



Draft White Paper Presentation to Stakeholders 16 February

department of communications and digital technologies

Draft White Paper on Audio- and Audio-Visual Content Policy Framework: A new vision for South Africa

Purpose of the Presentation

- ❖ To present the draft positions to the stakeholders
- ❖ To hear the views of the stakeholders and finalise these positions based on the engagement with stakeholders
- ❖ To incorporate and use these inputs to finalise the White Paper and take it through government approval processes



Background and Context

- ❖ Globally, the Internet as a media platform has transformed electronic media and communication markets
- ❖ Online content provision and over-the-top (OTT) content services had impact on traditional markets in the United States of America, as well as in Western Europe
- ❖ The policy, legislative and regulatory environments in those jurisdictions have adapted to address the impact of these new online providers and services
- ❖ This trend has reached Africa and South Africa and there are a variety of local market players and international OTT providers who have launched these online audio and video services
- ❖ Audio and audio-visual content consumption via the Internet are fundamentally transforming the South African audio and audio-visual landscape creating a broader content market than traditional broadcasting



Background and Context

- ❖ The Draft White Paper is dealing with OTTs, addressing the investment issue of increasing foreign ownership
- ❖ and dealing with the South African content and OTTs investment quotas obligations
- ❖ The issues of Media and Information literacy and requirements for a new regulator

Proposed Licencing Framework

TYPE OF SERVICE	MEANS OF TRANSMISSION												AUTHORITY GRANTING LICENCES	COMPLIANCE
	LINEAR				VoD				VSP					
	DTT	IPTV	SAT	OTT	DTT	IPTV	SAT	OTT	DTT	IPTV	SAT	OTT		
Public AVMS	Mainly law (or NRA)				Mainly law (or NRA)				Mainly law (or NRA)				Government (Regulator)	Mainly NRA (or Self-Regulation)
Commercial AVMS	Mainly beauty contest (or auction)		Licence		Notification				Notification				Government (Regulator)	NRA
Community/ non-profit AVMS														



Proposed Licencing Regimes Explained

- ❖ Public service (where a specific law and/or contract and/or concession is present and frames the various linear and/or non-linear offers of the public service media to the viewers).
- ❖ Licensing (where the competent authority has the opportunity to decide to grant or to refuse to grant a licence to the applicant and where such an access to the market is granted for a limited term and following some kind of requirements).
- ❖ Registration or notification (where the competent authority does not have the opportunity to refuse access to the market to the natural or legal person who files a registration as long as basic formal criteria are met. This would therefore include the situations in which the registration can eventually be refused, but exclusively on formal criteria (such as providing the requested information about the person, being established in the country, having the appropriate legal status...). Such registration have no limited term
- ❖ Open system (where the AVMS provider can launch a service without no obligation of any kind to signal its existence to the competent authority). In such case all the burden to detect and identify the AVMS and its provider would fully bear on the competent authority.

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Individual Licence</i></p>	<p>Broadcasters are generally supportive of the new licencing framework to accommodate the AVVC services to ensure the parity of regulation</p> <p>Other broadcasters don't support the licencing requirements for broadcasters i.e. e-Media noted that that audio-visual content providers should be able to provide content across multiple platforms without having to apply for different licenses</p> <p>e-Media advices that the licensing framework should rather differentiate between an audio content services and an audio-visual content services irrespective of whether they use radio frequency spectrum</p>	<p>Based on the international benchmarking research undertaken, the Draft White Paper will introduce the following licencing framework and Registration/notification. The envisaged new regulatory authority will be responsible for administering authorisation, and notification</p>

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Individual Licence</i></p>	<p>Some stakeholders are of the view that the licence granted for the linear services must be entitled to also provide streaming services and pod-casts of programming (and related content) on a website or App relating to its broadcasting service avoiding to apply for many licences per service provided.</p> <p>Google recommend that the licensing framework for the AAVCS sector should not be based on the existing individual and class licensing regime provided for in the ECA. Instead, all audio visual content services, including audio on demand content services and video sharing platform services should be subject to a simple and effective notification and registration process similar to the approach adopted by Ofcom in the United Kingdom.</p>	<p>The policy principle with the introduction of the threshold is to ensure that the smaller VOD (SMME) are protected and supported to grow and the ensure are innovative. The new envisaged regulatory authority will be a given a responsibility in determining which services and entities will require which type of licence is required based on their assessment models</p>

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Individual Licence</i></p>	<p>An industry association, the National Association of Broadcasters (NAB) supports the principle of a comprehensive framework and notes that the differentiation between broadcasting services and on-demand services is premised on the distinction between linear and non-linear content services. However, the distinctions in the licencing framework will become redundant as some OTT services are beginning to offer linear channels, in addition to video on demand (VOD).</p> <p>NAB recommends that the distinction between broadcasting and on-demand content services as currently proposed be set aside and that the licensing framework should rather differentiate between an audio content service and an audiovisual content service irrespective of whether they use radio frequency spectrum. NAB submits that radio frequency spectrum must be regulated separately from content services.</p>	

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Individual Licence</i></p>	<p>Multichoice is proposing that the two current licenses (individual and class) must fall away for AAVCS and be replaced by content services license.</p> <p>MultiChoice further noted that the framework of individual and class licensing for content services should not be carried over into the new licensing framework.</p>	<p>The position of the DCDT is to retain the proposed position that service operating purely online should not hold a licence but be regulated subject to reviews</p>
	<p>MultiChoice supports a registration process rather than a mere notification process which was suggested by some of the OTT players.</p>	<p>The position of the Department with respect to the implementation of the licencing framework, DCDT will consult with ICASA in this regard</p>

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Individual Licence</i>	Netflix is against the requirement that (OCS) apply for a licence and prefer the notification to a regulator such as the FPB.	The position of the DCDT is to retain the proposed position that service operating purely online should not hold a licence but be regulated subject to reviews
	A couple of stakeholders have raised concerns on how the enforcement on the licencing will be dealt with.	The position of the Department with respect to the implementation of the licencing framework, DCDT will consult with ICASA in this regard

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Class Licence</i>	<p>Stakeholders have a raised a concern on the requirement for the community broadcasters to apply for a licence through the ITA process. PMG raised a concern on the community broadcasters to be required to apply a licence.</p>	

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Radio frequency spectrum licence and spectrum issues</i></p>	<p>With regard to radio frequency spectrum (assigned to broadcasting service licensees under the current framework) MultiChoice recommended that the new licensing framework should require that radio frequency spectrum be assigned only to an ECNS licensee: which will provide multiplex or transponder capacity to content service licensees that wish to distribute content over terrestrial or satellite networks</p> <p>E-Media noted that, on spectrum and digital migration, the White Paper doesn't provide any guidance on the licensing framework post analogue switch-off. eMedia further raised the need to auction the digital dividend spectrum and use the proceed to fund the migration, this will ensure that broadcasters are migrated on no less favourable terms.</p>	<p>The Position of the DCDT is to amend the BDM policy to address the issues pertaining to ASO</p>

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

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<p><i>Radio frequency spectrum licence and spectrum issues</i></p>	<p>Kagiso Media submitted a concern regarding the planned migration to digital sound broadcasting which remain unaddressed and meaningful stakeholder engagement is required. ICASA reiterated that it is best situated to continue to manage spectrum, as an independent regulator.</p> <p>MMA and SOS recommended that the final White Paper must set out a clear, implementable, policy framework for digital television access, digital sound broadcasting access and broadband Internet access, that are to be universal, meaningful and affordable for the people of South Africa</p>	

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Radio frequency spectrum licence and spectrum issues</i></p>	<p>MMA and SOS cautioned the use of Spectrum scarcity for the heavy touch regulation given the evolving technology which will not require spectrum. In the same vein the regulation of the OTTs cannot be the same as broadcasters due to non-usage of the scarce spectrum.</p> <p>The NAB submits that consideration must be given to how processes such as the digital-to-digital migration by broadcasters or restacking will be funded. The NAB therefore submits that spectrum plans must adopt a holistic approach which accommodates the country's future spectrum needs for broadband, DTT, digital radio as well as possible future technologies to ensure capacity for new audio and audiovisual content services</p>	

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Radio frequency spectrum licence and spectrum issues</i></p>	<p>Cape TV recommended that the transmission costs of community TV channels on the DTT platform continue to be paid by government until such time as either (i) the fee structure is revisited to allow for nominal fees to be paid by community TV channels (i.e. they are not simply charged at the same rate as national and commercial channels); or (ii) local multiplexes are initiated to carry the community channels. That the community TV channels be accommodated on Multiplex 1 until such time as local multiplexes are instituted</p> <p>Community TV channels be allowed to self-provision on their own local multiplex that they operate either independently or cooperatively with other local broadcasters (e.g., local commercial or local community channels).</p>	

Licence Framework and Thresholds for the Audio and Audio Visual Content Services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Radio frequency spectrum licence and spectrum issues</i></p>	<p>ICT Chamber Accessible Broadcasting Sub-Committee submitted that inclusive DSB receivers should be added due to the - DSB ICASA Framework.</p> <p>A universal service obligations is suggested , proceeds from the spectrum auction.</p> <p>ICT Chamber Accessible Broadcasting Sub-Committee requires an update from the Regulator is required on the issuing of the DTT Mux frequencies and roll out infrastructure for the third metropolitan DTT radio frequency network.</p> <p>The inclusion for the disability and social upward mobility</p>	<p>The regulator will deal with the issues around DSB</p>

Public Broadcasting in the new policy framework

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Legislative Amendments</i></p>	<p>The production industry stakeholders raised concerns with the rigid policies and statues governing the procurement and commissioning of content by the SABC</p> <p>The competitors of the SABC such as MultiChoice, e-Media and Kagiso Media have recommended that the SABC shouldn't participate in the commercial activities as its mandate is to provide public mandate services.</p>	<p>Government will amend the Broadcasting Act of 1996 into SABC Act to reflect the public broadcasting service role to be played by the SABC in the growing audio-visual content services market, to reflect recent changes to the Memorandum of Incorporation (MOI), to provide and delineate the powers of the Minister as a shareholder representative of the Corporation, the powers of the Board of the Corporation and the powers of the Executive Committee</p>

CONTENT REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Protection of Constitutional Principles</i></p>	<p>Authority’s submission that the constitutional amendment - to the extent that it is necessary - should also extend to all sectors regulated by ICASA, including electronic communications sector and not only limited to AAVCS</p>	<p>The DCDT position is the that the protection of Constitutional Principles will continue in the new regulatory policy environment</p>
	<p>NAB submitted that the provision in the Constitution may still fulfil its objective as the ultimate regulatory body will still be mandated to regulate inter alia broadcasting services.</p>	

CONTENT REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Protection of Constitutional Principles</i></p>	<p>MMA and SOS are concerned about the proposal contained in sections 517 and 518 of the Draft White Paper regarding amending section 192 of the Constitution to replace the word “broadcasting” with “audio-visual content services”</p>	
	<p>SOS and MMA are of the view that have long campaigned for the broadening of section 192 but this must not be limited to being “content regulator” as proposed by the DCDT</p>	

CONTENT REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Protection of Constitutional Principles</i>	<p>National legislation must establish an independent authority to regulate [broadcasting] communications in the public interest, and in particular: (1) to ensure fairness and a diversity of views broadly representing South African society with regard to audio and audiovisual services; and (2) to promote convergence and the efficient use of communications infrastructure, including the radio frequency spectrum, and services.</p>	

CONTENT REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Public Service Programming</i></p>	<p>Cape TV responded on the district model, that community TV specifically can be overcome by having a national Open Channel that local community TV initiatives can contribute to. The Open Channel can be operated as a non-profit organisation and licensed as a national community-of-interest channel.</p>	<p>This proposal from Cape TV can be the best model that can work for community TV</p>

CONTENT REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Must Carry and Findability</i></p>	<p>SOS and MMA noted the Must Carry with specific reference to the ECA and to the Must Carry Regulations prescribed by ICASA and correctly summarises the ICASA Must Carry Regulations as stipulating that such programming is to be carried "at no cost".</p> <p>MMA and SOS is concerned at the proposal that the channels of SABC "may not be exclusive to a single subscription audio-visual content service". This contradicts and undermine the conclusions correctly drawn by the DCDT that talk about the need to guard against preventing "the public broadcaster from commercially negotiating retransmission consent agreements for its channels and programmes".</p>	

CONTENT REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Must Carry and Findability</i></p>	<p>Cape TV has proposed that the power dynamic between MultiChoice as the dominant player in the pay-TV market which also holds around 50% of the total television audience share, be obliged to carry the geographic community TV channels under a must-carry, must-pay arrangement</p> <p>The relevant legislation to be amended for this purpose includes a) the Electronic Communications Act and b) the ICASA “must-carry” regulations concerning the carriage of public benefit channels on pay-TV channels.</p>	<p>The DWP has proposed that the public broadcasters can enter into have commercial agreements with respect to must carry and this proposal can also apply to the community broadcasters</p> <p>The DCDT position is for the regulator conduct a public inquiry to determine a regulatory framework for rules ensuring the findability or ‘discoverability’ of public interest content on all audio and audio-visual content service platforms</p>

CONTENT REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Must Carry and Findability</i></p>	<p>ICT Chamber Accessible Broadcasting Sub-Committee recommended for the introduction and regulation of guidelines for Audio Description on TV and Radio stations; introduction and regulation of guidelines for broadcasting South African Sign language and provision of a captioning channel; introduction and regulation of flashing images for persons with photosensitive epilepsy on TV and website images;</p>	
	<p>Provision of a digital radio channel specifically for persons with disabilities, including presenters who are persons with disabilities.</p>	

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>South African Content</i></p>	<p>The IPO is of the respectful view that it is essential that the entire local content and independent commissioning classification and verification process must be simplified to guard against platform shopping by AVCS, that is, to create more equitable and implementable regulatory obligations as between qualifying broadcasting and qualifying On-demand AVVCS.</p>	<p>DCDT support the proposal</p>
	<p>IPO further recommended that ICASA must be required, empowered and funded to be able to conduct monitoring and enforcement of compliance with all local conduct broadcast and local original production quotas, including funding obligations and independent production obligations.</p>	<p>DCDT position is to first engage ICASA on the difficulties as this will see a repeat of the mandate of the authority which is well known as its mandate will now expand to the AVVC with respect to compliance reports</p>

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>South African Content</i>	<p>The IPO wants to see both quotas in respect of the amount of local content to be flighted on various audio-visual platforms, the imposition of financial obligations to "spend" a percentage of turnover revenue on original local production and independently commissioned content.</p>	<p>The issue around 30% of catalogues of content targeted at SA audiences will be reviewed and alternative strategies such financial contribution to the industry will be explored</p>

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>South African Content</i></p>	<p>The IPO respectfully proposes that all AVVCS meeting the regulatory thresholds will have obligations to flight local content.</p> <p>IPO proposed that all qualifying television broadcasters to be required to flight a certain percentage of the hours of programming flighted on any linear broadcasting service.</p> <p>For legacy terrestrial free-to-air television broadcasters, we would suggest that there be no reduction in the overall local content percentage requirements applicable to public, commercial and community services.</p>	<p>DCDT welcomes the proposal</p>

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>South African Content</i>	<p>In order to take account of the African Continental Free Trade Agreement (AfCFTA), IPO would like to see a small percentage (of not more than five percent) to be imposed on top of the local content quota for content from other African Union countries, but only where there are reciprocal, bi-lateral agreements with such other African Union countries that impose a reciprocal quota to encourage the flighting of South African content.</p>	<p>DCDT welcomes the proposal</p>



REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>South African Content</i>	For new free-to-air terrestrial and satellite television broadcasters, the percentage of programming required to be local is to be 20% initially, with an obligation to climb to the following quotas within five years	DCDT welcomes the proposal
	45% for commercial operators; 65% for community operators; 65% for SABC television services. For existing subscription television broadcasters, IPO submit that the percentage of programming required to be local is to be 15%. For new subscription television broadcasters, we submit that the percentage of programming required to be local is to be 5% with an obligation to climb to 15% within five years	The proposal is welcomed, however in 2016 ICASA issued local content quotas, therefore it is imperative to ensure that an assessment need to be done for impact assessment on the new quotas

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Local Original Production Quota</i></p>	<p>The IPO wants to see both quotas in respect of the amount of local content to be flighted on qualifying broadcasting services and also want to see the imposition of financial obligations to "spend" a percentage of turnover revenue on original local production for all entities involved in the AV sector, from television broadcasters, AVCS as well as ECS and ECNS licensees, all of whom benefit from, and are dependent on, the content flighted on or over their services/networks for advertising revenues, subscriptions, data income, network/signal distribution fees etc</p>	<p>The proposal is welcomed. but there is a need to engage ICASA on their feasibility, practicality and the capacity of the regulator. This comment apply to SASFED, IPO and IBFC as their submission is more or less the same</p>



REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Local Original Production Quota</i>	<p>IPO has made specific proposals on the quotas to be applicable on the different types of services:</p> <p>commercial and community terrestrial free to air or subscription television broadcasters, funded through subscription, advertising or a mix of them, should spend a minimum of 20% of their annual turnover on the production or coproduction of original local content.</p> <p>public terrestrial broadcaster (SABC) should spend a minimum of 25% of its annual turnover on the production or coproduction of original local content.</p>	

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Local Original Production Quota</i></p>	<p>satellite broadcasters or AVCS distributors should spend a minimum of 10% of their annual turnover on the production or coproduction of original local content.</p> <p>qualifying on-demand AVCS should spend a minimum of 15% of their annual South African turnover on the production or coproduction of original local content; and further, 65% of all amounts referred to in paragraphs above to must be spent on independently commissioned productions</p>	

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Local Original Production Quota</i></p>	<p>SA Audio Visual Reference Group recommend that a small percentage of content from the African countries be eligible to be regarded as local for purposes of the local content quotas providing the reciprocal agreements in place with South Africa as this will increase foreign direct investment</p>	<p>DCDT agree with this proposal as it also in line with the increase in ownership and wherein the cap can increase from 49 subject to reciprocity</p>
	<p>SA Audio Visual Reference group further suggest that that the concept of services “targeting South African audiences” be clarified as it is central to the delineation of ICASA’s jurisdiction</p>	<p>The definition of what constitute local content has been defined by the ECA of 2005 and has been effected in this draft</p>

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Local Original Production Quota</i></p>	<p>WarnerMedia does not agree with the proposal to impose 30% of video catalog available in South Africa. They are proposing that in order to ensure that the proposed regulatory framework will be effective in encouraging the growth of the South African audio-visual cultural sector, the alternative proposal that licensees be offered an opportunity to pay a specified sum of money or minimum percentage of gross revenue into a fund that supports the creation of South African content</p> <p>NCFR also proposed that international multinationals must pay a levy to support creation of local content. The levy must benefit community broadcasters.</p>	<p>These proposals will be assessed based on a number of similar recommendations by other stakeholders</p>

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Local Original Production Quota</i></p>	<p>Netflix submitted that rather than imposing a local content quota in proportion to the video catalogue of an on-demand content service provider (OCS), the Whitepaper should be revised to focus on incentivizing content providers to make investments in local content production, which is one of the objectives of any local content obligation.</p>	<p>DCDT does not agree with this proposal as there are no guarantees when companies voluntarily commit and the industry will ultimately not supported</p>
	<p>Netflix recommend that the 30% local content quota in the draft Whitepaper should be replaced with a voluntary commitment by OCS to a certain level of investment across key aspects of the content production ecosystem, as against the direct investment in local titles alone</p>	

REGULATION OF AUDIO AND AUDIOVISUAL CONTENT SERVICES

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Local Original Production Quota</i>	<p>The NAB recommends that a similar approach be considered for BRICS countries as a significant economic bloc through which there can be increased investment into South Africa audio and audiovisual sector. The NAB acknowledges the role of government in facilitating reciprocal market access and recommends that there be on-going engagements in this regard.</p>	

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Access to events and sports of national interest</i></p>	<p>NetballSA, SARU, PSL do not agree with all the proposals from the DWP attempting to ensure South Africans have access to sports rights of national interest.</p>	<p>The position from the DCDT is to allow the Minister of DSAC to decide in consultation with the DCDT Minister for the purpose broadcasting ICASA has recently issued regulations on sports events of national interest, and DCDT needs to engage with ICASA on this section and the DWP provides broad principles and ICASA gives effect to these in consultation with the Department and in the future with DSAC</p>

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Access to events and sports of national interest</i></p>	<p>NFVF noted that the SAFTAs do not fall within the exclusive domain of the SABC and NFVF submit that this should remain so. This will ensure that there is no abuse of dominance issue. The NFVF will be allowed to decide the platform that it wishes to utilise for the SATFAs.</p> <p>This is in the backdrop that in 2020 they were hosted across media platforms.</p>	<p>These submissions will be discussed with DSAC and the regulator given the custodianship of SAFTAS by the DSAC and the regulation of broadcasting by ICASA including the VSPS in the future</p>

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Protection of Children and Consumers</i></p>	<p>FPB emphasised the need to coordinate and collaborate amongst and between organs of state and industry is required to ensure future-proof classification regime for the films, games and the publication sector</p> <p>Netflix recommended that the DCDT develop one set of requirements (in general, but particularly for purposes of protecting children from harmful content) and to then indicate which requirements will apply to linear broadcasters which are not required, by law, to submit their content for classification, and which requirements will apply to OCS, many of which are already bound to the FPB regime</p>	

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Protection of Children and Consumers</i></p>	<p>Some of the stakeholders noted that self-regulation and co-regulations are better instruments to address protection of children in the cyber space</p>	<p>These will be based on BCCSA engagement with ICASA even though DCDT recognises that when self-regulation fails, co-regulation result in better regulation but this will be finalised in consultation with the regulator</p>

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Advertising</i></p>	<p>ARB suggest that the core regulatory provisions legislation that regulates the content of television advertisements should extend to include all AAVCS licensees (provided the wording to that effect)</p>	<p>DCDT will engage with ICASA on the relevant regulations on advertising</p>
	<p>CGCSA recommends self-regulation in terms of regulatory framework recommending alignment with the Department of Health’s Nutrition Division</p>	
	<p>Academics proposes that any regulatory action aimed at protecting children from advertising of harmful foods, should include both direct and indirect forms of promotional activities in its ambit.</p>	

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Advertising</i></p>	<p>South African Liquor Brand Owners Association recommends that co-regulatory model may have the benefit of being nimble and adaptive to the changing media landscape while also having the backing of regulator in terms of enforcement and compliance</p>	<p>DCDT concur with the recommendations as evidence emerge from other jurisdictions that co-regulation derives better compliance</p>
	<p>ARB is of strong view that there is a need to harmonise rules for all audio-visual content services on misleading and comparative advertising and a need to address disclosure and disinformation for political advertising online.</p>	



Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Restriction on advertising placed on subscription broadcasting services</i>	<p>The SABC supports the review of the current share of advertising revenue for subscription services is necessary to ensure the financial viability of free-to-air services. The DCDT should set timeframes within which ICASA must complete this inquiry and prescribe regulations as the financial viability of FTA services could hinge on an effective regulatory intervention.</p> <p>NCRF recommend that government must legislate the current directive that at least 30% of government advertising must go towards community media. NCRF suggests that the Department should conduct a study through universities on the impact of big tech on local advertising and sustainability of South African media and diversity.</p>	



Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Restriction on advertising placed on subscription broadcasting services</i>	<p>eMedia encourages Department and regulator to level the playing fields by imposing advertising restrictions on subscription broadcasting services.</p>	<p>The position of the branch will be based on the proposed inquiry by ICASA into share of advertising</p>



Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Access to AAVCS by persons with disabilities</i>	The SABC contributes to the MDDA fund through USAF regulations and have no access to it to provide services for people with disabilities, thus submitted that it should be granted funding from both USAF and envisaged Digital Development Fund to enhance accessibility services for persons with disabilities.	The DWP proposes that the envisaged DDF might need to fund the production of content for people with disabilities

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Copyright and Intellectual Property</i></p>	<p>IPO urges that any further amendments are informed by a series of consultations with all relevant government departments and all affected stakeholders, facilitated by experts in this field and taking into account international best practice, to ensure a copyright and royalties regime that will stimulate rather than stifle the sector</p> <p>IPO further submits that Intellectual Property/exploitation rights must be negotiated within the Term of Trade negotiations with broadcasters and on-Demand AVCS to ensure producers retain rights in the medium to long term bases and to secure and future income from their work</p>	<p>There is a continuous engagement with the relevant department on the two Bills and will also monitor the developments in Parliament with respect to the Copy Right Amendment Bill (CAB)</p>

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Copyright and Intellectual Property</i></p>	<p>NVFV submitted that An Inter-ministerial Committee driven by social cohesion objectives must be set up to focus on copyright and local content development and the preservation of our audio-visual product</p> <p>SA Audio Visual Reference group submitted that, whilst legislation pertaining to protection and enforcement of intellectual property rights is predominantly administered by the DTIC, the current review of the intellectual property legislation requires greater coordination across the DSAC, DCDT together with the DTIC and further processes be coordinated as such.</p>	<p>The position of DCDT is that the two Departments (DCDT and DSAC) with other relevant departments discusses the CAB and the lead department will be engaged on this submission and others and consider relevant institutional arrangements</p>

Regulation of audio and audio visual content services

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Copyright and Intellectual Property</i></p>	<p>NCRF of the view that there is a need of the DCDT, ICASA, DSAC and MDDA to engage SAMRO in terms of developing a transparent and equitable Copyright distribution system in South Africa. The NCRF is of the view that the issue of Trusts and NPO's and Cooperatives must be reconsidered to allow for total community ownership.</p>	<p>DCDT will engage the relevant department (DTIC) and its entity, SABC as well as collecting societies as it also impacts on the distribution of royalties by the public broadcaster</p>

SUPPORT OF DOMESTIC AUDIO AND AUDIOVISUAL PRODUCTION AND CREATIVE INDUSTRIES SECTOR

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Content funding mechanism and institutions</i></p>	<p>NFVF proposes that private copying levies and taxation of international broadcasters must be investigated to direct funding towards a local content development fund. Strict measures must be put in place to fund the development, marketing and distribution of South African content.</p> <p>NFVF propose 3 tiers, with each tier being ring fenced: a transformation fund to develop new entrants (Tier 3); a fund for filmmakers with limited experience but who have developed and produced one or two theatrical feature films, television fiction, documentaries, short films and/or commercials (Tier 2); and a fund for experienced producers (Tier 1).</p>	<p>All these proposals will be canvassed with all the entities responsible for funding content production including the proposal to centralise and coordinate funding</p> <p>DCDT will engage all government departments and its entities relevant to these issues in order to update the section on funding at a principle level in agreement with the affected parties</p>

SUPPORT OF DOMESTIC AUDIO AND AUDIOVISUAL PRODUCTION AND CREATIVE INDUSTRIES SECTOR

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Content funding mechanism and institutions</i></p>	<p>The NAB recommends that specific provision be made for broadcasters and digital content providers to have access to this fund for purposes of developing public interest programming</p>	<p>DCDT has noted in its presentation of the DWP that DDF might also be a source of funding for the AVVCS</p>
	<p>IBFC support DCDT that there be a national policy and institutional review to ensure that an institutional framework that supports the optimum funding of audio-visual content at national, provincial and local level in South Africa and furthermore recommend that such a review must be undertaken (jointly by the DTIC, DSAC, Treasury, SARS and, importantly, the main industry producer organisations) of all current funding mechanisms and instruments for the sector.</p>	<p>DCDT will bring all issues as raised by the stakeholders to all relevant government departments and their entities and as IBFC has rightfully pointed out to bring Treasury on board as some of the constrains are based on NT regulations</p>

SUPPORT OF DOMESTIC AUDIO AND AUDIOVISUAL PRODUCTION AND CREATIVE INDUSTRIES SECTOR

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Content funding mechanism and institutions</i></p>	<p>SA Audio Visual Reference Group recommends that the coordination be facilitated through an inter - Ministerial Committee representing these respective government departments which will also critically assess the funding needs in the sector as well as the effectiveness of the current structure</p> <p>Multichoice recommends that the final White Paper should –include provisions that would strengthen ICASA's capacity, funding and organisational structure; provide for the FPB to be absorbed by ICASA and a co-regulatory model adopted between government and audiovisual services with regard to the regulation of audiovisual content across different platform;</p>	<p>As noted earlier the DCDT will bring all issues as raised by the stakeholders to all relevant government departments and their entities including other recommendations from stakeholders into the DWP</p>

SUPPORT OF DOMESTIC AUDIO AND AUDIOVISUAL PRODUCTION AND CREATIVE INDUSTRIES SECTOR

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Content funding mechanism and institutions</i></p>	<p>and replace the Universal service Fund with the new Digital Development Fund and make clear that USAASA is an infrastructure fund and that this infrastructure fund should receive contributions from ECS and ECNS licensees while audiovisual content licensees would contribute to the Media Development and Diversity Agency</p>	

SUPPORT OF DOMESTIC AUDIO AND AUDIOVISUAL PRODUCTION AND CREATIVE INDUSTRIES SECTOR

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Content funding mechanism and institutions</i></p>	<p>ICT Chamber Accessible Broadcasting Sub-Committee recommended that content funding for youth, women and persons of disability is of pertinent given the impact of COVID19 – Reconstruction and Recovery Plan of South Africa should play a part in the offtake of the funding. A universal service obligations is key from the Regulator proceeds from the auction in the development of content in the sector, DSB , DTT and Platforms.</p> <p>Persons with Disabilities should be clearly mentioned in the MDDA mandate, inclusive of people in rural areas</p>	



OWNERSHIP, PLURALITY, COMPETITION AND INVESTMENT

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Ownership Limitations</i>	<p>African Media Entertainment (AME) suggest that members of SADC be given priority over members of the African Union, to the extent that they are not members of the same two bodies. AME further recommends that without waiting for broadcasting legislative process, Parliament pass amendment provisions in a General Laws Amendment Act, that address sections 65 and 66 of the ECA, without further delay</p>	<p>DCDT agrees with AME in that whilst the limitations will be extended to AU, SADC be prioritised</p>

OWNERSHIP PLURALITY COMPETITION AND INVESTMENT

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Ownership Limitations</i></p>	<p>SOS and MMA support the ownership obligation suggestions contained in sections of the Draft White Paper provided they apply to linear broadcasters making use of scarce spectrum (as per a South African radio frequency spectrum licence) only. There is no basis for such restrictive ownership requirements on foreign-owned services that do not make use of scarce national resources</p>	<p>There will be engagements with the regulator on the implication of this proposal.</p>
	<p>Kagiso Media is of the view that to effectively address the recommendation of the draft white paper on guiding principles and provisions of competition law this will effectively require the Competition Commission to continue to exercise concurrent jurisdiction with ICASA in addressing concerns of market concentration and media plurality.</p>	<p>In the DWP proposal in line with Kagiso Media proposal “Draft White Paper proposes that the Authority and the Competition Commission should ensure “alignment between the decisions and conditions attached to approvals”. ICASA in its supplementary submission has reiterated that although cooperation between the Authority and the Commission is supported, such cooperation does not and should not mean concurrence/agreement.</p>



OWNERSHIP, PLURALITY, COMPETITION AND INVESTMENT

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Ownership Limitations</i>	The NAB is concerned that whilst competition legislation provides a clear framework on the factors to be considered when assessing the impact of a merger or acquisition on competition within a defined market, the alternative regulatory tools which may be used by ICASA in promoting plurality and diversity in a multichannel environment have not be sufficiently defined	DCDT to engage ICASA on this concern can be addressed in the DWP

OWNERSHIP, PLURALITY, COMPETITION AND INVESTMENT

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Ownership Limitations</i>	<p>NAB requests that clarity be given on whether there has been consideration of a similar approach being adopted in future in respect of the BRICS countries which collectively represent an important economic bloc which can also be a significant source of foreign direct investment. The NAB recommends that the Draft White Paper must clearly outline how this section will be implemented as engagements between South Africa and other countries is the prerogative of the executive authority. It is therefore not clear how the reciprocal access to markets will be facilitated</p>	<p>DCDT will look on how this proposal can be improved in outlining how reciprocity will be implemented and will be reflected in the next iteration of the DWP</p>



OWNERSHIP, PLURALITY, COMPETITION AND INVESTMENT

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Ownership Limitations</i>	<p>The NAB recommends that a similar approach be considered for BRICS countries as a significant economic bloc through which there can be increased investment into South Africa audio and audio-visual sector. The NAB acknowledges the role of government in facilitating reciprocal market access and recommends that there be on-going engagements in this regard.</p>	

OWNERSHIP, PLURALITY, COMPETITION AND INVESTMENT

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Ownership Limitations</i>	<p>Due to the fact that the Competition Amendment Act of 2019 has been signed into law, albeit not yet in force, the NAB recommends that the DCDT take note of these provisions and align the revised White Paper accordingly</p>	<p>These amendments will be considered and aligned accordingly if necessary</p>
	<p>Primedia has proposed specific clauses in the ECA pertaining ownership and control that requires amendments to be in line with the DWP proposals</p>	<p>These amendments will be considered and to also seek legal advise on how to handle the two legislations</p>

DEVELOPING HUMAN CAPITAL, DIGITAL SKILLS AND Digital Media and Information literacy

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Human Capital and Skills Development</i></p>	<p>NFVF recommended that there must be proper and specific training for the industry. The curriculum must be modernised to include subjects such as history of technology, modern technology and code writing or coding. In addition, consider TVET including CATHSSETA for training purposes</p> <p>MMA and SOS urge the DCDT to consider inter alia (i) introducing demand-driven digital skills curricula in education, apprenticeships and other youth skills development programmes; (ii) boosting the quality of teaching and training of digital skills; (iii) building links between digital skills training provers and employers to foster job placement;</p>	<p>This will form part of the Digital Future Skills Strategy and the Digital Economy Master Plan provisions</p>

DEVELOPING HUMAN CAPITAL, DIGITAL SKILLS AND Digital Media and Information literacy

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Human Capital and Skills Development</i></p>	<p>(iv) delivering or funding digital skills development programmes for youth, including programmes targeting young women; (v) equipping young entrepreneurs in the digital economy with digital skills to start and grow their own businesses; (vi) creating jobs for young people with digital skills; and (vii) organising or participating in global, regional or local campaigns to the youth's interest in digital skills</p>	
	<p>MMA and SOS urged that the Draft White Paper should acknowledge that the skills required include both supply-side skills and demand-side skills.</p>	

DEVELOPING HUMAN CAPITAL, DIGITAL SKILLS AND Digital Media and Information literacy

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Human Capital and Skills Development</i></p>	<p>Supply-side skills include addressing the skills shortage in the public and private sector to meet the specialised needs of knowledge production necessary for innovation, such as engineering and technical skills to design, build and operate networks, services and content; software developers, designers, writers, programmers and editors to produce and supply digital content;</p> <p>and dedicated sectoral training for job creation, such as call centre operations and management through a targeted youth development programme;</p>	

DEVELOPING HUMAN CAPITAL, DIGITAL SKILLS AND Digital Media and Information literacy

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Human Capital and Skills Development</i></p>	<p>whereas demand-side skills include enabling national access and use of ICTs through instilling digital skills through the school curriculum programme; and developing a national digital literacy project aimed at those marginalised from ICT services.</p>	

DEVELOPING HUMAN CAPITAL, DIGITAL SKILLS AND Digital Media and Information literacy

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Digital Media and Inf Literacy</i></p>	<p>MMA AND SOS noted that the Digital Media and Information literacy is crucial however, lack of coordination in respect of skills development and digital media literacy. MMA further recommended that the concept of digital media and information literacy is a broad term that encompasses digital literacy</p> <p>NAB noted that, not only should Digital Media and Information literacy be incorporated into the curriculum of primary schools, but it should be encouraged and extended into higher learning at technical training colleges and universities, to ensure that the demand is met in fields of inter alia electronics, engineering, digital media, with adequate funding</p>	<p>In line with international trends the regulator will be responsible for digital media and information literacy. The regulator must coordinate all aspects related to digital media and information literacy and report on the progress to Parliament on annual basis</p>

DEVELOPING HUMAN CAPITAL, DIGITAL SKILLS AND Digital Media and Information literacy

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Digital Media and Information literacy</i></p>	<p>SASFED holds a different view in that the Digital Media and Information literacy does not belong in the DWP and indicated that work is needed with the NFVF and the SETAs and Accreditation Authorities to address key skills shortages, map career paths, and fast-track transformation.</p> <p>Google recommends that ICASA should be responsible for the regulation and oversight of digital media literacy, Legislation should be amended to mandate ICASA to regulate Digital Media and Information literacy and lastly Partnerships in respect of the promotion of Digital Media and Information literacy should be explored between Government and the private sector</p>	

DEVELOPING HUMAN CAPITAL, DIGITAL SKILLS AND Digital Media and Information literacy

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Digital Media and Information literacy</i></p>	<p>The Authority also recognised that its mandates will likely be extended to include the functions of other regulatory authorities such as FPB,. ZDNA etc. However, these new functions will not include digital media literacy. In the Authority’s view, the relevant entities to be considered for this role include Ikamva National e-Skills Institute (iNeSI) and the Department of Basic Education (as part of the relevant school curricula) as contemplated in term of the National Digital and Future Skills Strategy.</p>	

SUBMISSIONS FROM ICT CHAMBER ACCESSIBLE BROADCASTING SUB-COMMITTEE

ISSUE	Stakeholder Inputs	DCDT POSITION
<i>Content regulation of audio and audio-visual content services</i>	<p>Introduction and regulation of guidelines for broadcasting South African Sign language and provision of a captioning channel;</p> <p>Introduction and regulation of flashing images for persons with photosensitive epilepsy on TV and website images</p>	<p>The authority to regulate on the availability of the closed captioning available for the online video programming</p> <p>The authority to regulate closed captioning for television programs that were broadcast over the air (as well content intended for SA audiences streamed online)</p>
<i>Digital Media and Information Literacy</i>	<p>ICT Chamber Accessible Broadcasting Sub-Committee recommended that inclusive Digital Literacy skills should be given the priority in South Africa in line with Developmental Outcomes – children , students and persons with disabilities.</p>	<p>The Digital Media and Information Literacy will be implemented on inclusive basis taking into account people living with disabilities</p>

SUBMISSIONS FROM ICT CHAMBER ACCESSIBLE BROADCASTING SUB-COMMITTEE

ISSUE	Stakeholder Inputs	DCDT POSITION
<p><i>Content regulation of audio and audio-visual content services</i></p>	<p>Introduction and regulation of guidelines for broadcasting South African Sign language and provision of a captioning channel</p> <p>Introduction and regulation of flashing images for persons with photosensitive epilepsy on TV and website image</p> <p>Inclusive DSB receivers should be added due to the - DSB ICASA Framework. A universal service obligations is suggested , proceeds from the spectrum auction.</p>	<p>The authority to requires video programming distributors, providers, and owners to convey emergency information in a manner that is accessible to people who are blind or visually impaired.</p> <p>Expands the requirement for video programming equipment (equipment that shows TV programs) to be capable of displaying closed captions, to devices with screens smaller than 13 inches (e.g., portable TVs, laptops, smart phones), and requires these devices to be able to pass through audio descriptions and emergency information that is accessible to people who are blind or visually impaired, if technically feasible and achievable.</p> <p>The regulator to address the issues around DSB and universal service obligation through regulation</p>

NEXT STEPS/PROCESSES

- ❖ To incorporate the comments from the session into the final positions of DCDT
- ❖ To process the Final White Paper through government processes and seek Cabinet approval latest June 30th, 2022
- ❖ Implement the White Paper via policy directions and the legislation (drafting the Bill)

