



PULPIT MEDIA GROUP

Acting Director-General

Department of Communications and Digital Technologies

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15 Feb 2021

Dear Acting-DG

REPRESENTATIONS BY THE PULPIT MEDIA GROUP ON THE DRAFT WHITE PAPER

1. INTRODUCTION

- 1.1 On 9 October 2020 in Notice 1081, Government Gazette Number 43797, the Department of Communications and Digital Technologies (DCDT) published its Draft White Paper on Audio and Audio-visual Content Services Policy Framework: A New Vision for South Africa 2020 (the Draft White Paper) and invited written comments thereon, the date for submission was extended to 15 February 2021.
- 1.2 The Pulpit Media Group (PMG) represents two licensed community sound broadcasting services, Radio Pulpit and Cape Pulpit, both of whom are community of interest stations serving the Christian community. Radio Pulpit broadcasts primarily in Gauteng and surrounding areas while Cape Pulpit broadcasts in the Western Cape.
- 1.3 PMG thanks the DCDT for the opportunity of making these written submissions and trust that they will be helpful.

2. FOCUS OF THIS SUBMISSION

- 2.1 PMG notes the enormous amount of work that has gone into the development of the Draft White Paper and commends the DCDT on its efforts and on this significant piece of work – quite possibly the single most important revision of the broadcasting and audio-visual landscape since the country's transition to democracy.
- 2.2 While PMG has noted the proposals in regard to the licensing of the linear and on-demand Audio and Audio-Visual Content Services, it is of the view that as this is very far from PMG's area of experience and expertise, it would be prudent to confine itself to commenting on those aspects of the Draft White Paper that directly affect community sound broadcasting services.



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2.3 However the above is subject to the significant caveat that it is understood that if a linear community sound broadcasting service is licensed by ICASA, that licence will entitle it to also provide streaming services and pod-casts of programming (and related content) on a website or App relating to its broadcasting service, that is, that it is not intended that licensed broadcasters are expected to have a plethora of licences governing every platform that its content is accessed from.

2.4 The DCDT is respectfully requested to clarify this issue in the next iteration of the Draft White Paper.

3. LICENSING OF COMMUNITY SOUND BROADCASTING SERVICES

3.1 PMG notes the contents of Figure 8 on pg 70 of the Draft White Paper and wishes to express its deep concern regarding the licence types that are provided for under the heading “Individual Licences” which are said to include community broadcasters using terrestrial frequency spectrum licence through a competitive ITA process.

3.2 PMG accepts that community sound broadcasting services that make use of analogue terrestrial frequencies have to have individual spectrum licences given that their signals are not exempt from licensing and have to be individually allocated and assigned to them. However, that is very different from them requiring an individual service licence of a community broadcasting service within the current framework of the Electronic Communications Act, 2005 (the ECA).

3.3 Currently, individual licences are very different to class licences, as the DCDT must be aware. Some of the key differences include:

3.3.1 individual licences require an ITA to be issued by Icasa before they can be applied for;

3.3.2 individual licences are required to have a minimum of 30% HDI ownership, something which is not required of class licensees. In particular, ICASA recognises that many community broadcasters are not for profit companies without members and therefore have no ownership to speak of;

3.3.3 individual licensees are required to pay significantly higher licence fees than class licensees are;

3.3.4 individual licensees are required to pay contributions to the Universal Service and Access Fund (or to the Media Diversity and Development Agency – the MDDA), whereas community broadcasters are exempt from doing so;

3.3.5 the administrative fees for individual licences in respect of issues such as renewals, amendments et cetera are much lower than they are for class licences;

3.3.6 entirely different regulatory regimes in respect of licensing processes and procedures; and

- 3.3.7 entirely different regulatory regimes in respect of standard licence terms and conditions.
- 3.4 However, the figure 8 is extremely confusing because although it contains the financial threshold for an individual licence in respect of broadcasting services (that is, one hundred million Rand turnover, or more, per annum) it is silent on the financial threshold/s is for a class licence. Neither of the PMG's stations has income of anything approaching one hundred million Rand and therefore it anticipated seeing a financial threshold for community broadcasting services set out in figure 8, but none is provided. However, this issue is dealt with in paragraph 3.3.1.4 of the Draft White Paper in terms of which is set at a threshold of 50 million Rand turnover, or more, per annum, for a class licence.
- 3.5 The problem of course is that PMG does not have a turnover of over 50 million Rand and so it would appear that this would exempted from having to have a broadcasting service licence altogether. But the Draft White Paper is silent on what licences required of a broadcasting service provider with an annual turnover of under 50 million Rand.
- 3.6 Further, the White Paper is entirely silent on which qualifying feature trumps the other in terms of determining the licence a broadcasting service provider is required to obtain in the event that it, as is the case with PMG's two stations, uses scarce terrestrial spectrum BUT has an annual turnover of under 50 million Rand?
- 3.7 PMG respectfully submits that the increased cost and regulatory burdens imposed upon individual as opposed to class licences would weigh extremely heavily on the non-profit community broadcasting sector.
- 3.8 In conclusion on this issue, PMG wishes to record its disquiet at the proposals in the Draft White Paper and requests the DCDT to reconsider the idea of forcing community broadcasters making use of scarce terrestrial frequencies to apply for individual service licences. What is of course required, is an individual spectrum licence but it would be an intolerable burden on the community broadcasting sector to have to comply with the obligations that are currently imposed in respect of individual broadcasting services licences, and indeed the provisions of the Draft White Paper on the threshold do seem to be considering that broadcasting services with an annual turnover threshold of under 100 million Rand would not be required to hold an individual licence.
4. FINANCIAL SUPPORT FOR/SUSTAINABILITY OF THE COMMUNITY BROADCASTING SECTOR
- 4.1 Unfortunately, the Draft White Paper does not have a stand-alone, focused section on the community broadcasting sector which considers the environment for community broadcasting as a whole. This is in sharp contrast with the treatment of the public broadcasting sector and the commercial broadcasting sector in the Draft White Paper.

4.2 PMG wishes to pick up on a rather cryptic reference in paragraph 3.5.8 of the Draft White Paper that provides as follows:

Community broadcasters not receiving funding from government... may elect to self provide if they do not wish to use the ECNS provided by Sentech for broadcasting services. (our emphasis)

4.3 The DCDT is of course aware of the financial and other difficulties facing the community broadcasting sector and its 2015 Draft Community Broadcasting Support Scheme was warmly welcomed by the sector and by PMG in particular. Indeed, we made detailed submissions on the draft support scheme and have been disappointed that the draft support scheme never reached fruition in the form of a finalised, official Support Scheme provided for in the Government Gazette.

4.4 Unfortunately, the wording quoted above from paragraph 3.5.8 of the draft White Paper, appears to indicate that there are certain community broadcasters that are receiving funding from government and that such funding relates to the coverage of signal distribution costs. PMG urgently requests the DCDT to clarify this issue as a situation where certain community broadcasters are obtaining such support from government while others are seemingly locked out from that financial support process would not only be grossly unfair but would, of course be unconstitutional and otherwise unlawful as well.

4.5 PMG also notes the provisions of paragraph 5.2.6.3 which identifies as one of the three core issues concerning the community sector: “how to ensure non-profit entities are sustainable and viable”. PMG agrees that this is the single most challenging feature of the community broadcasting sector but notes with disappointment that the Draft White Paper fails to develop proposals as to how to ensure that non-profit entities such as community broadcasters are in fact sustainable and viable.

4.6 PMG welcomes the provisions of paragraph 5.2.6.5 of the Draft White Paper in which the DCDT states that “government should develop a framework to assist community and non-profit services with transmission costs”. Sadly this proposal is not fleshed out in any further detail.

4.7 PMG respectfully submits that the next iteration of the Draft White Paper must specifically address, as a matter of draft government policy:

4.7.1 the clarity requested above on existing support for certain community broadcasters;

4.7.2 the ongoing, vexed and unresolved crisis of financial sustainability in the community broadcasting sector; and

4.7.3 the long overdue proposals from the DCDT in respect of the Community Broadcasting Support Scheme which the sector has been waiting for, for some six years already and which appear to be harkened to in paragraphs 5.2.6.3 and 5.2.6.5. of the Draft White Paper.

5. ROLE OF THE COMMUNITY BROADCASTING SECTOR AND PARTICIPATION BY NGOS

- 5.1 PMG notes the interesting and novel ideas contained in paragraph 5.2.6.4 of the draft White Paper around providing opportunities for NGOs to provide public service programming channels to focus on education and health matters. However, it strongly agrees with DCDT's concerns that it is vital to ensure that these NGOs "do not undermine the sustainability of traditional... community broadcasters and so their (the NGOs) funding model should... not include advertising revenue".
- 5.2 PMG is only too aware of how hard it is for the community broadcasting sector to attract advertising given the geographic limitation of its reach. To be sharing the existing advertising pie with NGOs providing public service programming would constitute an existential threat to the community broadcasting sector.
- 5.3 PMG reiterates that NGOs must be excluded from being able to access advertising revenue in respect of their programming and that this must be set out in the next iteration of the Draft White Paper.

6. COMMUNITY BROADCASTING SERVICES AND DIGITAL SOUND BROADCASTING

- 6.1 Paragraph 3.5.17 of the Draft White Paper deals with Digital Sound Broadcasting (DSB) and in it, the DCDT promises to "encourage South African car manufacturers to install digital radio alongside FM".
- 6.2 PMG has a direct interest in DSB as one of its stations, namely Radio Pulpit, carried out the DRM tests together with Sentech, under the auspices of an Icasa DRM test licence. Consequently it is concerned at the failure of the Draft White Paper to refer specifically to the two DSB standards already adopted in South Africa, namely DAB and DRM and at the reference only to FM in the above paragraph instead of to AM too.
- 6.3 PMG notes with interest the statement further on in the above paragraph of the draft White Paper that "government will not switch off AM and/or FM signals but it will facilitate the introduction of digital audio broadcasting to South Africa". This appears to be in contrast with ICASA's recently-issued Draft DSB regulations which makes repeated reference to an analogue switch off date for analogue sound broadcasting signals, which date is to be determined by the Minister.
- 6.4 PMG is of the view that it is highly unlikely that FM signals will ever be switched off and that switching off AM signals is likely to take a significant amount of time given the difficulty of migrating existing audiences to DSB given the lack of readily available and affordable DSB receivers in retail outlets.
- 6.5 PMG respectfully requests the issue of DSB to be specifically dealt with, and in a more in-depth fashion, in the next iteration of the Draft White Paper and queries whether or not DSB ought to receive separate and specific attention in the proposed licensing categories contained in the Draft White Paper given the potential of DSB to ameliorate terrestrial spectrum scarcity as a result of the

increased spectrum efficiency of DSB. That is, would sound broadcasters making use of DSB require an individual licence? PMG can see no justification for this.

7. PMG thanks the DCTD for the opportunity of commenting on the Draft White Paper and reiterates its view that a number of important policy decisions, including and in particular with regard to community broadcasting and the funding thereof, have not been reduced to concrete policy proposals in this Draft White Paper. Consequently, it is critical that another iteration of the Draft White Paper, one that includes such concrete policy proposals, be published for public notice and comment before the finalisation of the Audio and Audiovisual Content Services Policy Framework. PMG looks forward to commenting further in this regard.
8. Please do not hesitate to contact the writer should you have any queries or require any additional information.

Thank you

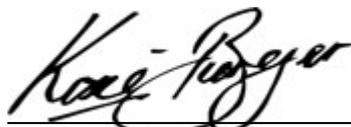
Kind Regards

Yours Faithfully



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