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GENERAL NOTICE

NOTICE 755 OF 2006



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Community Sound Broadcasting Services Regulations

The Independent Communications Authority of South Africa ("the Authority"), in terms of section 78(1) read with sections 13, 28, 46(1) and section 47(1) of the Independent Broadcasting Authority Act, No. 153 of 1993, has made the regulations in the Schedule.

SCHEDULE

1. Preamble

The objectives of these regulations are to:

- 1.1 regulate community sound broadcasting services in South Africa;
- 1.2 prescribe the amounts payable to the Authority of fees in respect of community sound broadcasting licences, including applications of all descriptions, the issue, renewal, and amendment of community sound broadcasting licences;
- 1.3 prescribe the procedure and the appropriate conditions for the application, renewal and amendment for sound broadcasting licence;
- 1.4 ensure that programme syndication/networking and programming sharing between community sound broadcasting licences do not exceed 20% of a community sound broadcasting licensee's programming; and

- 1.5 define persons who cannot participate in the Board, management and staff of a community sound broadcasting licensee.

The provisions of the IBA Act, the Broadcasting Act, and other pieces of legislation pertaining to broadcasting and telecommunications are applicable to these Regulations.

2. Definitions

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act and the Broadcasting Act shall have that meaning unless the context indicates otherwise:-

- 2.1 **“Alliance with a Political Party”** means any cooperation and/or agreement between non political organisations and political parties;
- 2.2 **“Community Broadcasting Services”** has the same meaning as the one provided for in the Broadcasting Act;
- 2.3 **“Local Origination of Programmes”** means programming about local events, sourced and broadcast by the sound broadcasting licensee;
- 2.4 **“Non-Profit Entity and Carried For Non-Profitable Purposes”** means no dividends can be declared and surplus funds should be reinvested in the community served;
- 2.5 **“Political Office Bearers”** means persons listed in regulation 5;
- 2.6 **“Political Party”** has the same meaning as the one provided for in the IBA Act;
- 2.7 **“Programme Networking/Syndication”** means programmes produced at a central hub, distributed and broadcast by sound broadcasting licensees;

- 2.8 **“Programme Sharing”** means programmes produced by one radio station and shared amongst different sound broadcasting licensees;
- 2.9 **“the Authority”** means the Independent Communications Authority of South Africa established by the Independent Communications Authority Act, No 13 of 2000;
- 2.10 **“the Broadcasting Act”** means the Broadcasting Act, No.4 of 1999;
- 2.11 **“the IBA Act”** means the Independent Broadcasting Authority Act, No.153 of 1993;

3. Terms of Broadcasting Licence

The term of validity of a community sound broadcasting licence shall be four years.

4. Licensing Process

4.1 Licence Application

- 4.1.1 Applications for four-year community sound broadcasting licences shall be lodged with the Authority annually during April and October;
- 4.1.2 the deadline for the submission of applications shall be the last working day of April and October.
- 4.1.3 The Authority shall, where frequencies are available, grant a community sound broadcasting licence if:
- a) no valid objections are received after the application has been gazetted;
 - b) the applicant demonstrates compliance with the Authority's regulations applicable to sound broadcasting licensees;
 - c) the application satisfies all the Authority's requirements; and

- d) the applicant complies with a, b, and c above, and there is no competitor, the Authority shall consider granting the licence without holding hearings.

4.1.4 The application shall be accompanied by, amongst others, the following documents:

- a) the applicant's founding documents, e.g the Constitution and Articles of Association;
- b) list and curriculum vitas of Board members and management;
- c) programming plan; and
- d) business plan.

4.1.5 In addition to the provisions in sections 47(1) and 47(2) of the IBA Act, the Authority shall amongst other things take into account the extent to which the applicant:

- a) proposes to meet the diverse needs of the community within the coverage area;
- b) in its programming proposes to reflect the needs of the community as identified and prioritised by that community in a forum or any other manner to the satisfaction of the Authority;
- c) proposes to contribute towards the general enrichment of the lives of members of the community; and
- d) is distinguishable from other applicants and/or broadcasters serving the same geographical coverage area.

4.2 Licence Amendment

The Authority shall deal with each application on its own merits. The Authority shall, in amending the licence, ensure that the interests of the community are served.

4.3 Licence Renewal

The licence shall be renewed if the applicant has complied with the relevant legislation, the Authority's regulations and licence conditions.

5. Persons Prohibited From Playing Any Role in the Board, Management and Staff of a Community Sound Broadcasting Service

The following office bearers shall not play any role in the Board, Management and Staff of a Community Sound Broadcasting Service:

- 5.1 Members of the Local Executive Committees of political parties, the youth affiliates and women's affiliates of political parties, and any organisation that is in an alliance with a political party;
- 5.2 members of the Regional Executive Committees of political parties, the youth affiliates and women's affiliates of political parties and any organisation that is in an alliance with a political party;
- 5.3 members of the Provincial Executive Committees of political parties, the youth affiliates and women's affiliates of political parties and any organisation that is in an alliance with a political party;
- 5.4 members of the National Executive Committees of political parties, the youth wings and women's wings of political parties and any organisation that is in an alliance with a political party;
- 5.5 Councillors;
- 5.6 Mayors;
- 5.7 Members of Provincial Legislatures; and
- 5.8 Members of Parliament.

6. Programming

Programme syndication/network and programme sharing shall not exceed 20% of the community sound licensee's programming.

7. Non-Profit Entities and Carried For Non-Profitable Purposes

Community sound broadcasting service licencees shall, in the event of making a profit, utilise and/or invest the funds in the community served for the purposes of community development.

8. Fees

- 8.1 Every application for the grant and renewal of a community sound broadcasting service licence must be accompanied by a fee of three thousand rand (R3000);
- 8.2 Every application for the amendment of a community sound broadcasting service licence must be accompanied by a fee of one thousand rand (R1000);
- 8.3 A licence granted to any applicant in terms of regulations 8.1 shall not be issued unless an issuance fee of two hundred and fifty rand (R250) has been paid to the Authority;
- 8.4 There shall be no annual licence fees payable by community sound broadcasting licensees; and
- 8.5 All fees shall be non-refundable.

9. Code of Conduct

All Community broadcasting services licencees shall adhere to the Authority's Revised Code of Conduct for Broadcasters, 2003, or any amendment or replacement thereto.

10. Technical Standards and Specifications

All community sound broadcasting services shall adhere to the Authority's regulations relating to technical standards and specifications applicable to sound broadcasting services, and in compliance with the Annual Terrestrial Broadcasting Frequency Plan.

11. Records to be Kept by all Community Sound Broadcasting Services

11.1 A community sound broadcasting licensee shall, to the satisfaction of the Authority, in addition to records by any other law, keep the following records relating to its broadcasting activities-

- a) documentation relating to the person or entity who or which is in control of or in a position to exercise control over the licensee concerned including documentation relating to-
 - (i) Its legal status including all founding documentation pertaining to the licensed entity and any member organizations of the entity; and
 - (ii) Details of the board members or trustees including gender, race and address of such person or entity, as the case may be;
- b) a list of capital assets, books of account, financial records and audited financial statements;
- c) a list of donors and details of all financial and non-monetary donations;
- d) all documentation pertaining to the opening, maintenance and changes in the status to banking accounts;
- e) all contracts entered into by or on behalf of the licensee in connection with the daily operational activities of the licensee;
- f) a log of all programmes broadcast in the form acceptable to the Authority;
- g) a public file for keeping written complaints received by the licensee and correspondence between the licensee and complaints;
- h) a log of telephonic complaints received by the licensee;
- i) a log of all advertisements broadcast;
- j) a log of the percentage air-time per hour allocated to advertisements;
- k) during an election period a log of all party election broadcasts broadcast by the licensee;
- l) a log of all sponsorship for programmes together with details of payment, financial or otherwise, received for such sponsorship;

- m) copies of all correspondence with the Authority; and
- n) a log of all direct and direct on-air fundraising activities for the stations.

11.2 A licensee may, by notice directed to him or her, be required to produce or furnish to the Authority, at a time and place specified in the notice such records, including documents, accounts, estimates, returns and information as may be specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on the licensee by the Act or these regulations or by the relevant licence.

11.3 The logs, statistical forms and records contemplated in 11.1 and 11.2 must be preserved for the duration of the broadcasting licensee's licence period.

12. Amendment and Review of Regulations

12.1 The Authority may, every successive three years after these regulations have come into effect, hold an inquiry to review these regulations.

12.2 In reviewing the regulations the Authority shall determine the procedure to be followed during the inquiry.

12.3 The Authority shall consider submissions made by licensees, and any interested person and may make such determination as it considers equitable in the circumstances.

13. Effective Date

The effective date of these regulations shall be the date of publication in the Gazette: Provided that in relation to community sound broadcasting services licensed after the effective date, the Authority may determine, as a licence condition, that the effective date is a later date.

14. Short Title

These regulations will be entitled the Community Sound Broadcasting Services Regulations, 2006.
