



3 January 2014

Submission on the Proposed Amendment of the Broadcasting Digital Migration Policy

1. The Association of Community Television South Africa ("Act-SA") represents all the existing community television licensees in South Africa, namely Soweto TV, Cape Town TV (CTV), Bay TV, One KZN, Tshwane TV, North West TV and Bara TV.
2. Community television represents a bottom-up, people-centred approach to broadcasting and fills a critical gap in South Africa's commercially-dominated broadcasting landscape. Members of Act-SA are committed to a range of common values, including a people-centred rather than profit-driven approach to broadcasting, editorial and fiduciary independence, freedom of speech and community participation.
3. Act SA has consistently opposed STB control and has made presentations to the Department of Communications explaining our concerns. We are very disappointed that the Department has disregarded the views of community TV and published draft amendments which require all free-to-air STBs to have STB control.

4. BACKGROUND

- 4.1. Act-SA participated in the Roundtable Discussion convened by the Minister in September 2013 on the issue of STB control.



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- 4.2 During this process, Act-SA joined the SABC, the emerging manufacturers and Multichoice in opposing the inclusion of STB control in the free-to-air set-top box. The only party which supported the inclusion of STB control was e.tv
- 4.3 Act-SA's reasons for opposing the inclusion of an STB control system were briefly as follows:
- 4.3.1. The encryption of all free-to-air services and the deployment of an STB control or conditional access system to decrypt or unscramble these services is simply another kind of E-Toll! It takes away an individual's right to free and unrestricted access to free-to-air broadcasting services.
- 4.3.2. The implementation of STB control will result in the end of "free to air" television as it is available to viewers in South Africa today;
- 4.3.3. This system will impose a fundamental change in how the South African public accesses public, commercial and community free to air television;
- 4.3.4. The system benefits only the chosen few who have vested interests in a short term technology which has no added value to the poor and will be out-dated before it even starts, because of delays in the DTT roll out programme;
- 4.3.5. The system is only for commercial gain and is not sustainable long term;
5. When we consider that every party to the Roundtable Discussion (other than e.tv) was opposed the inclusion of STB control, we are surprised at the language which the Minister presented to Cabinet and the language which now appears in the proposed amendments.
6. At first glance, the decision seems to suggest that STB control is not mandatory, but the opposite is true. Only the use of the STB control is not mandatory, but all free-to-air STBs must have an STB control system.
7. It is also surprising that the Minister went ahead and made a decision on the issue of the STB control system, when we raised the e.tv case. The judge found that "the Minister has no legal power to prescribe or make binding decisions relating to set top box control".
8. It is highly unlikely that the Minister and the Department were unaware of the judgment before the Roundtable, but we specifically raised this issue and it seems that this point has either been



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overlooked or deliberately ignored. The Department has not explained what changed since the court judgment to now give the Minister power to make decisions relating to STB control.

9. It is not legal for the Minister to make a policy on STB control when the court has decided that the Minister does not have this power. This does give grounds for the policy to be reviewed.

10. NEXT STEPS

10.1 The Department should not make decisions to the detriment of the poor and at the expense of the Tax payer

10.2 We have never supported STB control, it is not in the best interest of the country and overall objectives of DTT will be compromised. The proposed amendments will only further individual greed and personal wealth to the detriment of the poor and South Africans at large

Act SA believes that set top box control is ultimately NOT in the public interest and should not be allowed.

10.3 The Minister should not force STB control to be included in free-to-air STB. Not only is STB control not in the interest of the country, the court has said that the Minister has no power to make decisions on STB control.

10.4 If anyone must decide on STB control, it should be the free-to-air TV broadcasters which includes the community TV broadcasters represented by Act SA

10.5 Act SA wants to ensure maximum access to free-to-air broadcasting services, rather than add expenses and restrict individuals from free information. Instead of focusing on STB control, the Department should mobilise and encourage all to participate in educational and awareness Campaigns which will minimise the ignorance about the community and social issues related to digital migration in South Africa

THANK YOU



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