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CONTENTS • INHOUD*No.**Page
No.* *Gazette
No.***GENERAL NOTICE****Independent Communications Authority of South Africa***General Notice*

2764 ICASA Sports Broadcasting Rights Regulations, 2003: Amendment	3	27056
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GENERAL NOTICE

NOTICE 2764 OF 2004



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

AMENDMENT OF REGULATIONS

ICASA SPORTS BROADCASTING RIGHTS REGULATIONS, 2003

The Independent Communications Authority of South Africa ("ICASA") hereby gives notice of its intention to make technical amendments to Regulations 1.3, 3.1, 4, 5, and 8 of ICASA Sports Broadcasting Rights Regulations, 2003.

These Regulations came into effect on 26 July 2003.

ICASA hereby invites interested parties to comment on the proposed amendments by 16h00 on 31 January 2005. Representations should be sent to:

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The Independent Communications Authority of South Africa ("the Authority"), in terms of section 30(7) of the Broadcasting Act, (Act No.4 of 1999) read with section 78 (1) of the Independent Broadcasting Authority Act, (Act No. 153 of 1993) intends to make technical amendments to the regulations in the Schedule.

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicate deletions of existing words.

_____ Underlined words indicate insertions.

1. Preamble

It is proposed that Regulation 1.3 be amended as follows:

- 1.3 must be broadcast live or delayed live or delayed by a free-to-air television broadcasting licensee[s].

3. Criteria for Determining National Sporting Events

It is proposed that the number [3.1] be deleted. The introduction to Regulation 3 should, therefore, read as follows:

- [3.1] The Authority has used the following criteria in determining sports events that are national sporting events:

It is proposed that Regulation 3(iv) be deleted and the following be inserted in its place:

- (iv) the event must be played in South Africa (except for the FIFA World Cup, IRB Rugby World Cup, ICC Cricket World Cup, the African Cup of

Nations, the Commonwealth Games, the Olympic Games, the All Africa Games, the CAF Champions League Final and Mandela Cup Final [if a South African team is involved] and the Rugby Super 12 final [if a South African team is involved]); and

It is also proposed that Regulation 3(v) be deleted and the following paragraph inserted. Regulation 3(v) should read as follows:

- (v) an event that satisfies the above essential criteria may be considered for listing, but listing of such an event is not automatic. The event must be appropriate to list, given its structure, duration and the impact of listing on the sport and the broadcasting market.

4. National Sporting Events

It is proposed that Regulation 4.4(v) be deleted and that Regulation 4.4(vi) and Regulation 4.4(vii) be re-numbered as Regulation 4.4(v) and Regulation 4.4(vi) respectively.

5. [Conditions for Listing] Requirements for Listed Events

To clarify the intention of Regulation 5, the Authority proposes to make amendments to the heading. The Authority also proposes to restate the content of Regulation 5 as follows:

5.1 Listed events shall be broadcast live or delayed live or delayed by a free-to-air television broadcasting licensee[s]; and

5.2 In the case of an event which consists of defined separate parts which overlap in time (for example, the Olympic Games, the Commonwealth Games and the All Africa Games) and cannot therefore be televised simultaneously live or delayed live or delayed, the Authority shall take into account the extent

of live coverage or delayed live coverage or delayed coverage of those matches involving South African teams and individuals representing South Africa.

8. Records

It is proposed that the paragraph under Regulation 8 be deleted and Regulations 8.1 and 8.2 be inserted as follows:

8.1 Free-to-air television broadcasting licensees and subscription television broadcasting licensees must keep and maintain logs, statistical forms and programme records in a format to be determined by the Authority. These logs, forms and records shall include:

- (i) full particulars of all listed national sporting events broadcast during each quarter by the licensee; and
- (ii) the extent (live and in full, delayed live and in full or delayed and in full) to which those listed events, for which the rights have been acquired, have been broadcast by the licensee.

8.2 Subscription television broadcasting licensees must keep and maintain logs, statistical forms and programme records in a format to be determined by the Authority. These logs, forms and records shall include full particulars of the rights to listed national sporting events offered to free-to-air television broadcasting licensees by subscription television broadcasting licensees and the extent to which the rights were acquired.

**MEMORANDUM OF THE OBJECTS OF THE AMENDMENT OF THE ICASA
SPORTS BROADCASTING RIGHTS REGULATIONS, 2003**

SUMMARY

1. A literal reading of Regulation 1.3 would lead to duplication by free-to-air television broadcasting licensees which was not the intention of the Independent Communications Authority of South Africa ('the Authority'). It is proposed that Regulation 1.3 be amended to reflect the policy intention that Regulation 1.3 would apply to all free-to-air television broadcasting licensees and would only fall away when one of the free-to-air television broadcasting licensees had acquired the sports broadcast right to a listed national sporting event.
2. The proposed amendment of Regulation 3.1 was prompted by an error in numbering. In addition the proposed amendment addresses some ambiguity between criteria and the list by clarifying that meeting the criteria does not mean that an event will be automatically listed and providing some indication of what factors will be considered when excluding an event from the list.
3. The proposed deletion of Regulation 4.4(v) is based on the view that it is a duplication of Regulation 4.4(i).
4. The proposed amendment of Regulation 5 is based on the view that the intention of Regulation 5 needs to be clarified.
5. A literal reading of Regulation 8 would lead to a situation where Regulation 8 would apply to all broadcasters equally; this was not the intention of the Authority. The proposed amendment of Regulation 8 therefore changes the broad focus to look specifically at records in terms of free-to-air television broadcasting licensees and subscription television broadcasting licensees.

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