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DRAFT REGULATIONS IN RESPECT OF LIMITATIONS OF CONTROL AND EQUITY OWNERSHIP BY HISTORICALLY DISADVANTAGED GROUPS (HDGS) AND THE APPLICATION OF THE ICT SECTOR CODES

AABA welcomes the intention to prescribe the regulations on the limitation of control and equity ownership by historically disadvantaged groups and individuals in the ICT sector, also application of the BEE code in the sector.

The pace of transformation in the sector has been very slow and non-existent at best sector, since the enactment of the Electronic Communications Act, just about 50% of the licensees have 30% HDG'S, some of those having the 30% HDG'S have focused on one group, being white female with the exclusion of other groups i.e. Black people as defined in the draft regulations.

On class licensees we propose that all class licensees licensed to operate in the metropolitan areas, must comply with 30% black ownership at all times, all other districts or municipal areas must have a limit of two municipal areas where the 30% exemption can be applicable. This will assist in preventing abuse or circumvention where individuals or companies might abuse the exclusion in to avoid compliance with the empowerment of historically disadvantaged and black people in general. The limit of 10million annual revenue will be abused, we propose that all the licensees must comply with the 30% black ownership, where the operations are small they must ensure that they engage with local communities and implement the 30% black ownership requirement. The Authority must not give any exemptions.

We support the Authority to require ownership of 30% by black people and must require a minimum level 3 B-BBEE status at all times, the clarity of a minimum level 3 must not be considered an exemption of 30% direct ownership by black people since the B-BBEE codes consists of other elements such as procurement and management. The Authority should also require compulsory participation of black people in Executive and managerial roles as part of the requirements

We welcome the clarity that 30% black ownership will be required at all times in each license, We further support the Authority to ensure that all the licensees must comply

with the 30% black ownership requirement within (24) twenty four months of coming into effect of the regulations. The licensees had more than a decade to comply with the legislation, the Authority should not even be giving a grace period of (24) twenty-four months. Where there is failure by licensees the Authority must be strict and implement penalties where there is non-compliance.

We are willing to present our views if and when required to do so.

Kind regards

A handwritten signature in black ink, appearing to read 'J. Erasmus', written in a cursive style.

Jacqueline Erasmus
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