

WHITE PAPER ON BROADCASTING POLICY

Department of Communications

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Foreword

By Jay Naidoo, Minister for Posts, Telecommunications and Broadcasting

The Independent Broadcasting Act 153 of 1993 commenced on 30 March 1994 and South Africa adopted, for the first time in its history, a democratic broadcasting dispensation.

On behalf of the Government it is now a great honour for me to present to the people of South Africa, a set of policy objectives and principles which underline the first policy framework for broadcasting in this country.

The IBA Act does not provide for a clear policy framework which should take into account the diverse needs of the South African society or the rapid changes in broadcasting technology.

A primary object of this White Paper on Broadcasting Policy is to ensure that the South African system is imbued with the important public interest values of access, diversity, equality, independence and unity as well as fundamental human rights contained in the Constitution.

The White Paper also seeks to ensure that the frequency spectrum which is a valuable natural resource, remains an asset that belongs to society at large. And that frequencies are allotted such that broadcasting is available, universally, to all of the people and that it caters for the diverse needs of the total population.

The policy framework in the White Paper is a culmination of wide public consultation through a Green Paper process and a colloquium involving all major stakeholders in the broadcasting industry as well as international experts.

A Technical Task Team was appointed on 25 August 1997 to formulate the Broadcasting Policy framework. Following the Colloquium, responses to the Green Paper and meetings with the stakeholders, the White Paper was drafted, again discussed with stakeholders and finally formulated as the formal White Paper to reflect the broadcasting policy for South Africa.

I would like to thank the many people who gave so much of their time to contribute to the formulation of this extremely important and historical document. There are too many to single out names. Suffice to say that they have given invaluable service to their country and to lay the foundation for broadcasting in the future South Africa.

Jay Naidoo

Minister for Posts, Telecommunications and Broadcasting

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Freedom of Expression	SA Catholic Bishops Conference
Good News Community Radio	SA FM/Seniors
Independent Broadcasting Authority	SA National union of Seniors
Independent Forum for Religious Broadcasting	South African Broadcasting Corporation
Independent Film and Television	South African Broadcasting Corporation Education
Institute for the Advancement of Journalism	South African Digital and Audio Broadcasting Association
Internet Service Providers	South African Telecommunications Regulatory Authority
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Executive Summary

Chapter One: A New Broadcasting Vision for South Africa.

The history of broadcasting in South Africa, had since inception, been characterised by politicisation of the broadcasting system. Broadcasting was, thus, used to entrench an oppressive political system that kept a large section of the population out of the public life of the country.

With the inauguration of a new democratic political system in the early 1990's, a process was set into motion to re-regulate the broadcasting system, introduce new broadcasting players and place the regulation of the broadcasting system into the hands of an independent broadcasting authority.

The broadcasting policy process underway seeks to set up a broadcasting system based on universal access, diversity within a framework of national unity, democratisation of the airwaves, national building, education and strengthening the moral fibre of society.

This policy process is underpinned by constitutional principles of freedom of expression, equality, equality of all languages, multi-culturalism, choice and diversity within a framework of national unity .

The new broadcasting policy seeks to establish a three-tier system for the broadcasting industry; namely, policy formulation and development for the government, licensing and regulation for the independent broadcasting authority, and service provision by broadcasters.

Chapter Two: Public Broadcasting

This chapter outlines policy initiatives that are required to re-position public broadcasting services in South Africa, in the light of the increasing entry of new broadcasting players and delivery platforms into the market.

A Statutory Charter for governing the public broadcaster, the South African Broadcasting Corporation, is recommended. A hybrid model - of generating funds from both public coffers and the private sector - is recommended for the SABC to enable the corporation to withstand competition in the market.

Chapter Three: Private Broadcasting

Private investment in broadcasting differs from ordinary business activity. Broadcasting involves the transmission of values and attitudes, and therefore the regulation of private broadcasting has to balance off investments on the one hand, and the role, duties and responsibilities of broadcasters, on the other.

Policy calls for the imposition of specific broadcasting licence conditions on private broadcasters to make a contribution either through programming or funding of educational and information programmes, the production of South African programme material, promotion of all languages and the multi-cultural nature of our society.

Issues such as limitations on foreign ownership and investment, as well as cross ownership of various media affect private broadcasting.

However, policy acknowledges the different services offered by private broadcasting. Satellite services, pay services and free-to-air services - all these different services require specific licence conditions and obligations commensurate to the nature of their operations.

Chapter Four: Community Broadcasting

Community broadcasting has been introduced to give access to needy areas with little resources, skills, expertise and funding. The Regulator, the IBA has granted eighty-five community radio licenses and, to date, sixty-seven of these are on air. However the majority of these community stations are based in urban areas and the least developed parts of the country have the least number of community radio stations. The challenge of the national strategy to roll out the community sector is to give greater access to the needy areas in order to provide equal opportunity to the public at large.

The current IBA Act has two types of community licenses. These are defined as a community of interest and one that is geographically founded. Community broadcasting must be inclusive of whatever common interest need is expressed by a potential licensee. It should be geographically founded and serve the specific community within a determined geographic area. It must represent all the people in the community both in ownership and control and in decision making.

Community broadcasting must provide a distinct broadcasting service dealing specifically with community issues that are normally not addressed by other broadcasting services in the particular region. Community broadcasters will be expected to draw their revenues from advertising, sponsorships, grants and donations from their respective communities. They will have no restrictions to accessing local advertising. National advertising will be restricted through regulations of the IBA.

Whilst community radio has steadily expanded over the past three years, community television has not yet been introduced to this sector. The IBA will be asked to investigate the viability and impact of community television in a public process.

Chapter Five: Classification of Broadcasting Services

There is a need to adopt a more comprehensive definition of broadcasting and broadcasting services, as the IBA Act definition is inadequate. As a result DSTV operates without a license granted by the IBA and is exempted from obligations imposed by the IBA on other broadcasters.

A new definition of broadcasting needs to be in line with international practices and technological developments. All broadcasting services such as distribution, satellite and terrestrial are to be licensed and regulated by the IBA. Public service broadcasting will be classified into the following license categories:

- Free to air terrestrial radio broadcasting service;
- Free to air terrestrial television broadcasting service;
- Free to air satellite radio and television broadcasting service.

Community broadcasting will be licensed in the free to air terrestrial radio broadcasting service.

Private broadcasters will be licensed in the following categories:

- free to air terrestrial radio broadcasting service;
- terrestrial television broadcasting service;
- satellite radio and television service;
- direct to home delivery service;
- local delivery service.

Mandatory public obligations will be imposed on all distribution services.

Chapter Six: Signal Distribution

The television broadcast network in South Africa reaches only 60% of the population, which means that 40% of the people have no access to television. The regulatory strategy for the signal distribution sector is to achieve universal access to service and

facilities. There must be access by content providers and access by end users to content (broadcasters and viewers). Signal distribution must be made affordable and a flexible tariff structure must be put in place for services where public interest imperatives apply.

Access to high sites will be afforded to all signal distributors upon the opening of the signal distribution market to competition in the year 2000. Different licenses of signal distribution will be granted and the regulator will be asked to develop a scheme for tariff regulation. Priorities for signal distribution should reflect South Africa's social goals and needs of the broadcasting community, and the needs of the end users of the broadcasting services. South African channels will be prioritized in pursuit of this objective. South African control of signal distribution will be retained.

Government feels that a Spectrum Management Agency should be established to be responsible for the overall function of policy development, research and planning of the use of the spectrum. It is targeted that this agency will commence operations by the year 2000.

Chapter Seven: Digital Convergence and Multi-Media

Multi-channel delivery systems should be introduced to serve social goals, cost efficiency and effectiveness. These systems should play a significant role in meeting the following goals:

- Universal access by all South Africans to broadcasting and multi-media services
- Delivery of educational services
- Diversity in programme content and services in all official languages.

Economic advantages in the introduction of multi-media services include the provision of employment and training, opportunities for the manufacturing industry and the provision of services to marginalised groups.

The Regulator is to conduct a public inquiry and report on a regulatory regime for multi-channel distribution systems. There will be competition in the delivery of services between satellite and terrestrial. All providers of multi-channel services will be required to hold a license. Non-broadcast services, i.e. data transmission will be required to hold a license. The service provider will pay license fees to the Regulator. Access to the Internet should be provided to as wide a population base as possible.

Chapter Eight: Broadcasting and Human Resource Development

Broadcasting has a role to play in human resource development through:

- the provision of education and information to the South African population;
- the development of broadcasting practitioners and skills.

Different players in the broadcasting industry; such as the public broadcaster, the commercial, community and education sectors, have different responsibilities to fulfill to ensure that this role is achieved effectively and efficiently.

Chapter Nine: Ownership and Control

Policy in broadcasting must achieve the objectives of empowerment through the transformation of the broadcasting sector. This transformation will encourage the ownership and control, active involvement in managerial and operations levels and professional skills development of the previously disadvantaged in the broadcasting sector.

Furthermore policy will look for means to increase foreign investment while ensuring that control remains in the hands of South Africans. Policy will also control cross media ownership. The regulator will design relevant licence obligations and monitor performance with regard to these issues.

Chapter Ten: Financing Broadcasting in South Africa

The government will support the production of local film and television so that there is sufficient quality local programming to provide sufficient level for South African windows. A fund will be established to achieve these goals.

Chapter Eleven: A New Regulatory Framework

South Africa's regulatory framework for broadcasting is based on the democratic principles where the Parliament, the executive and the courts have shared responsibilities.

This framework has definite social and economic outcomes it seeks to achieve. Moreover, this framework calls for the broadcasting and telecommunications regulatory functions to be merged into a single body.

Preamble

Broadcasting can make an inestimable contribution towards the social, political and economic development of South Africa.

Broadcasting can disseminate information, provide education and create empowerment which leads to economic growth.

Broadcasting can promote democracy and nation building which will enhance the development process.

Involvement in the broadcasting industry has hitherto been the preserve of the privileged few. Meaningful participation by historically disadvantaged groups and the development of skills will inject greater mobility in the industry and the generating effect of that will feed the national economy.

A clear broadcasting human resource development programme involving the nurturing and development of young talent will grow the local production capacity.

An increase in South African content in the broadcasting system in both programming and the production process will grow the total broadcasting production industry to the benefit of the economy at large.

There must be minimum news and actuality programme delivery required of all broadcasters; the appropriate amounts should be determined for each sector in turn.

Public interest must be protected and reflected in access, diversity within the framework of national unity, equality and independence.

The policy framework must cater for meaningful involvement of the historically disadvantaged groups in the broadcasting sector through tangible ownership and control.

Clear, integrated human resource development programmes with performance indicators and monitoring standards must be laid down.

Broadcasting policy must promote free and fair competition and that the South African broadcasting system can be competitive in the global society.

The new broadcasting policy framework must define intermediate and long-term policy ends and allocate roles and assignment of tasks.

BROADCASTING POLICY FRAMEWORK

Chapter One : A New Broadcasting Vision for South Africa

1.1 The Past

The South African broadcasting system existed for decades as one of the most politicised broadcasting systems in the world.

The politicisation of the broadcasting system was institutionalised and manifested itself at a variety of levels, including:

- policy determination and regulation
- service provision
- employment practices and recruitment strategies, and
- content production

A government department set policies, created monopoly conditions and directed the activities of the sole broadcaster.

In line with the apartheid philosophy, service provision was meant to favour the advantaged according to the criteria of colour, class, geographic location and language.

Employment practices and recruitment strategies had to fit into this distorted broadcasting system. People who were trained as broadcasters were not representative of various segments of the population. In fact they represented a community segment of a particular political belief.

Apart from disseminating racial stereotypes and fragmenting the South African population on racial lines, content provided by the system was often political, particularly in the coverage of news and political events. The hallmarks of this broadcasting system were political censorship and the dissemination of propaganda on all services.

The reforms of the last four years have been built upon legal foundations established just prior to the first democratic election in 1994.

The Independent Broadcasting Authority Act of 1993 put in place a new framework for the growth and regulation of broadcasting in South Africa.

The Independent Broadcasting Authority was created to reform and regulate the whole of the broadcasting sector.

The IBA's administration of this task has been such that South Africa now has a much more developed broadcasting sector.

The country now has a number of private radio stations, offering commercial services, and a larger number of community radio stations.

The South African Broadcasting Corporation has been reformed internally, although the Broadcasting Act 1976, which created the SABC as a statutory corporation, has not been amended.

The first privately-owned free-to-air television service was recently licensed by the IBA.

These reforms, and others, have been aimed at putting in place a range of more diverse services to help overcome the practices of the past.

The establishment of the IBA - to regulate broadcasting in the public interest - was a step prompted also in part by the need for effective, non-partisan monitoring of democratic elections in the country.

The appointment of a new SABC Board in 1994 was also aimed at freeing the SABC from political control.

The Triple Inquiry by the IBA into the Protection and Viability of the Public Broadcaster, Cross Media Control, and Local Content provided the first symbolic evidence that South African broadcasting was capable of being integrated into the international broadcasting system.

1.2 The Present

Despite these initiatives there continue to be many inequalities in the broadcasting sector, and some of these include:

- inequality in access
- inequality in resource allocation (frequencies, human resources and finance)
- inequality in language, cultural and educational programming
- lack of diversity and choice, in services and in programmes
- lack of empowerment for the historically disadvantaged

Although the IBA Act of 1993 started the process of reforming the system, service provision and other elements of the system still continue, in the main, along the structured lines of the past. Many services which were catering to particular segments of the population continue to do so.

Access to broadcasting, whether by service providers or by end users, has not improved sufficiently.

The IBA's Triple Inquiry Report did recommend that the SABC should act to upgrade language services to be on a par for the country's official languages. The SABC initiated this endeavour only to cut back due to financial constraints.

For television the IBA recommended the inclusion of all eleven South African languages, but the SABC's television is structured along national lines and some language groups are concentrated in discreet parts of the country.

As well as encountering these impediments to overcoming inequalities, South Africa's only subscription television service remains targeted at the wealthy, predominantly white segment of the population. A satellite-delivered subscription service has since entered the sector, but it also generally targets that same segment.

New radio licences also mainly target the upper echelons of South African society. Of the four stations in Gauteng, one targets the upper echelons of the black segment, one is serving the 16-24 age group (higher end of that market), one is a classical station, and the fourth serves the Afrikaans community.

Out of three licences in the Western Cape, one is a talk station in English serving the high end of the market, one is a niche jazz music station and the third is a talk station broadcasting in Afrikaans.

In Durban the only newly licensed service is also a niche jazz music service in English.

Even though community broadcasting has flourished over the past two years, there has so far been no viable plan to roll out this sector to reach the most needy and all geographic areas of the country. Its growth thus far has been sporadic and not according to any national plan. Licence applications have been dealt with on the basis of demand, rather than focussed on needs.

The upshot of all of this is that, for the majority of South Africans, there has as yet been little or no change to the number and choice of services available, or the type and diversity of programming on offer.

The South African broadcasting system currently exists within a context characterised by two factors.

On the one hand, is the quest of a new democratised nation to utilise the unique and powerful broadcasting media in the task of nation building, and to construct a vibrant and democratic dispensation fostering national and cultural identity, and equality and respect for the fundamental rights of all South Africans.

On the other hand, South Africa is still shackled by its past; a society deeply divided between haves and have-nots, which divisions are clearly characterised along ethnic, racial, linguistic, gender and cultural lines.

These divisions still define the essence of the social, political, economic and cultural transformation that will be required to redress the legacy of apartheid in order to create a democratic and completely inclusive society.

The South African broadcasting system mirrors this duality.

Externally, the system displays levels of sophistication that favourably compare with any developing country in the world. The number of broadcasting services in the private, public and community broadcasting sectors, offering a variety of programmes, appears to offer real choices to South Africans.

But large sections of the population have no choice of services and programming, and sometimes receive no services at all. A majority of South Africans rely on a single service, usually radio, to meet their broadcasting needs. This is very unsatisfactory.

The pattern of deployment of broadcasting transmission networks and other facilities in the country underpins the lack of availability of services to under-privileged people and under-developed regions. In rural areas, a single radio station and a single television service might, at best, define the choice of services.

Moreover, the services are not inclusive of all South African languages and culture. English is the dominant language of broadcast in South Africa. All three SABC television channels offer a diet of programming which, until very recently, was mainly in English. English and Afrikaans radio services maintain the most extensive network and the most developed broadcasting service in the country. Private broadcasters, with the exception of a few new entrants who offer very little programming in marginalised languages, all offer programmes in English.

South Africa now has eleven official languages. Many people who speak these languages are clearly not adequately served by the broadcasting system. The situation is compounded by the fact that while services in English increase, a major part of the South African society does not use English as a language of communication and interaction in daily life.

And in the field of programme production, South African content plays a secondary role to foreign programming. This places South African talent - creative, technical, artistic and administrative - at a significant disadvantage, and threatens further marginalisation of South African culture in the future.

Even though South Africa has spawned a small independent production sector, policies of the apartheid era have ensured that this sector draws talent mainly from one segment of the population.

Ownership patterns in this sector, as in the service provision sector, are skewed in favour of certain segments of the population.

These are the two worlds of the South African broadcasting system.

The regulatory framework, until now serving as policy on broadcasting needs a major revamp. The regulatory framework does not contain principles that enable South Africans to deal with the globalisation of the broadcasting industry as part of communications industries. At the same time no coherent framework exists to deal with the convergence of broadcasting, information technologies and telecommunications.

Government wishes to make it clear however that it does not wish to explore ways and means of diminishing services available to those that have been favoured by the policies of the past.

It is, though, intent on pursuing every opportunity to promote the historically disadvantaged in all of the sectors of broadcasting, and in related industries.

The Government appreciates that the broadcasting sector is reasonably healthy in economic terms, and that projections for advertising growth are very good. The Government acknowledges that this growth is good for the economy and has general benefits for the whole community. It also seems clear that there is significant untapped potential in broadcasting, and that there is plenty of scope for new services, particularly radio services, throughout the country.

Private broadcasting must contribute directly to the social wellbeing of the country, and not just indirectly to its economic well being. In order to achieve progress in the Government's campaign to offer more and better broadcasting services, so that all South Africans can access those services equally, private broadcasters will have to assume certain obligations in return for the privilege of a broadcasting licence.

1.3 The Future

1.3.1 Approach to the Broadcasting System of the Future.

The majority of responses to the Green Paper reiterate the need for the broadcasting system to operate in the interest of the people of South Africa through supporting the following areas:

- Universal access
- Diversity
- Democratisation of the airwaves
- Nation building
- Education
- Strengthening the spiritual and moral fibre of society

The objectives of the South African broadcasting system are outlined in Section 2 of the IBA Act. It is clear that these policy objectives were developed for the first phase of instituting transformation in broadcasting and did not thoroughly formulate policy ends. As a result, the following areas require clarification:

- Policy development and formulation
- Allocation of roles and proper assignment of tasks
- The definition of intermediate and long term policy ends

Policy ends should help the public to visualise the desired state of the broadcasting system and the objectives of the various actions undertaken in pursuit of policy. Policy statements should be able to adapt to changing conditions, yet at no time should the public be left in doubt as to what it is that must be achieved by the broadcasting system over a period of time.

A reformulation of the policy statements must guide the South African broadcasting system. This will be based on the principles laid out below.

1.3.2 Constitutional Principles

It is of vital importance, that the new Broadcasting Law should contain constitutional principles that have since evolved, for broadcasting to exist within the legal and constitutional provisions. The South African constitution guarantees a number of fundamental rights, which should be taken into account in determining broadcasting policy and its regulation. Amongst these are:

- Freedom of expression for all South Africans
- The right to equality
- The equality of all languages
- The multi-cultural nature of SA and the right of all South Africans to the promotion of their cultures
- Choice and diversity

1.3.3 Public Interest

The frequency spectrum is a valuable natural resource, which is an asset that belongs to society at large. The use of the spectrum is, therefore, a privilege and it is in the public interest that the frequencies are allotted such that broadcasting is available, universally, to all of the people and that it caters for the diverse needs of the total population.

Broadcasting Media uses airwaves, which are a limited public resource and to which there cannot be unlimited access by individuals. Airwaves should be utilised for maximisation of the public good. In case of any conflict between public interest and private commercial interest, public interest should prevail. The public also legitimately expects returns for the use of its property.

The IBA Act proclaims that broadcasting should be regulated in the public interest. This important policy end is not supported by any policy principle establishing the need for this consideration. This is an important omission in the development of public policy

The public character of the radio frequencies is the single important principle that should feature in broadcast policy, establishing the need for public intervention and consideration.

The advent of technological means to distribute more than one signal through an assigned frequency reinforces the need for the public nature of radio frequencies to be restated as a matter of policy. Unless, this important principle is contained in policy statement, disputes will arise as to the right of the public institutions to determine policy on the allocation of frequencies in the digital age.

While policies to assign frequencies and those governing spectrum usage may change from time to time, the important fact that it is the public interest that must be safeguarded in such usage, must still underpin choices of policy direction.

Regulating the use of radio frequencies in the public interest also stems from other considerations, including:

- The need to define broadcasting parameters to avoid interference with consumer services
- The need for radio frequencies for other socially important activities such as the defence of the country, emergency and other communication services
- The need to affirm the role of the previously disadvantaged in the broadcasting system
- The international responsibilities of the South African government
- That in its social, cultural and economic dimensions, the public interest is served through the provision of broadcasting services to the entire range of diverse interests in the South African community. And that broadcasting plays an integral role in developing and reflecting a South African identity, its character and cultural diversity within the framework of national unity.
- Broadcasting policy formulation functions in the context of the identified national goals of democracy, development and nation building. The national goals provide the framework for the development of regulatory policy which recognises the role of broadcasting in society.
- The need to ensure that the public is adequately compensated for the use of the broadcasting spectrum. Operators must, therefore, pay license fees for the use of the spectrum. This excludes the cost of administering the IBA's processes.

It is vital that our emerging broadcasting system is imbued with a strong sense of public interest. These public interest values of access, diversity within the framework of national unity, equality, independence and unity are pervasive.

A central public interest principle in broadcasting is that of universal access, that is, the availability of broadcasting services to all citizens. In South Africa it is also desirable to expand the concept of access from the right to receive information to include greater access to the means of production in broadcasting.

The question of access relates directly to the principle of diversity. Access to choice and diversity of choice includes access to a diverse range of language, cultural, religious and

regional programming. The real significance of diversity within the framework of national unity is that it secures other benefits for society such as a substantial degree of media pluralism. At least five dimensions of diversity are:

- Media functions
- Content
- Representation of different groups and people
- Geography or locale
- Media ownership limitations

A further expansion is that of equality which is impossible to realize in practice in absolute terms. Thus the concept of proportionality is often used whereby media should reflect the different groups in society in relation to their size. This extends to encouraging new entrants through affirmative action and fair employment practices.

Diversity of opinion is intimately related to the principle of independence, which is central to ensure editorial freedom, particularly on broadcasting services.

The South African broadcasting system in contributing to unity should serve to safeguard enrich and strengthen the cultural, political, social and economic fabric of South Africa. It does so by encouraging the development of South African expression and displaying South African talent.

Consequent upon this role, it is appropriate that all broadcasters contribute to meeting the public interest.

This brings into focus the need for a strong and committed Public Broadcasting Service. Such a service should cater for the needs and aspirations of all sections of our society, particularly the underprivileged and historically disadvantaged. It should ensure universal availability and access and should meet the education, information and entertainment needs of all of the people of South Africa. It should also meet the needs for children's programming and human resource development. Above all it should contribute to nation building.

Issues pertaining to the restructuring of the SABC to make it an effective Public Broadcaster are dealt with the Chapter on Public Broadcasting Services.

The principle of public interest also imposes obligations on the part of the private broadcasters. These are dealt with in detail in the Chapter on private broadcasting.

The community sector also faces obligations and responsibilities because of the principle of public interest. These are discussed in detail in the Chapter on community broadcasters.

1.3.4 Fostering Democracy and Democratic Values

A well-founded broadcasting system should ensure pluralism in the provision of news, views and information. It should give wide and enlightened choices to the citizens and thereby contribute significantly to an effective and vibrant democracy.

Such a system should also enhance and protect the fundamental rights of the citizens as enshrined in the new constitution. The broadcasting system plays a more fundamental role than any other form of media does in the life of our country. The majority of South Africans rely on broadcasting for their participation in socio-political developments in the country.

Against this backdrop is the reality that broadcasting as a system has not as yet delivered the desired objectives. The majority of South Africans still rely on a single service in Radio and in Television to satisfy their programming needs. The need for reforms in the broadcasting system in order to bring it in line with the democratic values of the constitution stem from the Government's intentions to enable the citizens to interact better with the institutions of society and to deepen the democratisation of the country.

1.3.5 Complementarity of Roles: Policy Formulation, Regulation and Service Operation.

The enactment of the IBA Act laid the foundations for the separation of powers to formulate policy, and to regulate and provide services. However, in as much as the State was the sole player in all of the three areas of governance, this did not materialise in practice. New problems arose because the Act merged the processes of policy formulation and regulation into a single structure. In fact, the IBA Act is totally silent on the issue of the development of policy. It asserts the primary object of the Act as the regulation of broadcasting activities in the Public interest. As such, national policy formulation has been treated as a sub-task of the IBA's regulatory functions.

This structural organisation of the broadcasting system is not in accordance with the best international practice, obscures the different roles and responsibilities, and fundamentally undermines public accountability. The International Telecommunications Union has recommended three roles in the governance of the communications sector, namely policy formulation, regulation and service operation.

Policymaking is a shared responsibility of public authorities and institutions, Parliament, Government and the Regulatory Authority. However, legitimate interaction between the IBA and the Government of the day has not been provided for in the IBA Act. No clear processes and mechanisms are detailed. Mechanisms to resolve policy disputes are also not provided for. The IBA, a statutory body is left free to decide on some fundamental policy issues without being required to consult with government. The law

needs to allow for some form of interaction between Government and the Regulatory Authority.

In broadcasting, just like in other areas of activity, regulations are part of statutory instruments that set standards and cannot therefore be regarded as operating in a vacuum. The standards that govern the behaviour of all of those involved in broadcasting are established by:

- The Constitution
- The Acts of Parliament
- Government policy directives (subject to the Act and the Constitution)
- Regulations by the Authority
- Conditions of license
- Self- regulation
- Corporate regulations

The South African broadcasting system should therefore be restructured along the same lines, as is the case globally in virtually all democracies. This would call for laying down clearly the roles of different players and providing for a transparent mechanism for their interaction.

For the effective functioning of the entire broadcasting system, and keeping in mind the fact that the whole broadcasting system should be geared towards the public interest, the roles and functions for the Parliament, Government and the Regulator should be as follows:

1.3.5.1 Parliament

Parliament will be asked to amend the Independent Broadcasting Authority Act so that:

- Responsibility for the achievement of the objects of the Act is better defined.
- The Minister will be responsible through the Parliamentary system for the formulation of policy and the development of the broadcasting sector as a whole.
- Within this framework the IBA will implement policy through regulations specifically for the public, community and private broadcasters and to ensure the development of the three tiers of the broadcasting system.
- The SABC Board will be responsible for the delivery of public service and operation of the public broadcasting system in accordance with the statutory charter which should be legislated for.
- It is the responsibility of the Minister to promote public broadcasting services, and the shared responsibility of the Minister and the IBA to promote private and community broadcasting services

- It is the shared responsibility of the Minister and the IBA, but principally that of the Minister, to protect the financial accountability of public broadcasting services.
- The obligation to ensure that certain needs are taken into account in public broadcasting services, is also applied to private and community broadcasting services.
- Public broadcasting responsibilities relating to protecting the integrity and viability of public broadcasting services and ensuring that in the provision of public services, the needs of language, culture and religious groups, the constituent regions of the Republic and local communities and those for educational programmes will be a shared responsibility of the SABC Board and the Minister.
- The specific nature of limitations on cross-media control and foreign ownership of private broadcasting licenses should be outlined in the Act.
- Parliament is entitled to determine how any grants of public monies by the State to the SABC are deployed.
- A statutory charter for the SABC should be legislated for, and this charter should place appropriate stress on the obligations of the SABC to provide a comprehensive service of wide geographic coverage.
- The charter should incorporate the responsibility for the development of public broadcasting services, which are responsive to the needs of the public and the viability of the public broadcasting services.
- The SABC should have, along with the Minister, responsibility to ensure that the needs of language, cultural, religious groups, the constituent regions of the Republic and local communities and those for educational programmes are duly taken into account in the provision of public broadcasting services.
- Parliament will retain its powers of appointment in relation to the IBA.
- The concept of two co-chairpersons of the IBA will be abolished in favour of a single chairperson.
- A number of other changes to the Act will be made to eliminate a variety of problems that hinder the efficient operation of the IBA. These include:
 - The definition of quorum will be amended to allow a quorum to be the majority of the appointed Councillors.
 - The IBA will be given power to create sub-committees of Council.
 - The IBA will be given the discretion to determine whether it will hold a public hearing or not.
- A number of amendments to the IBA Act proposed by the Authority will be taken into account.
- The power of the IBA to remunerate employees at levels considered as being competitive in the open employment market, which confers a very wide discretion on the IBA, will be curtailed. The IBA will be required to offer salaries consistent with public sector standards.
- The IBA will be funded directly by government, and not be allowed to retain funds obtained from any other source.
- No statutory authority should be permitted to profit from fines it might impose.

- Surplus funds will not be allowed to accumulate in the IBA.
- The IBA's Annual Report obligations will be broadened; in particular the IBA will be required to report on operational as well as financial matters. These matters should include comprehensive statements about:
 - Licensing
 - Planning
 - Supervision of standards
 - Ownership and control issues
 - Industry compliance with license and other obligations
 - Local content issues
 - Technological developments, including the Internet and multi-media

1.3.5.2 Government

- The Government should have the right to issue policy directives to the IBA on policy matters.
- These policy directives should not be retroactive
- These policy directives should be of a broad policy nature
- The IBA should enjoy the independence to implement these broad policy directives in its regulatory activities in accordance with a public process.
- The issuing of these directives should be in accordance with transparent public processes namely:
 - The Minister responsible must interact with the IBA before issuing policy directives and publish those through a government gazette.
 - The Parliament of the Republic of South Africa should also be notified of the policy changes and directives
- The Government is entitled to be consulted by the South African Broadcasting Corporation about the management and financial affairs of the Corporation
- The Government's responsibilities for matters relating to broadcasting that are of significant economic, cultural and social importance to the people of South Africa include:
 - The determination of overall priorities for planning broadcasting services by category of service, by geographical identification and by means of delivery.
 - The allocation, *on the advice of the Regulatory Agencies*, of radio-frequency spectrum to the regulator for the purposes of planning broadcasting and other services.
- The universal service responsibilities and obligations of public broadcasters.
- The Government's obligations under international treaties and conventions.
- General Government policies as they relate to broadcasting, including policies on:
 - Empowerment
 - the Internet
 - online services and
 - multi-media

The Minister responsible will periodically request the IBA to furnish him with advice and recommendations about these matters.

1.3.5.3 The Regulator

The IBA came into operation in April 1994 and has since made a major contribution in opening up the airwaves in South Africa. Amongst other things, it has:

- Provided for the transformation of the state broadcaster into a public broadcasting service and the establishment of an entirely new community radio broadcasting sector;
- Expanded the private broadcasting industry with the sale of six of the SABC's commercial radio stations and the grant of nine private radio licenses as well as the licensing of a new private free-to-air national television service; and
- Created a framework for further policy development for the South African broadcasting system.

The perception that the IBA is not accountable to anyone in its activities regarding the implementation of public policy is wide spread and a source of concern. Consideration of the roles of different players in the governance of the broadcasting system departs from a notion of public accountability. While the basic assumption is that there will be an effective Regulatory Authority capable of basing its activities on public policies, it is nonetheless important that the regulatory authority retains public trust.

The publishing of a Working Plan, a Regulatory Strategy and a Licensing Schedule at least at the beginning of every two years, will help the public understand the processes of the IBA and, more importantly, link these to the achievement of policy objectives.

- The principal roles of the regulator include:
- Administration of the statutory scheme for granting and renewing broadcasting licenses.
- Management of the broadcasting services frequency bands and other parts of the radio-frequency spectrum properly delegated by the Parliament and the Minister to broadcasting purposes.
- Design and implementation of regulatory policies and license conditions for different categories of broadcasting service, including conditions relating to:
 - Local content quotas and compliance and the strategies that evolve from it.
 - Service provision, including coverage obligations and language service provision
 - Formulation of regulations for ownership and control compliance
 - Code of Conduct compliance
 - Empowerment

- Monitoring the broadcasting industry to ensure compliance with broadcasting laws and regulations
 - The conduct of research, including research into community standards to inform its regulatory role
 - The enforcement, where appropriate and necessary, of broadcasting laws and regulatory requirements
 - An appropriate accountability to the Parliament, the Minister and the system of judicial review.
- The functions of the regulator will include, but not be limited to:
 - Planning, in accordance with the overall national plan, the availability of segments of the radio-frequency spectrum on a national and area basis, including the preparation of a frequency allocation plan for South Africa. Efficiency and effectiveness should be the hallmarks of frequency allocation planning
 - The granting and renewal of broadcasting licenses
 - The maintenance of a register of licensees which should be available to the public at all times.
 - Monitoring the operation of the IBA Act and technological developments and service trends in the broadcasting sector, and reporting to the Minister from time to time
 - Dealing with complaints about broadcasters' observance of community standards in programming and advertising
 - Dealing with and prescribing the appropriate radio-frequency spectrum engineering characteristics of broadcasting services
 - The making of regulations necessary to give effect to broadcasting policy through due public processes.

1.3.6 Diversity of Media Outlets and Ownership

Media influences public opinion and plays a fundamental role in the political destiny of the country. This is particularly so in respect of broadcasting media due to its wide reach, as the most pervasive means of communication.

Any consideration of limiting media ownership to a few hands would be detrimental to the democratisation of South Africa. Concentration and control in a few hands, particularly in foreign hands, might even undermine the sovereignty of the country.

It is important to devise appropriate policy frameworks to ensure wide dispersal of media ownership and to prevent their concentration in few hands. The media ownership patterns of the past that concentrated media ownership in the hands of a small segment of the population should not be duplicated. Limits on permissible ownership by foreign nationals or entities should be clearly laid down.

These and other related issues are discussed in detail in the Chapter on Ownership and Cross-media Restrictions.

1.3.7 Promotion of Overall Economic Growth

Government will create conditions to promote the development of the private sector by:

- Creating certainty through the national policy framework;
- Reviewing policy from time to time to meet on-going technological and other changes;
- Encouraging investments in the broadcasting sector through introducing new players to the broadcasting system; and
- To make industry more competitive

The growth of the broadcasting system will result from increased investments, which will be stimulated by the policy framework. It will position the private sector favourably for development in a global environment.

The policy framework will ensure:

- Quick adaptability to new and changing technologies;
- Efficient use of the spectrum and fair competition,
- Growth in South African productions and the expansion of the South African Cultural Industries.
- Global competitiveness and the creation of jobs.

These issues are addressed in the Chapters on Digital Broadcasting, Internet, Spectrum Management, Cable and other multi-channel distribution systems, South African content and the private commercial sector.

1.3.8 Reflection of National Identity, Culture and Character

The technological evolution has ushered in a diversity of channels that can be received from throughout the world. While this technological change has increased the choice of programmes that can be received and enjoyed by South Africans, it has thrown up challenges which must be addressed relating to the cultural and economic aspects of the broadcasting system.

At a cultural level, the reflection of the cultural realities of South Africa decreases at a rate that is proportional to the increase of foreign programmes in the South African broadcasting system. Simply stated, the more our broadcasting system is defined by programmes about other cultures and from the creative output of others, the less it is defined by programmes about the South African way of life, values and context.

At an economic level the production capacity and therefore the employment opportunities for South African cultural producers and creative artists, is influenced by the level of South African programming in the broadcasting system. The development of the cultural sector is therefore influenced by policy considerations that determine the extent to which the South African broadcast content is prioritised.

The South African broadcasting system should reflect the identity and the multi-cultural nature of South Africa by promoting the entire spectrum of cultural backgrounds in South Africa. To ensure this, it is necessary that broadcasting entities in South Africa are owned and controlled by South Africans and that ownership patterns of the past are reformed.

The requirement that South Africans must own broadcasting services goes a long way to securing the tools for South African cultural determination. Yet on its own, it does not and can never ensure appropriate South African content. Local content should also be addressed and policy principles for its development included in law. This is a policy function and not a regulatory function. The policy ends must define the regulatory and other strategies that may be adopted.

The choice of programming should entail a choice of South African programming. This calls for a deliberate policy to ensure that the South African broadcasting system offers South African programmes about the conditions, life styles, behaviour and cultural heritage of all South Africans. This policy should encourage the presentation of entertainment, educational and informational programming from the South African perspective in whatever format and distribution mechanism.

1.3.9 Redressing the Past and Universal Access

The Green Paper and this White Paper trace the roots of the broadcasting system to deliberate discriminatory policies of the previous government, which ensured an under development of broadcasting services targeting the broadcasting needs of the historically disadvantaged, languages and cultures.

Many responses to the Green Paper pointed to economic and demographic reasons for the uneven development of the broadcasting services. The main reasons advanced are the social and economic profile as well as the living standards, which make these audiences unattractive to advertisers. The practise of 'first-come first-serve' in the allocation of frequencies also helps to explain the lack of development of services in languages other than English.

A policy position, which requires the IBA to prioritise the allocation of frequencies to serve language needs that were neglected in the past, will help direct resources to the areas of greatest need.

The uniform manner in which frequency allocation is carried out and parameters and footage drawn, seems to ignore the important dynamics influencing the survival and viability of services using the different languages. Policy consideration, rather than being regarded as an end in itself, should drive frequency allocation. If policy requires that language choice and diversity in terms of broadcast services should be comparable for all South Africans, technical considerations should adapt to this policy by ensuring a large enough geographic coverage so as to reach the critical number of audiences required to make the licensed services viable.

Policy should :

- recognise the special character of language broadcasting and provide for technical parameters that suit the different languages;
- prioritise the provision of services in languages of choice where applicable.

However, programming alone will not solve the problems of addressing all South African broadcasting needs. Access is a critical area that needs urgent address through appropriate policy intervention. In the area of signal distribution, the network and infrastructure must be extended to cover the entire country.

Chapter Two : Public Broadcasting

2.1 The Broadcasting Act 1976

The South African Broadcasting Act 1976 created the statutory corporation we know as the South African Broadcasting Corporation.

Regrettably, the Act did not set out what the role of the SABC would be. The Parliament of the day obviously preferred not to follow international precedent and outline the role, functions, obligations and responsibilities of the State-owned broadcaster.

This clearly suited the undemocratic government of the day, and the SABC never lacked for political direction.

As South Africa's sole broadcaster for many years, the SABC made insufficient efforts to provide a comprehensive service, catering for all South Africans. Programming was geared to the tastes of the enfranchised ruling class, and coverage was geared to areas where those people lived.

The terms of reference for the South African Broadcasting Act was to consolidate and amend certain laws relating to the South African Broadcasting Corporation and the control of broadcasting in the Republic; to authorise the South African Broadcasting Corporation to issue certain licences. The objects of the corporation were described as:

- To carry on a broadcasting service in the Republic;
- At the request of the Minister and subject to such conditions as he may determine, to broadcast programs for reception in a country or territory outside the Republic;
- To transmit programmes by means of cables or wires for the reception by members of the public in general or of any category of persons in a particular area or at a particular place;
- To transmit programmes by means of radio for reception by any category of persons in a particular area or at a particular place.

2.2 A Statutory Charter for Public Broadcasting

The Green Paper identified a number of alternative models for restructuring the SABC. The consultative process established that there was a willingness to consider restructuring of some kind, but in a way that took account of the realities of the commercial market place in both television and radio, and of the present state of the SABC.

Another factor identified during the consultative process was the relationship between the IBA and the SABC. Clearly the IBA should be responsible for the regulation of the broadcasting industry but is not responsible for the formulation of the Charter of the public broadcaster.

The Charter is decided by Parliament as part of the broad national policy formulation. The IBA monitors compliance of the SABC to the Charter and complaints arising from it.

The SABC is to be accountable to Government for the expenditure programmes, budgetary outlays and financial performance.

Parliament will enact a statutory charter for the SABC. This charter will relate to public broadcasting and not to the commercial arm of the SABC. It is recommended this charter place appropriate stress on the obligations of the SABC to provide a comprehensive service (i.e., a service that caters to as many community interests as possible) of the whole country.

A statutory charter for the public broadcasting arm of the SABC will have the following features –

- an account of its principal objectives. These will include:
- an obligation to be a comprehensive broadcaster, offering services to the whole country.
- obligations to be innovative, and to offer programming of a high standard
- enriching the cultural heritage of South Africa through support for the arts.

- a responsibility to contribute, through its programming, to a sense of national identity
- a responsibility to inform, educate and entertain
- a responsibility to reflect South Africa's cultural diversity within the framework of national unity
- an obligation to report news and current affairs fairly, impartially and in a balanced fashion
- an account of its functions and powers. These will include:
 - an obligation to comply with any relevant regulatory supervision, and with broadcasting and community standards
 - the establishment of relevant broadcasting facilities for the purposes of its broadcasting operations
 - the entitlement to enter into commercial and other arrangements which will help promote its objectives
 - making programmes, or commissioning the making of programs by others, particularly by the independent production sector, for the purpose of promoting its objectives
 - operating through its Board of directors, which will independently exercise management of the SABC through the management team it chooses

Funding sources for the public broadcaster will consist of licence fees, grants advertising and sponsorship. Advertising revenue of the public arm of the SABC will be less than that of the commercial arm. It is likely that cross-subsidisation of this arm from dividends paid by the commercial arm of the SABC will also be required, as may be some degree of budget supplementation from the general revenues of the Government. The public broadcasting arm of the SABC will also be allowed to sell advertising time, but such services cannot obtain their predominant form of revenue from advertising.

The public broadcasting arm of the SABC will be required to report to the Minister from time to time on the profile of its revenues, in order to maintain a check on performance in this area.

In the event of dispute or uncertainty about the extent of revenues obtained by the public broadcasting arm of the SABC from advertising, the Minister will be given a power to request the IBA to recommend and proclaim, with the Minister's concurrence, an advertising time limit for those services.

The Government does not wish to leave the commercial activities of the SABC unregulated, with the attendant risk that it will have considerable advantages over other private broadcasters.

Accordingly, the Government will restructure the SABC in order to achieve tangible internal separation of commercial from public broadcast activities.

This separation will be a precursor to a later, more complete restructuring of the SABC operational activities, which will review the scope and size of SABC commercial activities and investigate the possible privatisation of, or the introduction of private equity to, the SABC's commercial services. This review will not take place until the impact on the market of the private free-to-air television service can be properly assessed.

The internal separation that is required will involve a detailed, activity-based cost accounting study, leading to arms length contractual agreements about the sharing of common infrastructure and services between the two arms of the Corporation. The rationalisation of redundant SABC production facilities is likely to be a by-product of this work.

The commercial services of the SABC will be licensed as 'public commercial broadcasting services', and the other services as 'public broadcasting services'. Amendment of the present definitions in the IBA Act will be effected.

In order to ensure that the proposed separation of activities of the SABC will lead to distinct, definite and different management of each arm, separate management teams will take key responsibilities within each arm. The sharing of facilities and services from a common pool (e.g., studios and equipment, information technology, corporate support and administration etc) will be the subject of enforceable agreements between the two arms approved by the Minister.

The commercial arm of the SABC will be expected to conduct itself in a fully commercial fashion and to provide dividend payments to the portfolio Minister. Reallocation of these dividends to the public broadcasting arm of the SABC will be in the hands of the Minister. Any surplus will be paid into the National Revenue Fund.

The predominant form of revenue for the commercial arm of the SABC will be sourced from the sale of audiences to advertisers.

The commercial arm of the SABC will be subject to the same regulation as the private broadcasting industry. The IBA will impose licence conditions, including local content obligations and the like, on the commercial arm of the SABC. The IBA will monitor the commercial arm of the SABC according to a promise of performance laid down by the Regulator.

It is anticipated that one television channel and four radio stations presently operated by the SABC qualify as commercial services, along with merchandising, programme sales and other commercial activities relating to those services.

The former BOP broadcasting shall be re-organised under the SABC as a separate for-profit business unit with a programming line-up of the existing satellite service. Its local

content obligations shall be comparable to private broadcasters operating in this class of license.

The satellite service shall be a satellite service carried on SABC's Astrasat. The service shall also be available free-to-air in the Gauteng region. A public hearing shall deal with the possible extension of the service to other regions via Sentech's distribution network. The distribution of this service shall be negotiated with carriers on a commercial basis.

2.3 Proposed Mandate for SABC Commercial

2.3.1 Objectives :

- to render commercial services to the broadest possible public;
- to deliver revenue to the public broadcasting arm;
- to support empowerment for the sector.

2.3.2 Functions:

- obligations to comply with the values of the PBS in the provision of programs and services;
- to comply with the regulatory framework and conditions of the commercial sector;
- an obligation to support the independent production sector through commissioning of programs;
- to enter into joint ventures with South African companies for exploitation of foreign markets.
- to observe the directions of the Parliament and the Minister in relation to budgetary planning and allocations, but not in relation to Ministerial directions or controls over editorial matters or programming.

The SABC will also be given the authority to operate international, particularly Continental, services.

Chapter Three : Commercial Broadcasting

The Green Paper indicated that in many countries, private broadcasting operators are required by law to work towards realising defined policy principles and objectives laid down by Parliament. These objectives have to be balanced against the profit motivation of private broadcasters.

The public response to the Green Paper indicated that private broadcasters expect to be treated differently by Parliament and the regulator because they represent investments by private citizens. It also recognised that obligations might vary by the type of service provided. At the same time private broadcasters should be expected to play a significant

role in providing services to minority groups and the disadvantaged. Similarly, it could be expected that private broadcasters would be required to meet defined and realistic population coverage goals.

Government understands that this sector should play a far more fundamental role in the broadcasting system. Government is taking direct initiatives to expand the commercial broadcasting sector so as to stimulate investment, growth and provide for employment opportunities.

3.1 Objectives for Private Broadcasting

The Government recognises the important role that private broadcasting plays in providing services for the public.

There are two types of private broadcasters operating in South Africa at present – private free-to-air radio and television, and subscription television, delivered both terrestrially and by Direct to Home satellites. Private free-to-air broadcasting has only one source of revenue – advertising revenues that are derived from delivering audiences to advertisers. These broadcasters must compete with each other, with public broadcasters, with community radio broadcasters, with private subscription broadcasters and with the non-regulated media such as the press and outdoor advertising for the advertisers' spending.

This competition and the needs to derive advertising revenues put some limitations on their ability to meet public service goals.

At the same time, in most countries, private operators are required by law to work towards realising defined policy principles and objectives laid down for them by Parliament. These specific rules and regulations take into consideration the need to balance public objectives and the profit motivation of private broadcasters. But private operators are commonly seen as having a responsible role to play in contributing to public policy objectives.

The Government wishes to create an environment whereby the private free-to-air broadcasting sector can meet the important responsibilities that it is expected to play while being able to attract the investment needed to flourish. It recognises that the free-to-air sector of private broadcasting can meet public policy goals in a way that the subscription sector cannot. Accordingly, in a number of sections of this paper, the Government proposes measures to ensure that free-to-air broadcasters are able to meet their responsibilities. These measures are summarised later in this chapter.

Radio is the most important way of extending services throughout South Africa. Many of our citizens do not have access to television and many more do not have the financial resources to purchase either terrestrial or satellite television services. Public policy must

prioritise the provision of free-to-air services, and in the first place, radio services, for the extension of services. This is a shared responsibility between the public, private and community sectors. Private radio focuses its programming on relatively large market segments, neither addressing all sectors of the public nor focussing on the smallest segments.

Private free-to-air television has now been introduced to South Africa. Free-to-air television must have priority over subscription services as it is better able to serve the widest number of South Africans. Private television is particularly expected to play a key role in the provision of South African drama, in providing a new source of national and provincial news and other information programming to the general public, and in providing programming for children. It is expected to extend services to all of South Africa over a reasonable time frame.

The Government acknowledges the substantial investment needed to introduce a television service. For this reason, it wishes to ensure the viability of both the public broadcaster and the private broadcaster before new services are introduced. At the same time, it wishes to see new television services introduced as soon as it is economically feasible to do so.

The Government has the following objectives for private broadcasting:

- Private broadcasting has a key role to play in the forging of a new South African identity. A healthy and vibrant broadcasting industry can play an important role in building nationhood by reflecting the rich cultural, language, religious and regional diversity of South Africa within the framework of national unity by:
- Providing a diverse range of programming free over-the-air.
- Providing diverse services addressing a wide cross-section of the South African public, particularly disadvantaged and minority groups
- Providing programming directed specifically to all of South Africa's official language groups
- Developing national sports programming so as to provide a shared national experience of pulling together for a common cause. This must include the broadcast and promotion of developmental and amateur sports. Such broadcasts must be available to most South Africans.
- Private broadcasting services must be extended to all South Africans and provide comprehensive coverage within a reasonable period of time.
- Private services should reflect the culture, character, needs and aspirations of the peoples of all of South Africa's provinces and regions and meet the special requirements of the regions, at the time that regional services become available, by developing a sense of regional identity.
- Private broadcasters have a particular role to play in the provision of programs of entertainment. It is expected that they will be the leaders in providing South African drama of all kinds.

- Private broadcasters must make a significant contribution to the broadcast of South African programming by:
- Providing predominantly South African content.
- By broadcasting South African drama, documentaries and children's programmes that reflect South African themes, literature and historical events and that make significant use of South African writers, directors, musicians, actors and craftspeople.
- Acquiring appropriate amounts of their programming from the independent production industry.
- There will be a separate class of license for each broadcasting activity. If a broadcaster wishes to operate in another category, the broadcaster must seek a license and be bound by the conditions of that class category.
- All broadcasters in the pay television sector will be subject to the same license conditions. The introduction of new players to subscription television will trigger off a new set of conditions for this segment. Accordingly, the IBA will be asked to draw regulations for this eventuality, bearing in mind that these regulations should be phased in over the license period to ensure fair competition in this segment with the existing player.
- As a way of promoting fair competition there will be a separation between broadcasting licensees and signal distribution licensees. Vertical integration between broadcasting and signal distribution licensees will be discouraged to draw investments into the signal distribution sector and also to introduce new players and services.
- Private radio and television stations have an important role to play in the on-going democratisation of South Africa. In particular, they must provide news and commentary that allow the participation of all sectors of the population in our national life. They must do so by:
- Broadcasting news and information programmes on a regular basis. In particular, it is expected that they would provide in-depth reporting and discussion on matters of national significance such as general elections and national commissions and inquiries.
- Meeting the highest standards of journalistic professionalism and integrity.
- Ensuring that their programming provides a balance and wide variety of points of view on matters of public concern. Radio in particular has an important role to play in this context as it can be provided at lower cost. Radio programming and open-line programs in particular, if properly done, can contribute greatly to the public's understanding of and participation in debates on important public issues.
- Private broadcasting must contribute to the development of pro-social values by:
- Providing programmes of specific interest to all ethnic groups, men, women, and persons with disabilities as well as portraying them in programs of general interest. Such programmes should portray these groups in an accurate and fair manner.
- Making particular efforts to broadcast high quality domestic and international programmes for children and youth at times that are appropriate for them.

- Ensuring that the portrayal of violence in its programming is done in a responsible and non-sensational manner and that particular care be exercised in programming intended for children and youth.

3.2 Economic and Regulatory Issues

Private broadcasting shall play an important role in the economic development of South Africa. It can do so in a number of ways:

- There should be fair and sustainable competition in the provision of services. New services should be added to increase diversity in the programming mix available to the public in a manner such that the ability of existing services to meet their public service obligations will not be unduly jeopardised.
- All broadcasting services doing business in South Africa should hold a licence from the IBA and pay appropriate licence fees to the public treasury.
- Private broadcasters must provide an appropriate level of employment to the historically disadvantaged and to minorities. In doing so, plans must be developed to train them.
- In order to meet the Government's priorities for broadcasting enunciated above, priority in the assignment of over-the-air broadcast frequencies must be accorded to free, unencrypted services.
- Revenues for private broadcasting should come primarily from advertising and sponsorships for free-to-air broadcasters whereas the primary source of revenues for subscription services should come from subscription fees.
- Free-to-air services must have access to revenues that are sufficient to allow them to meet their public service obligations.

3.3 The Responsibilities of Commercial Broadcasters

As was mentioned earlier private broadcasters need access to adequate amounts of capital to launch and sustain their services. A particularly attractive way of accessing this capital is to have a degree of foreign investment.

At the same time, the Government wishes to ensure control of South African broadcasting by South Africans.

At present, these competing concerns are addressed by requiring that no more than 20% of the ownership of a licensee be held by non-South Africans and by requiring that control be held by South Africans.

The Government will request the IBA to investigate and report on the appropriate level of foreign ownership that will increase broadcasters' access to foreign capital while ensuring control by South Africans.

At the same time, the Regulator will be expected to continue to scrutinise all applications, for new stations or for the renewal of licenses, to ensure that South Africans hold effective control.

The Government will expect the Regulator to continue to favour applications with significant levels of ownership by persons from the historically disadvantaged groups.

In addition, applications should be reviewed to consider whether real economic, managerial and operational control resides in the hands of such groups. The Regulator should favour applicants that can demonstrate such control.

3.3.1 Radio

Radio is the most cost effective way to provide services. The expansion of the radio sector must therefore receive priority. This expansion should ensure:

- diversity of services to all South Africans;
- the choice of services
- the diversity of program content
- the diversity of ownership
- access to the broadcasting system.

The Government will ask the Portfolio Committees on Communications and on Arts and Culture to undertake a review of the Sound Recording Industry in South Africa. Included in the topics for review are the following:

- The current status of the industry and its capacity
- Various means to stimulate the growth of the industry and the roles of each of the following:
 - The recording business
 - The Government
 - The radio industry.

Following the review, the Government may ask the Regulator to review whether the current levels of South African music are appropriate and whether there is need for any other contribution by the radio industry.

3.3.2 Private Television

After radio, free-to-air television has the greatest ability to meet the public policy goals for broadcasting. Presently free-to-air television is limited to national services with the exception of BOP TV which, as indicated elsewhere in this paper, would become a separate for-profit service to be provided by SABC nationally via Astrasat and free-to-air in the Gauteng region.

The Government wants the existing national services to be extended to at least 80% of the population over the next 3 years. It will direct the Regulator to ensure that SABC's commercial service and the new private broadcaster extend their services in accordance with this wish.

The Government recognises that private television uses substantial amounts of risk capital and must have sufficient revenues to be able to meet its obligations. The Government favours the expansion in the number of free-to-air television stations via the awarding of additional private licences. At the same time it recognises that the system will take some time to adjust to the arrival of the new player and the changes to the structure of the SABC's television services. It will therefore direct the Regulator to monitor the development of the industry and make recommendations to the Minister as to the appropriate time for the issuing of further licenses. The Minister will then decide if it is appropriate to issue a call for licences.

The Government will direct the Regulator to formulate a strategy to achieve a broadcasting system, which is predominantly South African in content. The Regulator should include a timetable to meet this requirement. In no case should this period be more than 10 years.

Fair competition between broadcasting services should prevail. All broadcasting services drawing advertising or subscription revenues from South Africans should be subjected to a regulatory scheme. Therefore, the Regulator will enforce a requirement that all services distributed in South Africa, whether free-to-air, delivered by Satellite or by terrestrial distributors such as cable or wireless cable technologies must hold a licence.

The Government's commitment to the provision of national sports to all South Africans must find expression in policy and regulation. The IBA Act must be amended to provide a framework prohibiting the acquisition of exclusive rights for national sporting events by subscription services. The IBA and the Minister of Sports must collaborate through consultation in a public process designed to identify specific events that should be subject to this provision. In addition, the SABC should broaden its coverage of sports to include minority sports.

The Government will also instruct the IBA to review the broadcast of sports by private television broadcasters, both free-to-air and subscription, with a view to maximising the broadcast of developmental sports.

Competition should be allowed in all of the areas of private radio and television operations. Licensing conditions should promote competition on an equal footing and remove obstacles to entry.

Since free-to-air services provide the greatest social contribution to the largest number of South Africans, they should have priority access to the advertising cake.

The Regulator will review the hourly limits on advertising for free-to-air stations to determine whether they are set at an appropriate level every two years.

The Regulator will further review whether the share of advertising revenue by subscription services is appropriate and not detrimental to the survival and viability of the free-to-air services. It will consider whether a lower hourly limit should be imposed upon subscription services.

The development of competition and entry of new players in the free-to-air segment of Television will be determined by the availability of the frequency spectrum. As the free-to-air services provide the greatest social contribution to the largest number of South Africans, they should have the first right of refusal over the use of terrestrial frequencies.

3.4 Licensing Framework Schedule

There is a need to grow investment in the broadcasting industry and to increase the role played by the private sector in broadcasting in the context of its contribution to diversity, access and economic and social empowerment.

To achieve these objectives:

- The pay television market will be opened up to more players
- Regional television operations will be licensed
- The private radio network will be expanded to cover neglected geographic areas and programming needs.

3.5 South African Content

Local content as a concept in broadcasting, generally refers to the imposition of licence conditions on broadcasters to oblige them to carry broadcasting programme material which originates from and/or reflects all aspects of public life in their respective countries.

Cultural products such as films, television and radio programmes as well as music are commonly affected by local content provisions and conditions.

Local content provisions arise out of a need to protect national cultural heritages, attitudes, norms, ways of behaviour and values from undue influence that cultural products from other countries may have on a nation's public life.

Local content seeks to protect all of those socio-cultural, political and economic traits that could be characterised as unique to a sovereign nation and therefore make it distinct from another.

Accordingly, a sovereign nation/country is in a position to define and maintain its identity - unique from the rest - by providing for local content conditions in the issuing of broadcasting licences and the regulation of its cultural industry as a whole.

Local content seeks to balance out the scales in an environment increasingly opening-up to the inflow and outflow of cultural products, with the purpose of stemming a dependency syndrome in the consumption of films, television programmes and music.

Accordingly, if provisions are not made to protect locally-produced cultural content, a sovereign nation runs the risk of evolving into a consumer of cultural products produced elsewhere.

As a result, such a nation cannot be said to be sovereign in the cultural sense. The ideal environment should be one in which nations and countries enrich themselves by exchanging cultural products on an equal footing with other peoples in the world.

Many countries around the world have come to embrace local content on issues relating to broadcasting as a result of the deficiencies that characterise the broadcasting market in each country, as well as the traffic of cultural products on the international market.

Countries with larger broadcasting markets, stand a better chance of flooding the international market with their cultural products, and those with smaller markets - out of a desire to evade production costs - end up on the customer counter, purchasing cheaper cultural products from other countries.

The danger that local content seeks to prevent, is that poorer countries run the risk of being relegated to consumer status in the cultural / entertainment market.

The flip-side of this argument is that with an increasing trend of broadcasters acquiring programmes off the shelf of international markets, the foreign programme makers will have at their disposal the best resources to draw on in making programmes which go on to sell internationally.

A solid financial base of international studios is thus built, allowing foreign programmers to produce at higher levels.

The quality of such productions, ultimately comes to define international production standards which many producers in the least developed countries cannot easily match.

As a result of the above exposition, local content programming and production has become part of the broadcasters' responsibility towards meeting Public Interest programming. As part of their licensing conditions, broadcasters are required to commit some air-time to local content programmes or contribute a percentage of their revenue towards the production of local content.

However, local content is defined differently from one country to another - depending on the dynamics that exist in the cultural industry of a particular country.

In many European countries, for example, local content has evolved beyond the confines of political boundaries, to include cultural products from other European countries.

3.5.1 Local Content Challenges

Local content poses a number of challenges to a broadcasting system, and these relate to:

- Financing local content production;
- Development of a multi-channel broadcasting environment;
- The introduction of multi-media and convergence of technologies.

One of the main reasons cited by broadcasters for their preference of purchasing programmes from the international market is that the production of local programmes is costly.

Programmes purchased from international shelves are relatively cheaper because many have recouped the production costs in their respective countries, and are already generating surplus from sales made to other broadcasters elsewhere.

This rationale makes it imperative that if South Africa views the production of local content as cardinal in the development of the broadcasting and cultural industry - policy should support the funding of local content production.

Secondly, the emergence and evolution of a multi-channel broadcasting environment in South Africa will have a bearing on the local production sector.

A properly regulated multi-channel environment, promoting South African content will increase the demand for local content and offer more economic opportunities to the producers.

National Policy must help prepare the country for this multi-channel environment so that all sectors of the broadcasting industry should bear their fair share of responsibility for promoting South African culture and the national identity.

3.5.2 Local Content Production, Multi-Media and Convergence

Technological innovations and convergence of broadcasting, telecommunications and IT raises some policy issues that need resolution.

The digitisation of the means of production means that voice, data and images may be combined, accessed, transformed and distributed over many platforms. At this level technology offers a possibility to distribute South African products through a combination of many platforms.

On the other hand this digitisation raises more vexing problems about the production and dissemination of South African content in this converging world.

In so much as technology offers opportunities, it presents challenges in the form of foreign cultural products increasing their share of dominance of the South African market. CD-ROM's are an example of multimedia applications which deserve attention.

Content driven new media, created from an integration of any two traditional media, will mean an added advantage to those with content databases and libraries. The present lack of capacity of the country to produce adequate levels of local content will translate into further disadvantage in the era of convergence and new media.

Regulation covering local content will be severely tested by the emergence of new distribution platforms. New distribution techniques make content quota requirements difficult to monitor and implement.

The major barriers to local production are cost, skills and the limited availability of infrastructure, including trained personnel, and other necessary facilities like production studios and training centres.

The fact that production facilities are not easily accessible by small independent producers is a structural issue. One way of addressing this problem is to encourage co-productions with international partners.

Co-productions in South Africa appear to be an under-utilised means of stimulating the making of local programmes.

3.5.3 Policy Framework

The technological evolution is ushering in a diversity of channel as well as media platforms to deliver a variety of services. However, changes in technology also bring along challenges, both cultural and economic for the broadcasting system.

At a cultural level, the reflection of the cultural realities of South Africa is decreasing at a proportional rate to the increase of foreign programs. The empowerment of previously disadvantaged individuals may not necessarily lead to an increase in local content. Policy on content should be addressed, and developed positions enacted in law.

Policy should ensure that choice of programming should favour South African programmes. Policy should encourage the presentation of entertainment, educational and informational programming from the South African perspective.

At an economic level, the production capacity is relative to chances of employment of South African creative artists. The development of the arts sector is therefore relative to policy considerations that determine the extent to which the South African broadcast content is prioritised.

The music industry has relatively high local production capacity, and South African music is very popular, but the operators of commercial radio stations continue to maintain that their mass audiences prefer high levels of foreign, or international, music. They are also critical of South African music production quality, maintaining that it is not of a sufficiently high standard to compete with international music.

It will be a policy position that the South African broadcasting system should display a predominantly South African content.

3.5.4 Inquiry into Local Content:

- The IBA must draw a plan for local content carriage by broadcasters - for South African broadcasters to reach a predominant local content in all genres within a target period of 10 years;
- A South African Broadcast Production Agency will be established to support and promote local content production in radio and television.(details regarding this Agency are outlined in the chapter of this document covering the financing of the broadcasting system);
- The Minister will ask the Parliamentary Portfolio Committee to investigate the record industry's situation, with the intent of improving the quality and quantity of South African music.

Chapter Four : Community Broadcasting

The IBA Act of 1993 allows for three tiers of broadcasting: Public, private and community. The latter is a new phenomenon in South Africa. It is based on the premise that community broadcasting is for the community, by the community, through the community.

The IBA has granted 85 community radio licenses since 1994. Today 67 stations are on air. These stations are largely centred in the urban areas and immediate environs. They are unequally distributed within the country's nine provinces and the least developed provinces have the least number of community radio stations.

The challenge is to give greater access to the needy areas in order to provide equal opportunity to the public at large.

Most of the unserved areas do not have their own resources, expertise and skills to develop local community broadcasting. Nor do they have access to, or the means to tap, whatever assistance may be available to them.

The development of the community sector throughout the country will require resources.

The community sector offers considerable prospects for community empowerment and nation building. Clear policy guidelines for community services are imperative to meet all of the community needs

These, and many other questions point to the necessity for a national strategy for the roll out of the community sector. These national goals will be binding on the Minister who will create priorities for meeting those goals and on the IBA for regulating accordingly.

4.1 Community Radio's Performance

Licenses which have been granted thus far were categorised as twelve month temporary, and short term. The former were renewed after the first 12 month term. The latter were for a maximum of 30 days and catered particularly for special events. The IBA has planned to start the process for four-year community licenses during mid-1998.

The community radio sector in South Africa has on the whole been commendably resilient. Some small number of the stations has buckled under the financial strain of maintaining the service with limited resources. Most of those who have gone on air have weathered the storm and kept afloat.

Income is derived from a variety of sources, including: advertising, sponsorships, grants, donations and membership fees. A number of stations, particularly in the metropolitan areas and environs, have quite effectively tapped the advertising market. Unfortunately the pursuit of advertising revenue can place strains on the delivery of a truly community service. Many, however, who do not have access to funds are living from hand to mouth.

Some stations are sharing frequencies in areas where, initially, demand exceeded supply. This is not an ideal arrangement. If services are not compatible, which is usually the case, getting audience loyalty is very difficult. The radio audience generally prefers one service on a single frequency. All indications are that those stations sharing frequencies would sooner compete for a sole license than perpetuating a frustrating situation.

Religious stations are a dominant component of the community sector, reflecting the importance of religion to South Africans across the full spectrum of society. Given the need to expand community broadcasting and the satisfaction of a broad variety of needs

and aspirations it is necessary to thoroughly investigate the balance of licensees within the sector and the possibility of adopting a secular approach to the challenge of ensuring equity in the treatment of this very important new tier of broadcasting.

The recognition and development of all languages and cultures is fundamental to society and a prerequisite in a democratic dispensation. This too is a fairly dominant niche in the existing community broadcasting arrangement and requires particular consideration in the new divide.

4.2 The Geographic Community

The current IBA Act includes two types of community licenses. These licenses are defined as a community of interest and one, which is geographically founded. A number of services operate in either of the two sub-categories.

This definition of a community license "as any group of persons or sector of the public having a specific, ascertainable, common interest" is open-ended and unlimited. This formulation needs to be changed.

Community broadcasting must be inclusive. Whatever common interest need is , therefore, expressed by a potential licensee must be catered for in the framework of a geographically founded community within which all of the common or specific needs of the community can be satisfied to the benefit of, and with the participation of, all of the people in the community. The interests identified within the community must be catered for in one license for a given geographic area of local concentration. The recognition and protection of these interests must be monitored in a promise of performance audit by the regulator.

All community broadcasting licenses should be geographically founded in that they should serve the specific community within a determined geographic area. This area should be determined by the IBA and should be consistent with its frequency allocation and license area plans.

The structure and mandate of the religious services will be redefined to operate within the terms and conditions of the geographically founded community category.

4.3 Future Priorities in Community Radio

The community broadcasting sector has an important role to play in nation building, the recognition of a diverse range of cultures, needs and aspirations and the delivery of all of the languages within relevant communities.

Community broadcasting must be for the community by the community, through the community. It must truly represent all of the people in the community in ownership and control and decision making.

The prime objective and vision of community broadcasting and its related activities is to promote development of a sense of community whilst addressing the particular needs of communities.

There are millions of people in South Africa who have not had an equal opportunity to improve their quality of life. People who desperately need basic information and education and the means to interact and enrich their communities but who do not have the resources or access to infrastructures and facilities.

A vibrant community broadcasting industry can make an immeasurable contribution towards achieving those goals and the improvement of the living standards of all South Africans.

Particular attention must be given to needy communities in especially rural areas, for the further expansion of the community broadcasting sector.

4.4 National Community Radio Strategy

The national strategy for the community sector will therefore especially account for the extension of broadcasting to the needy areas. Elements of this strategy will include;

- The setting aside of frequencies specifically for the maintenance and expansion of community broadcasting.
- Community broadcasting stations in needy areas will pay less than the normal rates for signal distribution services. The IBA will be required to report to Government on the tariff structure.
- A resource strategy which includes; training, human resource development and financing.

4.5 Community Development Trust

Community broadcasting in particular, binds communities, keeps people informed, caters for diversity, is not controlled by the State, enhances democracy and serves to contribute to national goals.

Government will act as a catalyst to help community broadcasting to fulfil its mission to inspire the growth and development potential of the sector to the benefit of South Africa as a whole.

In the final analysis, the responsibility for funding rests with the community broadcasting sector. However, government will act as a catalyst and inject at least some modest capital by way of an independently administered Community Development Trust to assist particularly the unserved, needy communities. The trust will provide funds on merit for the establishment and maintenance of community broadcasting stations in unserved and needy areas where communities do not have access to resources and are in need

of development. Trustees will be appointed by Government and will be people of high rank.

The Government will help the community sector to interact more effectively with other development agencies and facilitate the beneficial work they are doing in the different communities.

Likewise, Government will facilitate a closer relationship with other government departments, such as agriculture, health and water to see how community broadcasting and the people in question can promote and benefit from the developmental programmes of those Ministries.

4.6 Community Broadcasting Service Mandate

The community broadcasting sector must provide a distinct broadcasting service dealing specifically with community issues which are not normally dealt with by other broadcasting services covering the area in question. It will be informational, educational, educative and entertaining.

It will focus on the provision of programmes that highlight grass-roots community issues, including developmental issues, health care, basic information and general education, environmental affairs, local interest matters and the reflection of local culture.

4.7 Regulatory Issues

- Sharing of frequencies will be avoided wherever possible.
- A nominal transmission fee will be levied and account for needy communities. Application fees for the grant of a community license should be minimised.
- Community broadcasters will be expected to draw their revenues from advertising, sponsorships, grants, community contributions and donations.
- Community broadcasters will have access to local advertising and no restrictions will apply with respect to this access.
- National advertising time will be restricted through regulations of the IBA.
- All surplus funds emanating from the running of the broadcasting station will be ploughed back to the benefit of the particular community and monitored by the regulator.
- Community broadcasters will access the government assistance training programme to develop their broadcasting trainers.

4.8 Community Television

Whilst community radio has expanded considerably over the past three years, community television has not yet been introduced to this sector. A number of interests groups have made submissions about community television. These include various models but no in-depth study has been conducted to support the viability of the different

proposals. The IBA will be asked to investigate the viability and impact of community television in a public process. Under consideration will be inter alia:

- Defining community Television
- Access to frequencies
- Sustainability.
- Ownership and control
- Legal framework

Chapter Five : The Classification of Broadcasting Services

The IBA Act defines broadcasting as any form of unidirectional telecommunication intended for the public or sections of the public or subscribers to any broadcasting service having appropriate facilities, whether carried by means of radio or any other means of telecommunication or any combination of the aforementioned.

A considerable debate has occurred since the advent of satellite and the DTH services. Some have argued that DTH services cannot be considered as broadcasting activities and therefore do not require a broadcasting license for their operations. One operator continues to provide a service without a license granted by the IBA.

However, there are obligations that stem from associating with broadcasting activity and these obligations must be shared, to varying degrees, by all of those involved in activities that resemble very closely activities considered to be broadcasting by the above definition. It is unfair that some individuals or companies must face the obligations attached to undertaking broadcasting activities while others offering similar services are exempted from shouldering these obligations because they fall outside the legal definitions.

There is a need to adopt a more comprehensive definition of broadcasting and broadcasting services in line with international practices and technological developments. There should be no ambiguity as to which services fall within this definition.

It is difficult to separate distribution services from broadcasting services. For example, a satellite broadcasting service would not reach people unless integrated with an appropriate distribution system. It would not be possible to have any meaningful regulation for satellite broadcasting services particularly those originating from outside the country, unless the associated distribution services are also brought under the regulatory framework. Moreover, the distribution services have the capability of broadcasting or narrowcasting whether they are satellite based (DTH) or terrestrial based (cable/MMDS/LMDS). They should be permitted to utilise these capabilities

without affecting their basic role as service distributor. For example, cable and DTH operators can be permitted to use a couple of channels for their own programming. Cable news bulletins focussing on local events and happenings are becoming very popular in India. In Canada all cable operators above a certain size are required to provide and fund a community channel.

Another important reason as to why the distribution services should be brought under the purview of regulation is that they too have to carry a certain obligatory public service mandate

There is a need to re-define and widen the scope of broadcasting services so as to include distribution services as well. For this purpose South Africa will adopt the following definition for broadcasting services:

Broadcasting service will mean a service that delivers television programmes or radio programmes to a person having equipment appropriate for receiving that service, whether the delivery uses radio frequency spectrum, cable, optical fibre, satellite or a combination of those means but does not include:

- A service (including a text service) that provides no more than data, or no more than text (with or without associated still images); or
- A service that makes programmes available on demand on a point-to-point basis, including a dial-up service; or
- A service or a class of service that the Minister determines, by notice in the gazette not to fall within this definition.

5.1 Licensing

All broadcasting services, including distribution services, satellite or terrestrial, which offer programming to the South African public, will be brought under the regulatory system and be required to obtain a license before undertaking broadcasting activities.

Appropriate license conditions will be enforced on them to achieve the basic objectives of the South African broadcasting system.

In addition to requiring all broadcasting services to obtain licenses before operating, all channels offered to the South African public by the distributors of services will also be licensed as individual channels.

This will create the conditions for setting public interest obligations on all of the services at an appropriate level.

5.2 The Three Tiers of Broadcasting License

There is wide spread consensus that the categorisation of different classes of licenses in the IBA Act is inadequate. Furthermore, the way services are differentiated on the basis of ownership e.g. public, private and community obscures the differences in the nature of services and therefore prevents the setting of appropriate regulation and obligations. Similarly, the classification in terms of "free to air" and "pay " services is not adequate.

These classifications do not recognise the difference between basic broadcasting services and distribution services. A broadcasting service has to carry an entirely different set of obligations as compared to a distribution service. Moreover, it is necessary to draw a distinction between basic broadcasting services and distribution services if their integration is to be avoided to ensure diversity and fair competition. Similarly, obligations of free to air terrestrial broadcasting services need not be the same as those of a free to air satellite broadcasting.

Spectrum constraints and limitations on the number of possible channels are much more relevant to terrestrial than satellite broadcasting. Terrestrial broadcasting, therefore, has to carry a much higher social responsibility as compared to satellite broadcasting. In fact there may be no justification for permitting a pay terrestrial broadcasting service at the cost of a free to air terrestrial service which would serve the social cause better.

5.3 More Differentiation in Licensing

The classification of broadcasting licenses will be functional, convenient for regulating and licensing, related to the generic form of licensing and helpful in laying obligations and enforcing compliance with various regulations. The present classification for the ownership basis and that for free to air and pay does not adequately meet any of those requirements. In order to meet those requirements the following classes of broadcasting licenses are proposed:

- Basic broadcasting services
- Free-to- Air radio broadcasting service
- Free-to Air television broadcasting service
- Satellite free-to-air radio and television broadcasting service
- Subscription broadcasting services
- Basic distribution services
- Direct to Home delivery service (multi-channel satellite distribution)
- Local delivery services (multi-channel terrestrial distribution such as Cable, MMDS, LMDS)

Basic broadcasting services can be further categorised in terms of free to air or pay services depending upon the context and requirements. The delivery mechanism will determine the obligations to be imposed in term of Public Interest. Considering the role and responsibilities of public, community and private broadcasters the following classification of licenses is proposed.

5.3.1 Public Service Broadcaster

The Public Service Broadcaster has to operate its services in the interest of the broader public. Its services should be available to each and everyone without any discrimination of the recipients' geographical location or his ability to pay for the service.

The Public service broadcaster should therefore, be granted licenses in the following categories:

- Free to air terrestrial radio broadcasting service
- Free to air terrestrial television broadcasting service – this includes both the Public Service channels and the Public commercial services
- Free to air satellite radio and television broadcasting service

5.3.2 Community broadcasters

The basic objective of community broadcasting is to meet the broadcasting needs of a community or communities living in a specific geographic area at the local level. Community broadcasting services should be free to air as in case of public broadcasting services. There may be no reason for them to operate a satellite broadcasting service or enter into the business of distribution of broadcasting services. Even though local television at the community level may not be viable as of now, a license provision for this category should be made now for the future. Community broadcasting should, therefore, be granted a license in the following categories:

- Free to air terrestrial radio broadcasting service.
- Free-to-air terrestrial television service

5.3.3 Private broadcasters

Private broadcasters may be granted licenses in the following categories:

- Free to air terrestrial radio broadcasting service
- Free to air terrestrial television broadcasting service
- Satellite radio and television broadcasting service - (it should be left to the broadcaster to decide whether he should provide this service on free to air or pay basis or a combination of both)
- Direct to Home delivery service (multi-channel satellite distribution - broadcaster should be free to choose the technology mix to distribute the services subject to the condition that the receiving equipment should be inter-operable)
- Local delivery service (multi-channel terrestrial distribution – broadcaster should be free to choose the technology mix to distribute a service subject to the condition that the receiving equipment should be interoperable)
- Public service obligations should be imposed on all distribution services. These obligations should include the carriage of public service channels.

Chapter Six : Signal Distribution

The IBA Act provided for three categories of signal distributors. They are, by definition:

- A common carrier who shall be obliged, subject to its technological capacity, to provide broadcasting signal distribution to broadcasting licensees upon their request on an equitable, reasonable, non-preferential and non-discriminatory basis.
- A person who is to provide broadcasting signal distribution for broadcasting licensees on a selective and preferential basis.
- A broadcasting licensee who chooses to provide, either wholly or partly, broadcasting signal distribution for himself or herself but who does not provide the same for any other broadcasting licensee.

The broadcast network reaches large segments of the South African population but there are still major gaps in the provision of, particularly, a basic, free television service to the country at large. Television penetration, on the whole, is only about 60%, which means that some 40% of the people have no access to television. This is compounded by nearly half of the population not having access to receivers.

There are other technologies, such as satellite, which can be used to distribute and receive broadcast services. They are, however, costly now but will increasingly play an important role in the future.

6.1 Signal Distribution Objectives

The regulatory strategy for the signal distribution sector must achieve the following objectives:

- There must be access to signal distribution services and facilities
- Access by content providers to distribution facilities, and
- Access by end users to content (broadcasters and viewers)
- Signal distribution must be affordable
- Flexible tariffs structure for services where, for example, public interest imperatives apply
- A scheme for tariff regulation
- Signal distribution systems must be open and interoperable, harmonised with the region and able to meet international distribution standards
- Regulatory accountability by signal distributors
- License for signal distribution taking into consideration the license conditions and regulatory requirements.

- Market inefficiencies in the business of signal distribution will be minimised to the greatest practicable extent, and the South African distribution environment will be opened up to competition by the year 2000
- access to high sites will be afforded to all signal distributors upon the opening of the signal distribution market to competition.
- South African channels will be prioritised and in pursuit of this objective the Regulator will encourage and facilitate a must-carry regime for South African channels.
- Priorities for signal distribution should reflect:
 - South Africa's social goals
 - The needs of the broadcasting community
 - The needs of end users of broadcasting services
 - The need to strategically position the signal distribution sector for the Multimedia future.
 - The need to enhance the skills and talent of operators in order to develop a capacity to compete in global markets
- South Africa's radio frequency spectrum allocation plans should reflect South Africa's social goals
- Vertical integration of signal distribution and broadcasting services will be minimised to encourage empowerment, investments and diversity.
- South African control of signal distribution services will be retained.

6.2 Policy Initiatives

6.2.1 Enterprise Reform

Sentech is licensed as a common carrier in terms of the IBA Act. Sentech is a public company. The Green Paper identified the need to restructure the operations of Sentech in order to achieve the following ends:

- Restructure the signal distribution sector and make it more competitive
- To implement universal service
- To enhance the skills and technological options available to the enterprise
- To strategically position the signal distribution sector and Sentech for the Multimedia future.

Public response and consultation has indicated the need for this restructuring exercise.

Sentech will be repositioned and restructured within 2 years. A process is underway to achieve these reform policy proposals.

6.2.2 Options for restructuring Sentech

- Retention of status quo.

- Partnerships
- privatisation

6.2.3 Spectrum Management Agency

Technological innovations have put added emphasis on the need for the proper management of the spectrum. The frequency spectrum can now be used to deliver a variety of services including education, communication, commerce, health and emergency services.

The Government is of the view that spectrum management in South Africa must be administered by a body that is not also responsible for the provision of services utilising spectrum.

In other words spectrum management and allocation decisions should not be taken by the armed services, the police, telecommunications companies, broadcasters, signal distributors, airline interests or the like.

A body needs to exist that retains overall responsibility for the efficient, effective and economic use of the country's spectrum assets. These assets are immensely valuable and should be exploited in ways, which best meet the needs of the country as a whole.

No sectional interest should be preferred above another. A body independent of sectional interests is best placed to make major management and allocation decisions and to rule over demarcation disputes.

Many other countries have specialist regulatory agencies of this kind. And whether they have a separate specialist agency or, as an alternative, the function of spectrum management is merged in an agency with other, related functions, most countries acknowledge the need to separate spectrum management from spectrum use. The conflicts of interest that inevitably arise when a spectrum user is also the spectrum manager are impossible to resolve in a publicly acceptable way.

Spectrum allocation is, as well, an international affair. In order to ensure that domestic use of the radio frequency spectrum does not have international consequences that are unintended, many domestic allocation decisions follow international practice.

The International Telecommunications Union is the principal international forum within which international consensus is reached about spectrum use, and ITU Conventions have, in some countries, been given the equivalent status of international treaties.

This international work also needs to be conducted on behalf of the State by an agency that is independent of spectrum users.

6.3 Policy Framework

In order to achieve these ends the government feels that a Spectrum Management Agency should be established, by Parliament, within the portfolio of the Minister for Communications.

The Agency should be vested by Parliament with the function of overall policy development and supervision of South Africa's radio frequency spectrum in order to maximise, by ensuring the efficient allocation and use of spectrum, the overall public benefit derived from using the radio frequency spectrum.

In addition, the Agency should be responsible for the overall research and planning of the use of the spectrum to meet the needs of the various services and to allocate the frequency bands that will be used for communications, broadcasting, telecommunications etc.

The Regulator will continue to perform the important tasks of planning and supervising the frequency spectrum designated for broadcasting purposes in accordance with the national frequency allocation plan.

It is targeted that this Agency will commence operations in the year 2000 when competition will be opened up in the area of signal distribution.

Chapter Seven : Digital Convergence and Multi-Media

7.1 Cable and other Multi-Channel Distribution Services.

The Green Paper outlined the need for the development of a framework to introduce multi-channel services, stating that such a strategy is important as a means of expanding the distribution infrastructure and as a platform growth of additional television services in the future. It recognised that successful introduction of these platforms is dependent on the ability to offer an attractive package of new services both domestic and foreign. Such services could be conventional television and radio services but might also be new interactive multimedia and other services delivered from the Internet.

The Green Paper requested comments as to the conditions that should be put upon multi-channel systems so that:

- the widest audience would be available to South African programming services,
- priority be given to local content,
- fair competition be facilitated and
- fair and equitable rates are provided to both consumers and to content providers.

The Green Paper noted that signal distributors could avoid the regulation of their services depending on the type of satellite or other platform used and requested comments as to how to ensure that similar businesses be dealt with equitably.

The Green Paper requested comments on competition in the distribution business. It wished discussion as to whether multiple technologies should be licensed to compete with each other as well as whether competition by several operators using the same technology should be permitted.

7.2 The Objectives for Multi-Channel Distribution Systems

Government's objectives that underpin the multi-channel distribution system are:

- Multi-channel delivery systems should be introduced in a manner that will serve social goals cost effectively and efficiently. In particular, these systems should play a significant role in meeting the following goals:
 - Universal access by all South Africans to broadcasting and multi-media services.
 - Provision of a diversity of types of programme content.
 - Delivery of relevant services to all official language groups.
 - Efficient rollout of regionally relevant services.
 - Delivery of public and educational services.
 - The introduction of multi-channel systems should bring economic advantages to South Africa by:
 - Providing employment and training for South Africans both in the roll out of the services and in their operation.
 - Creating opportunities for South African entrepreneurs to manufacture hardware for such systems.
 - Creating opportunities for South African content providers to introduce new services.
 - Providing services to marginalised groups that will allow them greater participation in the economy.
 - The introduction of multi-channel distribution should not favour one technology over another.
 - Multi-channel distribution services have the potential to allow the delivery of multiple local services as well as international services. The introduction of the multi-channel delivery systems should be in line with policy and strategy of prioritising South African content and ownership
 - Multi-channel distribution services should play a role in the financing of the production of local content. They can do this in two ways:
 - By the payment of license fees.
 - By contributing to production funds.
 - Multi-channel distribution services can provide competition in the delivery of voice and data to businesses, educational institutions and homes.

7.3 Policy Framework

The Government will direct the Regulator to conduct a Public inquiry and report to the Minister of Communications by December 1999 on the introduction of a regulatory regime for the multi-channel distributions systems.

Policy thrusts that will inform the regulatory regime are:

- All persons providing multi-channel distribution services will be required to hold a license to do so and to pay an appropriate license fee for this purpose.
- There will be competition in the delivery of services between satellite and terrestrial providers.
- In the case of terrestrial providers, one provider could be licensed as a monopoly provider in each area to be licensed. The Regulator will recommend, and the Minister will determine, the franchise areas to be served, bearing in mind the wish to ensure that services are extended to all regions of the country. Applicants wishing to provide monopoly service to a franchise area will be invited to choose the technology or mix of technologies to be used to ensure comprehensive coverage. For example, a franchisee may choose to use wire line cable to serve a densely populated urban area and a wireless technology such as MDS to serve the less densely populated surrounding rural areas. Any technology chosen must be technically capable of the delivery of multi-media services.
- The Regulator will recommend what an appropriate first license term will be. Comprehensive coverage of the franchise area will be required over the first license term. Comprehensive coverage will mean that service is available anywhere that electricity has been provided.
- Service may be provided to Universal Service Agencies, community centres, libraries or other public buildings that are accessible by the mass of the population.
- The Government will direct the Regulator to review and make recommendations on whether there should be competition between DTH satellite services or whether a monopoly should be allowed in this area.
- The Regulator will examine whether there can be vertical integration between multi-channel distributors and broadcasters. If it is eventually decided that this will be permitted, the regulator will report on mechanisms to ensure that neither a multi-channel provider nor a broadcaster provides undue preference to an affiliated company.

7.4 Signal Carriage:

- All broadcast services to be distributed by multi-channel providers must hold licenses issued by the Regulator
- Multi-channel providers will be required to carry all channels licensed to serve part or all of their franchise area. After this they may carry other signals, domestic

and foreign, upon approval by the Regulator. In cases where there is not sufficient channel capacity to carry all signals, signals providing local content will have priority.

- Special efforts must be made by terrestrial providers to give priority to services that reflect the linguistic make-up of the area to be served. Satellite providers should reflect South Africa's linguistic profile.
- Non-broadcast services such as data transmission do not need to hold a license but their revenues must be included in the calculation of license fees to be paid by the provider and no discrimination in access shall be permitted.
- All providers must furnish the capacity to provide Internet TV services throughout their licensed area as is practical. The provision of receiving equipment by community centres will make Internet TV available to the public. For individual homes, multi-channel broadcasting service providers must thus provide services on a rental basis and the rental agreement must allow the customer to terminate the agreement on one month's notice. Customers will be free to purchase such equipment from the provider of their choice. The Regulator will examine the time frame in which such services should be made available.
- Regulation of rates: Given that there may be monopolies granted in terrestrial multi-channel distribution, a price cap system will be put in place to protect consumers from abusive pricing practices. The Regulator will investigate and report on appropriate ways to meet these goals and recommend a regime for the establishment of rates.
- All persons holding multi-channel distribution licenses will be directed to contribute a portion of their revenues to the South African Television and Radio Production Fund. The Regulator will report on the percentage to be collected and the necessary mechanisms.

7.5 The Internet

The Green Paper outlined how the Internet is evolving from a narrow band interactive facility to wide band transmission of sound, data and images. Cable modems and telephone technologies such as ISDN or ADSL will compete with wireless delivery mechanisms such as satellite and MMDS that use a telephone return path. As more fibre is rolled out even greater bandwidth will become available. Eventually broadcast services will be delivered via the Internet.

The new technologies raise difficult issues for the broadcast arena. While broadcast regulation can ensure that the public does not have to endure racist broadcasts or child pornography, it is not clear how such areas can be regulated on the Internet. Similarly the Internet allows consumers to receive content from anywhere in the world. Local content may or may not be applicable to services in South Africa. The rationale for the regulation of over the-air or subscription broadcasters will be challenged by this potentially unlicensed competition. Finally, the Internet challenges enforcement of copyright and other intellectual property rights.

Local Internet Service Providers will connect consumers to the Internet. There is potential for the State to intervene via the ISP's. However, the ability of Internet providers to control the material that flows to consumers is limited or non-existent. They can monitor their own proprietary material and can develop navigational systems that offer local material in their default menus. Nonetheless, regulation of the supply side is difficult to achieve.

Most countries are opting for subsidy of local content to ensure their presence on the Net. In South Africa it is not clear that public funds are sufficiently available to make this kind of subsidy a priority for public expenditure. We will need to find innovative ways for private enterprise to meet public policy goods in the rollout of the Internet.

It is likely that the Internet will be provided to the most affluent section of the population earlier than other sectors. One way that services can be provided to the poorer and to the rural sectors is through the use of community centres and libraries as locations where individuals and groups can get access to the Net and in particular to public services. The Government has initiated a project to rollout 100 Telecentres with Internet connection for the year 1998. Public kiosks attached to the Internet could allow individuals to register important information such as births and marriages, to acquire or renew drivers' or other licences and to even input their opinions to government processes such as this one.

Government has placed an emphasis on rolling out terrestrial distribution that has Internet TV capacity. This will be the most efficient way to make Internet capacity available to a large portion of the population.

7.5.1 Objectives of the Internet

The final position on the Internet will be informed by the following policy objectives:

- Access to the Internet should be provided to as wide a population base as possible. This does not require that it is necessarily available to all homes but certainly it could be rolled out to most communities through USA's or other community centres.
- The private sector will probably be in the best position to choose the appropriate technology or combination of technologies that will ensure the widest coverage. The licensing framework proposed for broadcast signal distribution would provide the incentive for franchisees to roll out the technology in the most cost-effective manner.
- Universities and technikons are large users of the Internet. It is hoped that they may find ways to extend services to members of the community.
- The most economically efficient means of providing interactive services to the largest number of people is through Internet TV and therefore, all multi-channel distribution systems should have the capacity to provide Internet TV services.

- The Internet should help in the democratisation process by allowing the largest number of individuals and communities to have access to a variety of information and educational material. In addition, it can set up inexpensive means for people in one community to reach out to other communities.

A strategy will be developed for the rollout of the Internet. Parts of that strategy are laid out in the multi-channel distribution section of this document

To the extent possible, Government information will be digitised and made available electronically. In addition, citizens who wish to communicate with their governments should be able to do so electronically. The Government will study the possibility of placing information kiosks or other means of accessing the Web in public sites. Government's strategy will be to find means to provide service electronically to be more efficient and effective.

7.6 Digital Broadcasting

There is no doubt that South Africa faces considerable difficulty with the task of extending broadcasting services to all South Africans.

There are many South Africans who have no access to broadcasting services at all.

Major advances have been achieved in the past four years, but much more remains to be done.

Elsewhere in the world major technological transformations are being actively considered by many developed countries. Some of these countries have even begun setting new policy frameworks in place that will deal with technological change, and a few have actually begun the technological transition.

The technological transformation in question is the change from analogue to digital technology as the means of transmission of broadcasting services.

Ever since broadcasting began, analogue technology has been the technology of transmission.

The development of digital technology, which has had considerable implications for the fields of telephony, telecommunications and computing, has been actively examined for many years by both radio and television broadcasters and their engineers.

Because digital transmission has different implications for the radio and television arms of the broadcasting sector, it is better if the ensuing discussion is broken into separate discussions about radio and television.

7.6.1 Digital Television

The transmission of television by digital means has been, until very recently, the province of multi-channel subscription services delivered to the end user by satellite or cable.

This has served to help broadcasters deliver channels of programs economically. For example, satellite transmission costs have been made affordable because several channels of digitised programming can now be delivered by the same transponder capacity that once supported a much smaller number of channels.

Consumers can receive all these channels on their analogue television receivers with the assistance of reception dish, set-top box and down-converter technology. They receive these programs in analogue form and in standard definition.

Throughout the world there has been virtually no digital terrestrial television broadcasting. The field of terrestrial broadcasting has been the province of free-to-air broadcasters broadcasting by analogue means.

Free-to-air broadcasters have been exploring for many years the concept of 'advanced television' or 'high definition' television, transmitted terrestrially.

These examinations were focussed, when they began, on making analogue technology carry greater signal capacity and deliver high definition images. After a number of years of unproductive research, attention gradually switched to an examination of digital technology. This work was more successful and now two suites of digital transmission standards have emerged, from separate collaborations in America and Europe, offering the prospect of digital terrestrial television broadcasting.

7.6.2 Options for the Future

South Africa is faced with a number of choices for a coherent policy on digital broadcasting. These choices relate to:

- Transmission standards
- Equipment standards

7.6.3 Transmission Standards

- American (ATSC)
- European (DVB)

The American standard was designed for channel spacing of 6MHz, and the European for 8MHz. The Australian channel spacing is 7MHz. South African channel spacing is 8MHz.

7.6.4 Conversion of Free-to-Air Networks from Analogue to Digital Transmission

This will require a long period of simulcasting - broadcasters will broadcast for many years, perhaps as long as ten or fifteen years - so that consumers can make full economic use of analogue-only television sets, before analogue transmissions cease and digital transmissions take over completely.

7.6.5 Digital Television

- High definition
- Standard definition

Single channel high definition programmes can be broadcast on the equivalent spectrum bandwidth taken up by a single analogue free-to-air channel, whilst several channels of standard definition programmes can be offered using the same bandwidth of spectrum.

Standard definition digital programmes can be transmitted, converted to analogue format by set-top box technology, and viewed by audiences on those receivers, but high definition digital television makes it necessary for analogue television receivers to be replaced by receivers with digital capacity.

7.6.6 Digital Receivers

Receiver manufacturers will also be following international developments closely. Although the Americans have committed to high definition television using the ATSC standards, the global scale economies of production will be very influential in determining how much digital television receivers will cost the consumer.

The cost of new receivers to the consumer will significantly influence the standards choice to be made by policy makers. Many countries will wait until a clearer, more definite picture emerges about standards and consumer costs.

7.6.7 Digital Radio

Developments in digital audio or radio broadcasting (DAB or DRB) have focussed, after many years of developmental work on the adoption of a single transmission standard - Eureka 147. Most of the countries of the world that are considering digital radio policy have either decided to adopt or are leaning towards that standard, broadcasting in the L-Band.

The United Kingdom has been a pioneer in the development of digital radio technology, through the British Broadcasting Corporation. The BBC has invested very heavily in pilot testing of the technology, but the unavailability of receivers to consumers, until very recently, has held back progress.

In late 1997 a number of receiver manufacturers unveiled digital radio receivers at a German electronics fair. Manufacturers foreshadow that vehicle receivers will be available in UK shops by late 1998, followed by fixed receivers and then portable receivers by the year 2000.

As with all new technologies, there will be an initial premium, but prices will fall as the market grows.

The BBC estimates that, in ten years from now, the prices that consumers will pay for digital radio receivers will be only marginally more expensive than a typical analogue radio receiver.

Further into the future, the BBC is looking at utilising satellite delivered digital radio.

7.6.8 Objectives for Digital Broadcasting

Developments in digital technologies and digital policy need to be closely studied by the South African broadcasting community, with a view to assessing their potential impacts and to establishing a strategy for the transition from analogue to digital transmission and reception of broadcasting services.

The Government would wish to preserve, in a digital age, a similar policy framework that observed South Africa's cultural imperatives, including obligations relating to local content production, geographic coverage of services and the provision of a comprehensive range of services by public, private and community broadcasters.

The Government has identified two phases of digitisation: preparation and transition followed by implementation.

The first phase – preparation and transition – may well be of several years' duration, but, as has happened in a number of countries that are considering the implications of digital technology in broadcasting, these preparations are essential to underpin progress in the field.

Broadcasters and independent producers will be encouraged to consider conversion of their studio, production and communication technologies from analogue to digital, and, as this conversion takes place, to develop all necessary capacity to operate as a digital broadcaster.

Archives conversion within the SABC and former SABC radio stations also needs to be given some priority – this will ensure that converted programmes will be available to programme makers and, potentially, to online services users and providers. Multi-media applications for these materials will be explored.

7.6.9 Digital Broadcasting Advisory Council

Presently there is no law in South Africa for digital broadcasting.

The Government will direct the Department of Communications to establish a Digital Broadcasting Advisory Council, chaired by an eminent member of the broadcasting community, with membership nominated by the following sectors of the broadcasting sector:

- The South African Broadcasting Corporation
- The private broadcasting industry
- The signal distribution industry
- The advertising industry
- The community broadcasting industry
- The broadcasting regulator
- The manufacturing industry
- The telecommunications industry
- The proposed Spectrum Management Agency
- The independent production sector
- The academics

7.6.9.1 Terms of Reference for the Council

The Council will establish committees to advise it about technological issues. These technological issues will include the suitability of competing transmission standards to South Africa's spectrum plans, and other relevant radio frequency engineering issues.

The Council will consider both radio and television issues but may organise its consideration of these issues separately and may report separately on them.

The Council will be required to present its first report to Government by 31 December 1999, but may report earlier if it so wishes, or if requested to do so by the Minister.

The Department of Communications will provide support for the Council.

Chapter Eight : Broadcasting and Human Resources Development

The IBA Act provides for the regulation of broadcasting to promote the provision of a diverse range of sound and television services which, when viewed collectively, cater for entertainment, education and information.

The Green Paper on Broadcasting Policy noted that the role the broadcasting system can play in supporting the education system of the country deserves careful

consideration. It said the reason for this careful review is the role broadcasting can play in the provision of educational materials in view of many problems experienced by the education system. The Green Paper cited:

- The lack of properly equipped schools and learning facilities
- The lack of adequately trained staff to attend to all educational needs
- The level of resources needed to bring about equity and equitability in the provision of educational services.

The Green Paper pointed out that a great number of South Africans couldn't read and write and rely on broadcasting entirely for their information, education and entertainment needs. Broadcasting can indeed impart information and provide basic information for people to understand and influence the changes that are taking place around them.

8.1 Role of Broadcasting in Human Resources Development

There are two distinct areas of broadcasting in the Human Resources development strategy of the country. They are:

- The use of broadcasting to support the provision of education and information to the South African population
- The Human Resources Strategy to develop broadcasting practitioners and skills

The first relates to the use of broadcasting as a resource in support of both the formal and informal education. In this context broadcasting is a tool for the dissemination of educational materials to learners in all corners of the country in a timeous and cost effective way. Broadcasting is used as a support structure in the provision of materials for human resources development aiding the educators, teachers, trainers and learners wherever they may gather for educational purposes.

Appropriately used educational broadcasting can help South Africa achieve:

- Outcome based education goals
- Drive for life long education
- A link between educational experiences and life experiences
- Communication between the education sector, the Government and society in general
- Facilities for distance learning

Within this context of broadcasting as a tool to support the provision of educational materials, the Task Team on Educational Broadcasting submitted a Report to Government, The Independent Broadcasting Authority and the SABC in 1995 highlighting broad areas of needs that had to be addressed. These fell within two categories:

- The need for the broadcasting system as a whole to offer programming which is informative and increases the public understanding of political, societal and scientific developments.
- The need for the broadcasting system to offer a structured service supporting curriculum-based education, distance learning, adult basic education and training, early childhood development, teacher development and professional skills development

The Task Team recommended that the Broadcasting System as a whole must offer both the educative and structured educational components as part of meeting the Public Interest.

Respondents to the Green Paper Questions re-iterated the need for broadcasting to play a role in supporting the provision of education. Twenty-five Educational Stakeholders convened a conference and called for specific policy provisions for the holistic approach to the role of broadcasting in supporting education.

8.2 Objectives of Broadcasting in Human Resources Development

The government recognises the role broadcasting can play in supporting the provision of general, curriculum-based and skills transfer education. The airwaves can be used to deliver educational materials to meet diverse educational needs and most importantly to all areas of the country in a cost-effective manner.

The Government is concerned about the high risk of the perpetuation of the gap in accessing information and education between the urban areas and the rural areas and between the previously disadvantaged and those advantaged in the past.

The technological revolution presents a real danger of the emergence of a new gap between the information-rich and the information-poor and therefore the challenge to utilise the information and communication sector to catapult all South Africans into the mainstream of educational, cultural, economic and political developments. Governments define the role of broadcasting in Human Resources Development within this need.

The proliferation of broadcasting distribution mechanisms and services and the increasing access by the general population mean that broadcasting will remain the most pervasive means of communication that can also be used for addressing the developmental gap between South Africans and between South Africa and other leading countries.

Government is aware that broadcasting can play a meaningful role if it is integrated into a coherent system of educational delivery through multi-media approaches involving the Internet, print and other non-broadcast media. This Policy Document outlines Government Policy positions with regard to the Internet and Multi-media.

Government wishes to create an enabling environment in which the various media forms contribute to new services that help South Africans integrate into the global information and knowledge based economies.

Government is aware that there are different broadcasting services targeting different interests and offering different programming. Government is also of the opinion that the development of South Africa's people and their integration into the mainstream of educational, cultural, economic and social activities also constitutes a Public Interest that must find reflection in policies and the activities that define the South African broadcasting system.

The Government is also aware of the need to address the challenge of local content in the provision of educational material. Local content will help address the concrete South African realities and forge the link between the learning situations, materials and learners. These materials will provide a cultural context, which relates to the language and cultural diversity inherent in society. Most of all it will help in the development of the local industry and skills to produce and package educational materials.

8.3 Roles of the Different Players in Human Resources Development

8.3.1 The Public Broadcaster

The Public broadcasting sector must shoulder the main responsibility to provide programming that is educative as well as curriculum and skills related through its Public Broadcasting Services. These services target a range of audiences that need and require different educational resources and can therefore go a long way towards developing a culture of life-long learning. These services must contribute to the dissemination of programming covering a wide range of social and economic spheres such as:

- Human Rights culture
- Health,
- Early childhood development
- Agriculture
- Culture
- Justice
- Commerce

8.3.2 The Commercial Sector

The Government recognises the enormous contributions made by this sector in the provision of services that meet South African broadcasting needs. Government does however also see a valuable contribution, which the commercial sector can make towards the provision of educational material. The two roles are:

8.3.2.1 The Commercial Educational Services

Many companies such as the publishing houses are deriving income from the provision of educational material. As technologies converge, broadcasting will itself play an increasing role within the provision of educational material. This is the opportunity that will help grow the South African Production Industry and the Commercial Services sectors of broadcasting.

Dedicated educational services for educational niche markets will be licensed to open the broadcasting market for the exploitation of this opportunity. Coupled to this will be a quota for broadcasters to outsource their educational productions to the Independent Productions Sector.

8.3.2.2 Social Contributions

Social contributions as part of contributing to the Public Interest will enable the commercial sector to contribute to the delivery of educational materials deemed to be a priority. These contributions will in the main take the form of monetary contributions to the funds for the generation of local and educational content. The commercial broadcasters who are willing to flight or carry educational materials that are curriculum based in content can expect to be excluded from this requirement.

Government proposes devoting some of the broadcaster license fee for the use of the spectrum to the generation of educational material.

8.3.3 The Community Sector

This sector of broadcasting is ideally placed to deliver developmental and educational programmes at a grass roots level. The scope and the size of the individual operators and links with specific communities allows the community sector to most ably to respond to general community as well as educational needs.

The Government is of the view that education should be included as an integral object of the community sector. Educational Institutions and developmental organisations should be encouraged to forge partnerships with the community sector for the provision of educational and developmental programmes.

8.3.4 The Dedicated Educational Channel

Government is of the view that the enormity of the challenge to address the educational needs of South Africa necessitates a need for a dedicated Educational Channel over and above what is done by the PBS to supplement class based curriculum based education, distance education, teacher development and Early Childhood development. This dedicated channel should be governed by a Charter, endorsed by Parliament.

The need to assess the desirability of a dedicated TV and Radio channel for Educational Broadcasting was endorsed by the IBA Triple Inquiry Report in 1995. The IBA recommended that the proposal of the Education Task Team that the education sector be given adequate opportunity to assess the need for, desirability and viability of dedicated educational channels be accepted by the National Parliament.

The Green Paper asked if there was a need for this dedicated channel.

Many respondents supported this need to establish a dedicated Educational Channel to focus the energies of the broadcasting system to support education and human resources Development.

The National Department of Education, the Department of Communication and the SABC have already set up a Task Team to investigate the role, viability and sustainability of a dedicated TV channel to support education.

The Terms of reference of this Task Team identify such a dedicated channel as contributing to:

- Making the opportunities for education available to South Africans who need them
- Improving the quality of education through the provision of quality materials to the needy areas
- Promotion of the concept of life-long education
- The provision of educational materials which are integrated into the educational process and supporting educators and learners through the country.
- Supporting distance education

The Government is aware of the need to develop a coherent approach to the regulation of educational broadcasting. In this approach, what constitutes materials to back structured education must be defined and expanded upon and the scope and extent of such programme provision should also be formulated. It is because of the regulatory implications that Government proposes that the Independent Regulatory Authority should also join the Task Team investigating the concept of a Dedicated Channel.

The Government would like to have this feasibility study finalised in 1998. Immediately after completion the report must be handed to the Minister for Education, Minister responsible for Broadcasting and the Independent Broadcasting Authority.

Upon Government endorsement, the Authority should develop an appropriate licensing regime and authorise the development of this channel.

As indicated earlier, the Government is of the view that the license fee for operating a frequency spectrum currently imposed on broadcasters should be used for the running and the generation of the educational service.

8.3.5 Skills Development and Broadcasting

The Human Resources Strategy in Broadcasting aim to achieve the following:

- To establish a formal and practical training and development system, which is fully integrated and capable of delivering all round skills in broadcasting
- To develop a system in close collaboration with the communications, information and cultural sectors.
- To redress the imbalances of the past through targeted programmes addressing the training needs of the previously disadvantaged including women, the disabled and children
- To upgrade the skills levels of practitioners in the broadcasting industry.
- To recognise and facilitate a common human resource base for related industries.
- To develop a coherent system to accredit the skills of people involved in the industry.
- To make efficient and cost-effective use of the financial resources.

8.3.5.1 National Framework

Government's policy places great importance on Human Resources Development as an integral part of the over-all developmental needs of the country. The RDP and the Education and Training White Papers both support an integrated education and training system for South Africa. The objectives of this integrated approach to education and Training are to redress the inequalities and provide human resources for the growth of the South African industries. In the broadcasting sector, many stakeholders have spoken of the need to develop the skill levels in order to make programmes and provide services that can compete with the best of what the world has to offer. Since this sector was not open to members of the historically disadvantaged groups special initiatives must be developed to integrate and see to the needs of these sectors of the population.

The South African Qualifications Framework has been developed as part of the Strategy for the implementation of this human resources development.

The South African Qualifications Authority has been instituted to recognise and accredit the sectoral bodies setting educational and training standards.

The draft legislation expected to be passed in June this year advocates for a levy on all employers for financing training and skills development.

Another relevant legislation is the Equal Employment Bill. This Bill has as its objectives the transformation of the work place to reflect the demographics of South Africa. It seeks to redress the employment inequalities.

Broadcasting will be expected to fall in line with the National Frameworks. The Government will form partnerships with all of the important stakeholder groups to ensure that all projects are reflective of the sector's needs. In particular, the Government wishes to work with all sectors of the broadcasting industry, public, commercial and community, as well as universities and technikons to put in place a number of initiatives:

- Smart partnerships with existing educational institutions with a view to:
 - revising curricula
 - developing programs for trainers (training the trainer)
- A dedicated facility to provide in one place all aspects of training in broadcasting.

8.3.5.2 Sector Education and Training Authority

The Human Resource Development Strategy for the broadcasting sector must be viewed holistically in terms of qualification standards, skills development, teaching, interrelationship with complementary sectors and the funding of the training system.

Accordingly:

- Qualification standards will be set collectively for broadcasting, telecommunications and information technology (Communications) within the framework of the South African Qualification Authority Standards;
- Standards will be outcome-based;
- Communications qualifications standards must attain accreditation from the South African Qualifications Authority;
- Communications sector will establish a Sector Education and Training Authority, and it will:
 - define discreet sectors within the one SETA by reference to categories of employer;
 - determine the provisions of the SETA constitution in recognition of the individual needs of the three discreet sectors so defined by the Minister of Labour
- The Communications SETA will define the scope of the employer education and training needs for each of the discreet sectors
- The SETA will develop a sector skills plan, incorporating each of the three discreet sectors, within the framework of the national skills development strategy;
- The SETA will implement the Communications Sector Skills Plan by :
 - Establishing learnership programs
 - Approving workplace skills plans
 - Allocating grants to employers, education and training providers and, notably, employees;
 - Monitoring education and training in the sector.
- The SETA will promote learnership programs for the entire Communications sector;

- The human resources development system for the Communications sector will take account of the technical and non-technical needs of each of the discreet sectors.
 - Accordingly, learnership programs for skills development will be established and promoted for each discreet sector and, where applicable, broader training facilities will also be provided;
 - A Broadcasting School that will provide all-round training for the broadcasting industry will be established in partnership with the stakeholders in the broadcasting sector. The Broadcasting School will co-operate with existing institutions and training programmes. The Advisory Board of the School will include representatives of the Public Broadcasters, of private and community broadcasters, of the academic and training communities as well as Government.
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Chapter Nine : Ownership and Control

9.1 Ownership by Historically Disadvantaged

The primary objectives of empowerment in the current broadcasting policy process, and of the broader democratisation process is to transform broadcasting as a sector in order to:

- Direct the broadcasting activities and output to address the full range of South African needs and interests;
- Restructure the service operations of the sector so that control and ownership rests with a more representative set of interests than is currently the case
- Ensure that benefits from the economic opportunities and wealth creation in broadcasting accrues to a broader range of interests than it has been the case in the past.

Policy in broadcasting should encourage increasing the ownership of private broadcasting services by people from disadvantaged backgrounds. This is meant not only to re-dress historical imbalances, but also to ensure that services are extended to unserved groups by owners who understand their needs. At the same time, it recognises that there may be need to include people with existing expertise in the ownership structure of broadcasters. Spectrum planning and frequency allocation should give priority to services for the disadvantaged and in that manner help to increase both participation and ownership by the previously disadvantaged.

Empowerment of the previously should be understood against the backdrop of marginalisation that has been characterised by:

- Race

- Gender
- Disability

9.2 Policy Framework

There are three areas in which policy will encourage the empowerment of the previously disadvantaged in broadcasting. These areas relate to:

- Benefit through ownership and control of broadcasting services
- Corporate empowerment to promote an active involvement of the previously disadvantaged in the board, managerial and operational levels
- Professional skills development to ensure that those previously disadvantaged develop to their full potential

Policy will direct the Independent Broadcasting Authority to observe the principles of empowerment when awarding licenses in order to achieve the following outcomes:

- A significant ownership of the broadcasting service by the previously disadvantaged
- Restrictive ownership requirements are reviewed and amended. In particular the requirement of guarantee of funding does not serve as a barrier to the entry of the previously disadvantaged.
- Prioritising the licensing of services to those sectors of the South African community that is under or unserved by the broadcasting system whether assessed by geography, age demographics, social status

9.3 Cross Media Control

9.3.1 International Experience and Broad Principles

In many countries around the world, the privilege of being given access to a radio frequency is often subject to a number of obligations and impositions to achieve social values. One such obligation is ownership and cross-media rules.

Cross-media ownership as envisaged in the IBA Act refers to the cross-investment of entities in a manner as to straddle both print and electronic media.

The regulation of cross-media control derives legitimacy from section 50 of the IBA Act. The section, inter alia, charged the regulator to, "as soon as may be reasonably practicable after the commencement of this Act, conduct an inquiry in accordance with the provisions of section 28 and shall in doing so have regard to:

- The various categories of newspapers according to frequency of population, geographical extent of circulation figures as well as any matter relevant to the existing and future control of any such newspaper; and

- The maximum percentage of financial and voting interests which may be held in any one or more private broadcasting licensees by a person who controls one or more newspapers, or group of newspapers,

Submissions to the inquiry were received from a wide range of entities, interest groups and representatives of civil society. The major newspaper interests argued that media economics demanded that they rationalise and synergise their media production facilities to achieve economies of scale.

These groups alleged that they experienced a shift in advertising income with the introduction of SATV and believe that they were about to re-live that experience. Given the fact that the airwaves were then being opened, some of these companies claimed that new electronic media entities would drive them out of business.

Other submissions argued that such fears were groundless and those newspapers should re-strategise and improve their quality in order to meet the challenge of proliferating electronic media. Yet others argued that the public interest, diversity, choice and nation building should enjoy precedence over self-serving interests of existing companies.

Concentration of media power refers to the phenomenon whereby a few media players, through joint co-operation deals, mergers, acquisitions and cross-acquisitions and any other arrangements, establish themselves into powerful cross-holdings with financial or other interests straddling media types.

The extent, to which concentration may create problems of pluralism or the absence thereof, is dependent on the definition of diversity in the choice of information offered to the public.

The control of a number of media by one person or entity limits the spread of views and ideas. Such concentration of control or media access in the hands of a powerful few, is a threat to diversity of information.

Governments the world over have been trying to establish different kinds of publisher links to avoid monopolies and ensure proper working of the market in the public interest. Therefor, limits are often set to cross-media ownership and especially to the relationship between the print and electronic sectors.

International approaches to cross-media control reveal five broad trends:

- A percentage-based limit, in which case the extent to which newspapers may invest in broadcasting activities, is limited. The limits arrange from 15 percent to 20 percent;
- Total daily circulation limits, where limits are based on the total daily circulation of newspapers;

- No limits so that, no legislation or cross-media control is permitted;
- Flexible implementation so that the authorities generally do not enforce the rule for whatever reason;
- A duopoly rule prohibiting ownership of more than one station in each market type.

9.3.2 The South African Situation

The flow of information in South Africa has historically been characterised by monopolies, virtual monopolies and oligopolies.

The IBA recommended principles to govern cross-media limitations in its Triple Report to parliament in September 1995. Those recommendations were approved by parliament in March 1996.

The IBA was to draw up proposed cross-media limitations and submit those to the Minister. However there are as yet no formal regulations in place so that the intended legislation will expressly empower the IBA to regulate the investment by print media owners in electronic media.

It is in the public interest that cross-media control should be limited to ensure that there is an equitable share of voice across all print and electronic media in South Africa.

Accordingly, to address the phenomenon whereby a few media players, through joint co-operation deals, mergers, acquisitions and cross acquisitions and any other arrangements, establish themselves into powerful cross holdings with financial or other interests straddling media types.

The objective is to ensure that the viewer or listener has a choice of different voices so as to protect the principle of pluralism and diversity.

This will prevent a concentration of print and electronic media in the hands of a few owners so as to promote heterogeneity and freedom of expression.

The principle of deemed control will apply. As such, a person shall be regarded as being in control of, or being in a position to exercise control over a company if he holds shares exceeding 15% or has other financial interests therein equal to at least 15% of its net assets.

Cross-media limitations are based on the various categories of newspapers according to frequency of publication, geographical extent of relationship well as any matter relevant to the existing and future control of any such newspaper.

These provisions must be regarded with other provisions of the IBA Act notably; section 49 and paragraph 3 of schedule 2 to the Act, which deal with limitations and control of private broadcasting services.

No person who is in a position to control a newspaper may be in a position to control a radio or television license in an area where the newspaper has an advantage issue readership of more than 15% of the total newspaper readership in that area, if the license area of the radio license overlaps substantially with the said circulation area of the newspaper. Substantial overlap shall be interpreted to mean an overlap by 50% or more. The effect of this is that the newspaper will still be able to acquire or retain a financial interest in a radio or television license but may not be in a position of control over such license, if its readership exceeds the prescribed figure.

There should be full and extensive disclosure of the share-holding and financial structures of private broadcasting licenses must be provided.

The government does not propose changing the limitations on control of private broadcasting services provided for in section 49 of the IBA Act.

Regional television services are not yet a reality but as already recommended the grant of regional television licenses will be considered in the next round of expanding the broadcasting system.

The IBA will be asked to investigate the limitations on cross media control of private broadcasting services as regards cross ownership between radio, television and print media.

Criminal sanctions and financial penalties for the breach of regulations to cross-media limitations will be implemented.

Special incentives will be created to promote the degree of ownership and control of radio and television services by persons from historically disadvantaged group.

9.4 Limits on Foreign Ownership

Private broadcasters are expected to fulfil significant public policy goals. To ensure that the broadcasting system meets the needs of South Africa, it is imperative that effective ownership and control of our broadcasting system remain in the hands of South African citizens. However, in order meet their obligations private broadcasters need access to adequate amounts of capital. An appropriate balance must be met between these priorities.

The Government is keen to increase investment opportunities in the South African broadcasting system so that South Africa can play its rightful role in global markets. The

increase in investment opportunities will flow from the investments by both South African companies and foreign companies that partner South African in new undertakings.

The level of ownership of private radio and television stations permitted for a foreigner is currently 20%. The Government is of the view that this ceiling should be raised in order to facilitate an increase in investments.

The Government will request the IBA to undertake an investigation of this matter and to report on what the appropriate new level of foreign ownership should be. This investigation should determine any mechanisms that should be put in place to ensure an appropriate balance between the issues mentioned above. In addition, the IBA should report on whether the same requirements are appropriate to all classes of license. Finally the IBA should report on the criteria to be used to determine where effective control is held and to ensure that effective control is held by South Africans. Once the Government has received this report, it will draft a proposal on the issue of the appropriate level of foreign ownership which it will publish in the Government Gazette, requesting public comment.

Chapter Ten : Financing Production in South Africa

The Green Paper noted the important role that the film, television production and sound recording industries have a role to play in the development and reflection of national and local culture. It further noted that in many countries around the world, governments support the production of local content by requiring the broadcast of local content by licensed broadcasters and by subsidising local film and television production as a means of allowing local broadcasters to afford to buy local programming.

In South Africa, the IBA introduced local content requirements in both television and radio. Much concern has been expressed by broadcasters that the quotas have been set at too high a level and that not enough material meeting international standards of quality is available. At the same time, the local production industry is concerned that the level is not sufficient to provide sufficient windows for South African product and that the market is saturated with foreign material. It is clear that all sectors are concerned that there are not sufficient resources devoted to production to be able to compete fairly with the best of what the world has to offer.

The Green Paper requested comment on what policies should be put in place to stimulate the South African film, television production and music industries as well as the role of the Government in promoting South African productions and the production industry. Among the means discussed was a greater use of co-productions with other countries.

10.1 The Objectives for South African Production

The production of local content reflecting South Africa's cultures, languages and character is a top priority for this broadcasting policy process. A number of things need to be in place for local content to flourish and be competitive with the best the world has to offer.

- Radio and television stations must commit sufficient resources to schedule appropriate amounts of local content at times when citizens can see or hear them. They must not only meet local content obligations but also make all efforts to ensure that South African content is of a quality that will draw listeners and viewers.
- Television broadcasters must provide a mix of their own productions and of programs produced by independent South African producers. In most countries, news, public affairs and sports programming are usually in-house productions while documentaries, children's programmes and drama are either produced in-house or purchased.
- Radio stations typically produce the vast majority of their programmes themselves. Clearly, music formatted stations are very dependent on the music industry for both foreign and domestic recordings. South African music will be prioritised in the South African broadcasting system.
- Local independent production industries must have sufficient resources to be able to provide content competitive with the international products available.
- While productions by foreign companies in South Africa, essentially using this country as an exotic backdrop, do not contribute to the reflection of South African society, they do have the potential to bring foreign cash to the country. In addition, such productions can also provide an opportunity for South African camera operators, line producers, sound recorders etc to work in the industry and be exposed to international best practices. Similarly, if international recording artists record in South Africa, this can help develop world class recording studios that are then available for use by domestic musicians.
- A non-statutory Agency will be established to support the production of quality South African broadcasting content. This Agency will seek to promote and encourage local content production in radio and television.
- South Africa will pursue co-production strategies with other countries. Such co-productions in which the South African creative talent, artists and producers play a meaningful role will be treated as South African productions. South Africa has recently signed a treaty with Canada whereby co-productions will be treated as local content in both countries. Such agreements allow new producers in either country to work with more experienced partners and to develop a track record.
- Multi-media production for CD-ROM or Web sites in the mid- to long-term will be crucial. Priority for the immediate term will be on production of conventional radio and television materials that can be made available to a wide range of South Africans. Of course, such productions can be re-purposed for use in multi-media.

In particular, products relevant to those previously disadvantaged or for regions without service should be the first priority.

10.2 Growing South African Productions

The development of strong television production and sound recording industries able to produce top-drawer audio-visual products relevant to South Africa will be a priority. Materials that feature South African artists, musicians and other creative talent will underpin the strategy for the transformation of the South African broadcasting system to be more reflective of the cultural heritage and meeting the broadcasting needs of South Africans.

Training and skills development targeting the previously disadvantaged will be prioritised. Government will support a skills development project through funding the Broadcast School.

Operators will be required to observe the terms of the Skills Development Bill in their recruitment strategies and training schemes so as to generate a sufficient pool of skills to redress the imbalances of the past and address gender, disability and race inequities.

In line with the provisions of the Skills Development Bill, the operators will be expected to contribute to addressing the skills developments needs of the sector.

There will be recognition that the building of such industries relies on the creation of a pool of creative and technical talent that may be provided by foreign productions or by domestic productions for an international market.

10.3 The South African Broadcast Production Agency

- A Broadcast Production Agency will be established to support the development of South African content. The South African Broadcast Production Agency will have representation from all broadcasting stakeholders.
- The objectives of the Agency will be to:
 - promote the production of South African broadcasting content
 - promote the production of broadcasting materials that meet the broadcasting needs of the community sector
 - promote the distribution and exhibition of South African content in foreign markets
 - redress the imbalances of the past
- The Government will identify and promote all necessary supply-side initiatives to support the production of South African content.

South Africa's present regulatory framework for broadcasting involves the Parliament, the executive and the courts in a scheme of shared responsibilities. This arrangement is usual in most democratic countries. What differs from country to country is the balance in the relationships.

Parliament outlines the law to be administered. The Minister and the regulator share responsibility for executive action that needs to be taken to give effect to the law, and the judiciary provides final certainty, where necessary, about the interpretation and meaning of the law.

Most systems of broadcasting governance place stress on the achievement of identified goals or objectives, such as:

- the promotion of national identity
- the provision of a diverse range of services and programmes offering entertainment, education and information
- rules about ownership and control of broadcasting the development of various kinds of license conditions
- monitoring technological, operational and market developments with a view to reviewing laws and regulations

For South Africa, which is attempting to construct new broadcasting governance in the light of both its history and some relatively short experience of broadcasting regulation, it is very important to define clearly the social outcomes that it wishes to achieve.

There is no doubt that the provision of broadcasting services to the historically disadvantaged and the underprivileged is a clear priority.

Services should be as representative as possible of South Africa's cultural identity, character and cultural diversity. Measures designed to increase South African representation in broadcast programs are also a clear priority.

A strong emphasis on educational broadcasting is important.

Participation by the historically disadvantaged in the broadcasting system, including the radio and television production sector, as workers, craftspeople and owners is also important.

The achievement of these outcomes will become the shared responsibility of those entrusted with the broadcasting governance of the country.

11.1 Government's Objectives for Broadcasting Regulation.

The Government has identified the need to clarify responsibilities in the broadcasting sector, and has identified the appropriate arrangements for governance of that sector -

11.1.1 The Parliament

The Parliament, as the body in which the legislative authority of the national sphere of government is vested, is bound only by the Constitution, and, as such, is the supreme legislative authority on matters relating to broadcasting.

The Constitution requires that national legislation must establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society (see Section 192).

Parliament should continue to exercise its supervision of South Africa's scheme for the regulation of broadcasting. The Parliament should define major principles of policy.

The Parliament should define the principal responsibilities of stakeholders.

The Parliament, possibly through its committee system, should review the Annual Report of the broadcasting regulator, after it has been presented to the Minister.

The primary objects of the Independent Broadcasting Authority Act should be clearly expressed in that Act, but necessary provision must be made as well for the role of the Minister, not just the IBA, in achieving those objects.

A proper balance of authority and responsibility between the Minister and the IBA for the achievement of general broadcasting objectives, and the promotion of the objects of the Act, needs to be reflected in the rules of governance for the sector.

11.1.2 The Executive

The Minister, as the representative of the Executive designated to deal with supervision of the broadcasting sector, including public, private and community broadcasting, will observe the powers, duties, responsibilities and obligations imposed by the Parliament and the Constitution.

The Minister will be accountable to the Parliament upon the terms prescribed by the Parliament, and, being the Minister also responsible for the administration of public broadcasting services in South Africa, will have special responsibilities in relation to those services

- These special responsibilities will include a role in the management of, and budgetary allocation for, such services
- But these special responsibilities will not include any power to interfere in or direct editorial or programming decisions. These will remain the sole responsibility of the public broadcaster which will retain complete independence over those matters

The Minister will determine all matters relating to the privatisation, if any, of public broadcasting services, and may require both the public broadcaster and the regulator to furnish advice and recommendations on those matters.

The Minister will have statutory responsibilities for, and the authority to direct the regulator about, matters relating to broadcasting that are of significant economic, cultural and social importance to the people of South Africa

11.1.3 The Regulator

The Regulator, subject to the law as it is determined from time to time by the Parliament, and to the lawful directions of the Minister, must observe the terms of its statutory Charter, Ministerial Directions and the relevant provisions of the Constitution.

The Regulator will retain all necessary independence in relation to the administration of matters delegated to it by the Parliament or the Minister, and will be required to:

- Administer those matters delegated to it by the Parliament and the Minister, and
- report to, and take direction from, the Minister in areas identified by the Parliament to be the prerogative of the Minister

The functions of the regulator shall be as prescribed by Parliament.

The powers of the IBA will not, as at present, be generalised in their nature (see Section 13(a) of the IBA Act). Specific powers will be particularised in amendments to the IBA Act.

11.2 Policy Framework

In pursuit of its objectives, the Government has resolved to adopt the following policy initiatives.

The Parliament will be asked to amend the Independent Broadcasting Authority Act so that:

11.2.1 The Parliament

- Responsibility for the achievement of the objects of the Act is better defined
- It is the responsibility of the Minister to promote public broadcasting services, and the shared responsibility of the Minister and the IBA to promote private and community broadcasting services.
- It is the shared responsibility of the Minister and the IBA, but principally that of the Minister, to protect the financial accountability of public broadcasting services
- Some objects of the present Act are brought into other regulatory schemes

- Ensuring fair competition should be a function for the country's competition regulator.
- Ensuring broadcast signal distribution facilities are made available in respect of all licensed broadcasting services.
- Ensure that private and community broadcasting services also cater for the needs of language, cultural, religious groups, the constituent regions of the Republic and local communities and the need for educational programmes.
- Public broadcasting responsibilities relating to protecting the integrity and viability of public broadcasting services and to ensuring that in the provision of public services, the needs of language, culture and religious groups, the constituent regions of the Republic and local communities and those for educational programmes will be a shared responsibility of the SABC Board and the Minister.
- Parliament is entitled to determine how any grants of public monies by the State to the SABC are deployed.
- A statutory charter for the public broadcasting arm of the SABC should be legislated for, and this charter should place appropriate stress on the obligations of the SABC to provide a comprehensive service of wide geographic coverage
- The Parliament will retain its powers of appointment in relation to the IBA
- The concept of two co-chairpersons of the IBA will be abolished in favour of a single chairperson
- The power of the IBA to remunerate employees at levels considered as being competitive in the open employment market, which confers a very wide discretion on the IBA, will be curtailed. The IBA will be required to offer salaries consistent with public sector standards.
- The IBA will be funded directly by government, and not be allowed to retain funds obtained from any other source.
- No statutory authority should be permitted to profit from fines it might impose.
- Surplus funds will not be allowed to accumulate in the IBA.
- The IBA's Annual Report obligations will be broadened; in particular the IBA will be required to report on operational as well as financial matters. These matters should include comprehensive statements about:
 - Licensing
 - Planning
 - Supervision of standards
 - Ownership and control issues
 - Industry compliance with license and other obligations
 - Local content issues
 - Technological developments, including the Internet and multi-media

11.2.2 The Minister

- The Minister is entitled to be consulted by the South African Broadcasting Corporation about the management and financial affairs of the Corporation

- The Minister is entitled to recommend to Cabinet what proportion of revenues obtained from license fees levied in respect of the licensing of radio and television sets shall be allocated from the National Revenue Fund between the SABC and the State
- The Minister's responsibilities for matters relating to broadcasting that are of significant economic, cultural and social importance to the people of South Africa include:
 - The determination of overall broadcasting services planning priorities, including priorities for planning services by category of service, by geographical identification, and by means of delivery of such services
 - The allocation, on the advice of the Spectrum Management Agency, of radio frequency spectrum to the Regulator for the purposes of planning broadcasting services
 - The universal service responsibilities and obligations of public broadcasters
 - The Government's obligations under international treaties and conventions
 - General policies of the Government as they relate to broadcasting, including policies relating to:
 - Empowerment
 - the Internet
 - online services and
 - multi-media
- The Minister may delegate to the IBA from time to time responsibility for furnishing him with advice and recommendations about these matters.

11.2.3 The Regulator

The principal roles of the regulator include –

- The administration of the statutory scheme for granting, and renewing, broadcasting licenses
- The management of the broadcasting services frequency bands and other parts of the radio frequency spectrum properly delegated by the Parliament and the Minister to broadcasting purposes
- The design and implementation of license conditions for different categories of broadcasting service, including conditions relating to:
 - Local content requirements
 - Program requirements
 - Service provision, including:
 - Coverage obligations
 - Language service provision
 - Ownership and control compliance
 - Code of Conduct compliance
 - Empowerment.

- Monitoring the broadcasting industry so as to ensure compliance with broadcasting laws and regulations
- The conduct of research, including research into community standards, so as to inform its regulatory role
- The enforcement, where appropriate and necessary, of broadcasting laws and regulatory requirements
- An appropriate accountability to the Parliament, the Minister and the system of judicial review
- The functions of the regulator will include, but not be limited to:
 - To plan, subject to the approval of the Minister, the availability of segments of the radio frequency spectrum on a national and area basis, including the preparation of a frequency allocation plan and license are plans for South Africa
 - The grant and renewal of broadcasting licenses
 - Monitoring the operation of the IBA Act and technological developments and service trends in the broadcasting sector, and reporting to the Minister from time to time
 - Dealing with complaints about broadcasters' observance of community standards in programming and advertising
 - Dealing with, and prescribing, the appropriate radio frequency spectrum engineering characteristics of broadcasting services
 - The making of regulations necessary to give effect to broadcasting policy through due public processes.

11.2.4 The Courts

Section 3(3) of the IBA Act states that "The Authority shall function without any political or other bias or interference, and shall be wholly independent and separate from the State, the government and its administration or any political party, or from any other functionary or body directly or indirectly representing the interest of the State, the government or any political party.

This provision is effected in four ways in the Act:

- Open and transparent nomination of IBA Councillors by the public, and appointment by the President on the advice of the National Assembly;
- Exemption of political office bearers from holding office in the IBA;
- Exemption of persons with financial interests in telecommunications, broadcasting and printing industries from holding office in the IBA; and
- Exemption of the IBA Councillors from participating in the proceedings of the IBA, in the event of having an interest in the matter considered by the Authority.

The IBA is accountable to the Minister for Posts, Telecommunications and Broadcasting, and has to provide an annual report about its activities, income and expenditure.

The Constitution establishes a number of state institutions supporting constitutional democracy. These include the Public Protector, the Auditor-General, the Human Rights Commission, the Electoral Commission, the Commission of Gender Equality, etc.

These institutions are independent, and subject only to the Constitution and the law, and are required to be impartial in exercising their powers and functions.

With regard to the IBA, the Constitution calls for the enactment of national legislation to establish an independent authority to regulate broadcasting activities in South Africa.

The IBA may do so only in so far as it does not derogate from the provisions of the IBA Act or any other law, including the Constitution.

Like any other institution, the IBA's administrative actions or decisions are subject to judicial review. The Constitution provides for a review of any administrative action on the following grounds:

- Lawful
- Reasonable
- Procedurally fair/due process
- The furnishing of written reasons for the administrative decision.

If any member of the public or group of persons are not satisfied that the above criteria were not followed by the IBA in any of its administrative actions or decisions, such a person or group of persons are entitled to challenge the IBA in a court of law. This relates to all of the IBA's licensing and regulatory functions.

The government does not propose to seek any change to the role of the courts in reviewing the decisions of the IBA.

11.3 A Single Regulator for Broadcasting and Telecommunications

The IBA Act of 1993 and the SATRA Act of 1996 established two separate regulatory Authorities for the broadcasting and telecommunications area. These Acts vested these two Authorities with independent powers to regulate the two areas in the public interest.

The establishment of a single independent authority to regulate both telecommunications and broadcasting was first mooted during the constitutional negotiations in the Transitional Executive Council in 1992. However because broadcasting has become highly politicised area and the revision of telecommunications legislation required a lengthy period of consultation and study, it was decided to proceed as a matter of urgency with the establishment of a regulatory body for broadcasting.

During 1996 the Telecommunications Act was promulgated after a wide-ranging consultative process. The Telecommunications Act provided for the establishment of the

telecommunications regulatory authority to regulate telecommunications and manage that part of the radio frequency spectrum appropriate to telecommunications services.

The convergence of telecommunications, broadcasting and information technologies has forced government to focus on an appropriate regulatory structure.

The increasing difficulty to differentiate between radio frequency spectrum used for telecommunications and that used for broadcasting and other services has pointed to the need to merge the two regulatory authorities into a new Authority responsible for regulating both the broadcasting and telecommunications areas.

The merging of the two regulatory authorities will also ensure that the high costs associated with maintaining separate regulatory structures requiring virtually the same scarce technical skills and facilities will be minimised.

The South African government has taken the decision to merge the IBA and SATRA into a single authority. Appropriate legislation enabling the merger of the two bodies will be tabled in the course of the 1998 parliamentary session and the new regulatory body will commence operations in the 1999/2000 financial year.

The new regulatory body will enjoy the same independent statutory framework as the existing authorities.

Conclusion

This White Paper pronounces the Government's policy for broadcasting in the future South Africa. It provides, for the first time in this country, a clear policy framework which ensures that the diverse needs of the total South African society are accounted for in the broadcasting system.

The role of the Parliament, the Government and the broadcasting Regulator will be clearly defined in the Broadcasting Act which will emanate from this White Paper. Accordingly, the allocation of roles and the proper assignment of tasks, coupled with the definition of intermediate and long term policy ends, will be clearly delineated in the broadcasting law. In addition, a number of additional policy initiatives are announced in this Paper. Appropriate laws, regulations and processes will be put in place to give force to these determinations.

The overriding objective of this process is to create a broadcasting system within which the airwaves are utilised for the maximisation of the public good within the context of the Constitution.

Glossary of Terms

AM: Amplitude modulation. Used for radio broadcasts, usually in the MW and SW bands.

ADSL: Asymmetrical Digital Subscriber Line

ATSC: American Telecommunications Standard Council

BBC: British Broadcasting Corporation

BOP: Bophuthatswana Television Service

Barriers to Entry: Are legal or natural impediments protecting a firm from competition by potential new entrants.

C-band: The frequency band from 4-6 Ghz, used mainly for distribution of television signals to terrestrial relay transmitters.

DAB: Digital Audio Broadcasting

DVB: Digital Visual Broadcasting

DTH: Direct to home

Deregulation: When a highly regulated broadcasting environment is reassessed and a number of rules and regulations are reduced, making it easier for interest groups other than the state to participate, own and control a broadcasting station.

Duopoly: A special type of Oligopoly. It is a market in which there are two producers of a commodity competing with each other; e.g. SABC vs M-NET

Economics of Scale: Occurs when a single producer can supply the entire market at an average total cost of production that is lower than what can be achieved by two or more firms; e.g. Eskom, Telkom

Encryption: A mechanism for changing the broadcast signal in a systematic way so that the picture would be unintelligible without a suitable decoder. The procedure is highly mathematical and very secure. Encryption usually infers a higher degree of security than "scrambling", which is a simple rearrangement of parts of the signal according to some simple formula and it's therefore less secure.

Free-to-air: Broadcasts that can be received without the necessity for any encrypting process.

FM: Frequency modulation. Used for radio transmissions usually in the VHF bands. Produces good fidelity.

Foot Print: The area of the earth's surface in which a particular satellite signal can be received.

Grandfather Clause: A clause ensuring that the existing rights of present broadcasters are carried over and continued in a new regulatory dispensation.

IBA: Independent Broadcasting Authority

ISP: Internet Service Provider

IT: Information Technology

ITU: International Telecommunications Union based in Geneva, Switzerland. Assigns frequency spectrum to different parts of the world through the International Frequency Registration Board.

Ku-band: The frequency band from 11-14 GHz, intended for direct-to-home satellite television broadcast.

Local Content: Television programmes which are identifiably South African, recognise the diversity of all cultural backgrounds in South African society, are developed for South African audiences and are produced under South African creative control.

LMDS: local Multi-point Distribution System

MMDS: Microwave Multi-point Distribution System

M-NET: Electronic Media Network; an encoded subscription television service in South Africa owned by a company listed on the Johannesburg Stock Exchange, founded by a consortium of six newspaper groups.

MW: Medium Wave (band): radio frequencies between 300 and 3000 kHz.

Monopoly: Is an industry in which there is one supplier of a good, service or resource that has no close substitutes and in which there is a barrier of entry to new firms.

Monopolistic Competition: Is a market type in which a large number of firms compete with each other by making similar but slightly different products; e.g. Radio Stations.

Terrestrial: A term used to distinguish broadcasting from transmitters situated on the earth's surface from satellite (celestial)

PBS: Public broadcasting service-a service which seeks to cater for all audiences, all tastes, in society irrespective of geographic location, class and cultural background. It relies for finance on license fees or state subsidy which allows it to provide programmes which are of public benefit but are not necessarily commercially profitable.

RDP: Reconstruction and development programme

Windows: A technique whereby a broadcast from another place is slotted into a transmission from the principal source of the transmission