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GENERAL NOTICE

NOTICE 157 OF 2002**GOVERNMENT COMMUNICATION AND INFORMATION SYSTEM (GCIS)**

The Minister in the Presidency responsible for the GCIS, intends introducing the Media Development and Diversity Agency (MDDA) Bill [B2-2002] early in February in Parliament for consideration in 2002. The Bill is hereby published in accordance with Rule 241(1)(c) of the National Assembly.

Interested persons and institutions are invited to submit written representations on the Bill to the Secretary to Parliament, for the attention of Rita Schaafsma, by no later than 27 February 2002. Copies of the Bill can be obtained from:

- (1) Government Printers — Cape Town and Pretoria
- (2) GCIS: Contact Kristin Klose: Telephone: (012) 314-2215
- (3) Rita Schaafsma: Telephone: (021) 403-3742 / Chantal Paulse: Telephone: (021) 403-3874.

The Bill can also be found on www.parliament.gov.za or www.gcis.gov.za

BILL

To establish the Media Development and Diversity Agency; to provide for its objective and functions; to provide for the constitution of the Board and the management of the Agency by the Board; to provide for the chief executive officer and other staff of the Agency; to provide for the finances of the Agency; to provide for the support of projects aimed at promoting media development and diversity; and to provide for matters connected therewith.

Preamble

WHEREAS IT IS DESIRABLE TO—

ESTABLISH the Media Development and Diversity Agency to help create an enabling environment for media development and diversity that is conducive to public discourse and which reflects the needs and aspirations of all South Africans;

REDRESS exclusion and marginalisation of disadvantaged communities and persons from access to the media and the media industry;

PROMOTE media development and diversity by providing support primarily to community and small commercial media projects;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
 - (i) “Agency” means the Media Development and Diversity Agency established by section 2; 5
 - (ii) “Board” means the Board referred to in section 4;
 - (iii) “community” means a geographically founded community and any group of persons or sector of the public having a specific, ascertainable common interest, including groups specified in section 17; 10
 - (iv) “community media” means media enterprises that are owned and controlled by a marginalised community where any financial surplus generated is reinvested in the community or the media enterprise;
 - (v) “diversity” with regard to media, means access to the widest range of sources of information and opinion, as well as equitable representation within the media in general; 15
 - (vi) “GCIS” means the Government Communication and Information System;
 - (vii) “media” means all forms of mass communication, including printed publications, radio, television and new electronic platforms for delivering content; 20
 - (viii) “media development” means the development of the media environment and infrastructure so that marginalised communities and persons have access to the media as owners, managers, producers and consumers of media;

- (ix) "media industry" means the entire media production process, including journalism, content provision, advertising, marketing, monitoring, printing, print distribution and signal distribution;
- (x) "member" means a member of the Board;
- (xi) "Minister" means the Minister responsible for GCIS; 5
- (xii) "Portfolio Committee" means the Portfolio Committee on Communications of the National Assembly;
- (xiii) "prescribe" means prescribe by regulation;
- (xiv) "projects" means projects referred to in section 18;
- (xv) "regulation" means a regulation made under section 21; 10
- (xvi) "small commercial media" means independent media enterprises or initiatives that are run for personal gain as micro, very small or small businesses as classified in the National Small Business Act, 1996 (Act No. 102 of 1996);
- (xvii) "support" means support referred to in section 15;
- (xviii) "this Act" includes any regulation made thereunder. 15

Establishment of Agency

- 2. (1) A juristic person known as the Media Development and Diversity Agency is established by this section.
- (2) The Agency acts only through the Board, except in cases where the Board has delegated a function. 20
- (3) The Board must act in terms of section 47(2) of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (4) The Agency is independent and must be impartial and exercise its powers and perform its duties without fear, favour or prejudice, and without any political or commercial interference. 25

Objective of Agency

- 3. The objective of the Agency is to promote development and diversity in the South African media industry.

Constitution of Board

- 4. (1) The Board of the Agency consists of at least seven members but not more than nine members. 30
- (2) The Board consists of one nominee from each of the sectors referred to in section 5(1)(a)(i) to (iv) and at least three nominees from the general public.
- (3) The Board consists of persons who, when viewed collectively— 35
 - (a) are representative of a broad cross-section of the people of the Republic; and
 - (b) as far as possible, possess suitable qualifications, expertise and experience in fields such as—
 - (i) advertising;
 - (ii) media economics;
 - (iii) development economics; 40
 - (iv) social development;
 - (v) community media;
 - (vi) broadcast programming;
 - (vii) financial management;
 - (viii) law; 45
 - (ix) media, information and communication technology policy;
 - (x) journalism;
 - (xi) social science;
 - (xii) media training;
 - (xiii) literacy; and 50
 - (xiv) media funding.
- (4) A member must, before performing his or her functions, take an oath or affirm before a judge of the High Court, that he or she is committed to—
 - (a) fairness, freedom of expression, openness and accountability; and
 - (b) upholding and protecting the Constitution and the other laws of the Republic. 55

Nomination and appointment of members

5. (1) (a) The Portfolio Committee must by notice, in the *Gazette* and in at least two newspapers circulating throughout the Republic, request nominations from—

- (i) GCIS;
- (ii) the commercial print media sector; 5
- (iii) the commercial broadcast media sector;
- (iv) the community media sector; and
- (v) the general public.

(b) The notice referred to in paragraph (a) must specify the manner in which and time within which the nominations must be submitted. 10

(c) For the purpose of the appointment of the first Board, the Portfolio Committee must within 60 days after the commencement of this Act, if Parliament is in session, or, if Parliament is not in session, within 60 days after the commencement of its next session, publish the notice in terms of paragraph (a).

(d) For all subsequent appointments of members, the Portfolio Committee must, at least 120 days prior to the expiry of the term of office of a member, request nominations from the relevant sector referred to in paragraph (a), by notice in terms of that paragraph. 15

(2) The nominees recommended in terms of subsection (3) must be selected in a manner ensuring—

- (a) transparency and openness; and 20
- (b) that a shortlist of nominees for recommendation is published.

(3) The Portfolio Committee must, from the nominations received, recommend—

- (a) at least two but not more than three persons from each of the sectors specified in subsection (1)(a)(i) to (iv); and
- (b) at least five but not more than 10 persons from the general public, 25

to the President for appointment.

(4) The President must appoint members from the nominees recommended by the Portfolio Committee.

(5) (a) The President must appoint one of the members as chairperson of the Board.

(b) In the absence of the chairperson, the remaining members must, from their number, elect an acting chairperson, who while he or she so acts, must perform all the functions of the chairperson. 30

(6) Members are appointed on a part-time basis.

Disqualification

6. (1) A person may not be appointed as a member if he or she— 35

- (a) is not a South African citizen and ordinarily resident in the Republic;
- (b) is an unrehabilitated insolvent;
- (c) is a member of Parliament, any provincial legislature or any municipal council;
- (d) is an office-bearer or employee of any party, movement or organisation of a party-political nature; 40
- (e) has, notwithstanding paragraph (f), at any time been convicted of theft, fraud, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or any other offence involving dishonesty;
- (f) has been convicted after the commencement of the Constitution of a crime specified in Schedule 1 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been sentenced to a period of imprisonment of not less than one year without the option of a fine; 45
- (g) has, as a result of improper conduct, been removed from an office of trust; or
- (h) is a public servant or the holder of any other remunerated position under the State, except a member nominated in terms of section 5(1)(a)(i). 50

(2) A member ceases to be a member of the Board and must vacate his or her office if—

- (a) he or she becomes disqualified in terms of subsection (1), from being appointed as a member; 55
- (b) he or she submits his or her resignation in writing to the President;
- (c) he or she is declared by a court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973);
- (d) he or she has, without the leave of the Board, been absent from more than two consecutive meetings of the Board; 60