



# CRAN

Communications Regulatory Authority of Namibia



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# Proposed Code of Conduct for Broadcasting Licensees

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# Introduction

- Drafted under section 89 of the Communications Act
- BC issued in compliance with Act
- Prior publication and consultations
- Submissions received on 2017 publication thoroughly reviewed
- Additional comparative research done
- Revised BC published for stakeholder input

# Prior Publication & Consultations

- The Authority held a consultative meeting 22 April 2015
- The first draft Broadcasting Code was published in the Government Gazette No. 6097 of 18 August 2016, Notice No. 343
- Subsequent thereto a public hearing was held on 5 September 2016
- Written submissions were received as well as oral submissions at the hearing
- Revised BC published on 30 June 2017 in Government Gazette No. 6351, Notice 343 of 30 June 2017 plus public hearing

# Purpose of Broadcasting Code

## Overarching objectives

- The independent regulation of broadcasting services
- Ensuring that access to broadcasting services and broadcasting content is in the public interest
- Attaining availability of local content, commitment to public debate and discussion as well as transparency and accountability
- Meeting diverse needs of Namibian audiences

# Contents Covered

- Freedom of expression
- Protection of privacy, children, victims of abuse and from inappropriate content
- Hate speech
- Inequality of discrimination
- Promotion of pluralism & national creative identity
- Serving cultural and educational needs of public

# Applicability of the Code

- The BC applies to:
  - all commercial and community broadcasting service licensees unless exempted
  - Pursuant to section 93 of the Act, the BC will be made applicable to the NBC

# Selected Definitions

- Local content definitions
  - Local content music
  - Local content programme
  - Namibian language
  - programme
- Position of advertisements\*

\* CRAN in 2017 noted the comments and removed the advertisement provision from the BC. A study will be conducted to make a determination on advertisement regulation and separate regulations on advertising will be considered.

# General Provisions

- Mainly remained the same but comments on refinement of text were incorporated
- Reviewed applicability to especially subscription TV broadcasters and added exemptions
- Added flexibility and pragmatic alternatives where appropriate
- Specific exemptions where subscription TV broadcaster does not have editorial control and cannot, within reason, effect compliance
- General exemption clause

# Elections & Referendums

## Authority's consideration

- Largely unchanged
- No comments received on this Part of the BC

# Principles underlying Local Content

- Realistic and practical rules with suitable criteria for promotion & protection of local content
- Promoting role of broadcasters re developing & reflecting Namibian identity, character and cultural diversity
- Increased audience access to local content
- Minimising displacement of Namibian local sector
- Promoting freedom of expression & cultural rights through pluralism and diversity
- Implementation of local content through appropriate legal dispensation
- Recognising differences between different broadcaster types
- Allowing phasing in period – progressive implementation
- Layered approach with periodic measurement
- Periodic review

# Local Content – Discussion of Comments

- Contentious and topical
- Objection against specific prescribed percentages
- Lack of availability of local content in Namibia
- A broadcaster's content is driven by audience preference and different local content may result in audiences migrating
- Record keeping requirements are too stringent and costly
- Financial impact of local content requirements
- Local content requirements should only be for NBC
- Broadening of local content definition to include sport, adverts, news, etc
- Need to recognize the differences between broadcaster types
- Broadcasters will have to all use same local content due to limited production in Namibia and sound the same

# Doctrines underlying Local Content Regulations

- Extended definition of Namibians qualifying as local content
- Wider definitions on local content music and programmes
- Retaining performance period in order to be meaningful and for purposes of measurement
- Distinguishing between different broadcaster types
- Retaining certain exclusions but excluding them from total local content period
- Introducing lower percentages
- Phasing-in period to remain three years
- Addition of a general exemption and/or variation clause
- Simplified record keeping requirements
- Review by Authority

# Local Content Regulations

- Objectives
- Obligation on broadcasters to develop a local content policy within 12 months after commencement
- Local content requirements (3 year phasing-in):
  - Radio – 15% of music
  - Commercial TV – 10% of programmes
  - Community TV – 15% of programmes
  - Subscription TV – 1.5% of annual revenue on acquisition/development
  - NBC – 30% of programmes and music

# Local Content Regulations cont

- Measurement of local content
  - Performance period
  - 12 month reporting period
  - Exclusions (news, sport events, games, promotions, etc, adverts, shopping and teletext)
  - Repetitions

- $\frac{A}{C - B} \times 100$

where

A = total number of hours or time the broadcasting licensee broadcast applicable local content during the performance period

B = total number of hours or time broadcasting licensee broadcast exclusions set out in sub-rule (4) during the performance period

C = total number of hours or time the broadcasting licensee broadcast programmes or music (including local content programmes and music) during the performance period

and multiplied by 100 to obtain a percentage.

# Local Content Regulations cont

- Exemption/variation clause
- Record keeping requirements
- Supervision by Authority

**Thank you!**