



# **SABC / PCC Round Table Discussion**

## **Possible tension between public and commercial mandates**

**02 September 2020**

# TABLE OF CONTENTS

- 1. BROADCASTING ENVIRONMENT**
- 2. COEXISTENCE OF THE MANDATES AND ACCOUNTABILITY**
  - i. PUBLIC BROADCASTING MANDATE**
  - ii. COMMERCIAL BROADCASTING MANDATE**
  - iii. CHALLENGES OF THE CURRENT MANDATE**
  - iv. REVIEW OF THE MANDATE**
- 4. COMMERCIAL SENSITIVITY AND ACCOUNTABILITY**
- 5. CONCLUSION**

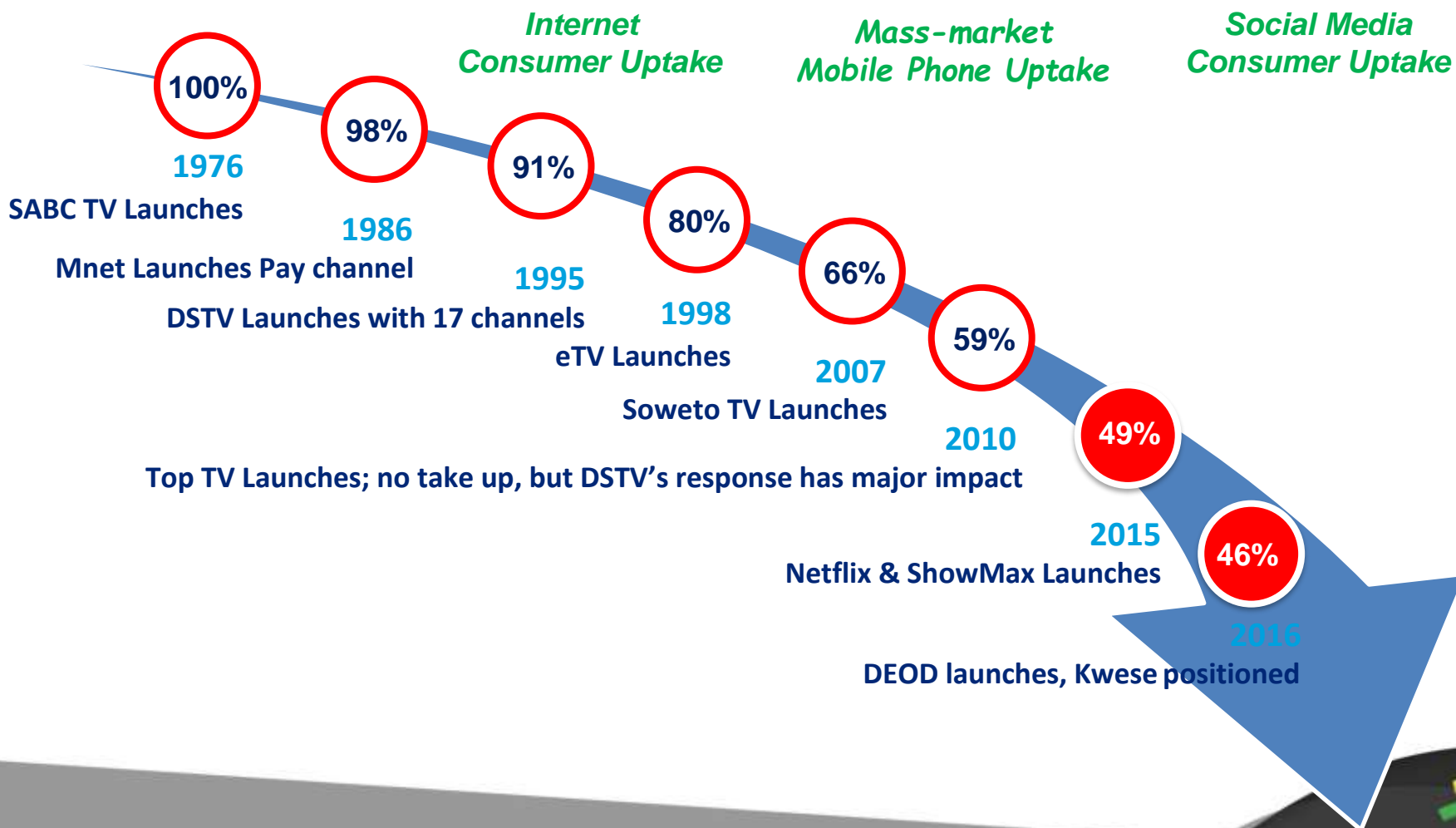
## BROADCASTING ENVIRONMENT: HISTORICAL CONTEXT

- The SABC's mandate as a public broadcaster needs to be viewed against the current changing digital multiplatform environment
- The current mandate in the Broadcasting Act as amended in 1999 was conceived in a rigid analogue and less competitive environment
- The SABC was at the time the only main biggest broadcaster in South Africa with majority of South Africans having limited or no alternative media platform.
- This made the SABC the main go-to media platform for advertisers and sponsors as there was relatively no other bigger platform to provide an alternative to the SABC such as we currently have with various platforms that mushroomed overtime within the digital multichannel environment
- The past history amongst others informed the legislature in imposing the obligations that are crafted in the broadcasting legislation through the Charter and various other provisions in the legislation and regulations.

## BROADCASTING ENVIRONMENT: CURRENT REALITY

- The SABC operates in a highly regulated environment where existing regulatory policy and legislative frameworks have a significant adverse impact on its business and operating model.
- The ECA of 2005 promotes and facilitates the development of interoperable and interconnected electronic networks to create a technologically neutral licensing framework.
- Only the SABC is further subjected to the Broadcast Digital Migration Policy of 2008 which contradicts the ECA and restricts the SABC from using the most appropriate “interoperable and interconnected electronic network”. Section 7.2 enforces the SABC to 84% DTT usage.
- The ICASA regulations further contradicts both the ECA and the policy, preventing the SABC from operating in a “technologically neutral licensing framework”. Section 10 (i)(a)(b) enforces the SABC to a 95% DTT usage.
- Both the policy and the regulations forces the SABC into an uneconomical use of the much need DTT infrastructure, but in areas where it is not feasible.
- The “interoperable and interconnected electronic networks” environment that the SABC exists in, but is prevented from using, is grossly anti-competitive:
  - Our competitors can scale and reach a larger audience at substantially lower distribution costs and time to market.

- The barriers for entry are greatly reduced and more global and local OTT players are entering a less regulated environment.



## BROADCASTING ENVIRONMENT: RADIO MARKET SHARE

SABC Radio remains the market leader in South Africa when it comes to audience share. The challenge though is to convert the audience share into revenue market share due to pursuance of public mandate.

Radio Share Performance (2016-todate)	Oct 16 - Mar 2017	JanJun 2017	AprSep 2017	JulDec 2017	Oct 17Mar 2018	JanJun 2018	AprSep 2018	Jul-Dec 2018	Oct 18 - Mar 2019	Apr18-Mar 19*	Jul 18-Jun19*	Oct 18-Sep 19*	Jan 19-Sept 19*	Apr19 - Mar20*
SABC Radio	71,4	72,4	71,5	70,5	71,1	71,8	72,4	71,7	72,6	72,3	72,6	73,0	73,2	73,2
SABC PBS Radio	65,0	65,8	64,9	63,8	64,5	65,1	65,7	64,8	65,4	65,3	65,7	66,0	66,5	66,5
SABC PCS Radio	6,3	6,6	6,6	6,7	6,6	6,7	6,7	6,9	7,2	7,0	6,9	7,0	6,7	6,7
Community Radio	9,5	7,8	8,0	8,2	8,2	8,2	8,2	7,5	7,3	10,3	9,8	9,7	9,4	9,8
Kagiso Radio*	8,3	8,4	8,6	8,9	8,6	8,3	8,4	8,6	8,1	8,4	8,3	7,9	7,9	8,0
Primedia	2,8	2,8	2,9	3,1	3,2	3,0	3,1	3,4	3,5	3,3	3,4	3,5	3,4	3,5
Other	7,9	8,7	9,1	9,0	8,8	8,8	8,1	8,5	8,5	5,8	5,8	5,9	6,1	5,7

*BRC RAM Surveys (\* 12 Month Rolling Data Periods introduced for higher data stability)*

# TABLE OF CONTENTS

1. BROADCASTING ENVIRONMENT
2. COEXISTENCE OF THE MANDATES AND ACCOUNTABILITY
  - i. PUBLIC BROADCASTING MANDATE**
  - ii. COMMERCIAL BROADCASTING MANDATE
  - iii. CHALLENGES OF THE CURRENT MANDATE
  - iv. REVIEW OF THE MANDATE
4. COMMERCIAL SENSITIVITY AND ACCOUNTABILITY
5. CONCLUSION

**Section 10** of the Broadcasting Act prescribes that the mandate of the Public Service division of the

SABC is to –

- a) make services available to South Africans in all the official languages;

- b) reflect both the unity and diverse culture and multilingual nature of South Africa and all of its cultures and regions to audiences;
- c) strive to be of high quality in all of the languages served;
- d) provide significant news and public affairs programming which meets the highest standards of journalism, as well as fair and unbiased coverage, impartiality, balance and independence from government, commercial and other interests;
- e) include significant amounts of educational programming, both curriculum-based and informal educative topics from a wide range of social, political and economic issues, including, but not limited to, human rights, health, early childhood development, agriculture, culture, religion, justice and commerce and contributing to a shared South African consciousness and identity;
- f) enrich the cultural heritage of South Africa by providing support for traditional and contemporary artistic expression;
- g) strive to offer a broad range of services targeting, particularly children, women, the youth and disabled;
- h) include programming made by the Corporation as well as those commissioned from the independent production sector; and
- i) include national sports programming as well as developmental and minority sports.

## 1. BROADCASTING ENVIRONMENT



# TABLE OF CONTENTS

2. COEXISTENCE OF THE MANDATES AND ACCOUNTABILITY
  - i. PUBLIC BROADCASTING MANDATE
  - ii. COMMERCIAL BROADCASTING MANDATE**
  - iii. CHALLENGES OF THE CURRENT MANDATE
  - iv. REVIEW OF THE MANDATE
4. COMMERCIAL SENSITIVITY AND ACCOUNTABILITY
5. CONCLUSION

**Section 11** of the Broadcasting Act prescribes that the Commercial Service division of the SABC must:

- a) be subject to the same policy and regulatory structures as outlined in this Act for commercial broadcasting services
- b) comply with the values of the public broadcasting service in the provision of programmes and service
- c) commission a significant amount of their programming from the independent sector
- d) subsidise the public services to the extent recommended by the Board and approved by the Minister
- e) be operated in an efficient manner so as to maximize the revenues provided to its shareholder.

## 1. BROADCASTING ENVIRONMENT

## 2. COEXISTENCE OF THE MANDATES AND ACCOUNTABILITY

- i. PUBLIC BROADCASTING MANDATE
- ii. COMMERCIAL BROADCASTING MANDATE
- iii.**

# TABLE OF CONTENTS

## CHALLENGES OF THE CURRENT MANDATE iv.

### REVIEW OF THE MANDATE

### 4. COMMERCIAL SENSITIVITY AND ACCOUNTABILITY

### 5. CONCLUSION

→ In terms of **section 8(b)** of the Broadcasting Act of 1999 (“the Broadcasting Act”), the SABC must be funded through advertisements, subscription, sponsorship, licence fees and any other means of finance.

- At this juncture, the SABC derives seventy seven percent (77%) of its revenue from advertising, fifteen percent (15%) of revenue from television licence fees, five percent 5% from other revenue and government grants amount to three percent (3%) of the SABC's total revenue base.
- Meaning, the SABC competes with all broadcasters for the both the commercial revenue and audience growth.

## PUBLIC MANDATE CHALLENGES: LEGISLATIVE FRAMEWORK

- ➔ The SABC plays a unique constitutional role in South Africa as enshrined in legislation, regulations and licence conditions
- ➔ There is no other broadcaster which has the SABC's comprehensive range of public mandate obligations, but without the supporting public funding.
- ➔ It is important to note that due to the extensive mandate granted to the SABC, the legislation provided for regulatory protection of the SABC. Section 2(t) of the Electronic Communications Act (ECA) enjoins the Authority to:

**“protect the integrity and viability of public broadcasting services”**

- ➔ It is therefore important to view the tension between public and commercial mandate against the backdrop of section 2 (t) of the ECA.
- ➔ Unfortunately, the current policies and regulations imposed on the SABC is inhibiting the organisation to adequately deliver on its public service mandate and to compete fairly, thus,

→ Threatening its integrity and viability in the current changing multiplatform/multichannel digital environment.

- The distinction between PBS and PCS is based on 21-year-old definitions and has no bearing on the reality of the stations from a distinctiveness point of view. These should be left for the SABC to manage without any limitation and restrictive reporting, e.g., the PBS business is more profitable than the PCS business due to volumes.
- Lack of adequate platform/channels to deliver content (Digital and DTH platforms). This impacts on public access to SABC services and the high cost of distribution.
- Lack of public funding to mitigate the restrictive policy and regulatory environment that only the SABC is subjected to, threatens the sustainability of the organisation.
- Lack of future proofed ICT/audio visual policy and legislation – traditional broadcasting is a sunset business and the SABC is prevented from determining its own digital destiny.
- Lack of competitive regulatory framework with relevant licensing models. The lines are blur between community, commercial, public and digital/OTT players. It's a licence free environment for all new digital/satellite players. This environment should be licensed and the funds should be given to the SABC as a source of revenue to offset the cannibalisation of its linear business.
- There is no protection of the viability and integrity of the public broadcaster through regulations, e.g. Sports, Must Carry, DTT, etc from anti-competitive behaviours.

- Public disclosures of commercial strategies of the SABC under the notion of public accountability limits the SABC's competitiveness.
- Lack of legislative flexibility in commercial dealings and content acquisition limits the competitiveness of the public broadcaster (e.g. PFMA)

## 1. BROADCASTING ENVIRONMENT

## 2. COEXISTENCE OF THE MANDATES AND ACCOUNTABILITY

- i. PUBLIC BROADCASTING MANDATE
- ii. COMMERCIAL BROADCASTING MANDATE
- iii. CHALLENGES OF THE CURRENT MANDATE
- iv. REVIEW OF THE MANDATE**

## 4. COMMERCIAL SENSITIVITY AND ACCOUNTABILITY

## 5. CONCLUSION

## REVIEW OF THE MANDATE

- Legislative reforms is urgently needed to align with the current changing landscape and sustainability of the public broadcaster
- International norm is that public broadcasters are publicly funded to strike a balance between public mandate and commercial imperatives and there is constant review of mandate and deliverables. If the SABC is expended to operate differently, then it must be supported by enabling polices and regulations.
- There should be delineation of **high priority mandate** and **general mandate** for the public broadcaster so as to safeguard resources and measure impact.
- High Priority should be given to key transformational aspects such as universal service & access, Languages, Local Content, Women, Children & People with Disabilities, Youth, Sports, Education, News & Events of national importance



➔ It should be obligatory for the shareholder to fund such prioritised mandates, or immediately change the current inhibiting polices and regulations.

1. BROADCASTING ENVIRONMENT

2. COEXISTENCE OF THE MANDATES AND ACCOUNTABILITY

i. PUBLIC BROADCASTING MANDATE ii. COMMERCIAL  
BROADCASTING MANDATE iii. CHALLENGES OF THE CURRENT  
MANDATE iv. REVIEW OF THE MANDATE

4. COMMERCIAL SENSITIVITY AND ACCOUNTABILITY

5. CONCLUSION

# PFMA EXEMPTION: REPORTING

## THE SABC TO BE EXEMPTED FROM COMPLIANCE TO SECTION 52 OF THE PFMA REGARDING SUBMISSION OF CORPORATE PLANS

- Documents that are tabled in Parliament are electronic and in the public domain and therefore easy to obtain.
- The prescribed templates stipulate uniform disclosures for all entities without considering the business risks that the SABC may be exposed to because of the availability of some information.
- The SABC is a Schedule 2 entity that is marginally (3%) funded by government and is required to sustain itself by earning revenue through offering commercial services in a highly competitive marketplace.
- While it is recognised that reporting is important to enable the Executive Authority and Parliament for oversight purposes, it is also necessary to protect the competitive position of the SABC and to ensure that its sustainability is not eroded.
- The template that is prescribed features operational information that is not appropriate for the audience in Parliament and in some instances requires disclosures that will impact our ability to compete in the market.
- It is imperative that commercially sensitive information is excluded from SABC's quarterly reports and Corporate Plans as these are public documents. The SABC meets monthly with DCDT and NT to share and discuss these details.

# NATIONAL TREASURY EXEMPTION: PROCUREMENT

## THE SABC TO BE EXEMPTED FROM COMPLIANCE TO NATIONAL TREASURY REGULATIONS REGARDING PROCUREMENT OF GOODS AND SERVICES

- The SABC operates in a highly competitive environment where speed to market is a key differentiator to conclude revenue generating deals. The current regulations inhibits this.
- The suppliers of broadcasting infrastructure is limited compared to other commodity type products and services. The SABC infrastructure is integrated and cannot be replaced periodically. The current regulations forces the SABC into more license ownership agreements as opposed to more flexible subscription based and/or cloud based SAAS agreements which must go through period procurement processes, yet the software is an integral part of the SABC infrastructure ecosystem.
- Procurement of licenses and support and maintenance agreements are much cheaper to procure directly from the OEM as they can pass on the discounts provided to their agents/distributors directly to the SABC. The current regulations prevent the SABC to enjoy this benefit that our competitors are leveraging.
- If the SABC is expected to self-fund its operations via commercial activities, then it should be subjected to the same governance and oversight as a JSE listed entity such as the SABC's competitors, e.g., King 4 and the Companies Act.

# TABLE OF CONTENTS

1. BROADCASTING ENVIRONMENT
2. COEXISTENCE OF THE MANDATES AND ACCOUNTABILITY
  - i. PUBLIC BROADCASTING MANDATE
  - ii. COMMERCIAL BROADCASTING MANDATE
  - iii. CHALLENGES OF THE CURRENT MANDATE
  - iv. REVIEW OF THE MANDATE
4. COMMERCIAL SENSITIVITY AND ACCOUNTABILITY
5. **CONCLUSION**

The SABC submits that the success of a public broadcaster in an ever-changing digital multiplatform environment requires constant review of the mandate, protection of the integrity and viability of the public broadcaster.

Of most important is the relevant policy and regulatory framework that ensure fair competition amongst the players.

We have started these engagements with ***you*** and ***other key stakeholders*** regarding this ***critical exercise and*** acknowledge that ***this is a journey*** that requires ***collective consideration and cooperation***;

As we engage on this journey, may we all be guided by the ***sole interest*** of ensuring ***longterm existence of a resilient and viable public broadcaster***, so that it continues to deliver comprehensively on its mandate, ***servng the millions of South Africans*** who rely on it for ***education, information and entertainment***

Let us, ***together***, re-create ***an SABC that will outlive us*** – an SABC that will survive for ***another 84 years***.

**THANK YOU**