

## **The Funding of a Public Service Broadcaster in View of Competition: A South African Perspective \***

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**Abstract.** The South African public service broadcaster (SABC) was transformed significantly by the Broadcasting Act 4 of 1999. Since the transformation, there have been many developments that have had an impact on the broadcasting industry, in particular public service broadcasting. The developments in the broadcasting industry left the SABC with serious financial problems. It also had to contend with other problems such as management and the issue of focusing on its mandate. This triggered intervention from the government in an effort to rescue the SABC from the disaster. There is currently a high rate of non-payment of television license fees. Further, the public service broadcaster is competing with commercial broadcasters which make it difficult for the SABC to focus on its mandate. In view of these problems, it is important to explore some of the issues which could resolve some of the problems faced by the public broadcaster. Most recently, the Department of Communications made an announcement about a discussion paper which will focus mainly on reviewing the Broadcasting Act, restructuring and shaping of the SABC.

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### **1 Introduction**

Public service broadcasting, particularly television, is designed solely to improve the lives of the members of society (Tracey, 1998). It informs and gives feedback of all the activities to society. As a result, it is not only a platform for communication and the exchange of ideas, but also a way of influencing the public and developing the community. The Broadcasting Act 4 of 1999 provides for a charter which governs the public service broadcaster.

In view of the mandate given to the public service broadcaster (SABC or South African Broadcasting Corporation), the question is whether the current licensing and funding scheme will enable the public service broadcasters to survive the competition from other commercial broadcasters. This paper is inspired by the financial status of the SABC, the manner in which it is funded and the presence of competition within the broadcasting industry.

### **2 Public service and commercial broadcasters**

Broadcasting in South Africa is regulated by a governing body (ICASA) established by the Independent Communications Authority of South Africa, Act 13 of 2000 as amended (ICASA Act). A broadcaster must be in possession of a broadcasting licence issued by ICASA before it can provide such service (s 4(5) of the Broadcasting Act). The licence can be for public (which is limited to the SABC), commercial, or community broadcasting services (s 5(1) of the Act). Further, ICASA prescribes the content or programming which may be broadcasted by both public and commercial broadcasters (Skinner & Limptlaw, 2009).

### **3 Forms of Funding**

In terms of section 10 of the Broadcasting Act, public service broadcasting may be funded by revenues from advertising, sponsorships, donations, state grants and television license fees. This section enables the public service broadcaster to use all possible avenues to fund its services. Commercial broadcasters may draw their revenues from advertising and sponsorships. However, their main source of funding is advertising. So, both the

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\* This paper was originally published in Kierkegaard, S. (2009) *Legal Discourse in Cyberlaw and Trade*. IAITL.

public service and commercial broadcasters need advertising revenue to fund their programming and broadcasting services.

### *3.1 State Funding*

In addition to any other method of funding the public broadcaster, a state grant is also available specifically to fund educational programmes and certain specified projects. However, the state grant constitutes only 2% of the public broadcaster's revenue (Mawson, 2009; Qunta, 2009). This pressurizes the public broadcaster to be more dependent on other methods of funding.

### *3.2 Television License Fees*

#### *3.2.1 The Position in terms of the Broadcasting Act*

In terms of section 27 of the Broadcasting Act, no person can buy/own/possess or use a television set unless that person is in possession of a valid television license. A television set is defined as a device designed or adapted to be capable of receiving a broadcast television signal, including a personal computer fitted with a television tuner card, and a video cassette recorder (VCR) connected to a monitor or television screen (section 1 of the Broadcasting Act as amended). A television license fee is payable regardless of how the television set is used. However, a person is exempted from paying a television license fee if his or her television set is denatured (meaning that the tuner of the television set is removed so that it does not receive a signal). In fact, a television license fee is payable even if the television set is not used at all. Besides, a television set can be used for many things other than to watch public service broadcasting or to receive a television signal. This provision is so broad to ensure that everyone who possesses a television set pays a television license fee. However, there are circumstances under which a person will not be obliged to pay a television license fee.

#### *3.2.2 Exemption from Paying a Television Licence Fee*

A person is exempted from paying a television licence fee if his or her television set is denatured. However, it is uncertain whether a High Definition (HD) Personal Video Recorder (PVR) Digital Satellite Television (DSTV) subscriber who uses a computer monitor to watch DSTV channels will be liable to pay a television license fee or not. The same applies in respect of a cellular phone pay television offered by Vodacom to Vodacom subscribers (cellular network provider). Further, since South Africa is migrating from analogue to digital television (Mochiko, 2009), after 2011 owners of analogue television sets will not be able to receive a television signal (except DSTV subscribers). They will have to purchase a set-top box (STB) in order to receive a digital television signal from the public service broadcaster. The big question is, will the analogue television set users who did not buy a STB be obliged to pay a television license fee for television sets which do not receive a television signal, because a television license fee is payable regardless of how the television set is used? However, the public broadcaster sees the switch over as an opportunity to recoup television license fees.

#### *3.2.3 The Position of Television Licence System in Spite of the Challenges*

The SABC's Annual Report of 2007 - 2008 highlighted the difficulties associated with the collection of television license fees. Although the public service broadcaster uses its own division to collect the television license fees, much of the license fees collected are used to pay entities and private suppliers who assist the public service broadcaster in collecting the television license fees. It was showed that out of R739 million collected as license fees (17% of the SABC's total revenue), R201 million was used for collections and administration, resulting in only R539 million transferred to the public service broadcaster (Government Gazette 32420). Is this the direction which poor citizen's money should go? I do not think so.

It would be much appropriate if the television license fee is incorporated in the tax levies paid by taxpayers to South African Revenue Services (SARS). In this way collection fees will be directed towards the public service broadcaster. Malaysia uses a body like SARS to collect television license fees. Similarly, the largest broadcasting corporation in world, BBC, is funded by the public purse and further supplemented by its commercial arm. South Africa has been following a similar method of funding as BBC. However, in South Africa there is a high percentage of non-payment of television license fees. Further, the sale of South African broadcasting programmes abroad is limited owing to language difference.

Television license fee may be the appropriate way of financing the public service broadcaster, but the manner in which it is enforced is not effective for South Africa. What is appropriate for other countries will not necessarily be viable for South Africa. It is therefore important not to always assume that the best international practices will be effective in the South African perspective. The reason for this submission is that, most of the South African households earn very little salaries which have a negative impact on payment of television license fees. In as much as the South African community wants to pay a television license fee, they just cannot afford it. Factors which also contribute to non-payment of television license fees include joblessness and the fact that South Africa is a developing country.

Many poor people, who aspire to own a television set, do not budget for the payment of a television license fee before making their purchase. Further, their inability to buy a television set from a retailer who is by law forced to require a valid television license, drives them to buy from other less regulated channels. One of the factors to consider in trying to make the television license fee system effective is that, a television license fee should not be payable when a person owns, buys or uses a television set. Instead, a television license fee should be paid by taxpayers earning a prescribed amount per annum. This would mean that only those who can afford a television license fee must pay (Kupe, 2009). Automatically, those who earn less than the prescribed amount would be exempted from paying a television license fee. Further, the sale of television sets will no longer be affected by the requirement of a valid television license. Most importantly free-to-air commercial broadcasting will practically be free in the true sense of the word.

### 3.3 Advertising

The public service broadcaster had to find other methods of funding in addition to television license fees, grants and state funding. The public service broadcaster had to, through its commercial arm or division, compete with other commercial broadcasters. The public service broadcaster's direct competition with commercial broadcasters is strategically problematic (Nissen 2006). Further, advertising revenue is dependent on the behaviour of the market and the audience which the broadcasters attract. This poses a serious threat to the sustainability of the public service broadcaster, and can be evidenced by the current financial problems experienced by the SABC during the global economic crisis. Some countries see advertising revenue as the second most important source of funding unlike in South Africa, whereby advertising is the most important source of funding. In South Africa, 77% of the public broadcaster's revenue emanates from advertising. This dilutes the whole mandate of public broadcasting. The dilution is witnessed by the fact that there is high competition of advertising than of achieving its public mandate. It was stated in the SABC 2008 Annual Report that the SABC need a healthy model of funding than over-reliance on commercial revenue. Such over-reliance on advertising revenue makes the public service broadcaster keen to broadcast programmes which attract advertisers. Further, advertisers will eventually have the potential to influence programme content of the public service broadcaster.

The current switch over from analogue to digital broadcasting will lead into more television channels and new broadcasters entering the market. Further other methods of e-marketing or advertising will grow, for example email-marketing and internet. Eventually, advertising will no longer be the main source of funding the public service broadcaster because other methods of advertising will be used. Increased competition in advertising will decrease the public service broadcaster's revenue which is derived from advertising. Once this materializes, a public service broadcaster like the SABC will close down. In view of this, a different mode of funding is required.

France has just followed the BBC's model by banning advertising during primetime. This shows what the public service broadcaster can do to attract advertisers than to perform or deliver public service broadcasting.

## 4 Competition

### 4.1 A Brief Background on Competition Law

The purpose of the Competition Act 89 of 1998 is the maintenance and promotion of high levels of competition in order to facilitate the realisation of a number of economic and social objectives (Neethling, 2008). One of these objectives is the provision of competitive product and service choices to consumers (section 2 of the Competition Act). Equally, the Broadcasting Act includes as one of its objectives, to ensure a fair competition within the broadcasting industry, and the development of a policy to ensure that there is fair competition in the provision of programmes and services.

#### *4.2 The Competition between Broadcasters*

Public service broadcaster provides service to the society, in order to better the lives of individuals within a community. In achieving that, the public service broadcaster should not operate in competition with other commercial broadcasters. Although the public service broadcaster can compete with other commercial broadcasters, as it is currently the position, this should not be the approach to follow in order to sustain public service broadcasting in South Africa. Instead, the public service broadcaster must focus on delivering its social mandate and not try to commercialize itself (Dimmick, 2003). The public service broadcaster must actually work together with commercial broadcasters since they provide almost similar services and they are all regulated by ICASA in providing those services. The ideology behind this is that, the public service broadcaster must fill the gaps which are not covered by commercial broadcasters (Prosser, 2005). In this regard there must be a complete separation between commercial and public service broadcasting. So, for the public service broadcaster to provide public service and commercial broadcasting is quite disturbing and contradictory.

Gordon (CEO of ETV, a commercial broadcaster, 2004) stated that the inherent unfairness in the broadcasting industry lies in the SABC's access to licence fees, state funding and advertising whilst the commercial broadcasters rely solely on advertising revenue, yet their content is regulated. In addition, they still have to compete with the SABC, which is advantaged by law as a public service broadcaster. I concur with Gordon. The public service broadcaster might charge advertisers lesser fees than it would have if it were a full commercial broadcaster. In fact, the public service broadcaster must attract viewers by broadcasting programmes in accordance with its mandate, which is to educate, entertain and inform the society. It must not attract viewers by commercially competing with other commercial broadcasters for advertising revenue.

In terms of the television license fee system in place (no person can purchase a television set without a valid television license), the SABC must be paid before a consumer can purchase a television set to subscribe to other commercial broadcasters or even to watch a free-to-air television channel. This indirectly prevents consumers from receiving services offered by other commercial broadcasters, and from exercising their right of choice. This is in contrast with the preamble of the Competition Act which entitles consumers the right to select products or services they desire. Further, other commercial broadcasters might lose business because of the lack of audience who did not have a valid television license when trying to buy a television set. I am of the view that the compulsory television licence fees for the purchase/use of a television set are in clear breach of competition law principles. For example, a person is not required to have a valid car license registration or driver's license for buying a car for cash (only required when driving on national roads); a person is also not required to have a Telkom landline (State Telecommunication Company) to access other communication services. Similarly, a person must not be required to pay a television license fee to buy a television set. A method to fund the public service broadcaster, which does not affect the sale of television sets and other products like, cellular phones and automobiles with a television set, is required. So collection of television license fees through SARS from taxpayers who earn a prescribed amount as suggested above could alleviate the unnecessary breach of competition laws. Further, fees paid for collection and administration of television license fees will be used for public service broadcasting.

## **5 Recommendations**

Public service broadcasting is an important mode of informing South Africans. As a result, a sustainable method of funding is crucial. Funding from the state has been and still is very small to enable the public service broadcaster to provide its services to the public. Public funding through television license fees constitutes 17% of the public broadcaster's revenue, owing to fact that most South Africans cannot afford a television license fee or are unemployed. Further, part of the license fees collect is used to pay collectors. All of this made the public service broadcaster to over depend on advertising revenue (77%). Reliance on advertising revenue makes the public service broadcaster to compete as far as possible with other commercial broadcasters. It always strives for its market share of audience. This then dilutes the purpose of a public service broadcaster to become more commercial. In view of technological development and competition in the advertising industry I therefore recommend the following:

- Payment of a television license fee must be seen as a responsibility which citizens of the country deem necessary. It should not be some form of coercion as it currently stands.
- The public must receive value for their money, which can only be assured through transparent and accountability processes.

- The SABC must also decide on whether it wants to be a full public service broadcaster or a commercial broadcaster. There must be a clear and complete separation between the public service broadcaster and a commercial broadcaster.
- The SABC must not see itself as a competitor of any broadcaster; instead it must focus on achieving its own mandate. This can be achieved if a good funding method is in place which will not pressurize the public service broadcaster to look for revenues elsewhere.
- The SABC must actually lead other broadcasters in the broadcasting industry rather than dominate the industry and become more commercial.
- The legislature must also not use its power to advantage the public service broadcaster. Instead it should promote the interest of the public in public service broadcasting, and further consider the interests of commercial broadcasters and their role in the society.
- It can only be in the interest of the public service broadcaster and the public if the national lottery is one of the funding methods of public service broadcasting.
- The number of commercial broadcasters in South Africa must be increased, but not as divisions of the public service broadcaster. Those commercial broadcasters could be charged a prescribed fee towards funding public service broadcasting.

## 6 Conclusion

South Africa is a developing country with its citizens not fully participating in the economy of the country. This can be evidenced by the high rate of non-payment of television license fees. As a result, when public funding of the public broadcaster is considered, the economic background of South Africans must not be disregarded. The increment of television license fee is not a solution. Instead, a television license fee should be incorporated in tax and collected through SARS. Further, the public service broadcaster must adhere and comply with its mandate, and avoid prioritizing advertising, which conflicts with the public's interests.

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