

Legal and policy framework for broadcast news

Documentation included:

- Windhoek Declaration (1991) - **Annex 1 1**
- Windhoek Charter of Broadcasting in Africa (2001) - **Annex 2 5**
- The South African legislative and policy framework for broadcasting:
 - Relevant parts of the IBA's Triple Inquiry Report (1995/6) - **Annex 3 8**
 - The Code of Conduct for Broadcasting Services in the IBA Act (1993) - **Annex 4 15**
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May 2001

Declarations on Promoting Independent and Pluralistic Media

Declaration of Windhoek

3 May 1991

Endorsed by the General Conference at its twenty-sixth session - 1991

We the participants in the United Nations/United Nations Educational, Scientific and Cultural Organization Seminar on Promoting an Independent and Pluralistic African Press, held in Windhoek, Namibia, from 29 April to 3 May 1991,

Recalling the Universal Declaration of Human Rights,

Recalling General Assembly resolution 59(I) of 14 December 1946 stating that freedom of information is a fundamental human right, and General Assembly resolution 45/76 A of 11 December 1990 on information in the service of humanity,

Recalling resolution 25C/104 of the General Conference of UNESCO of 1989 in which the main focus is the promotion of "the free flow of ideas by word and image at international as well as national levels",

Noting with appreciation the statements made by the United Nations Under-Secretary-General for Public Information and the Assistant Director-General for Communication, Information and Informatics of UNESCO at the opening of the Seminar,

Expressing our sincere appreciation to the United Nations and UNESCO for organizing the Seminar,

Expressing also our sincere appreciation to all the intergovernmental, governmental and non-governmental bodies and organizations, in particular the United Nations Development Programme (UNDP), which contributed to the United Nations/UNESCO effort to organize the Seminar,

Expressing our gratitude to the Government and people of the Republic of Namibia for their kind hospitality which facilitated the success of the Seminar,

Declare that:

1. Consistent with article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development.
2. By an independent press, we mean a press independent from governmental, political or economic control or from control of materials and infrastructure essential for the production and dissemination of newspapers, magazines and periodicals.
3. By a pluralistic press, we mean the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community.
4. The welcome changes that an increasing number of African States are now undergoing towards multiparty democracies provide the climate in which an independent and pluralistic press can emerge.
5. The worldwide trend towards democracy and freedom of information and expression is a fundamental contribution to the fulfilment of human aspirations.
6. In Africa today, despite the positive developments in some countries, in many countries journalists, editors and publishers are victims of repression-they are murdered, arrested, detained and censored, and are restricted by economic and political pressures such as restrictions on newsprint, licensing systems which restrict the opportunity to publish, visa restrictions which prevent the free movement of journalists, restrictions on the exchange of news and information, and limitations on the circulation of newspapers within countries and across national borders. In some countries, oneparty States control the totality of information.
7. Today, at least 17 journalists, editors or publishers are in African prisons, and 48 African journalists were killed in the exercise of their profession between 1969 and 1990.
8. The General Assembly of the United Nations should include in the agenda of its next session an item on the declaration of censorship as a grave violation of human rights falling within the purview of the Commission on Human Rights.
9. African States should be encouraged to provide constitutional guarantees of freedom of the press and freedom of association.
10. To encourage and consolidate the positive changes taking place in Africa, and to counter the negative ones, the international community-specifically, international organizations (governmental as well as nongovernmental), development agencies and professional associations-should as a matter of priority direct funding support towards the development and establishment of nongovernmental newspapers, magazines and periodicals that reflect the society as a whole and the different points of view within the communities they serve.
11. All funding should aim to encourage pluralism as well as independence. As a consequence, the public media should be funded only where authorities guarantee a constitutional and effective freedom of information and expression and the independence of the press.
12. To assist in the preservation of the freedoms enumerated above, the establishment of truly independent, representative associations, syndicates or trade unions of journalists, and associations of editors and publishers, is a matter of priority in all the countries of Africa where such bodies do not now exist.

13. The national media and labour relations laws of African countries should be drafted in such a way as to ensure that such representative associations can exist and fulfil their important tasks in defence of press freedom.
14. As a sign of good faith, African Governments that have jailed journalists for their professional activities should free them immediately. Journalists who have had to leave their countries should be free to return to resume their professional activities.
15. Cooperation between publishers within Africa, and between publishers of the North and South (for example through the principle of twinning), should be encouraged and supported.
16. As a matter of urgency, the United Nations and UNESCO, and particularly the International Programme for the Development of Communication (IPDC), should initiate detailed research, in cooperation with governmental (especially UNDP) and non-governmental donor agencies, relevant nongovernmental organizations and professional associations, into the following specific areas:
 - i. identification of economic barriers to the establishment of news media outlets, including restrictive import duties, tariffs and quotas for such things as newsprint, printing equipment, and typesetting and word processing machinery, and taxes on the sale of newspapers, as a prelude to their removal;
 - ii. training of journalists and managers and the availability of professional training institutions and courses;
 - iii. legal barriers to the recognition and effective operation of trade unions or associations of journalists, editors and publishers;
 - iv. a register of available funding from development and other agencies, the conditions attaching to the release of such funds, and the methods of applying for them;
 - v. the state of press freedom, country by country, in Africa.
17. In view of the importance of radio and television in the field of news and information, the United Nations and UNESCO are invited to recommend to the General Assembly and the General Conference the convening of a similar seminar of journalists and managers of radio and television services in Africa, to explore the possibility of applying similar concepts of independence and pluralism to those media.
18. The international community should contribute to the achievement and implementation of the initiatives and projects set out in the annex to this Declaration.
19. This Declaration should be presented by the SecretaryGeneral of the United Nations to the United Nations General Assembly, and by the DirectorGeneral of UNESCO to the General Conference of UNESCO.

Annex

Initiatives and Projects Identified in the Seminar

1. Development of cooperation between private African newspapers: - to aid them in the mutual exchange of their publications;
- to aid them in the exchange of information;
- to aid them in sharing their experience by the exchange of journalists;
- to organize on their behalf training courses and study trips for their journalists, managers and technical personnel.

2. Creation of separate, independent national unions for publishers, news editors and journalists.
3. Creation of regional unions for publishers, editors and independent journalists
4. Development and promotion of nongovernmental regulations and codes of ethics in each country in order to defend more effectively the profession and ensure its credibility.
5. Financing of a study on the readership of independent newspapers in order to set up groups of advertising agents.
6. Financing of a feasibility study for the establishment of an independent press aid foundation and research into identifying capital funds for the foundation.
7. Financing of a feasibility study for the creation of a central board for the purchase of newsprint and the establishment of such a board.
8. Support and creation of regional African press enterprises
9. Aid with a view to establishing structures to monitor attacks on freedom of the press and the independence of journalists following the example of the West African Journalists' Association.
10. Creation of a data bank for the independent African press for the documentation of news items essential to newspapers.

Windhoek charter on broadcasting in Africa

Acknowledging the enduring relevance and importance of the Windhoek Declaration to the protection and promotion of freedom of expression and of the media;

Noting that freedom of expression includes the right to communicate and access to means of communication;

Mindful of the fact that the Windhoek Declaration focuses on the print media and recalling Paragraph 17 of the Windhoek Declaration, which recommended that a similar seminar be convened to address the need for independence and pluralism in radio and television broadcasting;

Recognizing that the political, economic and technological environment in which the Windhoek Declaration was adopted has changed significantly and that there is a need to complement and expand upon the original Declaration;

Aware of the existence of serious barriers to free, independent and pluralistic broadcasting and to the right to communicate through broadcasting in Africa;

Cognizant of the fact that for the vast majority of the peoples of Africa, the broadcast media remains the main source of public communication and information;

Recalling the fact that the frequency spectrum is a public resource which must be managed in the public interest;

On the occasion of the tenth anniversary of the Windhoek Declaration on the Development of an Independent and Pluralistic African Press, we the participants of the Windhoek

Conference: Ten Years On: Assessment, Challenges and Prospects (3-5 May 2001) declare that:

General regulatory issues

1. The legal framework for broadcasting should include a clear statement of the principles underpinning broadcast regulation, including promoting respect for freedom of expression, diversity, the free flow of information and ideas, as well as a three-tier system for broadcasting: public service, commercial and community.
2. All formal powers in the areas of broadcast and telecommunications regulation should be exercised by public authorities which are protected against interference, particularly of a political or economic nature, by, among other things, an appointments process for members which is open, transparent, involves the participation of civil society and is not controlled by any particular political party.
3. Decision-making processes about the overall allocation of the frequency spectrum should be open and participatory, and ensure that a fair proportion of the spectrum is allocated to broadcasting uses.
4. The frequencies allocated to broadcasting should be divided equitably among the three tiers of broadcasting.
5. Licensing processes for the allocation of specific frequencies to individual broadcasters should be fair and transparent, and based on clear criteria, which include promoting media diversity in ownership and content.
6. Broadcasters should be required to promote and develop local content, which should be defined to include African content, including through the introduction of minimum quotas.
7. States should promote an economic environment that facilitates the development of independent production and broadcasting.
8. The development of appropriate technology for the reception of broadcasting signals should be promoted.

Public service broadcasting

9. All State and government controlled broadcasters should be transformed into public service broadcasters, that are accountable to all strata of the people as represented by an independent board, and that serve the overall public interest, avoiding one-sided reporting and programming in regard to religion, political belief, culture, race and gender.
10. Public service broadcasters should, like broadcasting and telecommunications regulators, be governed by bodies that are protected against interference.
11. The public service mandate of public service broadcasters should clearly defined.
12. The editorial independence of public service broadcasters should be guaranteed.
13. Public service broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets.
14. Without detracting from editorial control over news and current affairs content and in order to promote the development of independent productions whilst enhancing diversity of programming, the public service broadcasters should be required to broadcast minimum quotas of productions by independent producers.

15. The transmission infrastructure used by public service broadcasters should be made accessible to all broadcasters under reasonable and non-discriminatory terms.

Community broadcasting

16. Community broadcasting is broadcasting which is for, by and about the community, and whose ownership and management is representative of the community, which pursues a social development agenda, and which is non-profit.
17. There should be a clear recognition, including by the international community, of the difference between decentralized public broadcasting and community broadcasting.
18. All community broadcasters should be enabled to have access to the Internet and to use it in the interest of their respective communities.

Telecommunications and convergence

19. The right to communicate includes access to telephones, email, Internet and other telecommunications systems, including the promotion of community-controlled ICT centers.
20. Telecommunications law and policy should promote the goal of universal service and access, including access clauses in privatization and liberalization processes, and proactive measures by the State.
21. The international community and African governments should mobilize resources for the funding of research to keep abreast of the rapidly changing media landscape in Africa.
22. African governments should promote the development of online media and African content, through the formulation of non-restrictive policies in new information and communications technologies (NICTs)
23. To promote access to and disseminate global information, training of media practitioners in electronic communication, research and publishing skills needs to be developed and expanded.

Recommendations in regard to the Windhoek charter on broadcasting in Africa

1. UNESCO to distribute the Windhoek Charter on Broadcasting in Africa as broadly as possible to all stakeholders and the public in general in Africa and worldwide.
2. Media organizations in Africa to use the Charter as their starting point in the development of national and regional broadcasting policies and as a tool for lobbying processes. To this end media organizations in cooperation with civil society groups should initiate public awareness campaigns in their respective countries to form NGO coalitions on broadcasting reform, formulate broadcasting policies and organize appropriate lobbying processes towards state structures.
3. Media organizations in regions and/or continent-wide should develop specific models for regulatory bodies and public service broadcasting following the principles of the Charter which should serve as a starting point for national debate.
4. In all these debates recognition should be given to the needs of the commercial broadcasting sector.

5. Given the fast developments in the broadcasting field the Charter should undergo an audit every five years.
6. UNESCO is asked to make member governments aware of the need that the World Trade Organization should give a special status to broadcast productions recognizing them as cultural goods.
7. UNESCO should make sure that the theme of media, communications and development is given appropriate space during the UN Summit on Social Communication 2003.

Extracts from the IBA Triple Inquiry Report

7. Approach to broadcasting regulation

7.1 Public interest framework for broadcasting regulation

1. National goals

The Authority functions in the context of the identified national goals of democracy, development and nation-building. While these goals overlap considerably, they emphasise different aspects of society and its needs. The national goal of democracy provides a political focus; development focuses on economic challenges, while nation-building is primarily concerned with cultural issues. It is important that broadcasters, collectively, address and play an appropriate role in furthering these national goals within the context of a healthy and vibrant industry.

2. The role of broadcasting in society

These national goals provide the framework for the development of regulatory policy which recognises the influence of broadcasting in society. In relation to democracy, the media play a crucial role in providing the citizenry with information to make informed choices. In countries with high levels of illiteracy like South Africa, the role of broadcasting is all the more important in providing information so that people can participate in the processes of development and nation-building. In relation to development it ranges from the provision of human rights, housing, public health and agricultural guidance to literacy and formal education, economic and financial analysis. In nation-building, the role of broadcasting is to nurture a common sense of citizenship, reconciliation and tolerance while reflecting the rich cultural, language, religious and regional diversity of the South African population.

Broadcasting is one of the few opportunities for historically separated sectors of South African society to see and know each other and to learn to navigate the differences.

3. Conceptualising public interest

Although these public interest values will be dealt with separately in this chapter, they are closely interconnected and inevitably overlapping. As each of the values identified is open to interpretation, the Authority takes this opportunity to make explicit its public interest assumptions.

Access: A central public interest principle in broadcasting is that of universal access. This refers to the availability of broadcasting services to all citizens. The democratic basis for this claim is the right of citizens to reliable, accurate and timely information, to allow them to participate meaningfully in society. The concept of quality relates to that of access and extends the notion from simply who receives information, to what kind of information, to what degree and on what terms. In developing countries, such as South

Africa, where the majority of the population cannot afford televisions, and with the emergence of new and expensive technologies such as cable and satellite, the question of access has also focused on the affordability of receivers. Genuine access to alternative channels and messages depends then not only on the existence of channels, but on their effective distribution, availability and affordability.

In South Africa it is also desirable to expand the concept of access from the right to receive information to include greater access to the means of production in broadcasting. While the original concept of access informed the need for a public service broadcaster, and indeed in free market systems for private broadcasters, the expanded concept has justified the development of community stations and public access programmes on private and public service stations and channels.

Diversity: As implied above, the question of access relates directly to the other major public interest principle of diversity. Access to choice and diversity of choice for audiences relates not only to the range of information, education and entertainment available to them but, in heterogeneous societies such as ours, also to access to a diverse range of language, cultural, religious and regional programming.

The diversity principle lies at the heart of public interest regulation and has come to acquire the status of an end in itself. However the real significance of diversity is that it secures other benefits for society. A substantial degree of media pluralism is required in order for freedom of expression of individuals and self-determination for groups to flourish. Pluralistic media reflect the prevailing differences within the population as a whole.

There are at least five dimensions of diversity that are significant for broadcasting regulation. These are diversity of media functions (information, education and entertainment), diversity of content within these (programming), of representation of different groups and people in society, and of geography or locale. Limiting concentration of ownership across different media sectors is also justified on the ground that it encourages diversity of opinion.

Diversity need not only be met through the full range of differences in society being reflected by separate and autonomous media. Where resources are scarce and a multiplicity of media are not available, public policy can be designed to create diversity within a limited number of channels or stations.

Equality: The concepts of access and diversity are further expanded by the concept of equality. The principle of absolute equality of time or treatment while politically attractive in theory is impossible to realise in practice. To overcome this, the concept of proportionality is often used. From this perspective it is argued that the media should reflect the different groups in society in relation to their size. This principle is often applied for the 'fair' treatment of different political groups at election time. However an approach which seeks to reflect society tends to perpetuate the status quo. The equality principle of diversity has far more potential to promote change and correct imbalances in power relations of the past.

From a development perspective the notion of equality is important in 'levelling the playing field' in the broadcast industry by encouraging new entrants, through affirmative action and fair employment practices. The concepts of equality and equity have strong nation-building imperatives in that they try to ensure that cultural goods are equitably or equally shared in a valued common culture.

Independence: The public interest principles of access, choice and equality contribute to diversity of opinion. As one of the foundations of vibrant democracies, diversity of opinion is intimately related to the principle of independence. In South Africa, recognition of the importance of this principle is implicit in the establishment of the Authority as a body to regulate broadcasting independently of state or commercial interests. Independence is a central public interest principle which ensures editorial freedom and limits the influence of advertising on content, particularly on public broadcasting services. Its importance is further stressed by the inclusion in the Act of a code of conduct for broadcasters and a complaints mechanism.

Unity: To assist a new nation such as South Africa, but also given the wider context of the globalisation of media and the threat to national cultural sovereignty that countries throughout the world are experiencing, an overriding public interest is that of nurturing a sense of nationhood. It is the view of the Authority that this should be distinguished from isolationism or exclusivism. The South African broadcasting system, it believes, should serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of South Africa. It should encourage the development of South African expression by providing a wide range of programming that reflects South African attitudes, opinion, ideas, values and artistic creativity. It can do this by displaying South African talent in entertainment programming and by offering information and analysis concerning South Africa and other countries from a South African point of view.

A critical assumption which underlies the decisions taken in this report is that the public interest, in its social, cultural and economic dimensions, is served through the provision of broadcasting services to the entire range of the diverse interests in the South African community. The report also assumes that broadcasting plays an integral role in developing and reflecting a South African identity, its character and cultural diversity and that, consequent upon this role, it is appropriate that all broadcasters are obliged to protect the public interest.

8.3 Defining the public service broadcaster

While public broadcasting services have become associated with state controlled or funded operations, the Authority believes it is best defined in relation to its ownership by, and accountability to, the public and its commitment to a set of service principles. The public, served by this form of broadcasting is the totality of all citizens irrespective of sex, gender, age, race or culture. The services provided should bring to the greatest number of homes the fullest possible range of programmes, including minority interests, and should address their needs as citizens primarily, rather than their preference as consumers.

8.5 The mandate for the public broadcasting services

Many submissions to the Inquiry drew on traditional British notions of public broadcasting of providing information, education and entertainment of high quality to as many citizens as possible. Some thought the public broadcaster should only air informational and educational programming and that entertainment should be the preserve of private broadcasters, as should commercial revenue. Other submissions drew more directly on the developmental duties of the public broadcaster in the context of Africa, specifically its role in reconstruction and development.

The Authority has had to consider how legitimate expectations of the public broadcaster might be met without undermining the financial viability of the public broadcaster. The following mandate principles attempt to realistically identify the unique functions of the national public broadcasting service in South Africa within its national and global context.

Universality: The public broadcaster should strive to provide a truly national coverage, reaching all South Africans, even in the more remote areas of the country. While radio coverage of the country is extensive, the reach of television is far more restricted and unequal. Over and above television services being unavailable in certain parts of the country through frequency distribution, nearly half the population seldom or never have access to receivers. Therefore the first duty of the public broadcaster is to provide services to the entire territory of the nation, where there are inhabitants to be served. In fact it is precisely those most remote from media who deserve an electronic window on the world beyond the confines of their own community. In this way public broadcasting is no different from other basic social services that require funding, at least in part out of general revenues.

Accessibility: In addition to physical coverage, the public broadcaster should provide programming that people find interesting, relevant and enjoyable, in the languages they choose. If the national public broadcaster consistently fails to attract significant sections of the public because programmes are irrelevant or not accessible in terms of language, it will lose one of their justifications for existing - that of providing a universal service funded by all, whether directly or indirectly, for programming for all. In the view of the Authority what this means is that the body of programmes should appeal to the largest possible number of viewers and listeners, but not necessarily at the same time. Likewise, it should not be assumed that a popular programme cannot be a quality programme, nor a quality one popular.

National and provincial identity: The public broadcaster has a particular responsibility to promote national culture and create a sense of identity that reflects common experience. It should do so, by providing shared experiences simultaneously to large numbers of people and defining, exhibiting and explaining national events and trends, from sporting events to election coverage. In this it should forge the development of a South African identity by providing a wide range of programming that reflects South African ideas, attitudes, values, spirituality and artistic creativity.

At the same time it should reflect the diverse language, culture, religions and traditions of the nation through programming which covers South Africa's rich cultural heritage and seeks to promote greater understanding among the public. Programming should be reflective of all South Africa's provinces and localities. It should also meet provincial broadcasting needs through regular coverage of events within the provinces and as comprehensive programming for them as is possible.

Diversity and choice: The PBS should provide a wide range of programming which meets the education, informational, spiritual and entertainment needs of the public as a whole. Within this it should service the various sectors of society, such as health, agriculture, education and religion. Further it should fairly serve various constituencies in society in relation to gender, race, age and take into account the special needs of disabled people and minorities.

Quality: The PBS should promote quality in all its services by providing new and innovative programming which encourages new talent and ideas in drama, comedy, music, arts, sports and children's programmes. It should also provide compelling programmes which help to educate and inform, like documentaries, knowledge building programmes in literature, science and history including history and current affairs.

Independence: The public broadcaster should assert its autonomy from control by vested interests, whether political or financial. It should safeguard its editorial independence to ensure its credibility as a national source of reliable and regular information. It should offer comprehensive, timely and accurate news and information across a range of television and radio channels to enable a properly informed debate on important issues.

Accountability and efficiency: The tension between the right to independence and the duties of accountability can never be resolved in theory. However, in practice financial costs should be linked to public interest value and traceable to enhanced delivery of services. The public broadcaster should operate cost effectively and give value in what it provides. In this it should be accountable for the usage of public money.

8.6 Programming obligations

A major challenge to the public broadcasting services is maintaining radio and television services which meet this comprehensive mandate and satisfy the diverse needs and interests of the South African public.

If the PBS is to recognise the interests and concerns of the public in its entirety, it will have to redress the fact that under apartheid, large sections of the South African public were rendered invisible in the media and not served by it. Millions of South Africans, young and old, who do not have the spending power to attract advertisers, who lack basic education, who have been marginalised and the millions more who lack running water and electricity at home are still rarely seen or heard on the airwaves, or addressed by them. This point was reinforced in the provincial and sectoral hearings held for the Inquiry and in the audience research focus groups conducted for the Authority, where several viewers said they did not find their lives and localities sufficiently reflected in the drama they saw.

And while there is evidence that the lifestyles of South Africans are becoming more homogenised, people are increasingly demanding opportunities for expression and reflection of their cultural, regional and local identities. Marginalised ethnic groups, women, gays and lesbians, disabled people and other groups who have suffered many of the negative consequences of their position are now drawing collective political and social strength from it. Understanding and catering for the complex needs and concerns of all South Africans as the public, will generate a new conception of the audiences which the public broadcaster needs to serve. The intention of the Authority is to ensure that different types of programming including drama, sport, documentary, educational are available, and that it should address diverse interests, tastes and concerns. These are partially reflected in the minimum programme requirements of the public broadcaster.

The Authority also intends that a significant proportion of the programming on public television channels in particular, should be produced by South Africans for South African audiences and that they should be produced by a diversity of programme-makers. The local content quotas, independent production quotas and diversity incentives' proposed by the Authority are designed to achieve this goal.

8.6.1 News and information programming

The Authority believes that the fundamental responsibility of the public broadcaster is to provide original programming of direct relevance to the public it serves. In this regard the Authority expects the public broadcasting services to provide viewers and listeners with access to regular and accurate news and information. From the reporting of daily news to the examination of current concerns local and nationally, the public broadcasting services must play a central role in providing South Africans with relevant information necessary in a democracy.

However, while the national PBS should commit itself to developing its reputation for the authority and quality of news and current affairs programmes, it must now place greater emphasis on ensuring that these programmes address the concerns and aspirations of the general public and are presented in ways that are as accessible as possible. It should also begin to develop a network of South African correspondents throughout the world to bring a South African perspective to international events and developments.

While people will continue to need national and international news bulletins at a regular time, people will also want diverse current affairs programming and documentaries that specifically address their problems and aspirations. The public broadcaster should also broaden editorial agendas to address the interests and priorities of sections of the public which have been ignored and include more news and analysis of immediate relevance to them and which better reflect their needs.

8.6.7 Informal knowledge building programming

Educative, or informal knowledge building programming, should also go beyond traditional definitions of education and include specialist factual programmes, including science, history, natural history, social action, schools and education for adults.

8.6.8 Documentary

These should involve the creative treatment of social issues, subject or theme with the main objective of making the topic as understandable and accessible as it can be. The Authority believes that the introduction of local content and independent production quotas will ensure that a diversity of cultural backgrounds and political persuasions are represented in the airwaves; documentaries are produced in all official languages, and that the documentaries are identifiably South African.

Independent Broadcasting Authority Act 153 of 1993 Schedule 1

Code of Conduct for Broadcasting Services (section 56)

1 Preamble

The fundamental principle to be upheld, is that the freedom of all broadcasting licensees is indivisible from and subject to the same restraints as those relevant to the individual person, and is founded on the individual's fundamental right to be informed and to freely receive and disseminate opinions.

2 General

Broadcasting licensees shall-

- a. not broadcast any material which is indecent or obscene or offensive to public morals or offensive to the religious convictions or feelings of any section of the population or likely to prejudice the safety of the State or the public order or relations between sections of the population;
- b. not, without due care and sensitivity, present material which depicts or relates to brutality, violence, atrocities, drug abuse and obscenity;
- c. exercise due care and responsibility in the presentation of programmes where a large number of children are likely to be part of the audience.

3 News

1. Broadcasting licensees shall be obliged to report news truthfully, accurately and objectively.
2. News shall be presented in the correct context and in a balanced manner, without intentional or negligent departure from the facts, whether by-
 - a. distortion, exaggeration or misrepresentation;
 - b. material omissions; or
 - c. summarization.
3. Only that which may reasonably be true, having due regard to the source of the news, may be presented as fact, and such facts shall be broadcast fairly with due regard to context and importance. Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it shall be presented in such manner as to indicate clearly that such is the case.
4. Where there is reason to doubt the correctness of a report and it is practicable to verify the correctness thereof, it shall be verified. Where such verification is not practicable, that fact shall be mentioned in the report.
5. Where it subsequently appears that a broadcast report was incorrect in a material respect, it shall be rectified forthwith, without reservation or delay. The rectification shall be presented with such a degree of prominence and timing as may be adequate and fair so as to readily attract attention.
6. Reports, photographs or video material relating to matters involving indecency or obscenity shall be presented with due sensitivity, due regard being had to the prevailing moral climate. In particular, broadcasting licensees shall avoid the broadcasting of obscene and lascivious matter.
7. The identity of rape victims and other victims of sexual violence shall not be divulged in any broadcast without the prior consent of the victim concerned.

4 Comment

1. Broadcasting licensees shall be entitled to comment on and criticize any actions or events of public importance.
2. Comment shall be presented in such manner that it appears clearly to be comment, and shall be made on facts truly stated or fairly indicated and referred to.
3. Comment shall be an honest expression of opinion.

5 Controversial issues of public importance

1. In presenting a programme in which controversial issues of public importance are discussed, a broadcasting licensee shall make reasonable efforts to fairly present significant points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time and in substantially the same time slot.
2. A person whose views have been criticized in a broadcasting programme on a controversial issue of public importance, shall be given a reasonable opportunity by the broadcasting licensee to reply to such criticism, should that person so request.

6 Elections

During any election period, the provisions of sections 58, 59, 60 and 61 of this Act shall apply, and all broadcasting services shall in terms of those sections be subject to the jurisdiction of the Authority.

7 Privacy

In so far as both news and comment are concerned, broadcasting licensees shall exercise exceptional care and consideration in matters involving the private lives and private concerns of individuals, bearing in mind that the right to privacy may be overridden by a legitimate public interest.

8 Paying a criminal for information

No payment shall be made to persons involved in crime or other notorious behaviour, or to persons who have been engaged in crime or other notorious behaviour, in order to obtain information concerning any such behaviour, unless compelling societal interests indicate the contrary.

Code Of Conduct: Broadcasting Complaints Commission (BCCSA)

1. Preamble

The fundamental principle to be upheld is that the freedom of the freedom of the electronic media is indivisible from; and subject to the same constraints as that of the

individual and rests on the individual's fundamental right to be informed and freely to receive and to disseminate opinions.

2. Reporting of news

1. The electronic media shall be obliged to report news truthfully, accurately and with due impartiality.
2. News shall be presented in the correct context and in a balanced manner, without any intentional or negligent departure from the facts whether by:
 1. distortion, exaggeration or misrepresentation;
 2. material omission; or
 3. summarisation.
3. Only what may reasonably be true having regard to the source of the news, may be presented as facts, and such facts shall be broadcast fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinion, allegation, rumour or supposition, it shall be presented in such a manner as to indicate this clearly.
4. Where there is reason to doubt the correctness of a report and it is practicable to verify the correctness thereof, it shall be verified. Where it has been practicable to verify the correctness of a report, this shall be mentioned in such report.
5. Where it subsequently appears that a broadcast was incorrect in a material respect, it shall be rectified spontaneously and without reservation or delay. The correction shall be presented with a degree of prominence which is adequate and fair so as readily to attract attention.
6. Reports, photographs or video material relating to matters involving indecency or obscenity shall be presented with due sensitivity towards the prevailing moral climate. In particular, the electronic media shall avoid the broadcast of indecent or obscene matter.
7. The identity of rape victims and other victims of sexual violence shall not be broadcast without the consent of the victim.

3. Comment

1. The electronic media shall be entitled to comment upon or criticise any actions or events of public importance provided such comments or criticisms are fairly and honestly made.
2. Comment shall be presented in such a manner that it appears clearly that it is comment, and shall be made on facts truly stated or fairly indicated and referred to.
3. Comment shall be an honest expression of opinion, without malice or dishonest motives, and shall take fair and balanced account of all available facts which are material to the matter commented upon.

4. Elections and referenda

1. Where during an election period or referendum period a signatory grants access to its services to a political party, organisation or movement or a candidate taking part in a national, regional or by-election, or referendum, or has itself during an election period or referendum period criticised a political party, organisation or movement or a candidate taking part in such an election or referendum it is under a duty to grant an opposing or criticised (as the case may be) political party,

organisation or movement or a candidate an equal opportunity to its services to state its policy or respond to the criticism of the signatory of the political party, organisation or movement or candidate to whom the signatory has granted access: provided that this clause does not in any way detract from the duties which a signatory has in accordance with other clauses of this Code.

2. For purposes of this clause, "election period" and "referendum period" means a period which commences when the State President promulgates an election or by-election for Parliament or referendum in the Government Gazette and lapses when polling closes on the (last) election day, or referendum day, as the case may be.
5. **Privacy** The electronic media shall exercise exceptional care and consideration in matters involving the private lives and dignity of individuals, bearing in mind that the right to privacy and dignity may be overridden by a legitimate public interest.
6. **Payment for information from a criminal** No payment shall be made to persons engaged in crime or other notorious misbehaviour, or to persons who have been engaged in crime or other notorious misbehaviour in order to obtain information concerning such behaviour, unless compelling societal interests indicate the contrary.
7. **General**
 1. The electronic media shall:
 1. not present material which is indecent or obscene or harmful or offensive to public morals, which is offensive to religious convictions or feelings of a section of the population, which is likely to harm relations between sections of the population or is likely to prejudice the safety of the state or the public order;
 2. no, without due care and sensitivity, present material which contains brutality, violence or atrocities;
 3. exercise due care and responsibility in the presentation of programmes where a large number of children are likely to be part of the audience.
 2. Controversial Issues of Public Importance
 1. In presenting a programme in which controversial issues of public importance are discussed a broadcasting licensee shall make reasonable efforts to fairly present significant points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time and in substantially the same time slot.
 2. A person whose views have been criticised in a broadcasting programme on a controversial issue of public importance, shall be given reasonable opportunity by the broadcasting licensee to reply to such criticism, should that person so request.

**Broadcasting Act
No. 4 of 1999 Chapter IV**

Public Broadcasting Service and Charter of Corporation

This Chapter provides for the incorporation of the Corporation and for the Charter. The Charter is dealt with by Parliament as part of the broad national policy framework. The Authority monitors and enforces compliance with the provisions of the Charter of the Corporation.

Part 1: Public broadcasting service

6. South African Broadcasting Corporation.

1. The Corporation is governed by the Charter.
2. In terms of this Charter, the Corporation will in pursuit of its objectives and in exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence.
3. The Authority must monitor and enforce compliance with the Charter by the Corporation.

Charter of Corporation

Part 2: Establishment, incorporation, objectives and organisation of Corporation.

7. Incorporation.

1. On the transfer date the Minister must apply for the establishment by incorporation of the Corporation to a limited liability company with a share capital as contemplated in the Companies Act.
2. The Corporation is the successor of the old Corporation.
3. The application for incorporation must be accompanied by the memorandum and articles of association as contemplated in the Companies Act signed by the Minister on behalf of the State.
4. The registration of the memorandum and articles of association is exempted from the payment of an additional fee as required by section 63 (2) of the Companies Act.
5. The Registrar of Companies is entitled to issue such directives and authorise such deviations from the regulations in force in terms of the Companies Act and the documents prescribed in terms thereof as he or she may consider necessary in order to give effect to this section.
6. The Board of the old Corporation must be required to promptly comply with every directive issued under subsection (5).
7. The Minister must, when in his or her opinion the old Corporation has properly discharged its functions and all directives issued under subsection (5), by notice in the Gazette, fix the date of establishment and incorporation.
8. The State, upon incorporation, holds one hundred percent of the shares of the Corporation.

8. Objectives of Corporation.--The objectives of the Corporation are

- a. to make its services available throughout the Republic;
- b. to provide sound and television broadcasting services, whether by analogue or digital means, and to provide sound and television programmes of information, education and

entertainment funded by advertisements, subscription, sponsorship, licence fees or any other means of finance;

- c. to acquire from time to time a licence or licences for such period and subject to such regulations, provisions and licence conditions as may be prescribed by the Authority;
- d. to provide, in its public broadcasting services, radio and television programming that informs, educates and entertains;
- e. to be responsive to audience needs and account on how to meet those needs;
- f. to provide other services, whether or not broadcasting or programme supply services, such services being ancillary services;
- g. to provide television and radio programmes and any other material to be transmitted or distributed by the common carrier for free to air reception by the public subject to section 33 of this Act;
- h. to provide to other bodies by such means and methods as may be convenient, services, programmes and materials to be transmitted or distributed by such bodies and to receive from such other bodies services, programmes and materials to be transmitted by stations of the Corporation for reception as above;
- i. to commission, compile, prepare, edit, make, print, publish, issue, circulate and distribute, with or without charge, such books, magazines, periodicals, journals, printed matter, records, cassettes, compact disks, video tapes, audio-visual and interactive material, whether analogue or digital and whether on media now known or hereafter invented, as may be conducive to any of the objects of the Corporation;
- j. to establish and maintain libraries and archives containing materials relevant to the objects of the Corporation and to make available to the public such libraries and archives with or without charge;
- k. to organise, present, produce, provide or subsidise concerts, shows, variety performances, revues, musical and other productions and performances and other entertainment whether live or recorded in connection with the broadcasting and programme supply services of the Corporation or for any purpose incidental thereto;
- l. to collect news and information in any part of the world and in any manner that may be thought fit and to establish and subscribe to news agencies;
- m. to carry out research and development work in relation to any technology relevant to the objects of the Corporation and to acquire by operation of law, registration, purchase, assignment, licence or otherwise copyright and designs, trade marks, trade names and any other intellectual, industrial and commercial property rights;
- n. to nurture South African talent and train people in production skills and carry out research and development for the benefit of audiences;
- o. to develop, produce, manufacture, purchase, acquire, use, display, sell, rent or dispose of sound recordings and films and materials and apparatus for use in connection with such sound recordings and films;
- p. to develop and extend the services of the Corporation beyond the borders of South Africa.

Part 3: Public service

10. Public service.

1. The public service provided by the Corporation must
 - a. make services available to South Africans in all the official languages;
 - b. reflect both the unity and diverse cultural 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, 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 the disabled;
 - h. include programmes 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.
2. The public service provided by the Corporation may draw revenues from advertising and sponsorships, grants and donations, as well as licence fees levied in respect of the licensing of persons in relation to television sets, and may receive grants from the State.

Part 4: Commercial services

11. Commercial services.--

The commercial services provided by the Corporation 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; and
- e. be operated in an efficient manner so as to maximise the revenues provided to its shareholder.

Values & Vision of the SABC Board

Values

- Accountability to the full spectrum of the South African public for providing accessible, high quality broadcasting services
- Commitment to the truth

- Impartiality, equitability and fairness to all people without regard to any divisive features or characteristics
- Sensitivity to the diverse nature of South African society and to the need for justice and healing
- Compassion and concern for human dignity, the people, life and the environment
- A common South Africanness
- Integrity, transparency and trust in all relationships
- Professionalism in quality, efficiency, reliability, management and financial accountability
- Equity and equal opportunities in all employment programmes and practices
- Commitment to independence and autonomy of the SABC

Vision

South Africa, deeply divided and emerging from an apartheid structure, is striving for democracy and the elimination of discrimination on the basis of race, gender, age, disability, religion, class or language.

In this context, a public broadcaster has to play a prominent role in supporting that process.

Accordingly, the SABC will:

- Be an impartial public broadcaster that continually develops its independence and autonomy while being responsive to the needs of the public to which it is accountable.
- Be fair and just to all the peoples of South Africa, irrespective of any divisive features or characteristics. To this end it will be affirmative in its approach in addressing historic imbalances, and will consciously address itself to playing a positive healing role and developing a common South Africanness.
- Deliver accessible broadcasting services of equal quality to the full spectrum of its audience.
- Meet the challenge of growing local and international competition where it is a threat to the general interests of the South African public.
- Be stable and sustainably funded in order to comply with its accountability to the broad public interest.
- Maintain an editorial policy and ethos that corresponds to its values and vision and through which society is portrayed consistently to itself, in its diversity.
- Have a culture and mindset consistent with its values and vision.
- Be a fair employer with exemplary labour practices, with staffing at all levels being reflective of South African society and maintaining appropriately high levels of competence.

Editorial Code of the SABC

The Board and Management of the SABC have affirmed their commitment to the principle of Editorial Independence and to an Editorial Code of Ethics. For the purpose of this Code, it is understood that the authority for editorial decisions vests in the editorial staff.

- We shall report, contextualise, and present news honestly by striving to disclose all essential facts and by not suppressing relevant, available facts, or distorting by wrong or improper emphasis.
- We shall be aware of the danger of discrimination being furthered by the media, and shall do our utmost to avoid promoting such discrimination based on gender, race, language, culture, political persuasion, class, sexual orientation, religious belief, marital status, physical or mental disability.
- We shall evaluate information solely on merit, and shall not allow advertising, commercial, political or personal considerations to influence our editorial decisions.
- We shall respect the legitimate rights to privacy of individuals and shall do nothing which entails intrusion into private grief and distress unless justified by overriding considerations of public interest.
- We shall take due care and be sensitive in the presentation of brutality, violence, atrocities and personal grief.
- We shall seek balance through the presentation as far as possible of relevant viewpoints on matters of importance. This requirement may not always be reached within a single programme or news bulletin but should be achieved within a reasonable period.
- We shall prevail on news merit and judgement in reaching editorial decisions. Fairness does not require editorial staff to be unquestioning, or the Corporation to give all sides of an issue the same amount of time.
- We shall be enterprising in perceiving, pursuing and presenting, issues, which affect society and the individual, in serving the public's right to know.
- We shall be free from obligation to any interest group and shall be committed to the public's right to know the truth.
- We shall not accept gifts, favours, free travel, special treatment or privileges, which may compromise our integrity and any such offer shall be disclosed.
- We shall identify ourselves and our employers before obtaining any information for broadcast. As a general rule, journalism should be conducted openly. Covert methods must be employed only with due regard to their legality and to considerations such as fairness and invasion of privacy, and whether the information to be obtained is of such significance as to warrant being made public but is unavailable by other means.
- We shall not disclose confidential sources of information.
- We shall do our utmost to correct timeously any information broadcast and found to be prejudicially inaccurate.
- We shall foster open dialogue with our viewers and listeners, as we are accountable to the public for our reports.