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GOVERNMENT NOTICE

MEDIA DEVELOPMENT AND DIVERSITY AGENCY

No. 1460

10 October 2003

MDDA Regulations**Definitions**

**Regulations in terms of section 22 of the Media Development and
Diversity Agency Act (Act 14 of 2002)**

The Minister responsible for the Government Communication and Information System, in consultation with the Board of the Media Development and Diversity Agency and in terms of section 22 of the Media Development Diversity Agency Act (Act 14 of 2002) makes the regulations in the Schedule.

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MDDA Regulations

Definitions

1. Definitions

In these regulations, unless the context indicates otherwise-

any word or expression to which a meaning has been assigned in the Media Development and Diversity Agency Act (Act 14 of 2002) has such a meaning;

'the Act' means the Media Development and Diversity Agency Act (Act 14 of 2002); and

'project' means a community media project, a small commercial project and a research project.

2. General criteria for selecting community media, small commercial media and research projects

The Board must, when deciding on whether or not to provide or facilitate support to a project as contemplated in section 17 of the Act, take into account the following criteria-

- (a) the extent to which the project promotes media development and diversity;
- (b) the likely impact of the project on historically disadvantaged communities and persons that are not adequately served by the media;
- (c) the likely impact of the project on historically diminished indigenous language and cultural groups;
- (d) the extent to which the project encourages ownership, control, participation and access to media by historically disadvantaged communities and persons that are not adequately served by the media;
- (e) the extent to which the project encourages ownership, control and participation and access to media by historically diminished indigenous language and cultural groups;

MDDA Regulations**Specific criteria for community media projects**

- (f) the extent to which the project develops human resources, training and capacity building within the media industry, especially amongst historically disadvantaged groups;
- (g) the quality and innovation of the project;
- (h) whether the project is likely to promote literacy and a culture of reading;
- (i) compliance with media laws and codes of conduct applicable to the media industry;
- (j) the good governance practices of the project, including-
 - (i) sound financial and narrative reporting;
 - (ii) accountability to stakeholders;
 - (iii) adherence to the law, in particular tax and employment equity laws;
 - (iv) sound project management systems;
 - (v) effective use and management of resources;
- (k) the project must not be owned or controlled by:
 - (i) any media entity which enters into an agreement with the Board as contemplated in section 21 of the Act;
 - (ii) any political party; or
 - (iii) the State;
- (l) subject to regulation 3(2), the financial sustainability of the project.

3. Specific criteria for community media projects

- (1) When deciding whether or not to provide or facilitate support to a community media project, the Board must-

MDDA Regulations**Specific criteria for community media projects**

- (a) take into account-
 - (i) the general criteria contemplated in regulation 2;
 - (ii) whether the community is a historically disadvantaged community;
 - (iii) whether the project is likely to build capacity in the community;
 - (iv) the extent of the involvement and participation of the community in the decision-making processes of the project; and
 - (b) be satisfied that any financial surplus generated by the project will be reinvested in the media project.
- (2) The Board must, when deciding whether or not to provide or facilitate support to a community project that is not financially sustainable, take into account the following criteria-
- (a) the community's interest in and support for the project;
 - (b) the community's capacity to administer any support provided or facilitated by the Board;
 - (c) the community's capacity to contribute to the project's sustainability;
 - (d) the extent to which the project offers access to information not offered to the community by another media service;
 - (e) the extent to which the project contributes towards media diversity;
 - (f) the extent to which the project offers social and economic benefits to the community; and
 - (g) the project's overall performance.

MDDA Regulations**Specific criteria for research projects**

4. Specific criteria for research projects

In addition to the general criteria contemplated in regulation 2, the Board must, when deciding whether or not to provide or facilitate support to a research project, take into account the following criteria-

- (a) the aim of the research;
- (b) the competence of the persons who will conduct the research;
- (c) the impact of the research on media development and diversity; and
- (d) the extent to which the project advances and enhances the research skills development of historically disadvantaged persons.

5. Emergency funding of projects

In determining whether or not to provide emergency funding to a project as contemplated in section 17(a)(ii) of the Act, the Board must-

- (a) take into account the general criteria contemplated in regulation 2; and
- (b) be satisfied that-
 - (i) the survival of the project is threatened by insufficient funding; and
 - (ii) the emergency funding is likely to have the effect of strengthening and ensuring the survival of the project.

6. Board may determine conditions for support

- (1) The Board may determine any reasonable conditions for support provided or facilitated to a project as contemplated in section 17 of the Act.
- (2) Any conditions determined in terms of sub-regulation (1) must be included in the agreement entered into between the Board and the project as contemplated in regulation 7.

MDDA Regulations**Agreements to provide or facilitate support**

7. Agreements to provide or facilitate support

If the Board decides to provide or facilitate support to a project, the Board must enter into an agreement with the project, which must include:

- (a) the nature and form of the support to be provided or facilitated by the Board;
- (b) the conditions attached to the Board's support of the project;
- (c) the manner in which the project's compliance will be monitored and evaluated;
and
- (d) the consequences for breach of any conditions attached to by the Board.

8. Consequences for breach of conditions

- (1) If a project breaches any condition contemplated in regulation 6, the Board may, depending on the extent and nature of the breach, suspend or withdraw its support for the project.
- (2) Before suspending or withdrawing any support for a project, the Board must notify the project in writing of its intention to do so and give the project a reasonable opportunity in the circumstances to make representations to the Board.

9. Procedure for applying for support

- (1) Any person who wishes to apply for support from the Board as contemplated in section 17 of the Act must:
 - (a) complete the relevant application form provided by the Agency; and
 - (b) provide the Agency with the information required in sub-regulation (2).
- (2) The applicant must submit the following information together with the application form-
 - (a) the project's founding documents;

MDDA Regulations**Procedure for applying for support**

- (b) the objectives and goals of the project;
 - (c) in respect of a community media project, the composition of its governing body;
 - (d) in respect of small commercial media projects, details of the ownership of the enterprise or initiative;
 - (e) a business plan for the project, including measures for future sustainability;
 - (f) an effective plan to evaluate the outcomes of the project;
 - (g) the project's proposed budget;
 - (h) the project's tax clearance certificate;
 - (i) where applicable, any licence or other authorisation required under any law regulating the media industry;
 - (j) the qualifications and experience of key personnel of the project; and
 - (k) where possible, the project's financial statements for the previous financial year, certified by an accountant or auditor who is independent of the project.
- (3) The applicant must submit the form together with the required information at the offices of the Agency.
- (4) Any document required in terms of sub-regulation (2) must be an original or a certified copy of the original.
- (5) The Board-
- (a) must acknowledge receipt of any application received in writing;
 - (b) may request further information from an applicant in support of any application; and

MDDA Regulations**Percentage allocation of support to projects**

- (c) must notify an applicant of its decision as soon as reasonably practicable after making the decision.

10. Percentage allocation of support to projects

- (1) Subject to sub-regulation (2), money contemplated in section 15(2)(a) of the Act must be allocated by the Board in accordance with the following percentages-
 - (a) community media projects: at least 60%;
 - (b) small commercial media projects: at least 25%; and
 - (c) research projects: 5%.
- (2) The Board may deviate from the percentage allocation contemplated in sub-regulation (1) if it is reasonable and justifiable to do so.

11. Percentage allocation of administration costs

- (1) Subject to sub-regulation (2):
 - (a) For the first financial year of the Agency, the Board must allocate a maximum of 35% of the funds as contemplated in section 15(1) of the Act for use as contemplated in section 15(2)(b) of the Act.
 - (b) In subsequent financial years of the Agency, the Board must allocate a maximum of 25% of the funds as contemplated in section 15(1) of the Act, for use as contemplated in section 15(2)(b) of the Act.
- (2) The Board may deviate from the percentage allocation contemplated in sub-regulation (1), if it is reasonable and justifiable to do so.