

F.123

[123]

F A X T R A N S M I S S I O N / T R A N S M I S S I E

**FROM:** TEL: (011) 889-1952 FAX: (011) 886-9906

IF YOU DO NOT RECEIVE ALL THE PAGES CLEARLY, PLEASE TELEPHONE US IMMEDIATELY.  
INDIEN U NIE AL DIE BLADSYE DUIDELIK LEESBAAR ONTVANG NIE, SKAKEL ONS ASSEBLIEF ONMIDDELLK.

**DATUM:** 19 August '93  
**DATE:** .....

**AAN:** Michael Markowitz  
**TO:** .....

**MAATSKAPPY:** Technical Committee ~ IBA Bill.  
**COMPANY:** .....

**STAD:** .....  
**TOWN:** .....

**ONTVANGER SE FAKS NR.** 397.2211  
**RECEIVER'S FAX NO.** .....

**VAN:** National Association of Broadcasters  
**FROM:** .....

**AANTAL BLADSYE:** 3  
**NUMBER OF PAGES:** .....  
(Cover page included)  
(Hierdie blad ingesluit)

**MESSAGE/BOODSKAP:**

923

NAB SUBMISSION ON THE IBA BILL (DRAFT 5)

## 1. Definition

The NAB notes that some definitions such as "common carrier" still has to be formulated. The NAB requests the opportunity to comment when these definitions are drawn up.

2. The NAB remains extremely concerned that commercial broadcasters and public broadcasting service broadcasters are not sufficiently distinguished in the primary objects of the Act. Commercial broadcasters or services should not be obligated to carry categories of news such as political programmes, news or matters of international, national, regional and local significance. While the NAB appreciates the intention of the Act, it believes the discretion of the IBA is far too wide.
3. The NAB notes that the issue of cross-media control is subject to a hearing conducted by the IBA itself. It is in the interest of broadcasting and the public that the ideal of the diversity of voices, and not the desire to overregulate be the guiding principles in this debate. The NAB believes that the IBA should take this view in approaching the matter and we will seek an opportunity to take part in the proposed hearings.
4. In section 38 provision is made that any person may file representation/objections to an application for a broadcasting licence. We refer to our original submissions, in which we made the point that only persons with a material interest in the matter should be allowed to file representation, since the IBA may find its time taken up with frivolous or unrelated comment.
5. The limitation of 20 % on foreign investment, is in the view of the NAB shortsighted and counterproductive. We propose foreign investment limitation of 49 %, or alternatively a limitation on voting interest of say 20 %, but unlimited foreign investment.
6. The provision in Section 46 that existing licences may be amended in line with the Act, is in our view unnecessary and undermines the grandfathering clauses of the existing broadcasters. The NAB submits that the IBA has these powers in any event. Scrapping this clause, would therefore in no way compromise the powers of the IBA. Nevertheless the deletion of this clause would give broadcasters more security as to the value of the grandfathering clauses.
7. Local television content is also subject to an open hearing, where all points of view will be aired. Once again the NAB believes that broad guidelines, with regard to the financial stability of the broadcasting industry, should be included in the Act, to make the debate constructive and not destructive.

8. The general principle should at all times be to limit interference and quotas as much as possible.
9. The NAB wishes to raise its strongest objection to any hint that party-political broadcasts should be imposed on broadcasters. The provisions that the IBA may interfere in scheduling and programming on broadcasting in sections 56, 57, 58 and 59, should be deleted from the Act.
10. While the NAB notes that licence renewal clauses, coupled with licence terms, do give a certain amount of stability for the industry, that the licence terms themselves are the result of political compromise. As an industry representative body the NAB objects most strongly to arbitrary and political expedient licence terms. There is no sound business, financial or regulatory reason for a television licence of 3 years, a radio licence of 6 years or a community licence of 4 years. In past submissions, the NAB has motivated licence terms as follows: television 15 years, radio 10 years and community licences 7 years, the reasons for these terms are tied up with the expected lifetimes of transmitters, equipment and a reasonable period for a return on investment. The licence term should be determined according to ascertainable facts, and not political compromises. The NAB requests that its submission in this regard be included in the Act.
11. The independence of the IBA is paramount. The NAB supports the provision in section 70 that the IBA itself and neither the minister, State President or Parliament is given the authority to make regulations.
12. While the NAB appreciates the fact that the position of the TBVC states is yet to be decided on, the future of the TBVC broadcasters should be clarified in principle for the sake of clarity. It has been accepted that the existing rights and privileges of broadcasters will not be affected with the new IBA Act. The NAB therefore requests that the IBA Bill should clearly state the intention to safeguard the existing rights and privileges of all TBVC broadcasters within the broader Southern African region. We propose the following amendment:

"No broadcaster in the RSA nor any TBVC broadcaster, shall be deprived of any right or privilege which it has previously held, under the jurisdiction of the territories of the new IBA."

This is a consensus document and individual members of the NAB will respond directly and possibly in more detail to the Draft Bill.