



15 February 2021

To The Acting Director-General, Department of Communications and Digital Technologies

SUBMISSIONS FROM NETBALL SOUTH AFRICA ON THE DRAFT WHITE PAPER ON AUDIO AND AUDIOVISUAL CONTENT SERVICES POLICY FRAMEWORK: A NEW VISION FOR SOUTH AFRICA 2020, 15TH OF FEBRUARY 2021

INTRODUCTION

1. In response to the Draft White Paper on Audio and Audiovisual Content Services Policy Framework: A New Vision for South Africa 2020,¹ published by the Minister of Communications and Digital Technologies on the 9th of October 2020, Netball South Africa accepts the invitation of the Minister for comments from members of the public and interested parties on the Draft White Paper.
2. The draft White Paper raises pertinent matters in relation to the broadcasting of sporting events that are likely to negatively impact on Netball South Africa and its members. As the only controlling body of netball in the country, Netball SA was established in 1994, and is responsible for the administration, control and governance of the sport.
3. The mandate and responsibility of Netball SA is to transform, develop and promote netball in the country and to ensure that all stakeholders are represented at national level irrespective of their race, religion, culture and economic background.
4. As the sole competent authority of netball in the country, Netball SA owns the broadcasting rights to all netball events staged inside South Africa under its jurisdiction. This excludes global events such as the Netball World Cup that South Africa will host in 2023. This international event is staged by the International Netball Federation of which Netball SA is a Member. The broadcasting rights to the Netball World Cup are wholly owned by the international controlling body of the sport.

¹ Draft White Paper on Audio and Audiovisual Content Services Policy Framework: A New Vision for South Africa 2020, published on the 9th October 2020 in Government Gazette No 43797, notice No 1081



5. The draft White Paper specifically addresses the matter of the broadcasting of national sporting events²; a competency of the Independent Communications Authority of South Africa (ICASA) in terms of section 60(1) and (2); read with section 4(1) of the Electronic Communications Act.³
6. In this regard, ICASA is currently engaged in processes to amend the Sports Broadcasting Services Regulations 2010, in which Netball SA is an active participant.
7. The key interest of Netball SA in both the draft White Paper and the current ICASA processes is in the proposals on the selling of sports broadcasting rights and access to sports events of national interest.

SPORTS EVENTS OF NATIONAL INTEREST

8. Netball SA supports the criteria listed in the draft White Paper which clearly identifies only those events which are of major international or national public importance as sports events of national interest.
9. We, however, do not see the need for these criteria to be included in proposed legislative amendments as the Electronic Communications Act⁴ already provides for ICASA to put in place such Regulations, including criteria identifying national sports events in the public interest.
10. Netball SA agrees in principle with the criteria listed below, which the draft White Paper identified in order for a sporting event to be listed as an event of national interest:
 - 10.1 The event must involve the South African senior national team (i.e. the most senior official South African team) or an individual representing the Republic.
 - 10.2 The event must be in a major sport, taking into consideration the number of South Africans who play it and/or watch it at the venue or on television, or listen to radio coverage.

² Section 5.2.9 of the draft White Paper

³ Electronic Communications Act (Act No 36 of 2005)

⁴ Section 60(1) of the Electronic Communications Act, 2005 (Act No 36 of 2005)



- 10.3 The event must be of major importance to South African society, and not just to those who ordinarily follow the sport.
 - 10.4 The event is appropriate to list, given its structure and duration, and
 - 10.5 The event takes place in South Africa (excluding major international confederation events such as a World Cup or Olympic event).⁵
11. Critical to the implementation of the criteria is that a national sporting event must meet all of these criteria⁶ in order to be identified as a national sporting event. Netball SA agrees that an event must meet all of these criteria in order to be eligible to be listed. By way of illustration, in the case of netball, it would be only the matches of the Netball World Cup in which the senior national Proteas team participates that would be listed.

THE BROADCASTING RIGHTS OF NETBALL SA

12. In submissions made to ICASA, Netball SA has pointed that our broadcasting rights are our most valuable asset.⁷ If these rights are not optimized commercially, Netball SA and our national teams will not be competitive at the highest level and no high-performance player is involved in the sport only to participate. Sport is about being competitive and to be competitive, you require resources.
13. Historically, netball in the country enjoyed absolutely no value from its broadcast rights despite netball being the most popular participation sport for women in South Africa.
14. Netball is played by 882 000 Black Adult Females; 135 000 White Adult Females and 115 000 Coloured/Asian Adult Females. Netball is also the most popular junior participation sport for girl children in South Africa with 848 300 participants.⁸

⁵ Para 5.2.9.12 of the draft White Paper

⁶ Para 5.2.9.12 of the draft White Paper

⁷ Netball SA Submission on the draft Sports Broadcasting Services Amendment Regulations, 2018

⁸ Bmi Sport Track 2017/2018



15. Prior to 2008, the SABC held exclusive broadcast rights to all the content of Netball SA. Despite this, the public broadcaster did not broadcast a single netball match for the time it held the rights. Unlike other predominantly male sports, netball only had a weekly magazine programme on SABC, which had to provide coverage for content of a sport played by more than 2 million women.
16. Between 2008 and 2012, netball had no broadcast partner as the SABC refused to pay for netball's broadcasting rights, yet still wanted access to our rights for free.
17. It is only since 2012 that Netball SA had again managed to secure a broadcast partner when SuperSport acquired our broadcast rights. This commercial agreement resulted in netball matches being broadcast live for the first time ever throughout Sub-Saharan Africa.
18. Netball now enjoys upward of 800 hours of significant broadcast coverage, both live and a magazine show. Specific performance requirements are set out in the agreement relating to investment in the development, promotion and marketing of the competitions and brands of Netball SA as well as quality requirements related to production and broadcasting quality.
19. One of the outcomes of this broadcast partnership with SuperSport is the first-ever semi-professional netball league in South Africa and the Continent. The exposure provided by SuperSport had a major knock-on effect for Netball SA with a significant number of new sponsorship agreements being concluded by Netball SA since 2013.
20. In addition to the commercial benefits for netball, revenue from broadcast rights led to immeasurable improvements and benefits for the players, provinces, districts, clubs, spectators and netball as a whole.
21. None of this was achieved with the SABC while it held the broadcast rights, who refused to pay for our broadcast rights; yet demanded access to our content which they also failed to fully optimize whilst having our rights, as a result of which Netball received virtually no coverage or exposure from the SABC. The agreement between Netball SA and the SABC gave us the worst of all worlds – no money and no exposure for netball.



REGULATING NATIONAL SPORTING EVENTS IN THE PUBLIC INTEREST

22. In the draft White Paper it is proposed that key national sport events are aired free-to-air, whilst acknowledging that exclusivity of certain events is still critical for the viability of the subscription model.⁹ Exclusivity is critical not only to subscription broadcasters, but also to sports bodies such as Netball SA, precisely because our rights are far more valuable when they are sold exclusively. ICASA has acknowledged this.
23. Netball SA supports this position which acknowledges that whilst current regulations make provision for the broadcasting of national sporting events in the Republic,¹⁰ it is subject to such major national events meeting the identified criteria and that such list of national sporting events does not compromise the right of the rights owner (i.e. the sports body) to determine how best to sell its rights. It is critical that Netball SA remains unfettered to make the decisions on how to package and sell our broadcasting rights.
24. It is therefore of concern to Netball SA that the draft White Paper suggests imposing restrictions on how a sports body should sell its sports broadcasting rights and to determine the period for how long such rights should be sold.¹¹
25. As explained in paragraph 4 above, netball broadcasting rights are the property of Netball SA. It is Netball SA who must administer the game and generate revenue for the growth and development of the game in the country. Central to generating this revenue is the right to determine how best to commercialise our broadcasting rights. This includes deciding how, when, to whom and for how long to sell our broadcasting rights, taking into account the specific requirements of netball.
26. Without the revenue from the sale of our broadcasting rights, the viability and development of netball will be compromised or even face the significant threat of collapse.¹²

⁹ Section 5.2.9.14 of the draft White Paper

¹⁰ ICASA Sport Broadcasting Services Regulations, 2010

¹¹ Section 5.2.9.16 of the draft White Paper

¹² Further detail on this very real concern is set out in Netball SA's Submission to ICASA on the draft Sports Broadcasting Services Amendment Regulations, 2018



27. Such a situation will return Netball SA to the dark days when we had no control over our own broadcasting rights. Just as Netball SA is emerging as a force where we can monetise and exploit our rights in the best interests of the game and the public who support netball, the proposals in the draft White Paper to restrict how and for how long to commercialise our rights will once again place our primary source of income at risk.
28. As with most sports bodies, our ability to raise sponsorship revenue is intertwined with the exposure that we receive on television.¹³ Interfering with the manner in which we balance the need for exposure with the need to maximise our revenue through our broadcasting rights will put the growth and development that netball has experienced since 2012 at risk and threaten the very future of the sport.
29. It is therefore the view of Netball SA that current legislation relating to the regulation of national sporting events in the public interest¹⁴ adequately addresses the need for major national sporting events to be accessible to the public on free to air television while respecting the rights of sports bodies how to best sell and monetise our broadcast rights in the interests of the sport and its followers.
30. There is thus no need for restrictive measures as proposed in Section 5.2.9.16 of the draft White Paper that listed events must be granted after an open, transparent and non-discriminatory bidding process and for a period not longer than five years.
31. Netball is best-placed to determine the manner in which we sell our rights and to determine the period of sale of such rights, as conditions at a given time will determine how we sell our rights. Indeed, our current commercial arrangement has enabled Netball SA to maximise both the exposure of the game and the revenue we derive from the sale of our broadcast rights. We should not be prevented from doing so.
32. It is therefore our view that there is no rational justification for the sale of broadcast rights of listed events to be determined in the manner proposed in the draft White Paper under section 5.2.9.16.

¹³ Netball SA Submission on the draft Sports Broadcasting Services Amendment Regulations, 2018

¹⁴ Electronic Communications Act (Act No 36 of 2005)



CONCLUDING REMARKS

33. Netball SA supports the intent of section 60(1) and (2) read with section 4(1) of the Electronic Communications Act, which seeks to ensure that free to air broadcasters are not hindered or prevented from broadcasting listed national sporting events.
34. Netball SA further supports and welcomes the criteria highlighted in the draft White Paper which recognise which national sports events should be listed in the public interest. This is in line with best practice internationally and current ICASA regulations relating to the broadcasting of sporting events of national interest. There is therefore no need for the criteria as proposed in the draft White Paper to be included in legislation.
35. Netball SA is however concerned that proposals in section 5.2.9.16 of the draft White Paper with regard to the selling of broadcast rights of Netball SA will directly and negatively impact the sport and restrict Netball SA from extracting maximum value from our rights. The potential to commercially exploit our rights in both the interests of the sport and the public will be constrained and restricted by the proposal and we therefore urge that section 5.2.9.16 be excluded from the final White Paper.
36. We believe that any such restriction or constraint will interfere directly with a competency which resides with us and is in any case, outside of the jurisdiction of ICASA. Such proposals go far beyond the need for listed national sporting events to be made available unhindered to free to air broadcasters.
37. We thank the Minister for the opportunity to comment on the draft White Paper and wish to indicate that we would like to participate in any future processes relating to the draft White Paper.

Handwritten signature of Blanche de la Guerre in black ink.

BLANCHE DE LA GUERRE

CEO: NETBALL SA