

Independent broadcasting regulator

Why Regulate?

Under the World Trade Organisation (WTO) Agreement on Telecommunications of 1997 increasing numbers of governments have agreed to set up independent regulators for the broadcast and telecommunications sectors.

Broadcasting has an impact on the cultural life of the audience it serves and contributes to shaping national identities and social representation. This immense power should bear with it certain responsibilities relating to the quality of service and content. An independent body is needed to ensure fairness and public interest.

Governments have tended to keep control of the broadcast media for their political purposes. However, by its very nature the broadcast media has a major role to play in the realisation of human rights such as the right to communicate, including freedom of speech and access to information, and must be managed impartially, without political or economic influence, in the public interest.

Why Independent Regulation?

- independence = fairness and transparency in broadcast licensing allocation
- independence ensures the best balance between public interest and service provider interest
- independence promotes plurality, diversity and access in broadcasting

Members of the Governing Board

Members of the governing board of the Regulator should be independent. This means that public servants, members of Parliament and office-bearers of political parties should not be eligible to serve on the board.

Members should not maintain any interest (financial or political) that might compromise their ability to carry out their duties in a fair manner. They must represent the broad interest and not their specific interest.

Members should be appointed through an open and transparent process of public hearings to guarantee diversity of political orientation, ethnic, social and professional backgrounds.

Appointments should be made by an independent panel and should be limited to a fixed number of terms.

Financing of the Regulator

The financing of the regulator must be safeguarded against manipulation by interests such as political or business.

The Regulator can be financed from proceeds from the licensing of broadcasting and telecommunications operators (indirect funding).

The Regulator can also be financed from funds voted at Parliamentary level as a separate item falling outside the budget of state departments responsible for the broadcast and telecommunications sectors (direct funding).

Transparency and Accountability in Decision-making

The Regulator should be directly accountable to Parliament, while at the same time observing overall transparency to the public in all matters, but specifically decision-making.

Decisions on specific issues should be preceded by consultations to allow interested parties to make representations.

The Regulator's decisions and the full reasoning behind these should be published.

Regulatory Mechanisms

• Ownership

The allocation of broadcast licenses according to geographical areas ensures greater regional diversity and may be a factor in ensuring a greater proportion of local content.

A broadcast company may be limited to running two or more stations in non-bordering areas.

If broadcasters are allowed to run two stations in the same geographical area, they should provide different programming to ensure that a different audience is served.

• Programming

To promote diversity, the Regulator may award licenses to applicants that, despite having the same market, provide widely different programming profiles.

Content mix (news, current affairs, drama, music, talk) should play a role when aspiring broadcasters apply for a license. The Regulator can set specific requirements and quotas and seek special commitment to quality, high-cost programming such as news, current affairs, drama and local content.

Regulators can require international broadcasters to contribute to a local content development fund.

• Local support

The extent of local support for an applicant is indicative that the applicant will be able to count on support from potential local advertisers, maximized by programming suited to the needs of the audience.

• Expansion / Roll Out

Where conditions are likely to sustain more than one broadcaster in a specific area, license conditions for the area could stipulate that an applicant must provide projections for expansion of services to ensure that eventually services will reach and address the needs of the entire potential audience.

The license conditions could include targets in terms of households and geographic coverage to be met in the first and subsequent years of operation.

For more detailed information on broadcast regulation contact the MISA – Open the Waves Campaign

www.misa.org.na

www.broadcastingcharter.org

advokit@misa.org

MISA *media advocacy toolkit*

www.misa.org • email: advokit@misa.org

Promoting media diversity, pluralism, self-sufficiency and independence

