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GOVERNMENT NOTICE

DEPARTMENT OF COMMUNICATIONS

No. 68

5 February 2010

BROADCASTING ACT (NO.4 OF 1999)**PUBLIC NOMINATION TO SERVE ON SOUTH AFRICAN BROADCAST
PRODUCTION ADVISORY BODY**

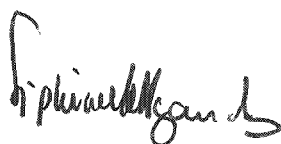
I, **Gen (Ret) Sipiwe Nyanda, Minister of Communications**, hereby in terms of section 38 of the Broadcasting Act (no.4 of 1999), request the public to nominate persons to serve on the South African Broadcast Production Advisory Body to advise on how the development, production and display of local content can be supported in the Republic.

The South African Broadcast Production Body shall comprise 12 members appointed by the Minister representing government, the regulator, industry, civil society, consumer groups and organised labour with proven experience and expertise in content creation and development, production, marketing, distribution, acquisition, policy and regulation, Broadband, distribution technologies, Intellectual Property, cyber security and any other skills required in the content industry.

The Terms of Reference outlining the nature, scope of work and general functioning of the Body are herein attached and are also available on the Department's website: www.doc.gov.za Hard copies of the Terms of Reference are obtainable from the Broadcasting Policy Unit, Block A3, iPariolli Office Park, 1166 Park Street, Hatfield, Pretoria.

Nominations containing the names of the nominees, their short CVs and acceptance of nomination can be sent, by 26 February 2010, to:

The Minister of Communications
Attention: Dr. Mashilo Boloka
Department of Communications, Private Bag x6, Pretoria
Email: mashilob@doc.gov.za
Fax: 086 550 7525



**GEN (RET) SIPHIWE NYANDA
MINISTER OF COMMUNICATIONS**

**TERMS OF REFERENCE FOR THE SOUTH AFRICAN
BROADCAST PRODUCTION ADVISORY BODY**

**TERMS OF REFERENCE FOR THE SOUTH AFRICAN BROADCAST PRODUCTION
ADVISORY BODY****1 Introduction**

The Minister of Communications (“the Minister”) is empowered by section 38 of the Broadcasting Act, 4 of 1999 to establish the South African Broadcast Production Advisory Body to advise the Minister on how the development, production and display of local television and radio content can be supported.

2 Name

The entity will be called the South African Broadcast Production Advisory Body.

3 Objectives of the South African Broadcast Production Advisory Body

3.1 The objectives of the South African Broadcast Production Advisory Body (“the Advisory Body”) include making recommendations to the Minister to enable the Minister to determine:

- 3.1.1 policy and strategies to give effect to the production and display of local content;
- 3.1.2 financing strategies to support the production and display of local content;
- 3.1.3 supply-side measures and initiatives to support the production of local content; and
- 3.1.4 policies to enhance the production of local content for the multi-channel and digital broadcasting environment; and
- 3.1.5 policy and strategies to give effect to local and digital content development.

**TERMS OF REFERENCE FOR THE SOUTH AFRICAN
BROADCAST PRODUCTION ADVISORY BODY**

- 3.2 In making its recommendations, the Advisory Body must consult with the National Film and Video Foundation and the broadcasting industry.

4 Functions of the South African Broadcast Production Advisory Body

- 4.1 The functions of the Advisory Body are to advise the Minister on:
- 4.1.1 how to encourage and facilitate the development, production and display of local television and radio content and offer guidance and advice in respect of any scheme;
 - 4.1.2 how to encourage and facilitate the development, production and display of local and digital content;
 - 4.1.3 how to encourage co-operation amongst stakeholders in the content industry and in particular digital content to develop shared knowledge and promote innovation and excellence;
 - 4.1.4 the production of broadcast materials that meet the cultural needs of South Africans;
 - 4.1.5 the carriage of local content by different electronic platforms, particularly television, radio, mobile and the Internet;
 - 4.1.6 awareness of local content in South African and foreign markets;
 - 4.1.7 distribution and exhibition of local content in foreign markets;
 - 4.1.8 the correction of imbalances in the local content production industry;
 - 4.1.9 how to encourage and facilitate the development policy, strategy and legislation to combat the distribution of illegal or harmful content;
 - 4.1.10 human resource development to provide skills and training of local content providers, especially amongst historically disadvantaged groups including the youth, women and people with disabilities.

**TERMS OF REFERENCE FOR THE SOUTH AFRICAN
BROADCAST PRODUCTION ADVISORY BODY****4.2. General Functions of the Advisory Body**

- 4.2.1. Foster a strong relationship between government and industry;
- 4.2.2. Promote cooperation amongst the different sub-sectors of the content industry;
- 4.2.3. Mobilize resources for content initiatives.

5 Funding and Resources

The activities of the Advisory Body shall be funded by the Department. However, additional resources shall be derived from donations, grants and voluntary contributions from industry and other interested parties.

6 Composition of the South African Broadcast Production Advisory Body and term and vacation of office

6.1 The South African Broadcast Production Advisory Body consists of 12 members appointed by the Minister in a manner ensuring—

- (a) participation by the public in a nomination process;
- (b) transparency and openness.

6.2 Every appointment of a member of the Advisory Body must be published in the *Gazette*.

6.3 The Minister will appoint the Chairperson of the South African Broadcast Production Advisory Body.

6.3. The members of the Board must, when viewed collectively—

- (a) be persons who are citizens of the Republic;
- (b) be persons who are committed to fairness, freedom of expression, the right of the public to be informed, and openness and accountability on the part of those holding public office;
- (c) represent a broad cross-section of the population and different regions of the Republic;

**TERMS OF REFERENCE FOR THE SOUTH AFRICAN
BROADCAST PRODUCTION ADVISORY BODY**

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- (d) members from government, the regulator, consumer groups, broadcasters, content creators, producers, and distributors who possess suitable qualifications, expertise and experience in, amongst other things, broadcasting, electronic engineering, economics, consumer issues, Intellectual Property (IP), broadband infrastructure, content regulation, cyber crime and local and digital content.
- 6.4 A member of the Advisory Body holds office for a period of 5 years and is eligible for re-appointment on expiry of his or her term of office, but may not serve more than two consecutive terms of office.
- 6.5 The Board of the Advisory Body shall appoint or abolish such committees as may from time to time seem desirable for the more effective functioning of the activities of the Advisory Body designating which of the appointees for each committee is to function as its Chair.
- 6.6 Once the Advisory Body is established it must appoint a sub-committee responsible for providing advice on strategies to give effect to local and digital content development and cyber crime.
- 6.7 A member of the Advisory Body vacates office if that member-
- 6.7.1 is removed from office by the Minister as contemplated in subparagraph 6.8 ; or
 - 6.7.2 resigns by written notice addressed to the Minister.
- 6.8 The Minister may remove a member of the Advisory Body:
- 6.8.1 for serious misconduct;
 - 6.8.2 for permanent incapacity;
 - 6.8.3 for absence from three consecutive meetings of the Advisory Body:
 - (i) without the prior permission of the Advisory Body; or
 - (ii) unless the member shows good cause; or

**TERMS OF REFERENCE FOR THE SOUTH AFRICAN
BROADCAST PRODUCTION ADVISORY BODY**

6.8.4 for engaging in any activity that may undermine the functions of the Advisory Body.

6.9 If the chairperson or a member of the Advisory Body vacates office before the expiry of the period of office, the Minister must appoint a new chairperson or member, as the case may be, for the unexpired portion of that period within 90 days.

7 Meetings of the South African Broadcast Production Advisory Body

7.1 The members of the Advisory Body shall meet together for the dispatch of business, to adjourn and to otherwise regulate their meetings as they think fit. Such meetings shall be held at least four (4) times a year at a time and place as may be fixed by the members or the Chairperson. The Chairperson may at any time, summon a meeting of the members.

7.2 The Chairperson, or in the Chairperson's absence the deputy Chairperson, must preside at meeting of the Advisory Board.

7.3 If the Chairperson or deputy Chairperson of the Advisory Body is not present within fifteen (15) minutes of the time appointed for holding the meeting, or is unwilling to act as Chairperson at that meeting, the members present may choose one of the members to preside for purposes of that meeting.

7.4 Meetings of members shall be governed by a majority vote of voting members present at any duly convened meeting, provided that a quorum of one-third (1/3) of the voting members are present at that meeting.

7.5 At any meeting a resolution put to the vote of the meeting must be decided on a show of hands.

7.6 In the case of an equality of votes, the Chairperson of the meeting at which the show of hands took place, is entitled to a second or casting vote.

7.7 Members shall personally attend meetings provided that if a member is unable to attend a meeting, such member may nominate a representative to attend the

**TERMS OF REFERENCE FOR THE SOUTH AFRICAN
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meeting on his/her behalf, as an observer at the meeting. The nominated representative will attend a meeting as an observer only and will not be entitled to vote on any matter.

- 7.8 The nominated representative may only attend the meeting once the member has submitted a written request to and leave has been granted by the Chairperson permitting the nominated representative to attend.
- 7.9 If a member has failed to attend more than two meetings in any calendar year, the Chairperson shall be entitled to refuse to allow a nominated representative to attend a meeting on behalf of that member.
- 7.10 Nominated representatives shall not be entitled to be remunerated for their attendance at meetings or reimbursed for any expenses incurred therewith.

8 Secretariat

- 8.1 All administrative, financial and logistical matters related to the Advisory Body's work will be managed by a dedicated Secretariat provided by the Department of Communications.
- 8.2 The Department will appoint an administrator responsible for co-coordinating the functions of the Secretariat and supervising the staff of the Secretariat.
- 8.3 The Secretariat is responsible for:
- 8.3.1 Overall administrative support to the Advisory Body including:
 - 8.3.1.1. organising the meetings of the Advisory Body;
 - 8.3.1.2. taking minutes of meetings of the Advisory Body; and;
 - 8.3.1.3. managing the day to day administrative affairs of the Advisory Body;
 - 8.3.1.4. Logistical arrangements for the Advisory Body.

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9 Remuneration of the South African Broadcast Production Advisory Body

9.1 A member of the Advisory Body who is not in the full-time employment of the State may be paid the remuneration and allowances determined by the Minister with the approval of the Minister of Finance in accordance with National Treasury Regulations.

10 INTELLECTUAL PROPERTY

10.1 The Department will become the owner of the final version of any information, documents, programmes, advice and reports collected and compiled by the Advisory Body in the execution of the work outlined in section 4 and/or any other work performed by the Body within the scope of this Terms of Reference.

10.2 The product of the services by the Advisory Body shall not be reproduced or distributed or made available in any other way without the written consent of the Minister. The Department shall retain ownership of the copyright and all other intellectual property rights in their working papers and other internal documentation created by them or on their behalf in connection with the services.

10.3 All information, documents, programmes and reports by the Advisory Body must be regarded as confidential and may not be made available to any unauthorised person or institution without the written consent of the Minister.

10.4 A member of the Advisory Body is, however, entitled to general knowledge acquired in the execution of duties according to this Terms of Reference and may use it, provided that it shall not be to the detriment of the Advisory Body and/or Department.

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11 ENGAGEMENT OF CONSULTANTS

11.1 The Advisory Body shall, subject to the approval of the Department, be entitled to engage the services of consultants to perform activities that fall within the scope of work set out in section 4.

11.2 However, the appointment of such consultant shall be done through the Secretariat ensuring that prescribed procurement processes are duly followed.

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