

Lobby group cries foul over 'unconstitutional' Public Service Broadcasting

The Public Service Broadcasting (PSB) Bill - a still-born legislation piece that will, amongst others, shape the future of South Africa's broadcasting space and reinforces the state's grip on the public broadcaster and community media - is unconstitutional, problematic, inconsistent and ambiguous, broadcasting lobby group the SOS coalition claimed in its final submission.

 Bylssa Sikiti da Silva 20 Jan 2010

Ironically dubbed a 'money bill' because it deals with money issues and calls for a dedicated broadcasting tax rather than simply dealing with broadcasting issues, the PSB Bill must be withdrawn by the Department Communications (DOC), SOS Supporting Public Broadcasting charged yesterday.

SOS Supporting Public Broadcasting is a coalition of unions, independent media, non-governmental organisations and academics.

Ministers heading for a showdown?

Spokesperson Kate Skinner told Bizcommunity.com last night, 19 January 2010: "The PSB Bill is potentially unconstitutional because it deals with changes to the Tax Act (a money bill), but then also deals with a whole lot of other issues other than money issues.

"According to the Constitution, money bills need to be tabled by the Minister of Finance. They also primarily need to deal with issues regarding money. They can only deal peripherally with other issues."

The Bill calls for a special earmarked broadcasting tax and proposes that tax will be raised by increasing personal income tax by up to 1%.

It appears that the minister of finance and his counterpart of communications are headed for a showdown over the Bill, with the former categorically rejecting the idea of broadcasting tax and the latter advocating it against public opinion.

Treasury not in favour of ear-marked taxes

Skinner explained: "The idea is that this tax with a number of other funding streams, including business contributions, money appropriated by Parliament and so on, will go into a central broadcasting fund.

"The Central Broadcasting Fund will then fund the SABC, community media, signal distribution issues and public service programming - even if it is produced for commercial broadcasters.

"And the idea is that license fees should be scrapped."

The problem, Skinner added, is that National Treasury stated - after the Bill had been published - that they were opposed in principle to special earmarked taxes.

"This is a central proposal in the Bill. Given the fact that National Treasury is not supporting the Bill - we are

now wondering how DOC, which is championing the Bill not the National Treasury, is going to proceed.

“Before DOC published the Bill, they should have checked if the idea of a special earmarked broadcasting tax would fly with National Treasury. It seems that they didn't,” she said.

Furthermore, the group slams the state for seeking, through the Bill, to ‘fully own’ the SABC and force community media organisations to ‘actively collaborate’ with municipalities.

Minister's power to approve editorial policies unconstitutional

Skinner said: “Another unconstitutional aspect of the Bill is that it undermines the SABC's freedom of expression rights - for example by specifying that the SABC's international services must be subject to the “Republic's foreign policy” and that the minister should approve the SABC's editorial policies.”

Media experts warned that the SABC, which has been at the centre of major battles of ideas between ‘rival political forces within the ruling African National Congress, is headed for a complete editorial independence meltdown if the Bill is enacted.

The Bill is also said to be inconsistent and contradictory due to the fact that it includes two Charters - an SABC Charter and Community Media Charter, which often contradict one another.

Skinner said: “The two charters are separate to the main Bill. Our lawyers have stated that it is therefore not clear what their legal status is.

“Should they be considered to have the same legal weight as the Bill - or not? It is not clear. Also, the charters are strange documents because they repeat a lot of what is already stated in the main Bill.

“Further in some instances they contradict what is said in the main Bill. For example the main Bill and the SABC Charter state a different number in terms of the quorum for the SABC board.”

Skinner urged DOC to first review the 1998 Broadcasting White Paper.

“Once the policy has been reviewed then we believe they should move to new legislation.”

The deadline for submission was last week Friday.

ABOUT ISSA SIKITI DA SILVA

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