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**WORKING 1**  
**SUBGROUP 3**  
**INTERNAL SUBMISSIONS**  
**VOL 3 (2)**

●  
CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

●  
PO Box 307, Isando, 1600, South Africa.  
Telephone (011) 397-1198/99. Fax (011) 397-2211





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DNC

AFRICAN NATIONAL CONGRESS

WORKING GROUP I:           SUB-GROUP 3

MEDIA STRUCTURES IN THE INTERIM

I.    INTRODUCTION

1.    The media - especially state-owned institutions - have a central role to play in levelling the political playing field. In order to ensure the free flow of information and opinion, it is necessary to address the laws, ethics and structures which impact on media work.
2.    Particular attention needs to be paid to the period leading up to the election of a Constituent Assembly. While most of the basic principles and structures might endure into Phase II, it might be necessary to broaden the tasks when elected bodies are in place.
3.    A distinction should be made between state and privately-owned media. The former are public property and should therefore serve the people as a whole on a non-partisan basis and without bias. The latter reserve the right to uphold their own editorial views, though they should subscribe to a code of practice agreed upon.

II.   GENERAL PRINCIPLES:

4.    All citizens must enjoy the right of unrestricted access to information and opinion, and freely to publish, broadcast and, otherwise, disseminate information and opinion.
5.    Public media should serve society as a whole, and should be independent of political parties. They should be supervised by structures broadly representative of society.
6.    Media workers should be afforded the environment conducive for their work and they should be protected from intimidation and harassment by the state and/or sections of the public.
7.    All media should subscribe to a standard of practice agreed upon the various media role players.
8.    The right to privacy and other such freedoms in broader legislation should not be violated on account of the free flow of information.

### III. STRUCTURES AND THEIR TASKS:

#### 9. MEDIA COMMISSION:

- 9.1 The Media Commission will be appointed by Codesa and will be made up of South Africans of high standing representative of the widest possible spectrum of forces.
- 9.2 The Commission will have the following tasks:
- 9.2.1 appoint an interim Independent Communications Authority for broadcast media;
- 9.2.2 appoint boards of the public broadcasters;
- 9.2.3 monitor and oversee government departments and institutions dealing with the media, with powers to take relevant action; and
- 9.2.4 In co-ordination with the Electoral Commission and independent monitoring initiatives pronounce on media matters during the election campaign.

#### 10. BROADCASTING

- 10.1 Independent Communications Authority (Interim)
- 10.1.1. Appointed by the Media Commission and made up of South Africans of high standing and widely representative of society as a whole.
- 10.1.2 The primary tasks of the ICA will be to ensure impartial control of all broadcasting and to effect limited regulation in the interim period. All the relevant powers vested in state organs including TBVC administrations, contained in the broadcasting, radio, post office and other acts should be transferred to this body.
- 10.1.3 The ICA will have the following tasks:
- \* take overall responsibility for the entire frequency spectrum;
  - \* ensure impartiality of public broadcasting services (PBS) and that all adhere to defined standards and norms;
  - \* normalise licensing arrangements and technical accountability of TBVC broadcasters;
  - \* re-regulate broadcasting in a limited way in favour of communities and formerly deprived sectors; and
  - \* operate an ombuds office to receive and act on complaints around all broadcasting.

10.2 PUBLIC BROADCASTING BOARDS:

10.2.1 Made up of South Africans of high standing and widely representative. These will cover the SABC and each of the TBVC broadcasting institutions.

10.2.2 Their tasks will include:

- \* ensuring that all news and current affairs broadcasting are fair, impartial and professional;
- \* ensure rational usage of fictional, documentary and educational material with the necessary emphasis on independent local productions;
- \* reevaluate management structures of all public broadcasters and ensure that they fulfil their obligations;
- \* afford fair and reasonable access for all political parties in terms of Independent Electoral Commission guidelines, including such aspects as prime time access, the right to reply and public withdrawals by offending parties and
- \* apply the necessary penalties where the need arises.

11. PRINTED MEDIA

The Media Council should be restructured taking into account the integrity of its members and representativity regarding society as a whole. The Council's tasks should include an Ombud's office. This process, including the ethics which will apply to the printed media, should be based on the negotiations currently under the way between the Media Council and journalists' unions.

12. MONITORING:

Monitoring of reporting and comments in both printed and broadcast media should be independent of political parties and the governing authority. Interpretations of bias do not lend themselves to consensus-mechanisms among contending parties. Monitoring should therefore be left to independent initiatives such as the one proposed by the Campaign for Open Media (COM). Parties themselves can set up their own monitoring structures and present their complaints to the relevant ombuds offices. Simple and effective procedures for attending to complaints should be worked out to ensure speedy redress.

IV. PROCESS:

13. Parties in Codesa should appoint the Media Commission as soon as agreement has been reached in the relevant Working Groups on principles, structures and their powers.

14. The Media Commission will then, acting independently of Codesa parties, appoint the ICA and Boards for all public broadcasters. The Boards should restructure the broadcaster taking into account the current political and social imbalances.
15. Negotiations around the Media Council and relevant ethics should be speeded up.
16. In principle, the levelling of the media playing field should not wait for Codesa II. Mechanisms to ensure impartiality by the various public broadcasters should be ended as soon as possible.
17. In order to ensure non-partisanship in the composition of the various media bodies, the following criteria, inter alia, should apply in the appointments:
  - 17.1 No appointee 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.
  - 17.2 Appointees should divest themselves of any economic interests in the media and/or political office.
  - 17.3 Regional, language, cultural and gender considerations need to be taken into account during the nomination process.
  - 17.4 In addition to eminent and widely respected persons, account should also be taken of expertise in the following fields: news and current affairs, broadcasting, education, technological, developmental issues, trade union, business, legal, film, advertising, entertainment and culture.

#### V. STRUCTURAL RELATIONSHIP

18. The general principle is to ensure as much distance between regulatory structures and the parties/governing authority. While these independent regulatory structures will rigorously oversee the public media, they will relate to privately owned media only on the basis of ethics agreed upon.
19. The Media Commission will have a monitoring and supervisory role in relation to relevant government departments and institutions: SA Communications Services, Human Sciences Research Council, Communication Branch of the State Security Council Secretariat and so on. It will have powers of veto regarding matters which affect free political activity and impartiality.
20. Under normal conditions, the ICA would account to the parliament of the day. In Phase I it will account to Codesa or structures created by it. In Phase II, the Constituent Assembly, acting as the interim legislature, will be the most suitable forum to which the ICA accounts. Structures such as the Media Commission may become

redundant under a comprehensive interim government.

## VI LEGISLATION

21. The implementation of these proposals will require legislation at various levels:

21.1 An omnibus law on establishing freedom of speech, expression, etc. should include media-related freedoms.

21.2 Legislation specifically on media freedoms will also be required.

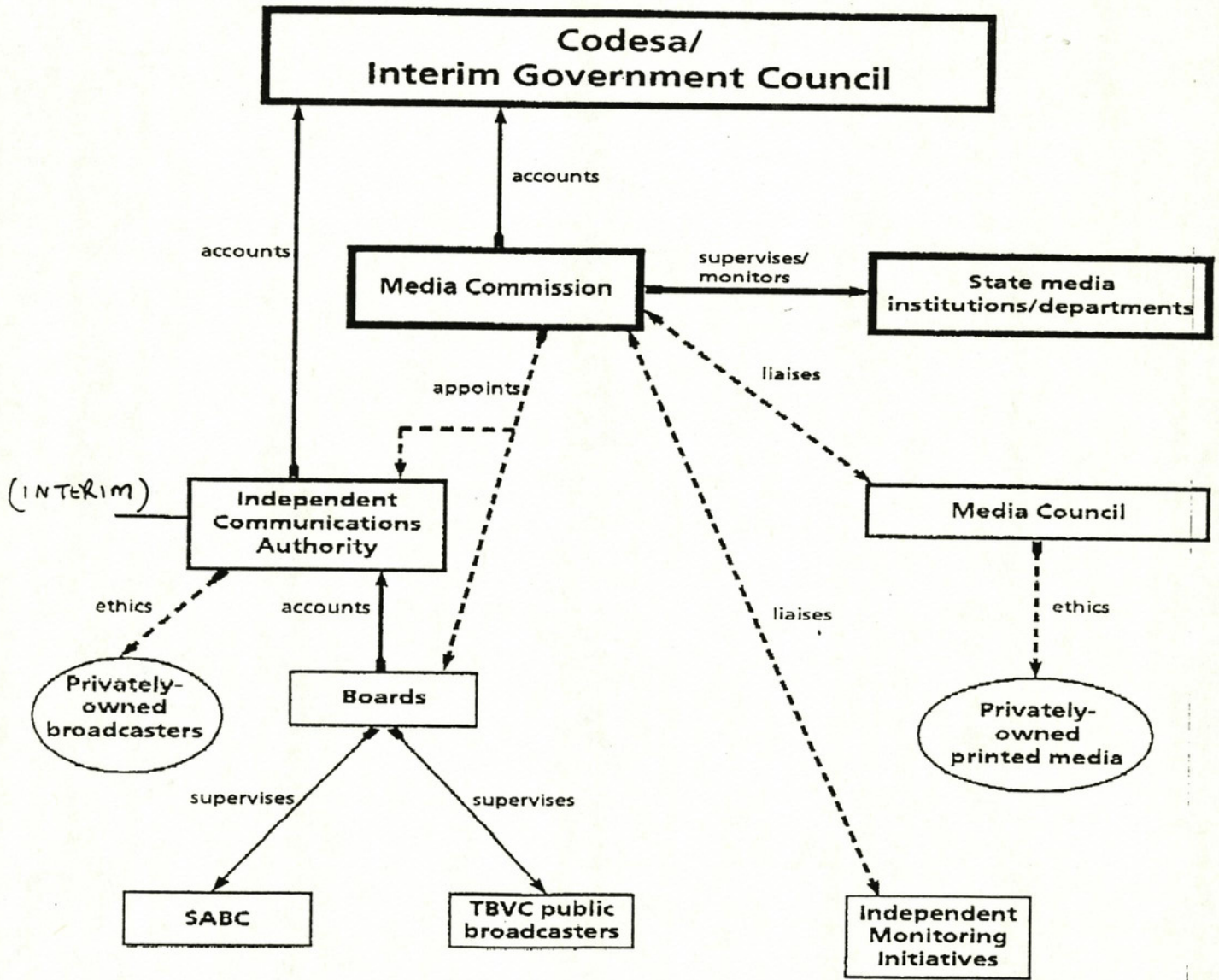
21.3 Legislation removing powers from current structures and investing them in the Media Commission, ICA and so on will need to be passed.

22. Among others, the following laws or sections thereof will need to be repealed or amended:

Police Act Sections 27A and 27B; Prisons Act 44(1); Defence Acts 101, 118, 119, 121; Criminal Procedures Act s205; Publications Act; Electoral and Referendums Act; Mental Health Act s66A; National Key Points Act s 10(2); National Supplies Procurement Act; Petroleum Act; Nuclear Energy Act; Armaments Development and Production Act; Public Safety Act; Internal Security Act; Protection of Information Act.

24 March 1992.

**STRUCTURAL RELATIONSHIP:**





## AFRICAN NATIONAL CONGRESS

### Submission to Sub-Group 3 of Working Group I on:

#### Item (o) of the Terms of Reference -

#### The role of intensive and continuous educative and informative campaigns in respect of political tolerance, the working of democracy and the process of Codesa

### 1. INTRODUCTION

- 1.1 It is the view of the African National Congress that this item should not be seen in isolation from the other terms of reference of the Working Group. If it is abstracted from its context, discussions will be of a general nature, full of good intentions and rhetoric, thus frustrating the intentions of Codesa I and therefore the impeding development of a democratic culture in our country.
- 1.2 A culture develops over a period when attitudes of mind, practices and processes become part of a habit and are secreted in the everyday behaviour of people. On this basis, official attitudes to democracy and tolerance have been deeply antagonistic and hostile towards participation by the people in the processes of democracy.
- 1.3 We have had a racist structure of government which has excluded the vast majority from any form of effective participation, the hall mark of democracy. Government at national, regional or local level has been based neither on the consent nor the will of the people, either in South African or in the TBVC states. Legitimate grievances of our people - from the demands of students, women, workers, tenants - have been met with bureaucratic obstruction, indifference or, in most cases, with violence. Racial discrimination and apartheid have played havoc with our family life, respect for the authority of teachers, parenthood and respect for the dignity of our people. Demands for negotiations for over 80 years have been treated as criminal or treasonable conspiracies.
- 1.4 We have effectively been living under a state where there has been rule by law where the rules were not only illegitimately made but were in pursuit of an anti-human and vile philosophy. Simply to move to a society where there is a rule of law will neither establish nor confirm democratic values and tolerance.
- 1.5 The issue facing us cannot be dismissed by referring to the need to educate the masses or the "uneducated", as one delegate put it, in an earlier discussion. Apart from the offensive and patronising tone of such an approach, it is inaccurate and dangerous.

- 1.6 Our society is deeply authoritarian, bureaucratic and secretive. It has served the purpose of those who have wielded power at the top to work in this way. Decisions are handed down or prescribed, reasons are rarely given and questioning is treated as subversive.
- 1.7 Democracy requires openness, participation and accessibility. The commitment by Codesa I to common citizenship, universal suffrage and genuine negotiations is a historic move in the right direction but it will remain a dead-letter unless there is a deep commitment by those who have exercised power - large or small - to open up, in the interim period, decision-making and to involve people at all levels in issues that affect them.
- 1.8 This response by the ANC therefore covers only the period up to and including the period when a Constituent Assembly is elected. What has been said above will therefore apply during the transition.

## 2. ACTIVE SUPPORT FOR DEMOCRACY

- 2.1 The working of democracy and respect for political tolerance are inextricably bound together. Democracy demands forbearance of the other person's viewpoint. In practical terms, this means that there must be a recognition of the right to associate, which is the active guarantee of democracy. For the interim, all parties must reiterate support for the Code of Conduct for Political Parties drafted under the auspices of the National Peace Convention and support the proposed provisions for its enforcement. Parties must have a genuine right to organise, not simply a formal dispensation to do so. If the reality does not coincide with the legal promise, such a democratic right is brought into contempt, with an increase in cynicism.
- 2.2 The African National Congress therefore opposes the banning of parties, whether under the Internal Security Act of 1982 (as amended) or under the Bophuthatswana Internal Security Act of 1979 as such draconian powers - which have been used in the latter case to ban the Black Sash and the Transvaal Rural Action Committee - are incompatible with a culture which we are trying to instil. If crimes are committed in pursuit of political objectives. The courts must be used to charge individuals with offences.
- 2.3 More fundamentally, if tolerance, stability and understanding are to be the preferred values, no advantage must be enjoyed under the law or practice by any political party or organisation, no administration or government organ must be seen as an arm of a party. No one, such as chiefs, teachers and civil servants must be forced to swear allegiance to a

chief minister and his cabinet (resolution of the Kwa Zulu Assembly) or to give precedence to a political party when there is a clash with the decision of a legislative assembly (KLA Debates 7:721-2)

- 2.4 It is the contention of the ANC that Codesa must come up clearly in support of the independence of organs of civil society. The encouragement, development and flourishing of bodies independent of State power is the sure guarantee of democracy as they ensure that power is not concentrated in the State and that individuals, by joining organisations of their choice, are not only exercising their right to associate but are creating a focus of social power, independent of the State.
- 2.5 In the transitional period, it is therefore important that trade unions, tenants' organisations, the churches, sporting and cultural bodies are actively involved through mobilisation in defence of democracy and must be freed from unnecessary and limiting constraints which inhibit their freedom of action. The "total onslaught" philosophy, which has caused so much damage and suffering may be dead but it is not buried in our country. The ANC therefore considers that legislation such as the Security Clearance and Public Service Act in Bop, which permits the President to dismiss any employee of the state, parastatal or education authority where he considers that such a person "endangers or constitutes a threat to the public safety or national security or the maintenance of law and order" is a dictatorial form of intervention affecting a freedom of information, free speech and free association and not conducive to political tolerance or respect for democracy.
- 2.6 It is easier to organise for democracy in urban areas. The ANC is therefore conscious of the need to ensure that the terms of reference being discussed here apply equally to rural areas where power may be limited in fewer hands. It is our view that all sources of power - from the police to traditional authorities - subscribe to a new approach, a presumption in favour of free participation and democracy. We therefore oppose any re-organisation or restructuring which would limit the authority of authentic local bodies and increase the power of undemocratically elected or discredited individuals. Such is the case with the "headmen" who play an important part in authorising meetings, with the changes introduced in the Ciskei in June 1991.
- 2.7 Meetings should not require the consent of traditional or any other authority, providing the provisions of the National Peace Accord are followed.

- 2.8 Law and practice should assist rather than impede free expression of opinion, if tolerance is to be encouraged. There should therefore be no-go areas where the law artificially restricts such an expression or where there are spatial no-go areas because certain political parties cannot organise. Police and administrative bodies in the rural areas in particular must be instructed that their approach to controlling and supervising meetings, assemblies and demonstrations must take into account the changes in law and practice since February 2, 1990.
- 2.9 Free political activity entails inter alia, the holding of meetings, assemblies and marches at any place and the dissemination of information through the distribution of pamphlets, posters and papers in any community. The respect for and observance of these political rights will primarily be a function of the culture of tolerance within society. Where such a culture is lacking, the only acceptable guarantor of free political activity is in the final analysis the State because of its monopoly coercive of force. The police are thus bound to play an important role in the enforcement of the political rights. This will require, however, a drastic reorientation and organisation of the present Force.
- 2.10 The practice of repressing political activity must give way to the active defence of democracy. At present the police do monitor major marches but the aim is usually to prevent participants of the marches from committing illegal actions. With heightened political activity before an election, the police role should change. They should then concentrate on the guaranteeing of, for example, the right to hold meetings in no-go areas. This the SAP have done on numerous occasions for the National Party (for example Ventersdorp in 1991). This service, which they are duty-bound to provide, must be made available to all political parties.
- 2.11 For the SAP to be an affective guarantor of political rights, it may be necessary to earmark a specific section in the Force for this purpose. Such a section or unit will thus be at the guaranteeing of any part wishing to use its services. The guaranteeing of political rights should also as far as possible occur through the language of democracy - negotiations and dialogue. The use of force should be reserved only for extreme cases of violent intolerance. This section should receive special education to appreciate the values of the democratic process and training in negotiating skills. The Riot Squad, in terms of its style and objectives, is an example of a unit which not be able to provide this service.

3. National Council for Democracy

For an active defence of democracy, all sections of our society should be involved in a vast process of education. It is not enough to say that Codesa should resolve that schools, in their civics programmes, universities in their re-drawing of syllabi and some well-meaning organs of civil society should be encouraged to include education for democracy in their work in general and the proposed Bill of Rights in particular. Codesa should consider the establishment of an all-party National Council for Democracy which would assist private bodies engaged in such work, to draw up a programme of action for education for the transition and to encourage concrete projects in this area. Such a Council would also provide for organised and systematic representation to the mass media for the drawing up of a coherent programme of voter education and respect for democratic values.

4. Elections for Democracy

- 4.1 The imminence of elections on a non-racial basis in an undivided South Africa is a consummation which millions have awaited for generations and for which much sacrifice has been made. The promise is as important as the concrete realisation as it allows for preparation and organisation which should, especially for the disenfranchised, include their own participation in the pre-election process.
- 4.2 The elections will play a dynamic role in the training for democracy. The first-ever election will be an act of individual self-determination as our fellow citizen will for the first time have a right to determine his or her future. Secondly, there will be the collective act of self-determination as the whole of an undivided South Africa will exercise its patrimony to decide the future steps of our constitutional order.
- 4.3 To develop respect for the future constitutional order, it is vital that the elections are not only free and fair, but also seem to be so. There is now general agreement that elections in future will be organised, not on the present first-past-the-post, winner-takes-all basis but by proportional representation. The ANC's view is that the fairest system is the List System of proportional representation as it is easy to understand, especially in a country with high illiteracy. Minorities, providing those are able to obtain 5 % of the vote, will be guaranteed representation.

- 4.4 The elections will therefore be on the principle of inclusiveness as everyone's vote will count. In order to develop public confidence, the ANC has announced that the first election should be conducted by an Independent Election Commission, made up of truly independent South Africans of the highest reputation and integrity who will be responsible for the entire organisation, scrutiny and reporting of the election process. This is a radical departure from the present position where the Government of the day organises the election.
- 4.5 The Sub-Group is invited to discuss whether the Independent Election Commission should not be the body to which breaches of the Code of Conduct for Political Parties should be reported and whether refusal of access to political parties to venues and to their members and voters should not be resolved by the Commission. In addition, complaints against the police for irregular action might usefully be investigated by the Commission. The main point here is confidence in the democratic process: unless complaints are investigated quickly and to the satisfaction of all parties, there will be no faith in the fairness of the process.
- 4.6 Peace is necessary for democracy to prevail. But there can be no peace without democracy in our land. For too long stability has been invoked, while participation and freedom have been denied. Codesa has the opportunity to assist in the development of the culture of rights. But we must remember that the foundations of the constitutional order already exists in the day-to-day behaviour of millions of our people: when people marched in the streets without asking for permission, they were asserting the fundamental right to peaceful assembly, when they defied the bans and obstructions imposed under emergency regulations, they were affirming that as South African citizens, they had basic rights.
- 4.7 Democracy means that government must not only be accountable to the people, rather than people to the government; it also establishes the idea of people having rights and of people being equal. It is up to Codesa to ensure that our work materialises and secures the transition from the anti-apartheid phase to the pro-democracy one.

23 March 1992

**ADDENDUM TO  
BOPHUTHATSWANA POSITION PAPER ON ITEMS (F) (I) AND (O)**

**1. INTRODUCTION**

THE SUMMARY OF PROCEEDINGS: WORKING GROUP 1 -  
TASK GROUP (MONDAY 17 FEBRUARY 1992) refers.

The above summary ends on page 2 with a note proposing that "... the Bophuthatswana Government's position with regard to the media be made clear once again." This addendum aims to clarify the Bophuthatswana Government's position.

**2. ELECTRO-MAGNETIC MEDIA**

The Government of Bophuthatswana wishes to re-iterate that Bophuthatswana Broadcasting Corporation is freely accessible to all the people of Bophuthatswana. The Government has no influence on the Corporation's policies and programme content. This means that what the people hear on our various radio stations and see on our television stations is in no way determined by the Government, but by the Management of the Corporation. The said management is in the hands of a Board that is governed by an Act of Parliament in its business conduct.

**3. PRINTED MEDIA**

The Government's main position paper was somewhat detailed in presenting the simplicity of the procedure of establishing a newspaper in Bophuthatswana. The aim was to demonstrate that the existence of only two newspapers in Bophuthatswana is not due to any barriers, legal or political, created by the Government. Entrepreneurs have simply to date not accepted the Government's encouragement to establish newspapers.

#### 4. FAIR ACCESS TO PUBLIC FACILITIES AND MEETING VENUES.

The Government of Bophuthatswana specifically records that any submissions under this heading are subject to its RESERVATIONS RECORDED AND TABLED earlier on REGARDING PARTICIPATION IN CODESA. In Bophuthatswana all public facilities and meeting venues have always been accessible to any and all legally registered parties. We have had to put in the rider of 'legal registration' because no sovereign country would allow a foreign party to carry out its political agenda within its territory without such foreign party submitting to the laws of the host country. Bophuthatswana is no exception. We re-iterate the standpoint that any political party is welcome to use public venues in our country provided that it not only qualifies for registration as a political party under our relevant laws, but that it also procures such registration.

Furthermore, our Constitution Act entrenches the right to privacy. This of necessity commits the Government to honour the said right. Under our Bill of Rights the government is not legally permitted to abrogate or encroach upon the essence of this right. It follows therefore that even parliament cannot pass an Act that would violate this right without at the same time breaching the repugnancy clause referred to in the Main Position Paper already tabled.

In short, in our view there cannot be any legal justification for allowing political parties free access to privately owned compounds and farms. However, we also believe that people living on such property can and if they so choose, will attend meetings called by political parties which they support.

#### 5 POLITICAL TOLERANCE

The Government of Bophuthatswana supports the view that CODESA should seek to nurture a culture of political tolerance. We see this as the nucleus of democracy and therefore a point of departure for CODESA in its search for a new democratic dispensation in South Africa.



## CONCLUSION

In short, the Government of Bophuthatswana does not see the need for the media in that country to be restructured since it already runs on democratic, non-partisan basis. There already exist all potential for the establishment of competition in the media industry. The danger does not exist that the public may be forced to listen to or see distorted or untrue reports of events simply to advance biased party-political interests.



## INYANDZA NATIONAL MOVEMENT

### INYANDZA SUBMISSION ON THE REMAINING DISCRIMINATORY LEGISLATION AND ITS VIEW WITH REGARD TO REPEAL, AMENDMENTS AND/OR

It is our strongest view and belief that almost 99 % of the Country's Legislation was enacted to oppress and restrict the disenfranchised majority on the one hand and advance and uplift the standard of living of the white electorate on the other. This status quo therefore barred the voteless masses from active participation in all the means of production of our country.

Our strongest conclusion therefore is that all the legislation of the land are discriminatory in nature and therefore have to be repealed. However there are those least ones which need amendments during the interim.

The legislation identified is divided into those dealing with :

- (a) LAND
- (b) EDUCATION
- (c) THE CONSTITUTION

(a) LAND

1. DEVELOPMENT TRUST AND LAND ACT NO. 18 OF 1936 - This Act places restrictions on land transactions between blacks and other persons.
2. NATIONAL STATES CITIZENSHIP ACT NO. 26 OF 1970 - This Act provides for citizenship by certain blacks of territorial authority areas of self-governing black territories i.e. creating black national states.
3. SELF-GOVERNING TERRITORIES CONSTITUTION ACT NO. 21 OF 1971 - This Act provides for the establishment of legislative assemblies and executive councils in black areas and provides for the powers, functions and duties of such assemblies and councils.

The Act provides that the State President may declare any area for which a legislative assembly has been established to be a self-governing territory.

Self-governing territories may only legislate on matters specified in schedule 1 of the Act and on no other matters. Their legislation on schedule 1 matters has to be sanctioned by the State President.

2 and 3 specifically were made for the purpose of granting citizenship to blacks in those national states or self-governing states so as to exclude them from S.A. Citizenship. Those areas so set aside are not reliable regions and confer no self-determination on those states. If Codesa is to decide on regions to form part of a Federation state, then these regions or units will have to be based on viability.

4. BLACK LOCAL AUTHORITIES ACT NO. 102 OF 1982 - This Act provides for the establishment of local committees, villages councils and town councils for black persons in certain areas and for the appointment of a Director of Local Government.
5. BLACK AUTHORITIES ACT NO. 102 OF 1982 - This Act provides for the establishment of certain black authorities including tribal authorities, regional authorities and territorial authorities.
6. CONVERSION OF CERTAIN RIGHTS TO LEASEHOLD ACT 46 OF 1984 - Need for full ownership by blacks.

Related acts:-

7. BLACK ADMINISTRATION ACT NO. 38 OF 1927 - to be repealed.
8. BLACK COMMUNITIES DEVELOPMENT ACT 4 OF 1984 - to be repealed.
9. BLACK LABOUR (TRANSFER OF FUNCTIONS ACT) 88 OF 1980 - to be repealed.
10. PROVINCIAL GOVERNMENT ACT 33 OF 1986 - to be repealed.

(b) EDUCATION

Acts which provide for the creation of black schools, universities and segregated education are to be abolished as Education must be placed under one body to ensure equal opportunity and equal learning.

1. Education and Training Act No. 90 of 1979 as amended by Act No. 52 of 1980 - This Act provides for the control of education for blacks by the Department and Training.
2. Education Affairs Act (House of Assembly).

(c) CONSTITUTION

THE REPUBLIC OF SOUTH AFRICA CONSTITUTION ACT NO. 110 OF 1983 should be abolished in its entirety as well as legislation incidental thereto as it is the pillar of apartheid.

CITIZENSHIP ACTS :

1. THE SOUTH AFRICAN CITIZENSHIP ACT NO. 44 OF 1949 should also be abolished as it gives foreigners a right to acquire citizenship easily more than South Africans.
2. NATIONAL STATES CITIZENSHIP ACT NO. 26 OF 1970 also provides for citizenship of a homeland being conferred on any black person by virtue of his ethnic group irrespective of the location of that person.

PUBLICATIONS ACT NO. 42 OF 1974 also needs to be repealed as it creates an anonymous body which is responsible for censorship without disclosing the membership of such a body. This may lead to the censorship being used against any organisation for purposes of silencing it.

AFFECTED ORGANISATIONS ACT NO. 31 OF 1974 makes provision for the declaration of affected organisations which are prohibited from asking for and receiving funds from abroad for political reasons. It naturally follows that since all political parties have been unbanned, this statute no longer serves its intended purpose.

DISCLOSURE OF FOREIGN FUNDING ACT NO. 26 OF 1989 :

This Act makes provision for certain organizations which are to seek permission to canvass for funds for any purpose whatsoever and the said funds are to be used only for the purpose they were given. This law makes it an offence not to get the permission or to fail to furnish any further information required from the organisations.

THE PROHIBITION OF FOREIGN FINANCING OF POLITICAL ORGANISATIONS ACT NO. 51 OF 1968 : It is imperative that this Act be abolished as it prohibits political parties from receiving foreign funds for purposes of campaigning for elections inside South Africa. Obviously this legislation would not be in the interests of all South Africans with due regard to the imminent elections.

THE INTERNAL SECURITY ACT NO. 74 OF 1982 AND NO. 44 OF 1950 have to be revised entirely and Section 29 of Act 74 of 1982 which deals with detention without trial must completely be abolished as it has been the scourge of all South Africans since it was enacted.



**SUID-AFRIKAANSE UITSAAIKORPORASIE**  
**SOUTH AFRICAN BROADCASTING CORPORATION**

HOOFKANTOOR/HEAD OFFICE

Piet Meyer Building  
 Henley Road  
 Broadcasting Centre  
 JOHANNESBURG 2000

☎ (011) 714-9111  
 ☎ Fax (011) 714-3106  
 ☎ Broadcast/Uitsaai  
 ☎ 4-24116 SA  
 ☎ Private Bag/Privaatsak X1  
 Auckland Park 2006

Piet Meyergebou  
 Henleyweg  
 Uitsaaientrum  
 JOHANNESBURG 2000

CvdM/lvh  
24 March 1992

The Minister of Justice  
 Mr. Kobie Coetsee  
 CODESA

FAX 011 397-2381

Dear Sir,

**FUTURE BROADCASTING DISPENSATION**

The SABC wishes to submit herewith a working document under the heading : "Draft Document and Discussion Paper; Code of Conduct of the SABC".

We wish to point out that the SABC, in consultation with various interest groups, has worked through a number of draft proposals.

The attached version is intended for further discussion with concerned interest groups and does not reflect a final viewpoint of the SABC or the SABC Board.

Yours faithfully,

C. VAN DER MERWE  
 (Acting) GROUP CHIEF EXECUTIVE

Draft Document  
+ Discussion Paper.

CODE OF CONDUCT  
OF THE  
SABC

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PREAMBLE

In view of the vast influence exerted by the electronic media, and particularly the public broadcaster, a comprehensive code of conduct shall govern the business of the SABC as disseminator of programme material, news and current events.

VALUES

The SABC -- as public broadcaster -- believes in, and will be guided by the following values in its activities and programmes:

- freedom and responsibility
- tolerance
- 7 fairness and impartiality
- justice
- respect for the truth
- respect for good sense and reasonableness
- consideration for the individual and his affiliations
- respect for generally accepted ethical norms

The SABC takes pride in being a responsible broadcaster and to serve the interests of the public of South Africa.

- 2 -

### FUNDAMENTAL PRINCIPLES

The SABC also believes in and subscribes to the following fundamental principles:

Accepting that democracy is characterised by opposing ideas and views.

As a communicator of information, the right of the public to know, is acknowledged as a basic right, however, taking cognisance of the individual's right to privacy.

Believing in and promoting fair and effective competition with equal opportunities for all.

Acknowledging the right of everyone to education, training and development.

Rejecting discrimination on the basis of race, colour, creed and sex.

Respecting the linguistic and cultural diversity in the country and of its people.

Accepting its obligation regarding the preservation of man and his environment.

Respecting the laws of the land.

Believing that its financially independent functioning as a broadcaster is a prerequisite for its credibility in the eyes of the general public.

GENERAL BROADCASTING ENVIRONMENT

With a view to giving practical effect to the above set of values and principles, the following shall serve as a code of practice in the general broadcasting environment:

1. The SABC as public broadcaster shall exercise particular care and great responsibility in the event of broadcasting anything which could threaten peace and stability or endanger the country and its people. The basic tenet shall be absolute correctness, completeness and fairness.
2. With regard to the prevailing conventions and customs of the different communities, the SABC shall promote and encourage cordial and sound relations among these communities -
  - by promoting reconciliation, mutual respect and dignity,
  - by providing for their respective needs in the broadcasting perspective,
  - by screening and broadcasting programmes in the vernacular of the various communities, and
  - by portraying local customs and preferences in a sensitive way without bias.
3. As disseminator of information, entertainment and education, the SABC shall -
  - apply strict norms with regard to programmes containing details concerning physical defects, deformities, questions of race or colour, crime, alcohol and drug abuse and programmes containing indecent details of the human body, and
  - in general, ensure that any programme comply with standards of good taste, which are generally accepted by the public as such.
4. Nothing shall be broadcast which -
  - is of a blasphemous, offensive or obscene nature,
  - contains distasteful details of torture, human or animal suffering or executions,



= 4 =

- concerns pornography or lascivious behaviour,
  - is contrary to any rule of law,
  - may inflame public opinion or threaten the security of the State or may cause panic,
  - may hamper the Government in the execution of its lawful duties or is calculated to damage the country's image abroad.
5. The SABC shall make a positive contribution towards the educational needs of the country with emphasis on non-formal and informal education, but also formal education to the extent that it is financially attainable and sustainable.
  6. The SABC shall strive for maximum local content in its programmes to foster local talent, job opportunities and production expertise.
  7. The SABC shall aim at all times to produce professional material of good quality which satisfies the expectations of the listeners and viewers and which meet market needs.

#### NEWS BROADCASTING IN PARTICULAR

News and actuality programmes shall be guided by the following rules:

1. Ensure that in the midst of divergent and conflicting interests, views, values, norms and aspirations, the general public interest will be the guideline for reporting.
2. Take care that news programmes are accurate, fair, honest, open and impartial and sensitive to the norms of society in general.
3. Ensure, in accordance with the principles underlying journalistic integrity, that programme producers will be free of any obligation to any particular news source, interest group or advertiser.

= 5 =

4. Acknowledge that the right of the public to know, is a basic human right, however, taking cognisance of the individual's right to privacy, except where the latter is in conflict with the general public interest as determined from time to time.
5. Reflect a wide variety of relevant views on any particular matter fairly and without prejudice.
6. Ensure that programmes are constructive rather than destructive, without being misleading and so creating false optimism.
7. Reflect the welfare, progress, aspirations and fears of all sectors of the population.
8. As accuracy is a requirement of good quality reporting the SABC shall ensure that -
  - a. facts are checked;
  - b. errors corrected as soon as possible, without unnecessary reservation or delay, and
  - c. sources of reports are given as a matter of course, except when there are valid reasons for not doing so.
9. Comment shall be presented in such a manner that it appears clearly that it is comment, and shall be made on facts truly stated or fairly indicated and referred to.
10. Appropriate opportunities will be created to political parties to explain their policies when circumstances require, with a view to fostering the democratic political process and creating an informed society.
11. Scenes of violence and general unrest in society shall be used in a responsible and balanced way, without creating a false impression of reality.
12. Members of staff will be required to declare explicitly any personal interest or activity that could conflict with the editorial approach of the organisation.

FINANCIAL PARAMETERS

1. The SABC shall apply sound business principles and financial management. In particular the SABC -- as public broadcaster -- shall use any public funds in such a manner that its trusteeship is beyond reproach and that these moneys are spent in the interests of the broad public.
  
2. The SABC shall optimise income by -
  1. exploiting the advertising market extensively;
  2. combining public service broadcasting and commercial type programmes in such a way that sufficient funds are generated for its planned programmes and to comply with its Mandate;
  3. researching ways and means on a continuous basis to combat viewer piracy.

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24. 3. 92

QUESTIONS ASKED AT PREVIOUS MEETING OF CODESA ABOUT INDEPENDENT  
REGULATORY BODY FOR TELECOMMUNICATION SERVICES

1. Relationship between Comtel and existing structures including the homelands

Comtel will have regulatory jurisdiction over all telecommunication services within the Republic of South Africa.

The relationship concerning telecommunication matters between governments of countries bordering each other, is dealt with in terms of international law, applicable conventions and bilateral agreements. In this regard it can be mentioned that various agreements with the TBVC States.

With regard to the relationship between Comtel and existing regulatory or related structures, the position will be as follows :

- (a) The regulatory functions relating to telecommunication services presently performed by the Post Master General will be transferred to Comtel.
- (b) The existing structures provided for in the Publications Act, 1974, will not be affected by the establishment of Comtel.

**CONFIDENTIAL**

(c) Comtel will operate as a statutory commission in terms of an act of parliament and would therefore interact with parliament through the intermediary of a Minister. Such Minister shall however not be entitled to interfere in the decisionmaking processes of Comtel.

2. Relationship of Comtel in terms of reference in relationship to the restructuring of the SABC

The relationship between Comtel and the SABC will be that of regulator and licensee. This relationship entails that the SABC will have to comply with the conditions of its licence including inter alia the relevant standards, codes and media ethics. The SABC will perform the role of national public service broadcaster and what is required of it as such. How it is to be financed and related matters will remain regulated by an Act of parliament. As that Act will complement the regulatory functions of Comtel with regard to the national broadcaster, it should be administered by the Minister responsible for Comtel. As national public service broadcaster its licence conditions will include general and specific standards to ensure neutral, fair and equitable coverage of current news and views as well as fair access to opinion formers.

**CONFIDENTIAL**

The Government does not regard the restructuring of the SABC board or its management at this stage as practical or necessary in order to ensure neutral broadcasting. The term of office of the present board is relatively short (until March 1993) and a negotiated method of appointing a new board as part of the negotiation process for a new constitutional dispensation, seems to be the advisable route to take. The Government supports the view that the SABC should be independent and neutral. In this regard the Government maintains that the SABC is presently as independent and neutral as any public broadcaster could be. Until such time as the new regulatory structure has been set up the proposed complaints tribunal would appear to be a suitable body to deal with any problems that may arise in this regard and should allay any fears concerning this matter.

3. Views in relation to the Code of Conduct of the SABC and other codes of conduct

The Government is of the view that the code of conduct of the SABC or any other broadcaster should be in line with the Code of Conduct of the South African Media Council (Annexure "Z").

PRESENTATION ON TELECOMMUNICATION TO CODESA WORKING GROUP 1,  
SUB-COMMITTEE 3 ON 2 MARCH 1992 BY NEËL SMUTS, CHIEF  
EXECUTIVE OF THE SIGNAL DISTRIBUTION DIVISION OF THE SABC

This presentation was part of the submission by the Government (Minister Kobie Coetzee) at the meeting on 2 March 1992.

Mr. Chairman and delegates, thank you for allowing me to make this presentation. I would like to give you some information and facts about the world of telecommunications, with special reference to frequency management and to broadcasting.

Telecommunication is the process where two persons communicate with each other by voice on the telephone or by messages with a fax or with other devices. It even includes the communication between computers where massive volumes of information are conveyed. It further includes broadcasting where one person communicates with millions of people or where news or entertainment or sport is conveyed to mass audiences in any part of the world.

Telecommunications can be carried out using wire and cable or through the air. Telecommunication, radio communication and radio waves are internationally defined as follows:

**Telecommunication:**

Any transmission, emission or reception of signals, signs, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

**Radio communication:**

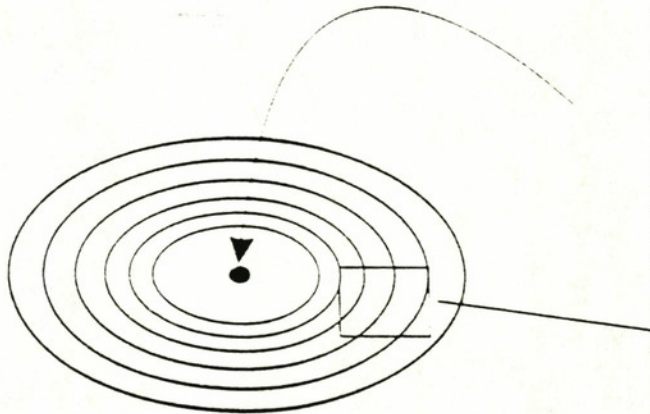
A service involving the transmission, emission and/or reception of radio waves for specific telecommunication purposes.

**Radio waves:**

Electromagnetic waves propagating in space (the ether) without artificial guides.

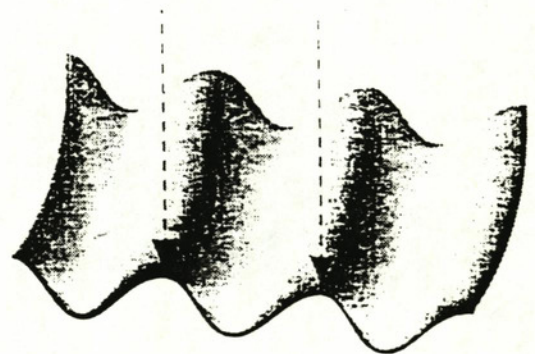
Graphic illustrations of radio waves, wave length and frequency are given on the next page and also how sounds and images are converted to electrical representations and then to radio waves.

# WAVES



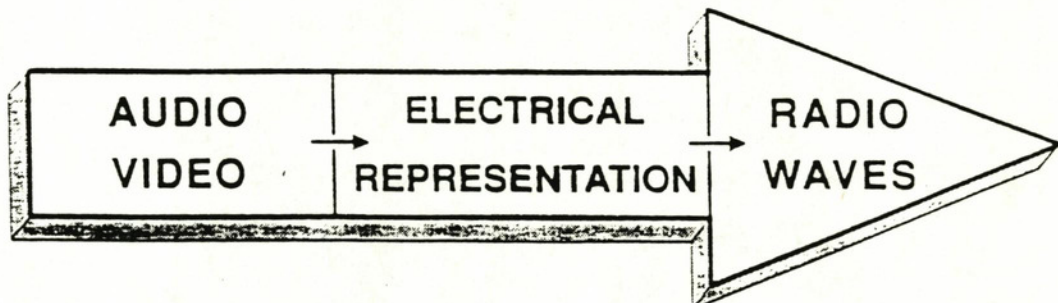
WHEN A STONE FALLS IN WATER IT CAUSES  
CONCENTRIC WAVES (RINGS)

WAVE PEAK-TO-PEAK  
: WAVE PERIOD OR CYCLE  
( WAVELENGTH )



IN RADIO 1 CYCLE IS CALLED A HERTZ (Hz)  
FREQUENCY (f) = HERTZ PER SECOND

# THE ELECTROMAGNETIC PROCESS



MICROPHONE  
&  
CAMERA

AUDIO  
&  
VIDEO

TRANSMITTER  
&  
ANTENNA



The telecommunication activities or types of services listed below, are categories which are recognised world wide.

Fixed  
Mobile  
Maritime  
Aeronautical  
Radio Navigation  
Broadcasting  
Amateur  
Meteorological  
Radio Location  
Satellite  
Optical  
Research  
Earth Exploration  
Radio Astronomy  
Space Research

Almost every organisation, and the public, make use of telecommunication, to such an extent that the normal way of life and the economy would be severely disrupted if telecommunications should be disturbed. For example, aircraft would not be able to fly safely without telecommunication. Telecommunication is totally dependant on the availability and the proper management of the frequency spectrum which is defines as follows:

The collection of all discreet frequencies from zero to infinity. Frequency bands are portions of the spectrum assigned to specific applications.

The radio frequency spectrum is a limited and critical natural resource. Planning, administration, allocation to users through licences and control is a complex task and requires expertise. Although parts of the spectrum may be assigned to different purposes, it is still possible for systems in one part of the spectrum to interfere with systems in another part of the spectrum, e.g. FM radio broadcasting could interfere with aircraft communications if planning and coordination is not properly done. The frequency spectrum is divided into portions for planning purposes as listed below:

0	- 3 000 000 Hz (3 MHz)	- Very low, low and medium frequencies
3	- 30 MHz	- High frequencies
30	- 300 MHz	- Very high frequencies
300	- 3 000 MHz (3 GHz)	- Ultra high frequencies
3 000	- 30 000 MHz (30 GHz)	- Super high frequencies Including the C-band (3,4-6,4 GHz) and the Ku-band (10,95-14,50 GHz)
30 000	- 300 000 MHz (GHz)	- Extra high frequencies
300 000	- ad infinitum	

All applications are spread over the spectrum, from the bottom up. Historical development all started at the low frequencies and crept up the spectrum as more space (called

bandwidth) was required for bigger communication volumes and more sophisticated services. The frequency bands assigned to broadcasting, as listed below, are a good examples.

- 0,540 - 1,606 MHz : Medium Wave (MW) with amplitude modulation (AM) for sound broadcasting (radio).  
(540 - 1606 KHz)
- 3 - 30 MHz : Short wave (SW) for sound broadcasting (radio). Only small portions spread over this spectrum.
- 87,5 - 108 MHz : Very high frequency (VHF) with frequency modulation (FM) for sound broadcasting (radio).
- 174 - 254 MHz : Very high frequency (VHF) for television (TV) broadcasting.
- 470 - 854 MHz : Ultra high frequency (UHF) for television (TV) broadcasting.
- 3,8 - 4,2 GHz : Satellite systems in the C-band for telecommunications, also used for television distribution.
- 10,7 - 12,75 GHz : Satellite systems in the Ku-band for telecommunications, also used for television distribution, including direct-to-home broadcasting.
- 22 and 40 GHz : Planned for future high definition television broadcasting.

(A poster showing the allocation of frequency bands to all the various services was handed around).

In summary, each frequency cannot be used for more than one purpose in the same place. Re-use of frequencies is possible and essential, but can only be done at a sufficient distance which is determined by the strength of the signals, the type of signals and the local environment in which signals are propagated, such as topography, weather, etc.

It is necessary for telecommunication and frequency assignment to be coordinated and planned internationally. Radio waves can travel over thousands of kilometers and interference can occur between continents, or regionally or domestically. International planning and coordination activity is carried out by the International Telecommunication Union (ITU) who's mission is briefly as follows:

The ITU is responsible for the regulation and planning of telecommunications world-wide, for the establishment of equipment and systems operation standards, for the coordination and dissemination of information required for the planning and operation of telecommunications services and for the promotion of and contribution of the development of

telecommunications and the related infrastructures.

Each country must have its own telecommunications authority to look after domestic affairs and to work with the ITU on cross border issues. This has up to now been done by the Department of Posts and Telecommunications as the South African telecommunication administration. The planning and administration of the broadcast bands were delegated to the SABC.

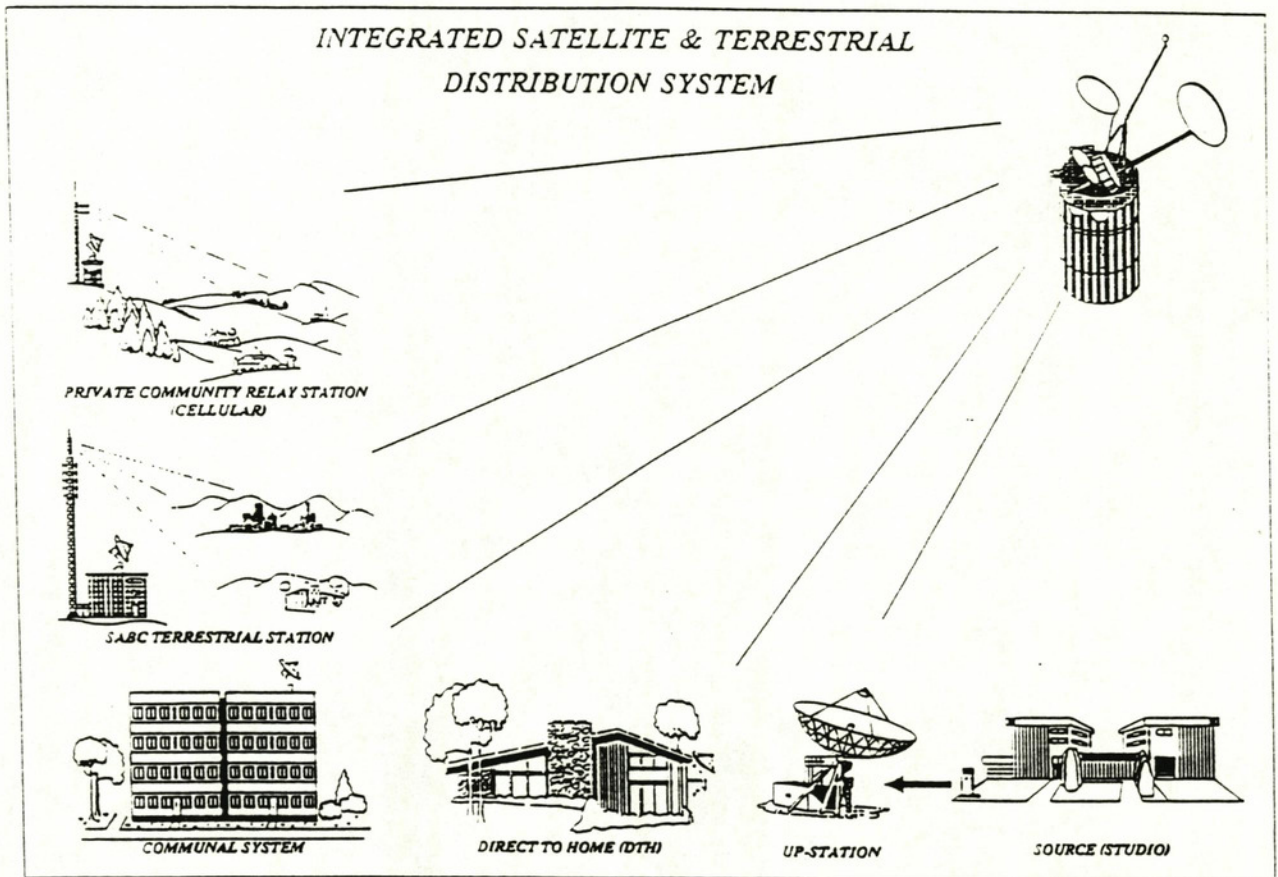
The present broadcasting distribution infrastructure in South Africa, which is the telecommunications activity associated with broadcasting, is detailed below. (It is possible that some figures may be out by one or two. The list was compiled with the best information available):

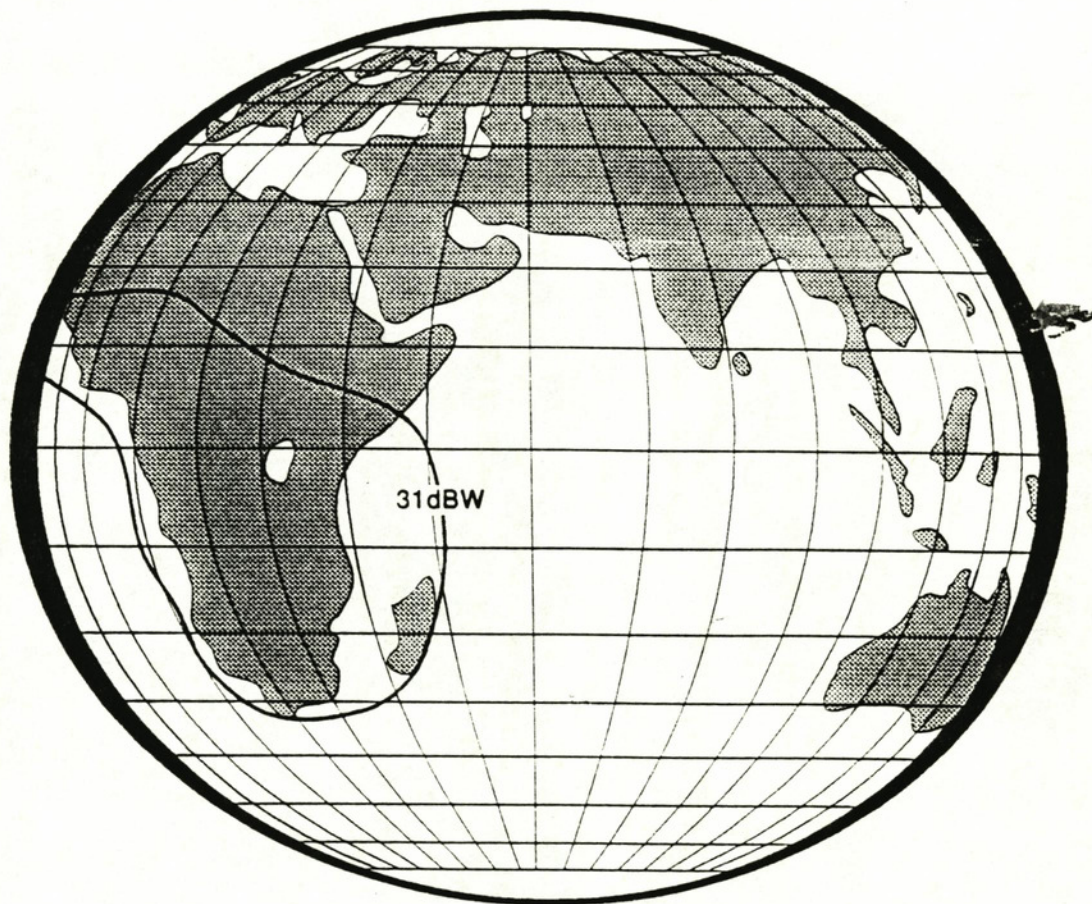
## BROADCASTING SERVICES AND TRANSMITTERS

TV SERVICES:	SABC	-	TV1, CCV & TSS (TEMPORARILY)
	OTHERS	-	M-NET, BOP-TV & TRINITY
RADIO SERVICES:	SABC	-	23
	OTHERS	-	7 (BOP:3, CIS:1, TRANS:2, VEN:1)
TV TRANSMITTERS:	SABC	-	245
	BOP-TV	-	15
	CISKEI	-	1
	M-NET	-	40
	TRANSKEI	-	7*
	VENDA	-	4*
	* Relaying SABC and M-NET		
PRIVATE TV TRANSMITTERS: (Relaying SABC or M-NET)	SABC	-	465
	M-NET	-	10
VHF / FM TRANSMITTERS:	SABC	-	566
	BOP.	-	14
	CISKEI	-	3
	TRANSKEI	-	12
	VENDA	-	5
MEDIUMWAVE TRANSMITTERS:	SABC	-	4
	BOP.	-	3
	TRANSKEI	-	2
	VENDA	-	1
SHORTWAVE TRANSMITTERS:	SABC	-	11
	TRANSKEI	-	2

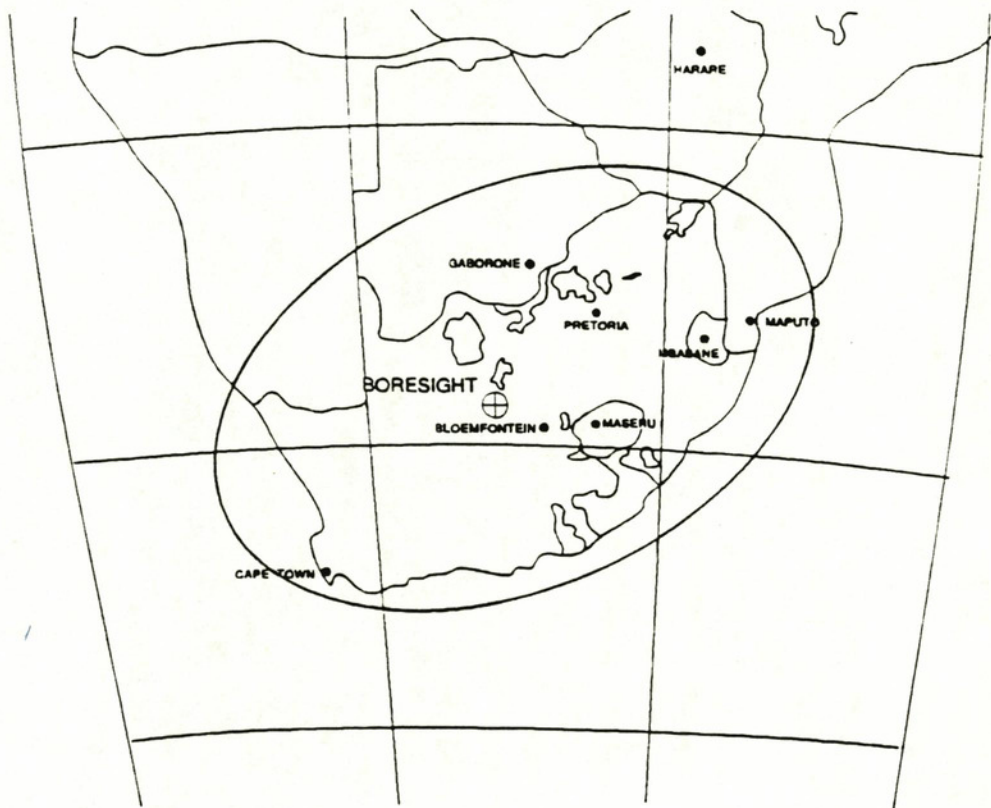
The geographical coverages of TV1, CCV, TSS and M-Net are shown in the annexures. C-band satellite facilities provided by Intelsat on an Indian ocean satellite are used for TV1 and M-Net to link terrestrial transmitters, and on an Atlantic ocean satellite for Bop-TV. The coverage area of the Indian Ocean C-band facility is shown on the following page. These signals are weak and can only be used with expensive receiving equipment. Coverage can be improved and receiving cost reduced by switching to more powerful Ku-band satellite facilities. Coverage from such a facility is also shown on the following page. It is important that the cost to the viewer or listener should be as low as possible. Even high power satellite facilities demand receiver equipment which cost significantly more than receiving equipment for terrestrial signals.

The solution lies in an integrated satellite and terrestrial distribution system as graphically illustrated below, with terrestrial transmitters serving communities and with direct satellite reception available to isolated viewers. The primary purpose of the satellite will be to link a large number of terrestrial transmitters.





**C-BAND SATELLITE COVERAGE**



**Ku-BAND SATELLITE COVERAGE**

Mr. Chairman, telecommunication is going to grow substantially because it is considered as one of the basic needs for social and economic development. Many new technologies are becoming available while both the providers of telecommunication services and the users of these services are increasing rapidly. It is now not only the national telecommunication operator or broadcaster providing these services. This development has been driven by new opportunities arising from the development of new techniques and technologies. It is clear that much more will be demanded from a regulatory body in the future - it will have to be able to deal with the whole spectrum and all its complexities, but it must not stifle development or economic growth.

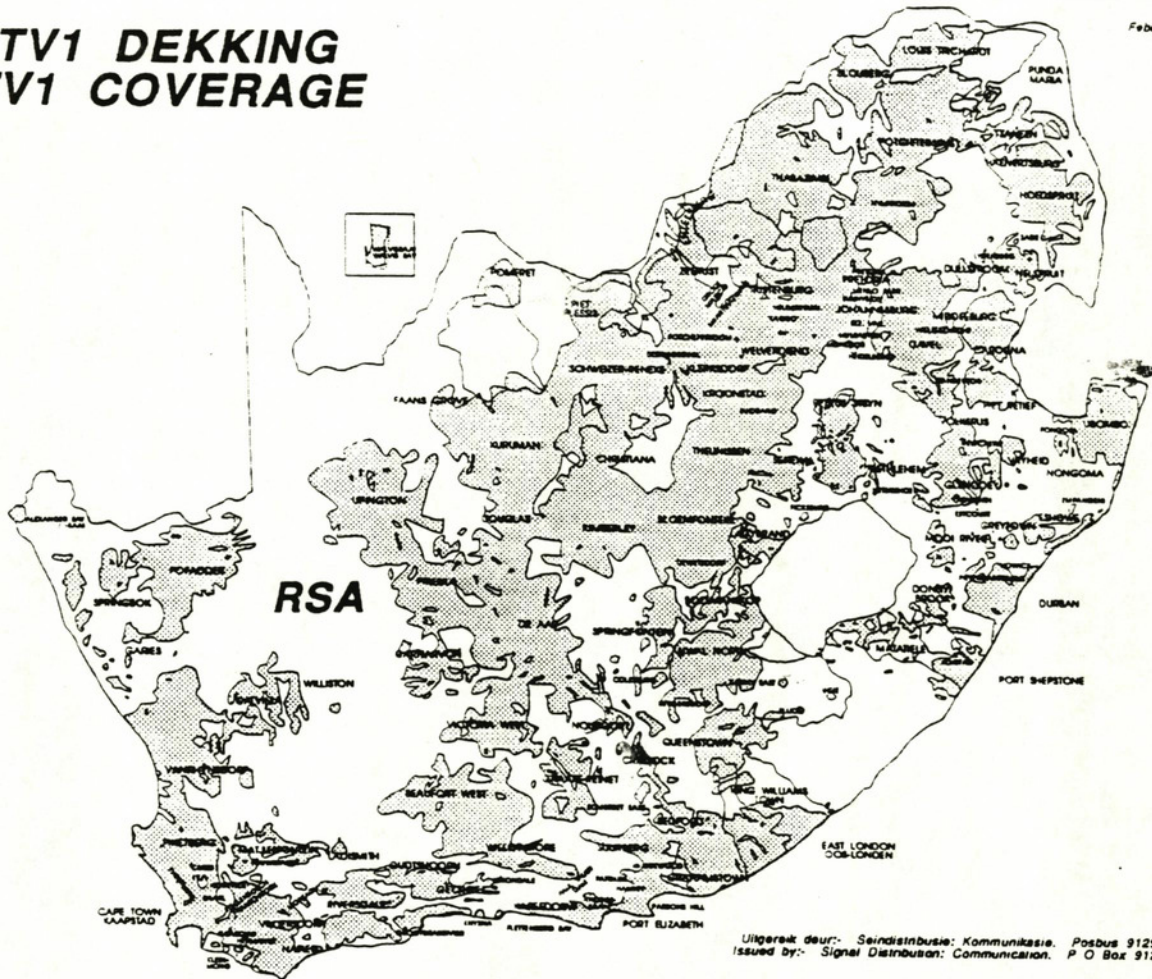
Thank you Mr. Chairman for your patience and for listening to me.

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SV2-036  
4.3.92

# TV1 DEKKING TV1 COVERAGE

February 1992 Februarie

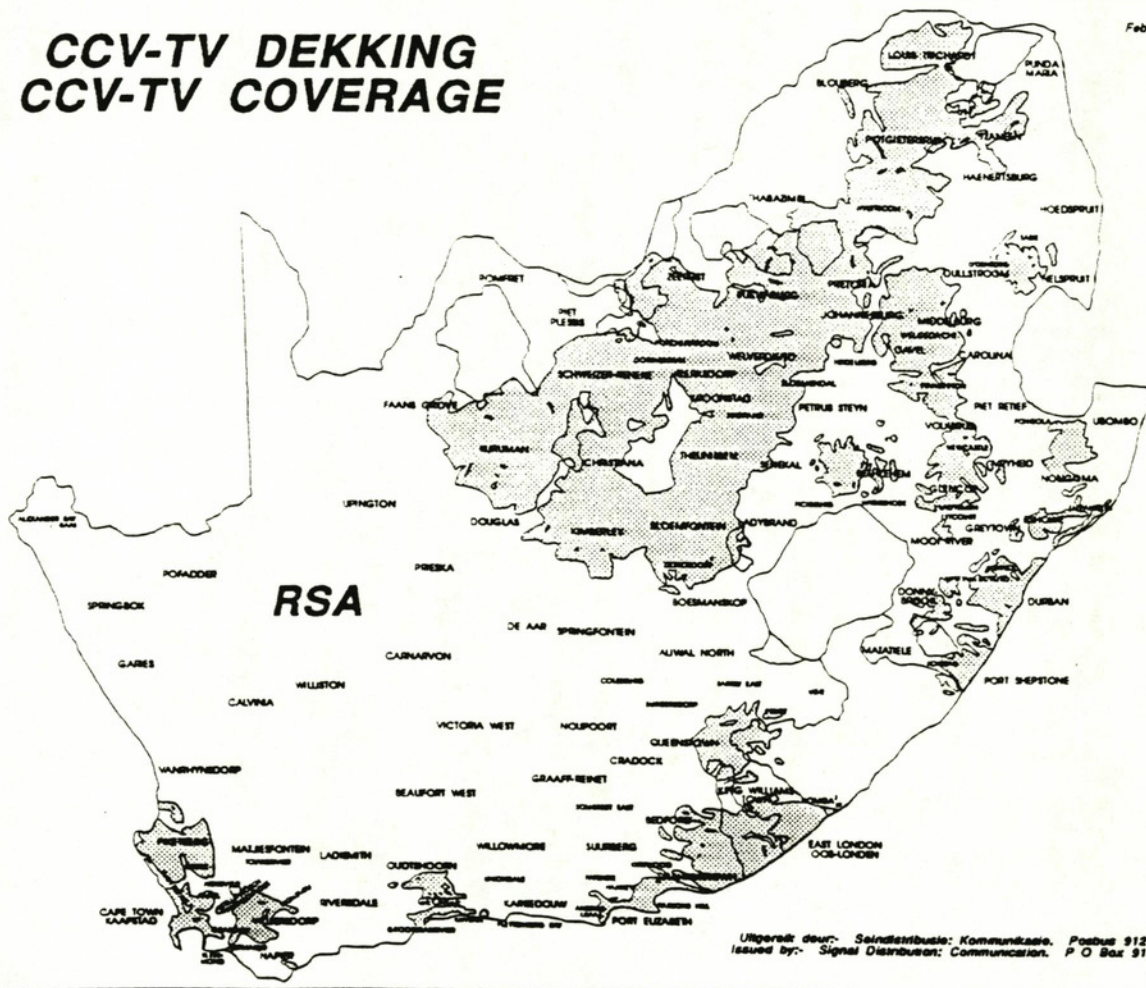


Uitgereik deur: Seindistribusie: Kommunikasie, Posbus 91297, Auckland Park 2008  
Issued by: Signal Distribution: Communication, P O Box 91297, Auckland Park 2008

TV1:COVLD

# CCV-TV DEKKING CCV-TV COVERAGE

February 1992 Februarie

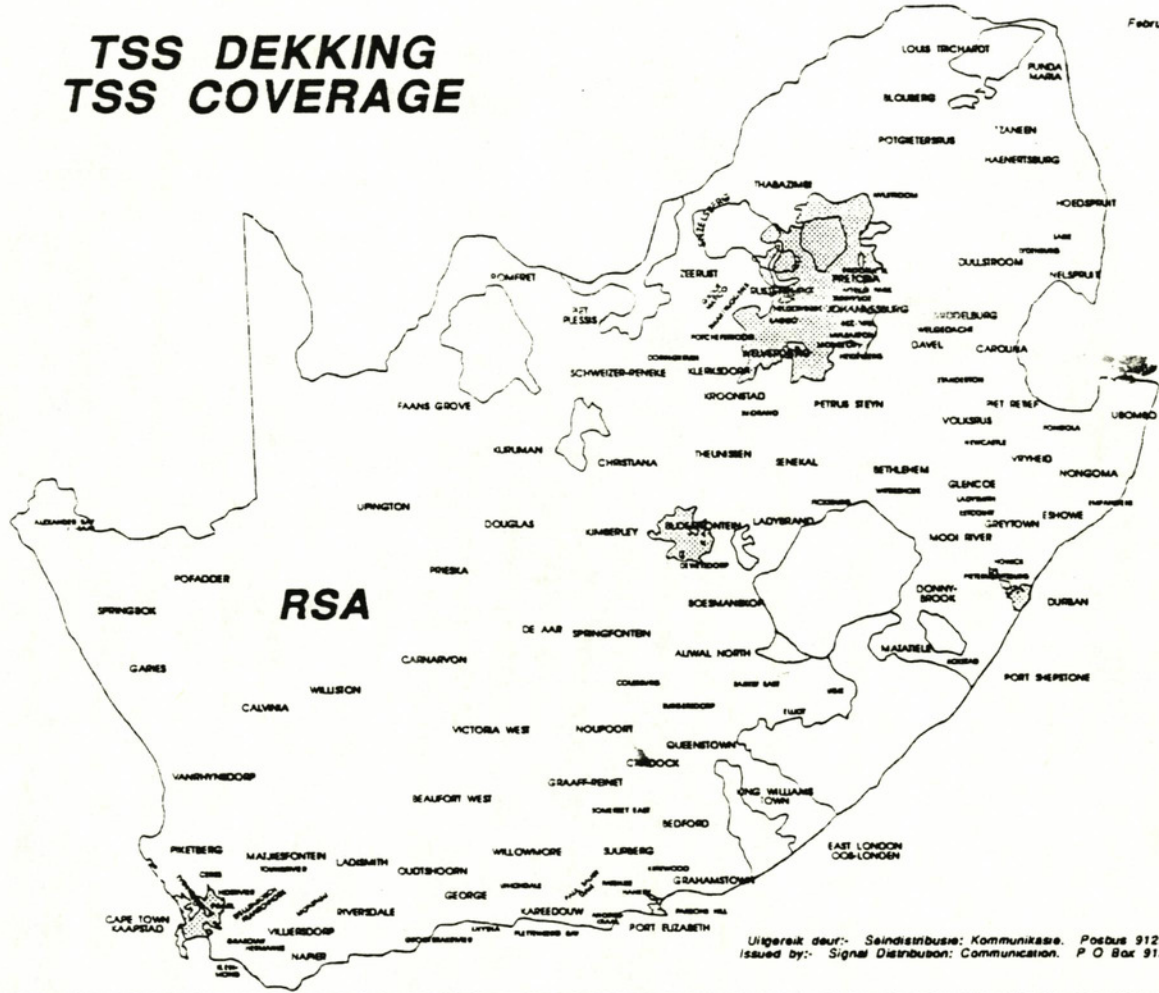


Uitgereik deur: Seindistribusie: Kommunikasie, Posbus 91297, Auckland Park 2008  
Issued by: Signal Distribution: Communication, P O Box 91297, Auckland Park 2008

CCV:COV

# TSS DEKKING TSS COVERAGE

February 1992 Februarie

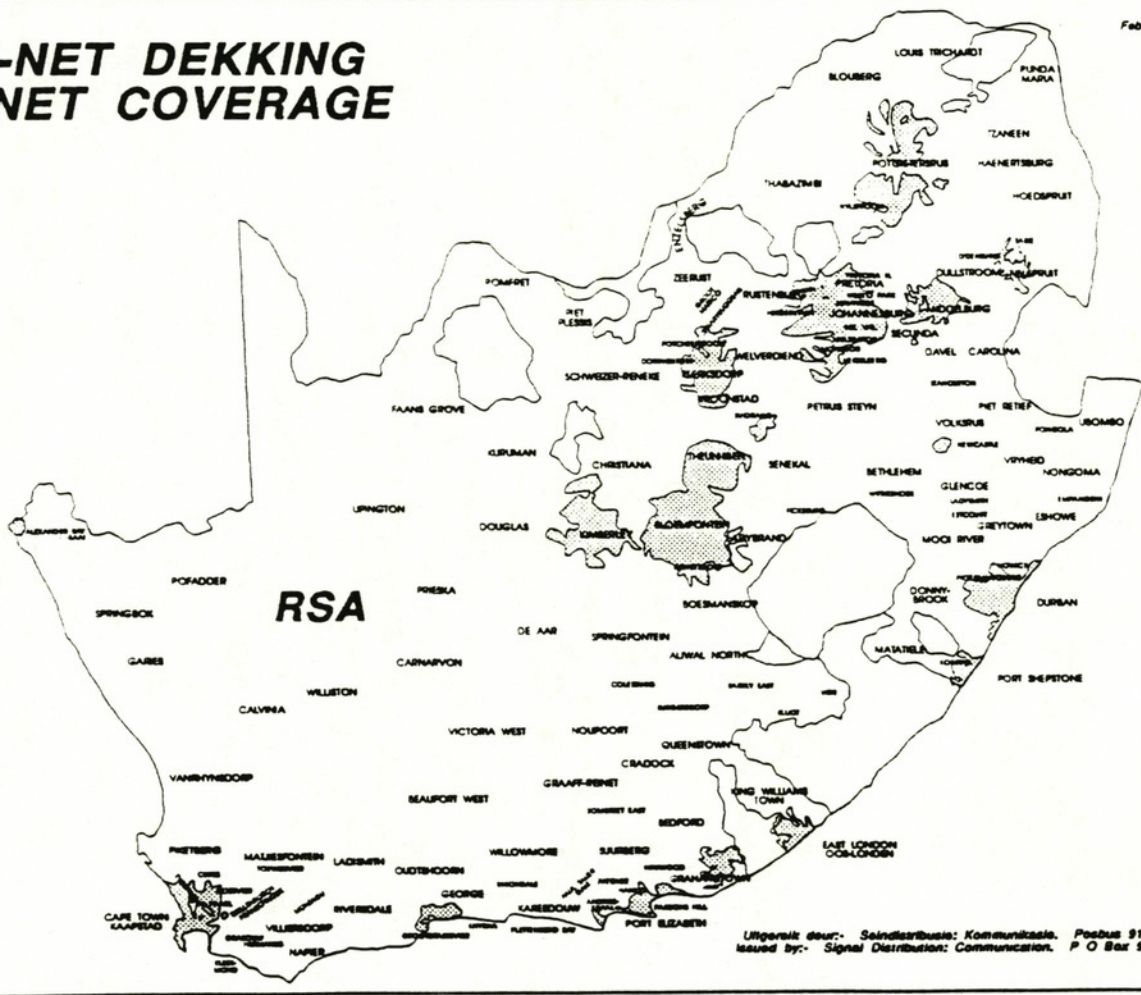


Uitgereik deur: Seindistribusie: Kommunikasie, Postbus 91297, Auckland Park 2008  
 Issued by: Signal Distribution: Communication, P O Box 91297, Auckland Park 2008

TSSCOG

# M-NET DEKKING M-NET COVERAGE

February 1992 Februarie



Uitgereik deur: Seindistribusie: Kommunikasie, Postbus 91297, Auckland Park 2008  
 Issued by: Signal Distribution: Communication, P O Box 91297, Auckland Park 2008

M-NET



27/02/92  
26/10/92

~~BYE-A~~

# POSITION PAPER ON THE REGULATION OF THE ELECTRONIC MEDIA

CODESA 02-03-92

## 1. INTRODUCTION

1.1 This position paper was compiled with due regard to central theme:-

*"the creation of a climate for free political participation"*

and

*issue 1.1.4(f) of the Terms of Reference of Working Group 1: "Political neutrality and fair access to State-controlled/statutorily instituted media (particularly the SABC and SATV), including those of the TBVC states".*

1.2 The Government subscribes to:

- optimum freedom and neutrality of the printed and the electronic media, which include *inter alia*
  - free and neutral flow of news views and information;
  - freedom of opinion and expression;
  - fair and equitable access to the mass media;
  - optimum use of the mass media in educative and neutral informative campaigns conducive to a democratic society and orderly transition;
  - a free and neutral national public service broadcasting programme service.

1.3 The Government is in full agreement with the relevant articles of the Universal Declaration of Human Rights adopted and proclaimed by the General Assembly of the United Nations on December 10, 1948. The Government also subscribes to the relevant articles of the International Covenant on Civil and Political Rights of

December 16, 1966 also adopted and proclaimed by the General Assembly of the United Nations on that date as later confirmed by several international forums. A future Bill of Rights should reflect the norms and standards to which any future broadcaster would have to adhere.

- 1.4 The Government also subscribes to the universal media ethics, principles and the prescriptions enshrined in the Code of Conduct of the South African Media Council and in control of the media - also the electronic media - by the media in this respect. This could be attained through negotiations between the printed media and the electronic media with a view to restructure and extend the Media Council in order to adequately accommodate the electronic media.
- 1.5 The TBVC States will have to speak for themselves on the issue of content and policy in regard to the regulation of their broadcast programmes. The issues of electronic communication which are of mutual concern, will however be adequately dealt with in a presentation on relevant technical matters.

## 2. MEDIA POLICY FORMULATION

- 2.1 In its endeavours to put paid to its media policy-development in order to cope with reform and change, the Government ordered investigations into the broadcasting needs of the TBVC countries and had these investigations followed up immediately by a further investigation into broader broadcast policy and strategy. Instead of appointing a sole commissioner or small commission, the Government opted for a panel of communication experts to study the field and to analyse the options which were presented to them by opinion formers and other experts. The latter panel, known as the Viljoen Task Group, assumed its study on 23 March 1990 and submitted its report in August 1991. The report was widely publicised and comment was invited. More than forty written responses were received.
- 2.2 True to tried and tested operational practices, the report and the responses to it was subjected to intensive feasibility studies by a cross section of the relevant executive departments and institutions. They reported their findings to the Minister responsible for broadcasting on 26 February 1992.

### 3. NEW STRATEGY ON ELECTRONIC COMMUNICATIONS

3.1 What emanated clearly from the studies initiated by the Government in the field of the electronic communications, is a dire need for an independent regulating body which can act neutrally and impartially in allocating resources and introducing new technologies, with due regard for the socio-economic implications and outcome thereof to the country and its people.

3.2 The important resource in electronic communication, is the finite electromagnetic frequency spectrum. To understand its management and the regulation of its exploitation and utilisation, a technical presentation compiled by experts will be presented.

(PRESENTATION)

3.3 That the various means of telecommunications and the respective technologies have indeed become interwoven and complex. Based on seminars and in-depth studies in South Africa and facts obtained from all over the world, over the past few years, and seeing that the deliberations in various forums are certainly not inconsistent with the obvious emergent strategy, the Government approved in principle the formation of a Commission for Telecommunication to regulate all forms of telecommunication, including radio and television, and to exploit and supervise the utilisation of the electromagnetic frequency spectrum and relevant technologies.

#### 3.4. MISSION

The mission of the Commission for Telecommunication would be to stimulate and regulate the exploitation and utilisation of the electromagnetic frequency spectrum and telecommunication technology in a manner conducive to serving in a democratic manner, the public interest of all people in Southern Africa at community, regional and national level. In the pursuit of its mission, the Commission for Telecommunication, would pay special attention to the educational and enlightenment needs of all communities.

### 3.5 FUNCTIONS OF THE COMMISSION FOR TELECOMMUNICATION

Sufficient Parliamentary mandate to regulate the utilisation of the electromagnetic spectrum, including the South African Broadcasting Corporation and other broadcasters, will be included in draft legislation. In determining licence conditions the Commission for Telecommunication should, however, not involve itself with programme content as such, other than including general or specific standards and programme codes as licence conditions. At this stage, the point is made that the Commission for Telecommunication should have the right to act strongly against any broadcaster (including the SABC) or other telecommunication concern in terms of the licence conditions and technical and programme standards included in the conditions.

3.5.1 In broader terms the main functions of the Commission for Telecommunication would include, in respect of terrestrial and space technologies -

- (i) the exploitation and supervision of the utilisation of the zoned electromagnetic frequency spectrum and the relevant technology - a professional-technical function;
- (ii) the exploitation and regulation of the utilisation of the electromagnetic frequency spectrum available for broadcast programme services aimed at the public; and
- (iii) the exploitation and regulation of other telecommunication services, not intended for reception by the general public.

3.5.2 Subsidiary functions would include the regulation of additional telecommunication services on spare frequency capacity.

3.5.3 In matters which have important wide national implications, such as the exploitation of revenue resources, the introduction of alternatives to the PAL-STANDARD or the introduction of direct-to-house satellite television, the Commission may advise on draft legislation and regulations.

#### 4. A COMPLAINTS "TRIBUNAL"

- 4.1 To facilitate due and fair attention to complaints about current broadcast programme content, the responsible department has seriously recommended the setting up of an independent electronic media complaints commission on current broadcasting. It is further suggested that this commission be chaired by a Judge, assisted by two well versed assessors and that they adjudicate in terms of a negotiated set of programme standards and the universal media ethics in all cases not covered by a possible extended media council. Such a set of programme standards should also confirm the independence and neutrality of a national public service broadcaster and adequately protect the SABC against interference by the Government or other politicians and against manipulation and intimidation from whatever source. Such a complaints facility will have to be evaluated after a fair trial period and could form the basis of a permanent commission.
- 4.2 This recommendation is receiving urgent consideration.

#### 5. GENERAL NOTE

The foregoing does not preclude the SABC to, in the period of transition, develop in co-operation with interested bodies, mechanisms of advice and consultation on broadcast programming according to a negotiated code.

**MEDIA RELEASE BY MR GENE LOUW, MP, MINISTER OF HOME AFFAIRS**

**EMBARGO: IMMEDIATELY**

The Government has decided that the establishment of a neutral regulatory commission for all telecommunications is necessary - it would include radio and television, which are also distance communication media.

This decision was taken after due consideration of the relevant facts which have been collected in South Africa and abroad over the past few years, including the report of the Viljoen Task Group, comments thereon, deliberations at a number of seminars and viability studies which were undertaken subsequently.

Apart from the licensing of all broadcast services the other main functions of the Commission for Telecommunication would entail the exploitation, regulation and supervision of terrestrial as well as space telecommunication technology.

To give effect to this Commission, it is planned to introduce legislation, after due consultation with all interested parties, during the current session of Parliament.

This proposal will not directly affect the existing SABC's management structures but will introduce negotiated standards, norms and codes with which the SABC, like any other established independent and neutral broadcaster and user of the electro-magnetic spectrum, will have to comply. This also applies to new broadcasters who wish to broadcast at local or community level.

SOLIDARITY PARTY OF SOUTH AFRICA

CREATING THE CLIMATE AND OPPORTUNITY FOR FREE POLITICAL  
PARTICIPATION

THE PRINT MEDIA

THIRD POSITION PAPER

All statutory provisions within S.A. which prevent any political party or any other agency from establishing or continuing its own means of mass communication and from exercising press freedom and enjoying access to established print media should be removed.

In this context the announcement by the S.A. Media Council Chairman, Mr Jan Steyn, that an extensive review of all legislative restraints on reporting will be undertaken is necessary to enable democracy to flourish in S.A.

The Governments implementation of the Media Council proposals that "any proposed statutory limitation of freedom of speech and of the press should be subject to a judicial process" will be a further milestone.

A future Bill of Rights and Constitution is also expected to protect press freedom.

The provisions of the controversial Section 205 of the Criminal Procedure Act which gives a mandatory sentence for refusal to reveal sources of information should be removed to allow unrestricted flow of information to the public.

Section 27B of the Police Act makes it an offence for any person to publish information about the actions of the police "without having reasonable grounds for believing the statement is true." Evidently there has been relaxation of this Section. Repeal 3 weeks ago.

ARE THERE ANY STATUTORY PROVISIONS WHICH PREVENT ANY POLITICAL PARTY FROM ESTABLISHING AND CONTINUING ITS OWN MEANS OF MASS COMMUNICATION AND FROM EXERCISING PRESS FREEDOM OR FROM ENJOYING ACCESS TO ESTABLISHED PRINT MEDIA IN VENDA ?

1. Electronic Media

When it comes to radio ( we have no Television in Venda except SATV), Radio Thohoyandou operates under licence by the SABC. So whatever is agreed upon at CODESA regarding the SABC would apply to Radio Thohoyandou.

The controlling body is the department of posts and telecommunications. There is provision for a board called the "radio advisory board" which consists of representatives of :

1. Department of posts and telecommunication
2. Department of defence
3. Department of Venda Police
4. Department of Information and Broadcasting

There is also a provision for additional members "if desired ".

We have in our position paper stated our support for the establishment of our Independent Authority to regulate broadcasting. It is not necessary at this stage to revisit the debate as to why that board cannot be seen as independent capable of ensuring that there is political neutrality and impartiality in broadcasting.

We reaffirm our support for an independent body to be established with the following :-

- 1) That body's terms of reference must be wide enough to even re-structure the current SABC board and other controlling and regulatory boards in the TBVC states. The position that the current SABC board is both politically neutral and independent is not acceptable even with an acceptable code of conduct.

2) Print Media

As far as the print media is concerned article 9 of act 22 of 1981 prohibits parties such as the SACP from establishing their own means of mass communication.



But ever since the current govt came into power, this provision in the act has not been enforced at all.

Our position is that those laws must be repealed immediately and <sup>the</sup> ~~reached~~ reached at CODESA should be applicable to the TBVC states.

TRANSKEI SUBMISSION TO SUB - GROUP 3 OF WORKING GROUP I

24th March 1992

PROPOSALS ON STATE CONTROLLED MEDIA AND THE TRANSITIONAL PERIOD.

1. Introduction

- The need for an independent body to regulate broadcasting and free it from government control has been the cry of all who have sincerely and seriously examined the question of democratisation broadly and in the specific sense of broadcasting in South Africa.

That we all are in agreement on the need for the establishment of such a body is a measure of victory not just for those who have always called for this but for the process of democratisation generally, and for the transitional period we have entered into.

It is now for all of us to focus on how we should move forward from the position we are today, where broadcasting is in the hands of a few of the participants at Codesa, in the light of the agreement we have reached on the issue.

2. MORATORIUM

The fact of state - controlled media being one of the terms of reference of Working Group 1, coupled with the fact we agree on the need to bring about changes to the present regulation of broadcasting have the following implications:

- a) There has to be a moratorium on any unilateral restructuring of state controlled media by all of the parties presently controlling it, so that when such restructuring does take place it is informed by and reflects the decisions of Codesa.
- b) There should also be a moratorium on the passing of any legislation in any of the five parliaments of South Africa and the TBVC states which will effect changes to any of the state controlled media.
- c) Whatever legislation will be necessary to effect the necessary changes on state - controlled media should be drafted by or in consultation with the relevant Codesa Working Group.

3. INTERIM BROADCASTING AUTHORITY

It is our view that a permanent Independent Broadcasting Authority should be a medium to long term objective which can really be fully realised when a new, democratic constitution and government are in place.

It is, however, imperative that certain changes be effected for the transitional period so as to facilitate that process and to begin to do the ground work for the eventual establishment of an Independent Broadcasting Authority.

Accordingly we propose that Codesa deliberates on the establishment of an Interim Broadcasting Authority which is to have limited terms of reference and powers in line with its interim nature but which will make it able to address the most urgent issues that need to be addressed in this field.

#### 4. TERMS OF REFERENCE OF AN INTERIM BROADCASTING AUTHORITY

We propose the following limited terms of reference for the Interim Broadcasting Authority.

- a) To oversee all public broadcasters, ie, SABC and TBVC broadcasters;
- b) To bring about legislative changes that will enable the appointment of new and more broadly representative Boards of Control for the SABC and TBVC broadcasters;
- c) Laying down norms and standards for more equitable and fair access for all political parties to airtime on public broadcasting services during the transition and elections;
- d) Work out guidelines for the impartiality of news and current affairs programmes on all public broadcasting services, during the transition and elections;
- e) Set up a Public Commission of Inquiry into broadcasting that will be open and accessible to all and that will stimulate the widest possible debate on the issue. The findings of such a Commission would be used to effect further changes either during an Interim Government or when a new constitution and government are in place.
- f) Draw up a code of conduct for all public broadcasters
- g) Examine, with a view to amending or repealing, laws or sections thereof which have the effect of restricting media freedom.

In this regard the submission by Cheadle, Thompson and Haysom Attorneys which tabulates such laws and submitted to our subgroup by the Democratic Party titled Proposals Concerning Statutory Provisions which Restrict the Media, should be used as a guide.

#### 5. POWERS OF AN INTERIM BROADCASTING AUTHORITY

Such an Interim Broadcasting Authority should also have some limited powers granted to it.

- a) It should have powers to punish public broadcasters who violate provisions of the code of conduct.

- b) It should also have limited licensing powers to for example, grant licences to the to the TBVC broadcasters as South African broadcasters. The same could apply to Radio 702 and Capital Radio to broadcast from South Africa and be granted FM licences.

#### 6. INDEPENDENT MEDIA MONITORING GROUP

It is desirable that even if we have an Interim Broadcasting Authority there should be a monitoring body for the media that will independent of it to ensure that during elections, there is fair, open and impartial reporting.

Such a body could be set up by Codesa together with all media organisations.

#### 7. SETTING UP OF AN INTERIM BROADCASTING AUTHORITY

The following guidelines should be followed in setting up an Interim Broadcasting Authority:

- a) Codesa should invite submissions from outside itself on the structure itself, its powers and jurisdiction.
- b) Codesa should, provided there is agreement on the Interim Broadcasting Authority, draw up the necessary legislation to bring about this body.
- c) Codesa should then invite nominations for appointment of members of the Interim Broadcasting Authority from political and civil society according to the following criteria:
  - such persons should not be office bearers of any political party or organisation;
  - they should have no vested material or economic interest in the broadcasting, newspaper and film industries;
  - they should be proposed on the basis of their expertise and experience relevant to broadcasting.
- d) The final selections will be conducted publicly by a body to be decided upon by Codesa itself.
- e) In making the final selections, that body, while ensuring professionalism, should also ensure that the Interim Broadcasting Authority reflects our society - regional, language, cultural and gender considerations must be taken into account.
- f) The Interim Broadcasting Authority is to be accountable to the transitional body in place, either Codesa, Interim Government or Constituent Assembly.

#### 8. APPOINTMENT OF NEW BOARDS OF CONTROL FOR THE SA - TBVC BROADCASTERS.

The procedure followed in the appointment of the Interim Broadcasting Authority should be used except that this will be done by this authority.

#### 9. OMBUDSPERSON OR COMPLAINTS TRIBUNAL

It would, in our view, be advisable and desirable to have a body or person where complaints on impartiality or unfair treatment could be referred to by political parties or organisations. Such a body or person could be a Complaints Tribunal or an Ombudsperson.

Codesa or the Interim Broadcasting Authority when already in place should examine the issue and come with proposals.