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**WRITTEN REPRESENTATIONS BY**  
**THE ALTERNATIVE INFORMATION DEVELOPMENT CENTRE (AIDC)**  
**ON THE PUBLIC SERVICE BROADCASTING BILL [2009]**

**15 January 2009**

### **Introduction**

1. In Notice No. 1409 published in Government Gazette No. 32663 dated 28 October 2009, the Department of Communications (DOC) published a “Public Service Broadcasting Bill, the Charter of the Corporation and the Charter of Community Broadcasting Services”. Written comments were initially invited for submission by 7 December 2009. After a public appeal the date was then extended to 15 January 2010.
2. We, the Alternative Information Development Centre (AIDC), thank the Ministry of Communications and the DOC for the boldness they have shown in opening broadcast legislation up for review. In particular we welcome the opportunity to make these written representations.
3. The AIDC was formed 12 years ago in response to the democratic transition in South Africa and the new opportunities and challenges it brought to those seeking greater social justice within the democracy. AIDC aims to strengthen the movement for social justice through the production of alternative media and by enhancing the institutional capacity of community media organisations and the communication capacity of progressive civil society organisations that facilitate a dialogue, giving voice to the poor and marginalised, locally and internationally.
4. AIDC is a member of the Civil Society Coalition SOS: Supporting Public Broadcasting and the National Community Radio Forum (NCRF). We endorse the submissions made by these bodies.
5. This AIDC submission is not a comprehensive response to the Bill, but rather focuses on aspects impacting on community broadcasting and emphasises aspects that are of most concern to us.

### **2. Organisation of our submission**

This submission is organised into three sections:

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### **3. Submission on the Values, Role & Purpose of Community Media**

#### **Noting that**

1. The Public Service Broadcasting Bill:
  - a. Prescribes that the goal of stations should be aligned to the “development goals of the Republic” and the developmental state.
  - b. Aims to prescribe a Charter for Community Broadcasters which prescribes:
    - i. That the primary role of community broadcasters is to provide information about the municipality and government and what it is doing. This suggests a more passive role for stations – as the vehicle through which information flows through to communities;
    - ii. That stations must forge partnerships with municipalities.
2. The National Community Radio Forum (NCRF) has developed a Charter that:
  - a. Reconfirms the South African community radio movement support for the definition of community broadcasting in the Windhoek Charter on Broadcasting in Africa (2001): “Community broadcasting is broadcasting which is for, by and about the community, and whose ownership and management is representative of the community, which pursues a social development agenda, and which is non-profit.”
  - b. Is governed by the principle that all Members of the National Community Radio Forum, whether they be stations, initiatives or service providers, are, or strive to be initiated, developed, owned, managed, staffed, mandated, monitored and evaluated by communities and are
    - Non-profit, non-discriminatory, non-aligned, non-partisan, non-exploitative;
    - Anti-poverty, anti-racist, anti-discriminatory;
    - Developmental, plural, sustainable, accountable;
    - Active, proactive, creative, innovative, collaborative, positive;
    - Affirming, uplifting, inspiring;
    - South African, African;
    - Local, global;
    - Pro-people, pro-dignity, pro-freedom, pro-security, pro-shelter, pro-peace, pro-democracy, pro-empowerment, pro-redress, pro-solidarity, pro-fairness, pro-humility, pro-humanity.
  - c. Shares a vision for the sector stating “the vision of the community radio sector is to advance **participatory democracy** towards sustainable development in communities. Participatory democracy encourages people to become involved in the decision-making process and to drive development. This means the station plays an active role in creating platforms for debate, discussion and the community is encouraged and empowered to shape their development and express their views freely”.
  - d. Supports and advocates the role that community media, and community radio in particular, can and must play in ensuring the protection of the rights of all people living in South Africa, as outlined in the Constitutional Bill of Rights.
  - e. Promotes and facilitates quality programming, underpinned by participatory research, which is informative, of good technical quality, and enhances people's development.

- f. Collaborates with communities in ways that support the fight against discriminatory practices that threaten equality, such as discrimination on the basis of race, ethnicity, nationality, religious belief, gender, sexual orientation, age, disability, poverty, HIV/AIDS status, or any other kind of discrimination that curtails a person's right to be treated equally by all other people living in South Africa.
3. Over time 'community media' has become associated with 'local media':
    - a. Many people – including leading academics – have come to define commercial newspapers owned and controlled by large media monopolies as 'community media'.
    - b. Programming and editorial with in community media projects have tended over time to focus on parochial issues.
    - c. Not sufficient programming/editorial attention is paid to the impact of national and international developments on local communities.
    - d. Not sufficient programming/editorial attention is paid to the developments of other communities.

**Therefore submit that**

1. The Public Service Broadcasting Bill should not include a Charter for Community Broadcasting.
  - a. An independent media, unlike other sectors like banking and mining, is critical to the sustainability of democracy. Yet the mining and banking sectors were empowered to develop their own Charters.
  - b. The community media sector should be governed by the its own Charter.
  - c. The NCRF Charter should serve as a basis for developing a Charter for the Sector and should be reviewed through a participatory and consultative process driven by the community media sector and amended to address the current context and all community media.
2. The concepts of a developmental state and the “development goals of the Republic” are contested by different interests in society; the developmental goals of the wealthy minority are often at odds with the developmental interests of the poor and working class majority.
  - a. The Bill should reaffirm the values, and role, and purpose of the Sector contained in the NCRF Charter.
3. Community media programming/editorial should provide significant coverage of developments internationally, nationally, and in other communities.
  - a. This coverage should focus on the implications for the community of developments beyond the community.
  - b. This coverage should also promote solidarity amongst poor and working class people across South Africa and the world.

## **2. Submission on Freedom of Expression & Access to Information**

### **Noting that**

1. The Public Service Broadcasting Bill:
  - a. Aims to prescribe a Charter for Community Broadcasters which prescribes:
    - i. That the primary role of community radio is to provide information about the municipality and government and what it is doing. This suggests a more passive role for stations – as the vehicle through information flows through to communities.
    - ii. Suggests that municipal officials can sit on Governing Councils.
    - iii. That stations must forge partnerships with municipalities.
    - iv. That stations must be located in municipal offices.
  - b. Gives the Minister Of Communications powers to issue directives to the SABC and community media on “any matter connected to public service broadcasting” if the entity is unable to “perform its functions as prescribed in this Act”.
2. The Right to Freedom of Expression is protected in the South African Bill of Rights.
  - a. The right to freedom of expression is of great importance in any democracy – more so in a participatory democracy.
  - b. Where information and ideas are not permitted to flow freely, good government and social progress are not possible. People cannot debate, dialogue and build consensus, government cannot respond to people’s needs if it does not know what their concerns and problems are.
  - c. If people can speak their minds without fear, and the media can report what is being said without interference, the government will have an opportunity to adjust its policies to meet the concerns of communities.
  - d. Respect for the right to freedom of expression necessitates the occasional toleration of critical, nonsensical and even offensive speech.
3. The Right to Access to Information is protected in the Bill of Rights.
  - a. Meaningful development that meets the real needs of poor and working class people requires that people are have the right of access to all and any Information.
  - b. The concepts of a developmental state and the “development goals of the Republic” are contested by different interests in society.
  - c. Only when ordinary poor and working class people are well informed can they provide content to the developmental state and the “development goals of the Republic” and shape in their own development.
4. For community media to fulfil its role in our participatory democracy – facilitating meaningful freedom of expression and access to information - it must be independent of the government and other powerful sections of society and accountable to the broader community that it serves:

- a. Resources from the state and other powerful sections of society should be mediated by bodies independent of the Executive arm of government and appointed through a public transparent and participatory process.
  - b. The state and political parties should have no role in the governance of projects. This should include individuals that hold senior or elected positions in the state or political parties.
  - c. Projects should be free to determine their means of media production and distribution – including projects’ means of signal distribution.
5. In many cases community media projects are dependent on government as a major advertiser/sponsor. This relationship has the potential to compromise the ability of stations to fulfil their role of enabling the right to freedom of expression and the right to access to information.
  6. The NCRF Charter prescribes that community media should:
    - a. Oppose any and all threats to freedom of expression and media freedom and diversity in South Africa, and showing solidarity with similar campaigns in Southern Africa, the African continent, and around the world.
    - b. Support and advocate the role that community media, and community radio in particular, can and must play in ensuring the protection of the rights of all people living in South Africa, as outlined in the Constitutional Bill of Rights.

**We therefore submit that:**

1. Any legislation or regulation impacting community radio must ensure that community media projects are independent of all powerful sectors of society including government, and accountable to the broader community they serve.
2. Regarding the prescriptive nature of the Public Service Broadcast Bill regarding the relationship with local government:
  - i. Government should not be represented on project Boards/Councils;
  - ii. Senior government officials and elected representatives of political parties should be barred from serving on Boards/Councils;
  - iii. Stations should be free to choose their locations and not be obligated to broadcast from local government offices;
  - iv. Stations should be free to negotiate the terms of partnerships with local municipalities if these extend beyond access to municipal information.
3. Regarding proposals in the Bill giving the Minister of Communications powers to issue directives to community media on “any matter connected to public service broadcasting” if the entity is unable to “perform its functions as prescribed in this Act”:
  - i. These powers potentially undermine community radio stations’ rights to freedom of expression and access to information.
  - ii. Rather, government should ensure ICASA has the necessary capacity to monitor compliance with relevant legislation and regulations and make necessary corrective interventions when non-compliance occurs.

### **3. Resolution on Community Media Sustainability**

#### **Noting that**

1. Community radio stations are unsustainable in the current regulatory environment.
  - a. The limited resources available to the Media Development and Diversity Agency (MDDA) force media projects to adopt commercial operating models, where advertisers and sponsors have an inappropriate influence on programming.
  - b. Stations do not have the resources to produce programming for the developmental needs of their communities.
  - c. Stations do not have the resources to facilitate the meaningful community participation that community media requires.
  
2. The Public Service Broadcasting Bill:
  - a. Introduces a new centralised Public Service Broadcast Fund to fund broadcasting to be administered by the Media Development and Diversity Agency, with the mandate to finance a wide-ranging set of functions, including the public service division of the SABC (together with regional television and international broadcasting services), content development, community broadcasting services, and signal distribution.
  - b. Aims to prescribe a Charter for Community Broadcasters that prescribes the size, composition and terms for governance structures, limiting the size of Councils/Boards to 9 people.
  - c. Designates Sentech as the common carrier.
  
3. The National Community Radio Forum Charter calls on community media to:
  - a. Reconfirm the South African community radio movement support for the definition of community broadcasting in the Windhoek Charter on Broadcasting in Africa (2001): "Community broadcasting is broadcasting which is for, by and about the community, and whose ownership and management is representative of the community, which pursues a social development agenda, and which is non-profit.
  - b. Uphold the sustainable development values that underlie the NGO/CBO/non-profit/civil society movement in South Africa and internationally.
  - c. Set an example for other civil society organisations by working with the community to establish and nurture legitimate and transparent structures for governance, management and operations, including a Board, a Management Team, and clear operational structures.
  - d. Develop and maintain accurate, efficient and transparent financial management systems, so as to prevent financial mismanagement and fraud, and adhere to standards for best practice in community radio development in South Africa and internationally.

#### **We therefore submit:**

1. Community media should have access to sufficient resources to produce programming and facilitate participatory process that ensure meaningful freedom of expression, access to information and community ownership and control of projects.
  - a. AIDC welcomes the proposed Public Broadcasting Fund.
  - b. The DOC should conduct research establishing the amount of money required to support an independent community media sector. This research should be made public.

- c. The Treasury should allocate sufficient revenue to the Fund. This revenue should be raised through a dedicated and progressive public broadcasting tax called proposed in the Bill.
  - d. The Fund should allocate sufficient resources to support an independent community media sector and ensure that the sector does not have to compete with the SABC, Sentech, and others for access to a common pool of resources.
2. That the Public Finance Management Act (PFMA) is not appropriate to institutions of the size, capacity, and complexity of community radio stations and it does not represent a standard for best practice in community radio development in South Africa and internationally.
3. Any legislation or regulations should promote and support meaningful community participation in project's governance, management and programming.
  - a. This can best be achieved through a Sector Based Governance model that enables only civil society organisations to nominate prospective Board/Council to be elected at AGMs to represent agreed sectors in the community. This model will bring stability and organisational resources and accountability to media projects.
  - b. Legislation should not limit the number of representatives on projects' Boards.
  - c. Broadcasters should be free to develop, but obligated to have policies and transparent mechanisms that enable community members to shape the overall programming and editorial policy of the station.
  - d. Broadcasters should be free to develop, but obligated to have policies and transparent mechanisms that enable community members to access the airwaves – including producing and hosting programmes.
4. That media projects should be free to determine their means of media production and distribution.
  - i. Projects should not be obliged by law to use Sentech to distribute their signal.
  - ii. Projects should be supported to own their own infrastructure – including property, equipment and means of signal distribution.
  - iii. Sentech should be obligated to provide preferential transmission rates for community broadcasters.

## **CONCLUSION**

1. In conclusion, the AIDC would like to again thank the Ministry of Communications and the DOC for the boldness they have shown in opening broadcast legislation up for review.
2. AIDC supports the call of the SOS: Supporting Public Broadcasting for a substantive policy review process.
3. The AIDC thanks the DOC for the opportunity to make these representations and looks forward to discussing these issues further.

4. Please do not hesitate to contact Mark Weinberg at 021-447 2525 or [mark@aidc.org.za](mailto:mark@aidc.org.za) should the Department have any queries or require any further information with regard to AIDC submission.

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