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**F. 118**  
[118]**BOPHUTHATSWANA GOVERNMENT****SPECIAL SUBMISSION TO THE TECHNICAL COMMITTEE ON THE INDEPENDENT BROADCASTING AUTHORITY BILL****1. INTRODUCTION**

At its last meeting held on Wednesday the 4th August 1993, the negotiating Council considered the Special Report on the Fifth Draft of the Independent Broadcasting Authority Bill presented by the Technical Committee of The Independent Media Commission and Independent Telecommunications Authority. The question of the drafting or wording of certain provisions of the Bill was raised. The Council resolved to leave these issues to the participants to submit their respective views to the Committee within a reasonable time.

This submission is a sequel to the aforesaid resolution and seeks to make known to the Committee, the Government of Bophuthatswana's (the Government's) views on certain specific provisions of the Bill.

**2. POSITION STATEMENT**

The Government wishes to remind the Committee that the applicability or otherwise of the Bill, when it becomes an Act of Parliament, to the TBVC States is dependent upon decisions which may be reached in another forum presently dealing with the future of those States with regard to re-incorporation. This is expressly stated in a footnote to section 39 (3) and will not be over-emphasised.

**3. LICENSING THROUGH INTER-AUTHORITY/GOVERNMENT BILATERAL AGREEMENT**

We are concerned that the constitutional issues contemplated in paragraph 2 above may become the subject of a prolonged exercise, with a possible resultant prejudice on the finalisation of the Bill. We therefore recommend, as we did at the Negotiating Council, that in addition to the "grandfather clauses" contained in sections 39 and 40 of the Bill, section 12(a) be slightly expanded to expressly empower the Authority to issue licences to, or renew existing licences held by, entities, governments or administrations under and by virtue of bilateral agreements. This empowerment would not apply to the granting of licences to resident persons or companies in the Republic of South Africa, but to foreign entities and/or governments.

We suggest the following wording for section 12(a).

"(a) enter into agreements with any person or, with the approval of the Minister, with any government, administration or foreign entity, for whatsoever purpose the Authority may, subject to its functions and powers contained in this or any other Act or law, deem necessary or desirable, including without derogating from the generality of the foregoing, the granting of any licence which the Authority may, under this Act, grant; Provided that the provisions of section 39 and 40 shall not apply to the granting of any licence under this section."

#### 4. TELEVISION NETWORKS

We notice with admiration the equitable broadcasting policy underlying the Bill. However, we wish to bring to the Committee's attention the conspicuous absence from the Bill, of provisions relating to the creation and governance of television networks, perhaps side by side with broadcasting stations or services. Surely, it cannot be Council's intention to create a dispensation where many small stations would proliferate all over the Republic, with each one having to fend for itself with regard to programming material acquisition or to face the unwholesome prospect of dying a natural death. Allowing the creation of television networks would, in our view, assist smaller broadcasters' continued availability since they would be able to obtain programmes from networks which, obviously due to their financial muscle, will be able to purchase these at better rates from international suppliers. Local stations would therefore not have to carry international, nor even national, television rates.

We therefore conclude by recommending that provision be made for the licensing of television networks. It would be a sad day indeed were South Africa to only allow individual television stations to operate, since, besides all the foregoing reasons, this would only leave the media dispensation in the Republic so far behind the times.