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GOVERNMENT NOTICE

INDEPENDANT BROADCASTING AUTHORITY

No. R. 661

2 May 1997

REGULATIONS RELATING TO THE IMPOSITION OF SPECIFIC BROADCASTING LICENCE CONDITIONS REGARDING LOCAL TELEVISION CONTENT FOR PUBLIC AND PRIVATE TELEVISION BROADCASTING SERVICES

The Independent Broadcasting Authority has under sections 53 (1) (v) and (vi), 53 (2), 53 (4) and 53 (5) read with section 78 (1) of the Independent Broadcasting Authority Act, 1993 (Act 153 of 1993), made the regulations in the Schedule.

SCHEDULE

1. PREAMBLE

The objective of these regulations is to develop, protect and promote a national and provincial identity, culture and character. In achieving this these regulations will seek to promote programming which:

- 1.1 is produced under South African creative control;
- 1.2 is identifiably South African, is developed for South African audiences and which recognises the diversity of all cultural backgrounds in South African society;
- 1.3 will develop a television industry which is owned and controlled by South Africans;
- 1.4 will establish a vibrant, dynamic, creative and economically productive South African film and television industry.

2. DEFINITIONS

In these regulations any word to which a meaning has been assigned in the Independent Broadcasting Authority Act (Act 153 of 1993), as amended, shall have that meaning unless the context indicates otherwise.

- 2.1 "Animation" means any form of television programming in which the images of character and action are made by photographing drawings, puppets or similar images in order to create the illusion of movement and includes such images created by computers;
- 2.2 "Children's programming" means programming in any format, which is specifically produced for persons under the age of 15 years, which contributes to the well-being and social, emotional and intellectual development of persons in this age group, which are made from their point of view, and which are broadcast at times of the day when persons in this age group are available in substantial numbers to watch;
- 2.3 "Co-production" means a programme produced under circumstances in which the persons referred to in section 53 (1) (ii) or (iii) of the Act have at least equal decision-making responsibility with the co-venture partners in respect of all the creative elements of the production;
- 2.4 "Current affairs programming" means programming that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- 2.5 "Documentary drama" means a fully scripted screen play in which the central theme is an event or events which actually occurred and in which actors are used to play the part of real characters who were involved in the events portrayed.

- 2.6 "Documentary programming" means a factual treatment or analysis of people, events or social issues, whether past or present, with a normal minimum duration of about half an hour with a single theme.
- 2.7 "Drama" means an audio-visual interpretation whether involving live actors or animation of a fully scripted screenplay or teleplay, literary work, dramatic work, folklore or improvised storytelling or performance, in which the dramatic elements of character, theme and plot are introduced and developed so as to form a narrative structure. It includes genres of drama such as situation comedy, soap operas and other genres in any of the following formats: one-off dramas including feature films, tele-plays and tele-movies, animated dramas, episodic drama series, serial dramas, mini-series and documentary drama.
- 2.8 "Educational programming" means programming in any format, specifically and primarily designed to support structured educational activity whether such structured activity relates to institutional-based education or to non-institutional-based learning;
- 2.9 "Informal knowledge-building programming" means programming in any format which provides information on subjects such as, for example, science, technology, health, law and citizens' rights, religion, business, finance and the natural or built environment;
- 2.10 "Key personnel", as contemplated in section 53 (1) (a) (v) means the director/s, writer/s, at least 50% of the leading actors appearing in the programme, at least 75% of the major supporting cast, the production designer, the director of photography, the editor and the composer of original musical score;
- 2.11 "Post-production" means the processes following completion of production including the editing of images and sound, creation of special visual effects, subtitling, processing and duplication of programmes as well as any other process necessary for the completion of the production.
- 2.12 "Prime time" means the period between 18H00 and 22H00 every day;
- 2.13 "Produced" means a process of acquiring and/or developing a story or programme theme, selecting and engaging key creative personnel and exercising control over decisions relating to the development, costing, pre-production, production and post-production of the programme;
- 2.14 "Production" means the recording of images and sound to form the substantial and integral part of the programme.
- 2.15 "Production costs" in circumstances referred to in section 53 (1) (a) (vi) of the Act means at least 80% of the pre-production and production costs are incurred in the Republic and that the post-production costs are wholly incurred in the Republic;

2.16 "South African drama" means drama programming which consists of local television content and in which South Africans have exercised direction over the creative and administrative aspects of pre-production, production and post-production. South Africans will be taken to have exercised such direction if:

2.16.1 in the case of programmes which have been produced in terms of section 53 (1) (I), (ii), (iii) or (iv):

- (a) the director or directors of the programme and/or the writer or writers of the programme are South African; and
- (b) not less than 50% of the leading actors appearing in the programme are South African; and
- (c) not less than 75% of the major supporting cast, are South African; and
- (d) not less than 50% of the crew are South African; and
- (e) the post-production is wholly done in South Africa.

2.16.2 in the case of programmes produced in terms of section 53 (1) (v) and (vi):

- (a) the key personnel are South African; and
- (b) not less than 50% of the production crew are South African; and
- (c) the post-production is wholly done in South Africa.

2.17 "South African television performance period" means the total number of hours between 05H00 and 23H00 every day.

2.18 "Subscription service provider" means either a person engaged in the compilation of programme material or the holder of a television broadcasting licence for the provision of a subscription television broadcasting service to South Africa whether such service is of a terrestrial or non-terrestrial nature;

2.19 "the Act" means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993)

3. PUBLIC TELEVISION LICENSEE

3.1 A public television licensee must ensure that after five years of these regulations coming into effect in the case of an existing licence holder and within eighteen months of the issue of a licence or such longer period as the Authority may determine, at least 50% of its programming during the South African television performance period and during prime time consists of local television content.

3.2 Where a public television licensee provides a broadcasting service which has more than one channel, that licensee must ensure that after two years of these regulations coming into effect across all channels a weekly average of 30% local television content during the South African television performance period is achieved, provided that on any one channel the licensee broadcasts a minimum of 25% local television content.

3.3 In complying with its obligations in terms of Sections 3.1 and 3.2 above a public television licensee must ensure that at least:

- i) 20% of its drama programming consists of South African drama;
- ii) 80% of its current affairs programming consists of South African current affairs;
- iii) 50% of its documentary programming consists of South African documentary programming;
- iv) 50% of its informal knowledge building programming consists of South African informal knowledge building programming;
- v) 60% of its educational programming consists of South African educational programming;
- vi) 50% of its children's programming consists of South African educational programming.

4. PRIVATE TELEVISION LICENSEES

4.2 The private television licensee must ensure that after two years of these regulations coming into effect or such longer period as the Authority may determine, a weekly average of 20% of its programming in the South African television performance period consists of local television content.

4.1 A private television licensee must ensure that at the commencement of its broadcasting service it achieves a weekly average of 10% of local television content during the South African television performance period.

4.3 In complying with its obligations in terms of Section 3.1 above, a private television licensee must ensure that at least:

- i) 10% of its drama programming consists of South African drama;
- ii) 50% of its current affairs programming consists of South African current affairs;
- iii) 25% of its documentary programming consists of South African documentary programming;
- iv) 25% of its informal knowledge-building programming consists of South African informal knowledge-building programming;
- v) 20% of its children's programming consists of South African children's programming.

5. SUBSCRIPTION TELEVISION SERVICE PROVIDERS

- 5.1 A private subscription television service provider must ensure that a weekly average of 5% of its programming, or some greater proportion as may be determined by the Authority, during the South African television performance period consists of local television content within such categories as the Authority may determine.
- 5.2 Where a portion of the broadcasting service of a private television subscription provider is unencoded, then for the duration of that unencoded portion, it must ensure that a weekly average of 20% of its programming consists of local television content within such categories as may be determined by the Authority.
- 5.3 The Authority may, in lieu of the obligations on the private subscription television service provider in terms of sections 4.1 and, only in respect of its encoded broadcasting service referred to above, direct that the licensee must expend a specified sum of money as may be determined by the Authority on programming which has a local television content.

6. INDEPENDENT TELEVISION PRODUCTION

- 6.1 Public and private television licensees and subscription television service providers must ensure that at least 40% of their local television content programming consists of programmes which are independent television productions and the independent television productions are spread reasonably evenly between, where applicable, South African drama, South African documentary, South African informal knowledge-building, South African children's and South African educational programming.

7. RECORDS

- 7.1 Public and private television licensees and subscription television service providers must keep and maintain logs, statistical forms and programme records in a format specified by the Authority:-

- (a) full particulars of all local television content programming broadcast in each week, indicating each category of local television content, as defined in 3.3. and 4.1. and
- (b) such other particulars as may be required by the Authority

- 7.2 The logs, statistical forms and records contemplated in sub-regulation (1) must be preserved for a period of not less than 36 months after the last date of entry.

8. REVIEW OF REGULATIONS

- 8.1 The Authority may, two years after these regulations have come into effect, hold an inquiry to review the performance of a licensee's achievement of the local content quotas specified in these regulations.

- 8.2 In reviewing the performance of the licensee the Authority shall determine the procedure to be followed during the inquiry.
- 8.3 The Authority shall consider submissions made by the licensee and any interested person on its capacity to fulfil the local content quotas and may make such determination as it considers equitable in the circumstances.

9. NAME OF REGULATIONS

These regulations may be cited as the Independent Broadcasting Authority Local Television Content Regulations of 1997.

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