of the law, as they see fit, and no constituted body should be allowed to interfere with this freedom of choice under the pretext of 'protecting' investors from losing money.

The belief that there are insufficient frequencies available to accommodate more than a handful of new stations in any particular area is fallacious. The fact of the matter is that the spectrum has to date been mal-administered in order to benefit the SABC and M-Net. This much, despite agreements at CODESA and protestations to the contrary, is evident in the recent appropriation of frequencies by the former and the opening of additional channels by the latter. In view of this, the 'grandfather clause' (schedule 43 (1)), must be interpreted as being more than merely an attempt to ensure continuity, and should accordingly receive attention. Schedule 43 (1) also highlights a double standard being applied in that existing stations are not required to show feasibility, viability or profitability of their stations, issues that appear to be important when evaluating new applicants.

In interpreting this bill evidently the IBA intends to compare apples with oranges and then make a decision as to which is the better. It also repeatedly refers to population as a criterion in determining whether a license can be issued. This is not the key issue.

The concerns expressed by the department of Home Affairs that competition will severely harm the financial standing of the SABC makes a basic assumption that the SABC is justified in being a monopoly. In truth, the SABC was built with taxpayers' money and is a public asset. Schools are not expected to show a profit, nor is the police force. They, like public broadcasters, are there to provide an essential service for which the public is already paying.

The continued reference in the bill to programming format, begs the question of how a station would change its format should it so desire. This is an essential part of positioning a station correctly in the marketplace, and having to apply for a new license whenever a change is envisaged is not only impractical, but an unacceptable intrusion upon the manner in which an individual chooses to run his or her business.

Broadcasting is a business, and programmes are a commodity. The marketplace is not composed entirely of ignorant people who need "baby-sitting." If a station fails to provide an adequate product, it will likewise fail to attract advertising and thus die. This is not the concern of the IBA.

CHAPTER 2

SCHEDULE 2

More emphasis should be placed on the regulatory aspect, particularly technical regulation. Making decisions on feasibility, viability, and profitability go well beyond the realm of a regulatory body and are in fact unacceptably intrusive. In any event, who will determine the "public interest" and what mechanism will be employed to measure it ?

SCHEDULE 3 (3) (a)

What if a broadcaster wishes to target, for example, a group of expatriates resident in South Africa or a group of contract workers temporarily resident in South Africa, whose wants and needs are not part of the national identity, culture and character ?

Protecting the national identity implies that this is clearly defined and worthy of preserving in its present form. Developing of the same similarly implies that it is malleable. The national identity of today is vastly different from the national identity of twenty years ago, and likewise the national identity of tomorrow will be vastly different from that of today's. No legislated body can be allowed to prevent our society from evolving or attempting to steer that evolution.

SCHEDULE 3 (3) (b) (i) - (iv)

The word "need" appears with alarming regularity throughout this document. While the public do have needs, they also have the right to make choices for themselves. What about the audiences wants for programmes, with no particular significance other than entertainment ? The IBA should not be allowed to make arbitrary decisions on behalf of the public.

FOOTNOTE 4

On what criteria will conflicting objectives/interests be weighed up against one another ?
E.g. Rock 'n' Roll vs. Jazz and News vs. Comedy. This is an attempt to compare apples with oranges and make a decision as to which is the better.

SCHEDULE 3 (7)

In ensuring that licenses are controlled by persons from a diverse range of communities, the IBA will have to work on a "quota" basis. This is totally unacceptable and will give rise to ludicrous situations arising. I.e. Will the IBA compel a group that is not represented to apply for a license just so that they can fill their "quota" ? Is this not just another form of "bussing" ?

SCHEDULE 3 (9)

How will efficiency be measured ? This definition requires expansion.

SCHEDULE 3 (10)

It is essential that "non-discriminatory" is applied in all respects from race, religion, political affiliation and financial background through to sexual preferences.

SCHEDULE 3 (11)

I strongly agree that the IBA should limit its interference in the commercial activity of a broadcasting service. The specific needs of the public are beyond the realm of regulating the electromagnetic spectrum and should not form part of this bill.

SCHEDULE 3 (12)

Fair competition is the concern of the monopoly's commission.

SCHEDULE 3 (13)

This is not the role of the IBA. If it were to become their role, to what extent will this research be subsidised by the state and the broadcasters themselves ?