
GENERAL NOTICE

NOTICE 958 OF 2009**Independent Communications Authority of South Africa**

Pinmill Farm, 164 Katherine Street, Sandton
Private Bag X10002, Sandton, 2146

**REGULATIONS REGARDING THE CODE OF CONDUCT FOR BROADCASTING
SERVICE LICENSEES ISSUED IN TERMS OF SECTION 54 OF THE ELECTRONIC
COMMUNICATIONS ACT NO 36 OF 2005**

- (1) The Independent Communications Authority of South Africa ("the Authority") hereby prescribes regulations in terms of section 54(1) of the Electronic Communications Act (Act 36 of 2005), being the Code of Conduct for Broadcasting service licensees.

- (2) A copy of the regulations, as published in the Government Gazette, is available on the Authority's website at <http://www.icasa.org.za> and in the ICASA Library at 164 Katherine Street, Pinmill Farm, Sandton Block D, between 08h30 and 16h30, Monday to Friday.

A handwritten signature in black ink, appearing to read 'Paris Mashile', written over a horizontal line.

**PARIS MASHILE
CHAIRPERSON**

Purpose of the regulations

In accordance with Section 54(1) of the ECA the Authority hereby sets standards according to which Broadcasting Service Licensees will be monitored by the Authority and adjudicated upon in terms of Section 17A-E of the ICASA Act, subject to Section 54(3) of the ECA.

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned.

"Act" means the Electronic Communications Act, Act no 36 of 2005;

"audience" refers to both the viewers and listeners of television and sound broadcasting service licensees;

"broadcasting service licensee" means a broadcasting service licensee as defined in section 1 of the Act;

"child pornography" means any description or visual image, real or simulated, however created, explicitly depicting a person who is or who is depicted as being under the age of 18 years (a) engaged in or participating in sexual conduct; (b) engaged in an explicit display of genitals; or (c) assisting another person to engage in sexual conduct which, judged within context, has as its predominant objective purpose, the stimulation of sexual arousal in its target audience;

"child" means a person under the age of 18 years;

"ICASA Act" means the Independent Communications Authority of South Africa Act 13 of 2000;

"sexual conduct" means: (i) the display of genitals or of the anus; (ii) masturbation; (iii) sexual intercourse including anal sexual intercourse; (iv) in the case of child pornography, the fondling or touching of breasts, genitalia or the anus; (v) the

penetration of a vagina or anus with any object; (vi) oral genital contact; or (vii) oral anal contact;

"watershed period" means the period between 21h00 and 05h00 for free-to-air television Broadcasting service licensees and 20h00 and 05h00 for subscription television Broadcasting service licensees.

2. Scope of Application

- (1) Broadcasting service licensees must ensure that all broadcasts comply with this Code.
- (2) Broadcasting service licensees must ensure that relevant employees and programme-makers, including those from whom they commission programmes, understand the contents and significance of this Code.
- (3) All broadcasting service licensees should also have procedures for ensuring that programme-makers can seek guidance as to the Code from them.

3. Violence and Hate speech

- (1) Broadcasting service licensees must not broadcast material which, judged within context:
 - (a) contains violence which does not play an integral role in developing the plot, character or theme of the material as a whole; or
 - (b) sanctions, promotes or glamorises violence or unlawful conduct.
- (2) Broadcasting service licensees must not broadcast material which, judged within context, sanctions, promotes or glamorises violence or unlawful conduct based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability.
- (3) Broadcasting service licensees must not broadcast material which, judged within context, amounts to (a) propaganda for war; (b) incitement of imminent violence; or (c) the advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm.

4. Exclusions

Regulation 3 does not apply to:

- (1) a broadcast which, judged within context, amounts to a *bona fide* scientific, documentary, dramatic, artistic, or religious broadcast;
- (2) a broadcast which amounts to a discussion, argument or opinion on a matter pertaining to religion, belief or conscience; or
- (3) a broadcast which amounts to a *bona fide* discussion, argument or opinion on a matter of public interest.

5. Children

- (1) Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at times when a large number of children is likely to be part of the audience.
- (2) Broadcasting service licensees must exercise particular caution, as provided below, in the depiction of violence in children's programming.
- (3) In children's programming portrayed by real-life characters, violence may, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot.
- (4) Animated programming for children, while accepted as a stylised form of storytelling which may contain non-realistic violence, must not have violence as its central theme, and must not incite dangerous imitation.
- (5) Programming for children must with reasonable care deal with themes that could threaten their sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol.
- (6) Programming for children must with reasonable care deal with themes which could influence children to imitate acts which they see on screen or hear about, such as the use of plastic bags as toys, the use of matches or the use of dangerous household objects as toys.
- (7) Programming for children must not contain realistic scenes of violence which create the impression that violence is the preferred or only method to resolve conflict between individuals.

- (8) Programming for children must not contain realistic scenes of violence which minimise or gloss over the effect of violent acts. Any realistic depictions of violence must portray, in human terms, the consequences of that violence to its victims and its perpetrators.
- (9) Programming for children must not contain frightening or otherwise excessive special effects not required by the story line.
- (10) Offensive language, including profanity and other religiously insensitive material, must not be broadcast in programmes specially designed for children.
- (11) No excessively or grossly offensive language should be used before the watershed period on television or at times when a large number of children is likely to be part of the audience on television or radio.

6. Watershed Period

- (1) Programming on television which contains scenes of explicit violence and/or sexual conduct and/or nudity and/or grossly offensive language intended for adult audiences must not be broadcast before the watershed period.
- (2) Promotional material and music videos which contain scenes of explicit violence and/or explicit threatening violence and/or sexual conduct and/or the fondling or touching of breasts and/or genitalia or the anus and/or nudity and/or offensive language intended for adult audiences must not be broadcast before the watershed period.
- (3) Some programmes broadcast outside the watershed period may not be suitable for very young children. Licensees must provide sufficient information, in terms of regular scheduling patterns or audience advisories, to assist parents and *de facto* or legal guardians to make appropriate viewing choices.
- (4) Television broadcasting service licensees may, with the advance of the watershed period, progressively broadcast more adult material.
- (5) Broadcasting service licensees must be particularly sensitive to the likelihood that programmes which commence during the watershed period and which run beyond it may then be viewed by children.