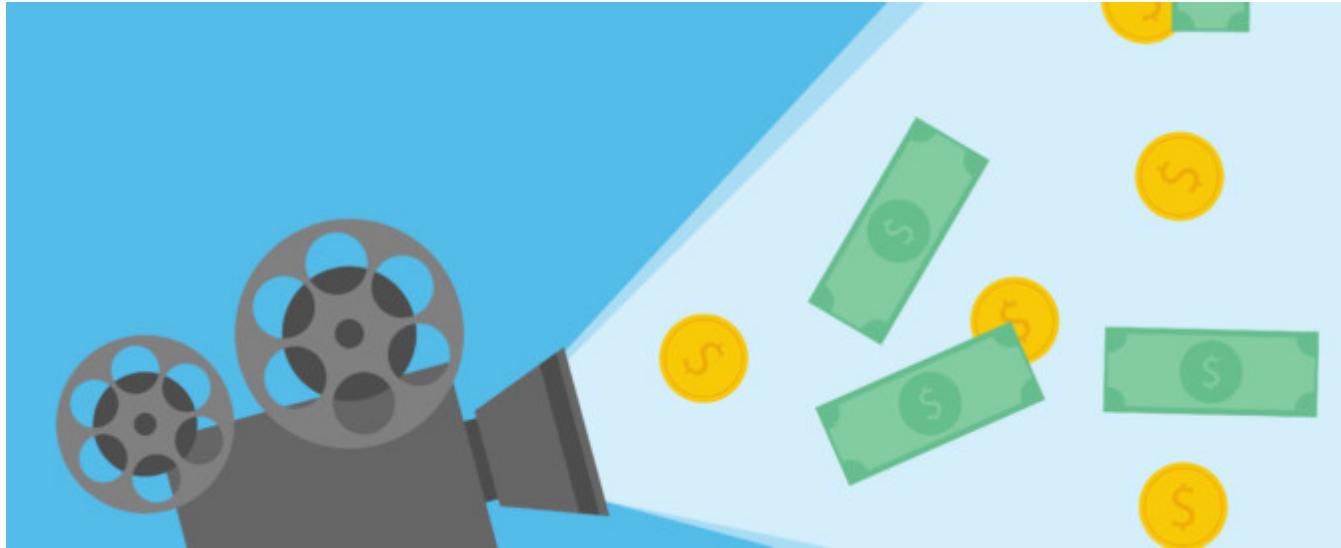


BROADCASTING IN SOUTH AFRICA

Category: Commercial Law, Media and OTT
written by Yashoda Rajoo | October 5, 2020



The media industry in South Africa does have a system of self regulation, however, it is also subject to various regulatory systems in the public sphere. There are a few pieces of legislation and a few regulatory bodies that play a vital role in the industry.

The Broadcasting Act^[1] encourages the development of South African expression by providing a wide range of programming that refers to South African opinions, ideas, values and artistic creativity by displaying South African talent in radio and television programming and by making use of radio frequencies that are public property and that provide a public service necessary for the maintenance of national identity, universal access, equality, unity and diversity.^[2]

The broadcasting sector in South Africa is regulated by the Independent Communication Authority of South Africa ("the Authority"), which is the main point of contact for economic and social regulation of broadcasting. The broadcasting sector is made up of "public", "commercial" and "community" broadcasting services, regulated by the Authority in terms of section 192 of the Constitution.

The main activities the Authority focuses on are *inter alia*:

implementing broadcast legislation and administering the broadcasting sector;

monitoring whether broadcasters are fulfilling their legal obligations and imposing sanctions if necessary;

awarding broadcast licences;

developing, prescribing and reviewing a code of conduct according to which complaints will be dealt with by a complaints and compliance committee ("the CCC")^[3]; and

promoting investment and universal access to modern global digital convergence networks and services.

The CCC, an independent tribunal of the Authority, has jurisdiction over election complaints as well as complaints about content against broadcasters who are not members of the National Association of Broadcasters ("the NAB").

The NAB is the representative body for the South African Broadcasting industry. The Broadcasting Complaints Commission of South Africa (“**the BCCSA**”) is the regulatory arm of the NAB. However, the BCCSA is an independent judicial tribunal, not subordinate to the NAB. The main functions of the BCCSA are to ensure South African broadcasters uphold the necessary codes of conduct, and to promote freedom of speech and access to information.

The BCCSA has a code of conduct^[4] for television and radio broadcasters (“**the Code**”). The Code has standards of acceptable conduct which broadcasters must comply with. It regulates issues such as violence, hate speech, issues affecting children, sexual conduct, the broadcasting of news, and public comment. If a member of the public feels that the Code has not been complied with, they can lodge a complaint with the Commission, which has the authority to sanction appropriate remedies, and modify any broadcast which may contravene the Code.

The Media Development and Diversity Agency (“**MDDA**”) is a statutory body which partners with government and broadcasting companies to develop and diversify community and small commercial media in South Africa. In terms of the MDDA Act, the general functions of the board are to identify historically disadvantaged communities and people not adequately served by the media and use specified criteria to select projects that require financial support.^[5]

In determining which community media, small commercial media, or research projects require support, the MDDA applies *inter alia* the following criteria:^[6]

the likely impact of the project on historically disadvantaged communities and persons inadequately served by the media;

the extent to which the project encourages ownership, control, participation and access to media by historically disadvantaged communities and persons not adequately served by the media; and

the extent to which the project develops human resources, training and capacity building within the media industry, especially amongst historically disadvantaged groups.

South Africa has a relatively diverse regulatory framework relating to the media and broadcasting industry. There are various role players who monitor and govern various aspects of the sector in an attempt to ensure fair and diverse broadcasting. The empowerment of previously underrepresented persons is aided by our legislative and regulatory framework. Finally, all members of the public are able to contribute meaningfully to ensure that the media and broadcasting industry is held to a high ethical standard.

[1] 4 of 1999

[2] Preamble

[3] Established in terms of section 17A of the ICASA Act

[4] https://bccsa.co.za/wp-content/uploads/2015/12/BCCSA_Broadcasting_Code_NEW.pdf

[5] Section 14

[6] Section 2 of the Regulations in terms of section 22 of the MDDA Act