

POLITICAL NEUTRALITY OF UNFAIR ACCESS TO STATE CONTROLLED/STATUTORILY INSTITUTED MEDIA (PARTICULARLY THE SABC AND SATV) INCLUDING THESE OF THE TBVC STATES

DRAFT REPORT BY SG3 RAPPORTEUR TO WG1 -DATED 27 APRIL 1992

1. The Terms of Reference of SG 3 are as follows:
 - f) Political neutrality of, and fair access to State controlled /statutorily instituted media (particularly the SABC and SATV), including those of the TBVC states
 - j) The funding of political Parties
 - k) The fair access to public facilities and meeting venues
 - l) The advisability of statutory provisions guaranteeing equal opportunity for all parties to establish and maintain their own means of mass communication
 - p) The advisability of fair and reasonable access for political parties to all potential voters, wherever they may reside
 - q) Any other matters which the Working Group may consider relevant to its brief
 - n) The fostering of a spirit of tolerance amongst political parties
 - o) The role of intensive and continuous educative and informative campaigns in respect of political tolerance, the working of democracy and the processes of CODESA
 - q) Any other matters which the Working Group may consider relevant to its brief

A (f) Political neutrality of, and fair access to, State controlled /statutorily instituted media (particularly of the CODES and SATV), including those of the TBVC states.

2. **Independent Body**

Based on the analysis of all the submissions received, inputs made, and the considerable discussion which took place on the question of the broadcasting and in particular the CODES. The SG wishes to report as follows:

(1) Independent Body

There is consensus that an independent, neutral body be established to regulate the telecommunication sector.

There is also consensus that such an Independent Body be created in terms of an act of Parliament.

2. Functions

There is consensus that such an Independent Body would have as it's principle functions:

1. The regulation of the utilisation of the electromagnetic spectrum including the allocation of licenses and the determination of licenses condition according to an agreed set of standards.
2. The appointment of a suitable structure to monitor the proper exercise of licence conditions.

3. Powers

Myburgh shall prepare a list of all the powers from the papers submitted which such an Independent should have

The powers of the Post Master General in relation to telecommunication shall be transferred to the Independent Body

4. Name of Independent Body

To stand over.

5. Constitution of Independent Body

Qualifications of members: members of the Independent Body shall be South-African Citizens of merit who act in the public interest.

Furthermore no board member should be an office bearer of any political organisation or have a vested interest in the film and broadcasting industries, or any other conflicting interest.

Board members should divest of any economic interest in the media and/or political office. Regional, language, cultural and gender considerations need to be taken into account during the nomination process. In addition to competent and widely respected person, account shall be taken of expertise in the following fields: News and journalistic affairs, broadcasting, education, technological, religious, business, legal, film, advertising, entertainment, culture, public relations.

6. Appointment Procedures

There is consensus, that organs of civil society be invited, inter alia by advertisement in the press, to nominate name to either CODESA or the interim structure whichever is appropriate at the time, bearing in mind the urgency of the matter, for purposes of preparing a short list of names from which the board of the Independent Body can be appointed.

7. Accountability and Finance

There is general agreement that the Independent Body shall be accountable to the executive of the interim constitutional authority provided that once a representative Parliament come into being such a body shall be accountable to parliament or of its standing committees, provided that the independence of such a body shall not be impinged upon in any way whatsoever.

The extent of the Independent Body accountability shall be dependant upon of the method of financing such a body. In this regard various method are possible and are at present subject to consideration.

8. Licensing procedures, conditions and standards

There is general agreement that the above matter should be devolved upon the Independent Body.

9. SABC

As part of the negotiating process the issue of the reconstitution of the SABC and the monitoring of its present performance should be referred to the Steering Committee for a recommendation to the Working Group.

10. Complaints/Disputes and Monitoring

The Independent Body shall, with Parliamentary approval by way of legislation, set up such structures as may be necessary inter alia.

1. for adjudicating disputes,
2. for monitoring the efficiency of the licence and to ascertain whether licensees comply with their licence conditions,
3. for investigating complaints and for giving effect to remedial actions.

11. Code of Conduct

The Independent Body shall lay down the standard to be complied with by licensed broadcasters (such standards could be included in a Code).

Individual Broadcasters shall compile a Code of Conduct to which they will have to comply and which could be made a condition of their licences.

(2) **Printed media**

The SA Government agreed to repeal Sections 4 (a) and (b) of the Registration of Newspapers Amendment Act of 1982 which relate to Ministerial powers to cancel the registration of a newspaper. These Sections have never been invoked. The repeal of these sections will be dealt with in a General Laws Amendment Bill.

3. **Funding of Political Parties**

There was consensus that the provision of the prohibition Foreign financing of Political Parties Act No 51 of 1968 with regard to the receipt of foreign funds by political Parties be suspended until a date 6 (six) months from the date of the general Election in terms of the provisions of a negotiated new constitution for South Africa.

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- p) The advisability of fair and reasonable access for political parties to all potential voters, wherever they may reside
- q) Any other matters which the Working Group may consider relevant to its brief
- n) The fostering of a spirit of tolerance amongst political parties
- o) The role of intensive and continuous educative and informative campaigns in respect of political tolerance, the working of democracy and the processes of CODESA
- q) Any other matters which the Working Group may consider relevant to its brief

Various submissions were received dealing with the above items.

The Subgroup was however unable to discuss these matters due to a lack of time.

For Consideration for the proposed Independent Body

1. To ensure that a wide range of telecommunication services, including regional and community broadcasting program services, is available throughout South Africa.
2. To ensure fair and effective competition in the provision of such and related services
3. To ensure fair and equitable opportunity to opinion formers to express their views freely
4. To ensure optimum affordable research and development with a view to improving the utilisation of the available electromagnetic spectrum and to introduce technologies to improve signal quality
5. To ensure impartial control of all broadcasting by laying down norms and standards for more equitable and fair access for all political Parties to air time on public broadcasting services.
6. To work out guidelines for the impartiality of news and current affairs programmes on all public broadcasting services
7. To punish public broadcasters who violate provisions of the code of conduct, or to suspend or withdraw licences if licence conditions are not complied with.
8. To deal with complaints by the public and political Parties.