

Facsimile

Attention:	Attention: Mr Godfree Maulana			
Company:	ICASA			
Department:				
Re:	SABC'S SUBMISSION ON THE ICASA'S DRAFT GENERAL LICENCE FEES REGULATIONS 2012			
Fax Number:	(011) 566-3216			
Date:	05 December 2012			
From:	Philly Moilwa			
Department:	GM : Policy and Regulatory Affairs			
Contact Number:	011 714 -3708/ 3927			
Total Pages, Including Cover:	<table border="1" style="display: inline-table; vertical-align: middle;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px; text-align: center;">7</td> </tr> </table> If you do not receive full amount of pages, please contact sender without delay			7
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Dear Mr Maulana

Attached hereto, please find the SABC's Submission on the ICASA Draft General Licence Fees Regulations 2012 for your attention.

Yours sincerely,



PHILLY MOILWA
GENERAL MANAGER :
POLICY AND REGULATORY AFFAIRS

05 December 2012

Mr Godfree Maulana
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Dear Mr Maulana

**SABC'S SUBMISSION ON THE ICASA'S DRAFT GENERAL LICENCE FEES
REGULATIONS 2012**

Attached hereto, please find the SABC's Submission on the ICASA Draft General
Licence Fees Regulations 2012 for your attention.

Yours sincerely,



**PHILLY MOILWA
GENERAL MANGER:
POLICY & REGULATORY AFFAIRS**

SABC SUBMISSION ON THE ICASA'S DRAFT GENERAL LICENCE FEES REGULATIONS 2012

5 December 2012

South African Broadcasting Corporation Limited SOC: Registration Number: 2003/023915/06

Non-Executive Directors: Dr Ben Ngubane (Chairperson); Mr Thami ka Platjje (Deputy Chairperson); Mr Sembie Danana; Mr Cedric Gina; Mr Desmond Golding; Prof Philippa Green; Advocate Cawe Mahlali; Dr Patricia Makhsha; Mr Lumko Mtimde; Ms Clare O'Neil; Ms Suzanne Vos

Executive Directors: Ms Lulama Mokhobo (Group Chief Executive Officer); Ms Gugu Pride Duda (Chief Financial Officer); Mr Hlaudi Motsoeneng (Acting Chief Operations Officer)

Acting Company Secretary: Ms Theresa Victoria Geldenhuys

SABC SUBMISSION ON THE ICASA'S DRAFT GENERAL LICENCE FEES REGULATIONS 2012

5 December 2012

1. INTRODUCTION

- 1.1 The Independent Communications Authority of South Africa (ICASA) published on 24 October 2012, a Government Gazette Notice No 35819 in respect of the Draft General Licence Fees Regulations. The publication also invited interested parties to submit written comments or representations on the draft regulations within thirty (30) days from the date of the publication.
- 1.2 The SABC as an interested party hereby makes its representation regarding the Draft Licence Fees Regulations and further requests the Authority to provide it with an opportunity to make oral submission should there be a need.
- 1.3 The SABC is South Africa's public broadcaster with a broad public service mandate that cuts across socio, political and economic strata of the society. It delivers on its mandate through limited financial resources and platforms, that is eighteen radio stations and three television stations. The success of the SABC in the delivery of its mandate largely depends on an increased public funding. Any form of levy that seeks to require SABC to contribute to the government fiscal would to some extent inhibit the SABC's financial ability to effectively deliver on various national objectives such as universal service and access, growth and development of local content and languages.
- 1.4 We would like to refer the Authority to the SABC's previous submission of 20 March 2009 and the correspondence of 25 November 2011 regarding the Licence Fee Regulations and the collection of fees thereof.
- 1.5 We acknowledge the Authority's provision in the regulations to exempt the SABC from paying the Licence Fees. However, the proposed regulations are

silent on the exemption by the SABC from paying Administrative Fees. It is in this respect that the SABC is making its submission on the proposed regulations.

2. REGULATION 4, EXEMPTIONS

2.1 The SABC is pleased that Regulation 4(b) of the proposed regulations now refers to the Public Broadcaster as one licensee rather than making reference to the Corporation's Divisional licences. This will provide certainty and eliminate the confusion regarding whether the Commercial Service Division of the SABC should pay licence fees or not.

2.2 The regulations as mentioned in paragraph 1.5 above, are also silent on the exemption by the SABC from paying the Administrative Fees. Whilst it may not be the intention of the Authority to make the SABC pay the Administrative Fees, the *lacuna* in the regulations can open the regulations to various interpretations that may create uncertainties. It should be noted that SABC is currently exempted from paying both Annual Licence Fees and Administrative Fees. The rationale for that is premised on the following background:

2.3.1 ICASA's Supplementary Position Paper on General Licence Fees published on 01 April 2009 in Government Gazette Notice No32085. Ad Paragraph 15. It states as follows: "The Authority has decided to abide by its decision in 2005 regarding the SABC licence review process. As part of the licence amendment process, the Authority considered the matter and decided that the SABC should be exempt from the payment of Annual Licence Fees and Administrative Fees as captured in paragraph 37.5 of the Reasons for the Authority's decision dated 7 June 2005"

2.3.2 Reasons for the decision on the amended licence conditions for the SABC's television and sound broadcasting services of 2005, ad paragraph

37.5. The Authority stated as follows: “However, unless and until the Authority determines otherwise no annual licence fees will be payable by the SABC. Likewise, unless and until the Authority prescribes otherwise the SABC will not be required to pay any fees in respect of applications or renewal or amendment of its broadcasting licence”.

2.4 The above paragraphs demonstrate that it has never been the Authority’s intention to make the SABC pay Licence Fees or Administrative Fees.

2.5 The Authority is further alerted to the impact the Administrative Fees may have in respect of the various applications that the SABC has to make in extending its coverage for universal access by the disadvantaged communities.

3. CONCLUSION

The SABC would like to request the Authority to ensure that the Regulations are clear and unambiguous to avert the confusion that happened in the past.. We further request the Authority to consider the following arguments which were previously advanced to the Authority:

- the unique position of the SABC and the impact that the payment of administrative fees will have on its financial capacity to deliver on the public service mandate.
- the protection of the integrity and viability of the SABC as provided for in section 2(t) of the ECA will be compromised;

We would like to thank the Authority for the opportunity to make this representation.

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