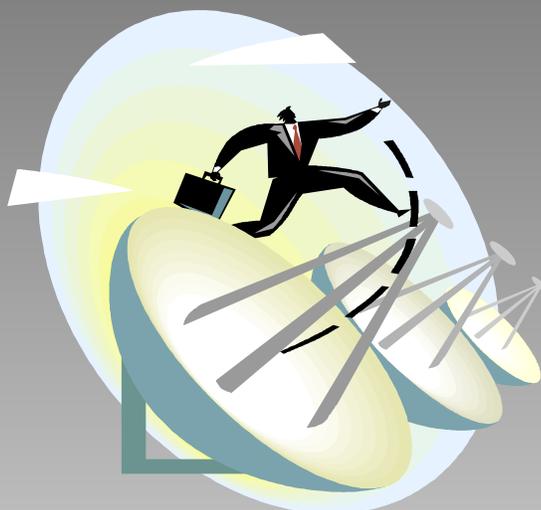




Independent Communications Authority of South Africa



Inquiry into Local Television

DISCUSSION PAPER

22 August 2003

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SECTION A

1. AIMS OF THE DISCUSSION PAPER

The purpose of this Discussion Paper is to generate comment from all stakeholders on issues surrounding the introduction of Local Television (“LTV”) in South Africa as enunciated by section 28 of the Independent Broadcasting Authority Act, No. 153 of 1993 (“the IBA Act”).

The Discussion Paper’s primary objectives are to:

- solicit public participation and input in developing the regulatory framework for LTV in South Africa; and
- generate discussion on the appropriate policy and licensing framework for the introduction of LTV in South Africa.

The Discussion Paper is structured in the form of questions supported by explanatory and contextual discussion. Questions posed are not necessarily all-encompassing, and additional information or research can be supplied.

The Discussion Paper is divided into four sections. Section A establishes the guiding policy principles or framework for the introduction of LTV in South Africa. Section B investigates public LTV broadcasting services, and considers aspects such as enabling legislation, market demand and a proposed model. Sections C and D adopt a similar approach to section B in that they investigate the potential introduction of community and commercial local television broadcasting services.

The Independent Communications Authority of South Africa (“the Authority”) would welcome any input on issues or research related to the introduction of Local Television that stakeholders feel the Authority may have neglected.

The Authority invites interested parties, stakeholders and the public to respond to the issues and questions raised in the Discussion Paper. Submissions will be public documents and should be provided to the Authority in both electronic and hard copy formats. Electronic copies will facilitate the posting of submissions on the Authority’s web site (www.icasa.org.za).

The Authority will post all submissions on its website, except where the submitter has requested that inputs remain confidential.

Interested parties and stakeholders should indicate when they provide their submission if they do not wish to have all or part of the submission made publicly available. Reasons why the Authority should restrict access to the material should be provided with the submission.

Written Submissions should be sent to:

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OR

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Any interested person or organisation who submits written representations should indicate whether they require an opportunity to make oral presentation at the hearings.

The closing date for the receipt of representations is **29 September 2003 at 16h30.**

2. POLICY DEVELOPMENT PRINCIPLES AND GUIDELINES

It is important to explore the overarching policy principles that guide the Authority in approaching the introduction of LTV in South Africa. According to section 28 of the IBA Act the Authority may from time to time conduct an inquiry into any matter relevant to the achievement and application of the principles of broadcasting as enunciated in section 2 of the Act. This means that any inquiry into the potential introduction of LTV must be in line with the guiding principles of broadcasting as set out in section 2 of the IBA Act. It is therefore essential before any study could be undertaken on this matter that the principles set out in section 2 of the IBA Act must be considered and analysed.

2.1 The Independent Broadcasting Authority Act

Section 2 of the IBA Act states that the primary purpose of the Act is to provide for the regulation of broadcasting and for that purpose to-

- (a) promote the provision of a diverse range of sound and television broadcasting services on a national, regional and local level, which, when viewed collectively, cater for all language and cultural groups and provide entertainment, education and information.
- (b) promote the development of public, commercial and community broadcasting services which are responsive to the needs of the public;
- (c) ensure that broadcasting services, viewed collectively-
 - (i) develop and protect a national and regional identity, culture and character;
 - (ii) provide for regular-
 - (aa) news services;
 - (bb) actuality programmes on matters of public interest;
 - (cc) programmes on political issues of public interest; and
 - (dd) programmes on matters of international, national, regional and local significance.

The significance of section 2 is that it very clearly places an obligation upon the Authority to promote the introduction of a diverse range of sound and television services at national, regional and local level. Currently this obligation has only been fulfilled in the sound broadcasting area, as television broadcasting services are currently only offered at a national level except for the grandfathered broadcaster Trinity Broadcasting Network (“TBN”) and special events community television licensees from time to time.

New legislative requirements for introducing LTV, technological advances and interest expressed in such licences by local entities have placed these issues once again on the policy agenda of the Authority. The Authority is thus conducting a public inquiry in order to determine public demand for and the financial sustainability of such services in the new millennium. After the Authority has applied its mind, its decision whether or not to introduce LTV will depend upon factors such as economic sustainability, audience fragmentation and impact upon other market incumbents or public demand for these services.

2.2 The Broadcasting Act, No. 584 of 1999

Section 2 of the IBA Act indicates that the Authority should promote broadcasting at national, regional and local level. The introduction of local television broadcasting services, would therefore satisfy the objects of section 2 of the IBA Act. The categorisation of broadcasting licences is set out within the three-tier system of broadcasting in South Africa. Section 5(2) of the Broadcasting Act, Act No. 584 of 1999 (“the Broadcasting Act”) provides that subject to this Act, broadcasting licences are categorised as-

- (a) free-to-air broadcasting service;
- (b) terrestrial subscription broadcasting service;
- (c) satellite subscription broadcasting service;
- (d) cable subscription broadcasting service;
- (e) low power sound broadcasting service; and
- (f) any other class of licence prescribed by the Authority from time to time.

The licensing of LTV is enabled by section 5(2) of the Broadcasting Act. Furthermore, section 5(1) of the Broadcasting Act provides that subject to the provisions of this Act, the Authority may on such conditions as it may determine, issue a sound or television broadcasting service licence for a specified area in the following broadcasting service categories:

- (a) a public broadcasting service;
- (b) a commercial broadcasting service; and
- (c) a community broadcasting service.

The Authority may, based on the objects of section 2 of the IBA Act and section 5 of the Broadcasting Act, issue public, commercial or community LTV broadcasting licences. The Authority is aware that the licensing framework may change once the Convergence Bill has been promulgated as an Act of Parliament. If any LTV licences are issued prior to the new

licensing framework coming into effect they would then be subject to the transitional measures in the new legislation for existing communications licences.

3. FREQUENCY ASSIGNMENT

LTV services will make use of the available spare capacities in the television band, identified in the frequency plan. However, there are other potential demands on these spare capacities which necessitate prioritisation and re-categorisation. These are:

- the roll-out of Digital terrestrial television (“DTT”);
- additional public broadcasting services to be licensed to the South African Broadcasting Corporation (“the SABC”);
- regional commercial broadcasting services; and
- possible migration of current VHF television channels 11 and 13 to the spare UHF assignments in view of accommodating Digital Audio Broadcasting (DAB) in Band III.

For further information, refer to sections 2.1, 2.10, 2.14 and Annexure E Terrestrial Broadcast Frequency Plan 2003, GG25258 of 25 July 2003

Q.3.a Taking into cognisance the scarcity of terrestrial frequencies in South Africa, in your opinion how many public local television licences should the Authority consider granting and in which areas and why in those areas specifically?

Q.3.b The Authority would like comment on how the spare PBS assignments in the frequency plan could be shared for these services and how the sharing should be prioritised among the different services and platforms mentioned?

Q.3.c What implications will the convergence bill have on frequency allotment?

Q.3.d Should there be a need to re-categorise frequency allotment and how should this be done?

Q.3.e In the advent of digitilisation should frequencies be categorised?

4. LICENSE FEES

Section 78(1)(bA) of the IBA Act states that the Council of the Authority may make regulations, not inconsistent with the provisions of the Act in relation to payment to the Authority of charges and fees in respect of broadcasting licences, including applications of

all descriptions, the issue, renewal, amendment, transfer or other disposal of broadcasting licences or any interest in broadcasting licences and the periodical maintenance of the force and effect of such licences.

Section 78(1A) states that different charges and fees may be prescribed in respect of different licensees and different categories and types of licenses based on any characteristics or criterion whatsoever, including the income, revenue or audience size of a licensee or the antenna height, power output or radiation pattern.

In this context, the Authority stipulated the following administrative fees for commercial free-to-air broadcasters.

Licence application fee	R300 000.00
Issue of Licence	R5 000.00
Application for amendment	R200 000.00
Application for renewal	R300 000.00

All these fees are non-refundable.

***Q.4.a** What administrative fees should be imposed on Local public, commercial or community television services if they are introduced?*

5. ADVERTISING

A general principle when regulating advertising is to strike a balance between financial interests of the broadcaster and advertisers on the one hand and interests of the viewers on the other. The regulation of advertising content falls under the jurisdiction of the Advertising Standards Authority (“the ASA”). The ASA is empowered by section 57 of the IBA Act which states that all broadcasting licensees must adhere to the Code of Practice as from time to time determined and administered by the ASA. The Authority has jurisdiction over the amount of advertising allowed for broadcasters and the scheduling thereof.

Currently, e.tv is permitted an average of 10 minutes per hour, measured annually with a maximum of 12 minutes allowed in any one hour. This is in line with the limits imposed on commercial free-to-air television.¹ The scheduling of advertisements in general is currently

¹ IBA, Position Paper on the “Introduction of free-to-air television in South Africa”, 1997

not regulated, even though the Authority does have jurisdiction. The Authority has set specific regulations on the scheduling of infomercials. These are as follows:

- that broadcasters must clearly label infomercials so that the viewing audiences can be able to distinguish between infomercials and normal programming;
- that each channel is restricted to a maximum of two hours of infomercials during performance period in any one day; and
- that the viewing audience should have real choice and accordingly that infomercials are not carried on all free-to-air broadcasters at the same time².

6. ANALOGUE VS DIGITAL DEBATE

Globally there is a migration from analogue broadcasting to digital broadcasting. In most countries governments have set specific time frames for this transition phase to be completed and have put in place frequency plans to accommodate their interim phase of dual broadcasting when broadcasters will be providing both an analogue and a digital broadcasting service. South Africa will have to follow this trend to remain competitive in a global market and to avoid analogue technological obsolescence.

If South Africa migrates from analogue broadcasting to digital broadcasting within the next decade, it makes sense from an economic point of view for new entrants to the broadcasting market to offer their services on a digital platform (either Digital Terrestrial Television or satellite digital broadcasting).

Bearing this in mind, if there were potential for introducing new local services, the SABC could consider free-to-air satellite digital broadcasting or free-to-air digital terrestrial television platforms as a first step on the road to digital broadcasting. Other benefits from adopting a digital platform are that local services could be provided nationally, thus allowing language groups to tune in to their local channel wherever they might be in South Africa. In the long term, ideally the local services and the existing broadcast services could be provided as one network.

Such a step would need to be evaluated in terms of its long term and short term economic impact both on the broadcaster and the public, as well as the impact on the universal access obligation of a public broadcasting service. It should be noted that delivery on a digital platform would still comply with the definition of free-to-air service as set out in the

² IBA, Position Paper on "A definition of advertising, the regulation of infomercials and the regulation of programme sponsorship", March 1999

Broadcasting Act, namely that a free-to-air service “means a service which is broadcast and capable of being received without payment of subscription fees”. Though there might be some cost to the public in terms of the purchase of equipment to receive digital terrestrial television such services will remain free-to-air.

Q.6.a Should the Authority consider allowing public LTV to be broadcast via satellite on free-to-air channel?

Q.6.b Should the Authority allow digital terrestrial television, bearing in mind that this could potentially in the short-term undermine the universal access and coverage obligations of a public broadcasting service?

Q.6.c If the Authority licensed digital satellite or digital terrestrial free-to-air local services, what would the economic costs be for the public and how could these potentially be reduced?

Q.6.d Should local public service be accommodated on digital satellite or digital terrestrial platform?

SECTION B

PUBLIC LOCAL TELEVISION BROADCASTING SERVICES

The purpose of this section is to explore the role that could be played by LTV in promoting economic growth in South Africa. It is to investigate the challenges that might arise in the introduction of such services, as they would be competing for audience share with the other market players.

This section will also attempt to provide the Authority with the different models to consider when developing both policy and licensing frameworks for public LTV.

7. PUBLIC BROADCASTING PRINCIPLES

When considering the introduction of public LTV services, consideration must be given to principles underpinning the provision of a public broadcasting service. A public broadcasting service has three essential features. Firstly, its purposes differ from those of the market. Secondly, these purposes apply across genres rather than being restricted to a particular genre. Thirdly, it must be free at the point of use to everyone.³

A public broadcasting service is expected to provide a universal service to all. It is expected to provide a comprehensive and balanced output, or a mix of information, education and entertainment. In terms of cultural, social and political representation, it is expected to be balanced, reflecting the society at large. There is a national or cultural vocation, a requirement to cater for national and regional identity, culture and community.⁴

A public broadcasting service is required because leaving broadcasting entirely to the market would result in programmes which would not reflect accurately what even well informed sources would want to buy. If broadcasting is driven entirely by the market it would be responsive only to the aggregate of individual decisions by consumers as expressed in their purchases. Such broadcasters would, therefore, ignore what people want to see happen as citizens or as members of communities.⁵

³ Graham, A – The future of communications – Public Service Broadcasting

⁴ Sumiala-Seppanen, J – The History of the Finnish Broadcasting Model

⁵ Ibid

In a democratic society it is undesirable that the mass media should be entirely in private control. Individuals have rights and these rights include the right to basic information about how society is governed, what are the laws of the land, etc. For these rights to have meaning, such information should be free, not sold for profit via the television.⁶

Broadcasting has become the public's major source of information about what is happening in today's world. News, weather and sports reports, children's programming, documentaries, drama, political coverage, and environmental reports contribute to the overall welfare of a broadcaster's audience.

Q.7a What other obligations if any should public LTV have?

8. PUBLIC BROADCASTING IMPERATIVES IN LEGISLATION

In considering the potential introduction of public local television services, the Authority must consider the public broadcasting imperatives set out in section 8(d) of the Broadcasting Act which requires the SABC to provide, in its public broadcasting services, radio and television programming that informs, educates and entertains. Section 10(1) of the Broadcasting Act, as amended, requires the public service of the SABC to:

- (a) make services available in all the official languages;
- (b) reflect both the unity and diverse cultural and multilingual nature of South Africa and all its cultures and regions to audiences;
- (c) strive to be of high quality in all of the languages served;
- (d) provide significant news and public affairs programming which meets the highest standards of journalism, as well as fair and unbiased coverage, impartiality, balance and independence from government, commercial and other interests;
- (e) include significant amounts of educational programming, both curriculum-based and informal educative topics from a wide range of social, political and economic issues, including, but not limited to, human rights, health, early childhood development, agriculture, culture, religion, justice and commerce and contributing to a shared South African consciousness and identity;
- (f) enrich the cultural heritage of South Africa by providing support for traditional and contemporary artistic expression;

⁶ Ibid

- (g) strive to offer a broad range of services targeting, particularly, children, women, the youth and the disabled;
- (h) include programmes made by the Corporation as well as those commissioned from the independent production sector; and
- (i) include national sports programming as well as developmental and minority sports.

9. LICENSING

Section 2 of the IBA Act directs the Authority to promote television broadcasting at national, regional and local level. The introduction of public local television broadcasting services would satisfy the objects of section 2 of the IBA Act. Section 5(2) of the Broadcasting Act mandates the Authority to licence public local television broadcasters and states that subject to this Act, broadcasting licences are categorised as-

- (a) free-to-air broadcasting service;
- (b) terrestrial subscription broadcasting service;
- (c) satellite subscription broadcasting service;
- (d) cable subscription broadcasting service;
- (e) low power sound broadcasting service; and
- (f) any other class of licence prescribed by the Authority from time to time.

The licensing of public LTV is enabled by section 5(2)(a) of the Broadcasting Act. It is further enabled by section 5(1) of the Broadcasting Act which states that the Authority may on such conditions as it may determine, issue a sound or television broadcasting service licence for a specified area in the following broadcasting service categories:

- (a) a public broadcasting service;
- (b) a commercial broadcasting service; and
- (c) a community broadcasting service.

Public local television broadcasting licences would be issued in the category of a public broadcasting service, if the potential for their introduction exists.

In addition, in the event of the Authority considering the granting of a new public broadcasting licence section 45(2) directs that it shall, with due regard to the objects and principles as enunciated in section 2, *inter alia* take into account-

- (a) the demand for the proposed broadcasting service within the proposed licence area;
- (b) the need for the proposed service within such an area, having regard to broadcasting services already existing therein; and
- (c) the technical quality of the proposed service, having regard to developments in broadcasting technology.

10. INTERNATIONAL PRECEDENT

10.1 Catalonia

Catalonia is a region in Spain and has about 84 Local Television channels of which 39 are public and 45 private. Local television stations are regulated by Articles 25.1, 26.1 of Act 1/1998 of 7th January 1998 and Act 8/1996 of 5th January of the regulation of audio-visual programming distributed by cable and is put into effect by Decree 329/1996 of 1st October which regulates the legal status of local television on terrestrial frequencies. Decree 329/196 establishes that:

- a minimum of 50% of programmes produced in-house must be Catalan.
- films, television series and documentaries dubbed in a language different from the original must be available, if not simultaneously, at the very least in Catalan language.
- 50% of the time reserved for the broadcast of European works must be destined for the broadcast of original works in either of the official languages of Catalonia and there must be a guarantee that 50% of these works are in the Catalan language.

In practice, almost 100% of programmes produced in-house by local television stations whether public or private are in Catalan. The majority of these programmes are dedicated to local news and politics, traditional festivals, culture and society. According to the General Directorate of Audio-visual Media, of the 45 private local television stations operating in Catalonia, 75% have more than 50% of their programming in Catalan. With regard to municipal channels, 71% broadcast almost 100% of their programmes in Catalan.

Broadcast hours of these stations range from few hours each day to 24 hours. Most of them broadcast terrestrially and some broadcast digitally or by cable. The funding model for these stations vary, some local television stations are non-profit and belong to local municipality councils while others are private and sell advertising. Stations who sell

advertising restrict their advertising to local businesses, limiting both the number of spots per business and the number of minutes per hour.

Catalonian local television stations restrict their coverage to local space as it is argued that local television has its specificity in the direct interaction between its subject and the socio-cultural context where they function.⁷ This approach emphasises the fact that there is not only a close proximity between citizens and local television programming but also a close connection between the viewers and how content is shaped as the viewers participate in what they want to see on local television.

10.2 United Kingdom

In January 2003, the Independent Television Commission (“the ITC”) introduced a new category of licensing under Restricted Licensing Services (“RSL”). This category emanated from a public consultation by ITC on the Role of Public Broadcasting. The Community Media Association (“CMA”) formerly known as the Community Radio Association was founded in 1983 for the purpose of being a mouthpiece for the community media sector. Its membership is made up of community television broadcasters, community radio stations and community based internet networks. The CMA argued that the ITC should consider licensing Local Television along the same lines as the introduction of Access Radio by the Radio Authority. In their submission to the ITC the CMA submitted that this new category would enhance the existing commercial Television RSL and also extend diversity with “non-profit” Television RSL sector.

After the completion of public consultation, ITC took all the submissions in consideration and formulated a policy on Local Television. Services provided under Local Television licence are services consisting of the broadcasting of television programmes for a particular establishment or other defined location. Local Television falls under any of the of the following RSL category;

- RSL (local television)
- RSL (relay for existing local television RSL)
- RSLE (specific event)

In addition to the above category, the ITC imposes specific requirements for Local Television. These are:

⁷ Gea, 1988, 25.

- local Television restricted service licensees are expected to provide a sufficient amount of local content to give their service a strong local character.
- programming should deal with subject matter of particular interest to the locality or community
- programmes should be produced within the locality or community and should use presenters from a locality or community
- programming should involve people who are known or demonstrated to be residents of the locality or members of the community Programming should have other qualities and characteristics which are distinctive and particular to the locality or community
- local television broadcaster should adhere to all ITC's Codes of Practice.

SECTION C

COMMUNITY LOCAL TELEVISION BROADCASTING SERVICES

The purpose of this section is to explore the role that the introduction of community LTV can play in promoting economic growth in South Africa and the challenges that might arise in the introduction of such services, as these services will be competing for audience share with the other entrenched players in the market.

This section will also attempt to provide the Authority with the different models to consider when developing policy and licensing frameworks for community LTV in South Africa.

11. BACKGROUND

The White Paper on Broadcasting, 1998, argues that the community broadcasting sector must provide a distinct broadcasting service dealing specifically with community issues, which are not normally dealt with by other broadcasting services covering the area in question. Community broadcasting will be informational, educational and entertaining.

In addition to this, it will focus on the provision of programmes that highlight grassroots community issues, including developmental issues, health care, basic information and general education, environmental affairs, local interest matters and the reflection of local culture.

In its Triple Inquiry Report, 1995, the Authority stated that it recognises the importance of community television and would endeavour to licence as many of these as technological and financial capability permits. Unlike radio, however, television has an extremely high start-up cost, these costs in television create barriers to entry by potential community television entrants.

The licensing of community radio began without formal policies in place. As a result, decisions were taken as issues/problems were raised, thus policy came out of an on-going practical experience. Licensing community television, however, cannot be done in this way. A costly medium, like community television, must be nurtured so that maximum success is

attained⁸. Experiences of the Community Television interest groups through special events licensees issued by the Authority is essential.⁹

Furthermore, the White Paper on Broadcasting Policy, 1998, states that the Authority will be asked to investigate the viability and impact of community television in a public process.

In 1997, the Authority began with a process of investigating a community television model. This process was conducted through a workshop on Community television. The Authority identified four key issues to be discussed at this workshop:

- funding,
- structure of the services,
- programming, and
- technical challenges

At the workshop, all four issues were discussed. However, the participants could not come up with a relevant and workable model for South Africa. The Community sound broadcasters' sector wanted a full-service television stations, however, the reality was that since television is an expensive venture full-service television stations would not be viable. In introducing community television services the Authority has to develop a workable model for South Africa.

12. LEGISLATIVE FRAMEWORK

12.1 The IBA Act, 1993

Section 1 of the IBA Act defines a community broadcasting service as a service which-

- (a) is fully controlled by a non-profit entity and carried on for non-profitable purposes;
- (b) services a particular community;
- (c) encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and
- (d) may be funded by donations, grants, sponsorships or advertising or membership fees, or by the combination of the aforementioned.

⁸ IBA, internal document for National Community Television workshop, 1997.

⁹ Open Window Network initiatives.

The IBA Act further provides for two types of community broadcasting services. These are:

- (a) a Geographic Community, with its service catering to persons or community whose communality is determined principally by their residing in a particular geographic area; and,
- (b) a Community of interest, where the community served by this service in this category is the one which has a specific ascertainable common interest. The distinctive feature of the service is the common interest that makes such a group of persons or sector of the public an identifiable community.

12.2 The Broadcasting Act

12.2.1 Requirement to investigate Community Television

In addition to section 2 of the IBA Act, the need for introducing a workable model for community television in South Africa is highlighted by section 32(7) of the Broadcasting Act, which requires the Authority to conduct an investigation into the viability and impact of community television including-

- (a) definition of community television;
- (b) access to frequencies;
- (c) sustainability;
- (d) ownership and control; and
- (e) legal framework.

Section 32(8) of the Broadcasting Act, further provides that as soon as possible after conducting the investigation into Community Television the Authority must submit a report on its findings to the Minister of Communications and Parliament.

12.2.2 Licensing and Programming

The Authority may issue licences to community LTV in terms of, section 32(1) of the Broadcasting Act which states that a community broadcasting service licence may be granted by the Authority in the following categories:

- (a) free-to-air radio services;
- (b) free-to-air television services.

Section 32 (4) the Broadcasting Act also gives clear guidelines as to the type of programming that should be covered by community television services. Specifically, section 32(4) states that-

“The programming provided by a community broadcasting service must reflect the needs of the people in the community which must include amongst others cultural, religious, language and demographic needs and must-

- (a) provide a distinct broadcasting service dealing specifically with community issues which are not normally dealt with by the broadcasting service covering the same area;
- (b) be informational, educational and entertaining;
- (c) focus on the provision of programmes that highlight grassroots community issues including, but not limited to developmental issues, health care, basic information and general education, environmental affairs, local and international, and the reflection of local culture; and
- (d) promote the development of a sense of common purpose with democracy and improve quality of life.”

13. MARKET DEMAND

Community broadcasting has been identified by some stakeholders as a developmental tool, as a means to deal with issues that the other media cannot or will not attend to. Most importantly, community television can serve as an empowering medium that allows local participation and ownership. In the United States of America, local television is seen as a vital part of the democratic process by providing a platform at grass-roots level for public debate. Community television in South Africa does possess the potential to revolutionise the communication patterns of community organisations, and could provide an entirely new forum for artistic expression and public debate.

Developments in the broadcasting market show that local television broadcasting services (community and commercial) would enter an entrenched market where the public broadcaster dominates the market share with three national free-to-air channels), a commercial terrestrial free-to-air broadcaster (e-tv), a terrestrial subscription service (M-net), and a satellite service (DSTV). In addition all of these existing players and prospective regional players will compete for audiences and market share. New entrants to the market

of local level television would need to be creative in their programming and scheduling to attract audiences.

In addition, the Authority is considering the introduction of public and regional commercial services.

Q.13.a What impact will community television services have on community radio?

Q.13.b How can the introduction of Community LTV be conducted so as to reduce the impact on existing players?

Q.13.c What model or (combination of models) for community television should be considered given the South African context?

Q.13.d What ownership and control requirements should be imposed on Community LTV?

Q.13.e What relationship should this service have with Public Broadcasting services?

Q.13.f What is the perceived impact of Community LTV towards universal access?

Q.13.g What measure can be put in place to ensure that the poorer sectors of the community that are potential end-users actually have access to television services? Can these be included to universal service obligations?

Q.13.h In which areas should Community Television be introduced?

Q.13.i In the advent of digital television broadcasting services, should aspirant community television broadcasters be encouraged to explore licensing of Community Television on the digital platform?

14. ECONOMIC FEASIBILITY AND ADVERTISING REVENUE

The findings of the Community Television Workshop held in 1997 showed that full service community television was not feasible in South Africa. This is due to the fact that by its definitive nature, a community broadcasting service is for non-profit purposes and the revenues generated by such entities should be ploughed back to the community served.

The only way that such television services could be provided as stand alone services is if they receive some form of government or donor funding. In the United States of America most local non-profit stations are funded by local government and local businesses. However, since 1997, there have been technological advances which can potentially lower start-up costs of Community television. In addition, there is a potential to attract television advertising from businesses that have traditionally utilised local newspapers, billboards and radio.

- Q.14.a What funding model could Community Television follow to become sustainable?*
- Q.14.b Should community television be allowed to carry advertisements, if yes, should there be any limits? Or what should the limits be?*
- Q.14.c Some stakeholders have suggested that the Authority should investigate a hybrid model whereby a frequency can be shared between community television and community radio. For example, television could broadcast for three hours per day and the rest of broadcasting hours could be allocated for community radio. Do you agree with this view? If you don't, please explain. Does the current discussion on convergence of technologies in any way alter your opinion on the matter?*
- Q.14.d Will signal distribution tariffs be a barrier to entry for LTV and if there are obstacles, how should they be dealt with?*
- Q.14.e What licence conditions should the Authority impose on Community Television to allow it to be successful?*
- Q.14.f What role (if any) should MDDA play in funding Community Television?*
- Q.14.g Multi-purpose Community Centres (MPCC) are being established countrywide through a programme co-ordinated by the Government Communications Information Services(GCIS). Can these facilities be used in locating aspects of community television, like production and broadcasting studios?*

15. IMPACT ON EXISTING TELEVISION BROADCASTING SERVICES

Any new entrant into the market will have some impact on the existing players. In the case of community television this would probably be in terms of competition for audience viewership. It can be argued that community television will not impact heavily on the advertising revenue of larger national television channels. If advertising or sponsorship is allowed, it would be more likely to impact on the advertising revenue of local newspapers and local radio stations. There are also benefits that can accrue to existing services, in terms of providing content to LTV or utilising LTV frequencies in the downtime, to increase coverage or lower costs of coverage.

- Q.15.a What other impact (positive or negative) will the introduction of Local Television have on existing players?*

16. INTERNATIONAL PRECEDENT

In most countries community television is broadcast on cable and is identified by the following three aspects:

- **public access:** Residents of a community have access to equipment to produce a programme to share with neighbours over the local public access channel. Public access channels may also feature government programmes and programmes produced by the schools. These are called government access and educational access, respectively. Sometimes each of these functions- public, government, and educational access has its own channel. In some cases though the activity shares a single channel.
- **local origination:** The cable company creates local programming, largely developing the ideas for the programmes and producing with their own staff. These programmes are aired on a local cable channel for cable subscribing members of the community to enjoy.
- **non-profit community television:** Managed and programmed by non-profit organisations which use the channel(s) for education, outreach, etc.

Community television has become an active practice in Europe, North and South America, and Australia. It provides the general public with opportunities specific to each locale: access to video production equipment, training in the use of this equipment, and/or distribution outlets for their completed video programmes. In the U.S distribution of community television programming is primarily through local cable television channels. Nearly 2000 communities are served by such facilities, dedicated for use by the public, or set aside for education or government. These access channels produce over 20 000 hours of original programming every week.

16.1 Canada

In Canada, community stations are sometimes referred to as Remote Stations and operate on a limited effective radiated power. Their Grade B service contour does not exceed 12 kilometres in any direction from the antenna site.

Accordingly, remote stations develop community-oriented programming that contributes to the diversity of television services within the community. Although the policy allows for the broadcast of non-Canadian content programmes, it stipulates that a remote station must also fulfil the requirements of the television regulations or any condition of licence regarding Canadian content, as well as meet its responsibilities with respect to community-oriented programming.

16.2 Ireland

In Ireland, a community station is characterised by its ownership and control by the community and its programming that is characterised by the community that it serves.

Stations included in the community broadcasting strand are expected to:

- describe clearly the geographical community or community of interest served;
- promote and support active participation by this community at all levels in the operation; and
- operate in a manner which is in keeping with the ethos or value system which underpins community activity.

Community television stations in Ireland are funded by various sources such as advertising, sponsorship, grants, donations and membership fees. The Broadcasting Commission of Ireland (“the BCI”) stipulates that:

- no more than 50% of a community station’s income should come from any one source;
- no more than 50% of income should be secured from commercial activity;
- a maximum of six minutes advertising/sponsorship per hour will apply; and
- stations may only broadcast advertisement which relate to-
 - (i) work opportunities which exist in the specified area,
 - (ii) events which are to occur in a specified area,
 - (iii) businesses which are to be carried on in the specified area and
 - (iv) services which are delivered in the specified area¹⁰.

¹⁰ Under the Broadcasting Act 2001, the name and role of IRTC was changed in 2001 to the “Broadcasting Commission of Ireland”(BCI)

16.3 The United States of America

In the United States of America, community television services are known as “Low Power Television Service” (LPTV) and were established by the Federal Communication Commissions (“the FCC”) in 1982. They were established to provide opportunities for television services for locally-created and community-oriented programming in both rural locations and individual communities within larger urban areas; these are subject to a limit of 3 kilowatts effective radiated power (ERP) for VHF channels and 150 kilowatts ERP for UHF channels, as well as having to abide by the interference protection standards. The LPTV’s are operated by diverse groups such as high school and colleges, various religious groups, local governments, large and small businesses and individual citizens. More than 20% of LPTV stations are licensed to minority groups.

LPTV has had a positive economic benefit such as creating opportunities for entry into television broadcasting. There are more than 2000 licensed and operational LPTV stations and approximately 75% of these serve rural communities. The modes of programming delivery of LPTV stations include satellite, syndicated programming, movies and a miscellany of locally produced programmes.

Regulations covering LPTV include:

- limit of effective radiated power (ERP) of 3 kilowatts for VHF channels and 150 kilowatts ERP for UHF channels;
- no limit on antenna height as long as the tower structure has been registered with the FCC;
- no limit on advertising time;
- no minimum hours required for broadcasting;
- no ownership limits; and
- must not cause interference to the reception of existing or future full-service stations and must accept interference generated by such full-service stations.

Being an island state slightly different from the other states in the USA, in Hawaii, a community television is referred to as “public access television”. This service is provided by the community free of censorship (to the extent allowed by law), commercials, and control by organisations outside a given community.

Public access television services are mainly for education, coverage of Council meetings, information on County services, credit and non-credit courses delivered to the home, and special events. The cable companies in Hawaii contribute a portion of their income to support public access television.

16.4 The United Kingdom

In the United Kingdom, community television is known as “local television” and forms part of Restrictive Licence Services (RLS). This was introduced by the Communications Act of 2000, to develop a new layer of public service local television that is more relevant to people’s daily lives than has previously been possible.

Local television is seen as a vehicle to bring substantial economic and social benefits such as increased employment and the promotion of social cohesion and local cultural identity. It can be produced and broadcast more economically than local newspapers and has a potential of employing over 34 000 people.

Currently, there are about 1000 local television stations in towns, rural areas and cities around the UK and these have had the following benefits:

- employment creation – over 20 000 new skilled jobs;
- efficient public resource allocation;
- training;
- increased demand for supply of technical equipment;
- social inclusion;
- local democracy to enhance access to local issues; and
- cultural outlets for assisting in showcasing local creative events.¹¹

16.5 Spain

In Spain, community television is known as Local Television. Started in the 1980’s these services initially struggled to survive due to lack of government intervention. Twenty years later, they have become the “bull market” for the market players who are trying to maintain or increase their presence in the media and have conquered 10% market share.

¹¹ Geoff Bush – Herts TV. June 2000. Submission to DCMS/DTI consultation on the Communications Reform White Paper

Spanish Local Television which is carried on cable is based on the American model, where local television broadcasters are affiliates of big network operators which syndicate their programming to other affiliates.

16.6 Australia

In 1994, an eight year trial of community television commenced on the sixth analogue television channel after the Australian Government decided that the spectrum would be made available for community and educational non-profit purposes. The services operate as open narrowcasters with special conditions on their apparatus licences.

Since then community groups have demonstrated that viable community television services can be provided for non-profit community and educational purposes, despite an uncertain business environment as a consequence of the trial period and limited-term licences.

Channel 31 Melbourne is the most successful of the five full-time community television (CTV) stations operating in Australia. It reaches over a million viewers each week. The consortium for Channel 31 was established in 1991 as an administrative body for local video production groups. In four years Channel 31 has turned over millions of dollars and is a viable, growing operation providing over 60 hours of original first-run programming each week. The revenue base of the station is primarily from sponsorship - historically the majority of these from the racing industry - but the sponsorship base is diversifying and broadening. The station is sustained by the efforts of over 70 volunteers each week and eight full time staff. Channel 31's offerings include experimental programmes, highly innovative digital animation, sporting telecasts, variety shows, lifestyle magazines, music programmes, religious studies and educational programmes. Channel 31 broadcasts 24 hours a day, seven days a week (i.e. 168 hrs). Approximately, 95% of this programming is either sourced from community groups or produced by the station itself.

The other four full time community stations are in Brisbane (Briz 31), Lismore (LINC-TV), Sydney (C31) and Adelaide (ACE). There are three other licensees yet to commence in Hobart (HAC-TV), Bendigo (CTV 41) and Perth (Channel 31 Consortium). Compared to Channel 31 Melbourne, the other CTV operators are in different stages of development but each offers unique services to benefit their target communities. The sector provides for otherwise unmet community needs for diverse and locally relevant media content. As Australian television is dominated by three commercial and two government-owned national and centralised networks, community television is therefore viewed as the final preserve of

true localism. Community television also provides an important outlet for originality, innovation and experimentation in content production.

The community television sector in Australia has emerged in an uncertain policy framework without any Government subsidy for operations, programmes or development. Revenue for the sector is modest with the five operating stations raising about AUS\$2m from sponsorship (67% of aggregate revenue), airtime access fees (27%), grants (3%), production activities/sales (2%), equipment and facilities hire (0.6%) and memberships (0.5%). Community television broadcasters believe that the future viability and development potential of community television would be enhanced by the use of digital production and transmission technology. They are currently actively campaigning to ensure that policy decisions about digital television and datacasting need to fully take into account the needs of community television.

The Broadcasting Services Act, in Australia, requires that community broadcasting services should be able to be received on commonly available equipment and made available free to the general public. Free-to-air television is regarded as a universally available communications medium and is therefore viewed as being in the public interest for community television (CTV) to continue to be developed as an integral part of the television broadcasting medium.

16.7 Public Access Case Studies

It is perhaps useful to look at three international case studies on how public access television has been implemented in the United States of America, Germany and New Zealand. The implementation of public access television is very different from the usual approach to community television. It is mainly educational and is driven by non-profit organisations or local origination; this is where the station's staff produces its own programmes. Public Access television merely provides a platform and all the content broadcast is from the community.

16.7.1 Germany – Offener Kanal Dortmund

Offener Kanal (Open Channel) Dortmund is an open channel that aims to offer all citizens of Dortmund the possibility to make use of their basic rights to freedom of speech in the electronic medium of television. The station began broadcasting in June 1985, initially the cable-casting was managed by a local public TV station.

Each user is given the production and transmission time required to state their opinions on the Open Channel which transmits in the Dortmund cable network on channel 3, from Monday to Friday, from 17h30 to 22h00. From 22h00 the days' programmes are repeated on weekends the whole of the weeks programmes are repeated from 16h00. All citizens living in Dortmund (transmission area) are able to use their Open Channel.

Every producer is responsible for his or her programme and to make sure of this the name and address of the responsible producer is shown at the beginning and end of each programme. Upon request each user can receive advice from "communications helpers" (employees of the Open Channel), as well as instructions on how to use technical equipment. Further the Open Channel offers a number of media course and seminars to the public, in co-operation with various educational institutions. The programme scheme is not set up by the Open Channel itself. All contributions are transmitted according to the line-up principle, which simply means that users can choose the day they would like their contributions to be transmitted. It is from this that a kind of programme scheme develops. Changes in line-up are possible in agreement with users.

The Open Channel is free. Lending video cameras and using the editing equipment and the television studios are absolutely free of charge. The Open Channel is financed with funds from the state government and partly from the City of Dortmund's municipal authorities and from donations from the public. The latter also supplied the Open Channel with an old school building in Dortmund from which it broadcasts.

The range of broadcast in the Open Channel covers, amongst others:

- sport shows;
- music shows;
- church and religious contributions;
- information shows;
- holiday films;
- movies;
- reports on all local cultural happenings;
- birthday greetings, marriage proposals; and
- foreign language contributions.

16.7.2 United States of America – Access Phoenix

Access Phoenix is the public access TV Phoenix, Arizona, USA. It provides citizens, non-profit organisations and government agencies the opportunity to produce television shows for local communities. Citizen or non-profit organisation producers can attend orientation and hardware training classes at Access Phoenix for a nominal fee of \$30 dollars per person. The persons producing a television programme for broadcast on Access Phoenix must attend these classes. Access Phoenix accepts 30 minute programmes for broadcast and avail its studios and equipment for hire at nominal fees to citizen or non-profit organisation producers.

Access Phoenix is a non-profit organisation committed to providing citizens with the most accessible way to communicate with their communities. It depends upon air time rates, public donations and government funding for its operating revenue.

Some examples of locally produced programmes broadcast by Access Phoenix are:

- naturescope – a look at Palm Beach Country's unique flora and fauna;
- storytime – classic favourites and fun new stories along with puppets to entertain children;
- crossing the Line – riding along with palm Beach fire-fighters and paramedics;
- in View – meeting the people and county departments working to keep Palm Beach Country one of the best places in the USA;
- cultural Capital – a weekly lesson on the arts;
- country Connection – issues that face the community are discussed with local leaders and elected officials; and
- environmental TV – the Solid Waste Authority shows citizens how they can recycle and conserve the environment

16.8 Lessons learnt from International precedent

It is clear from the international experience is that just like the diverse communities they serve; community TV comes in all shapes and sizes. Coverage can range from a school through a small rural community and to a small city. The term narrowcasting or low power TV has been used to indicate the limited range of coverage for community television.

Another principle is that community TV should not be driven by commercial motives, other than sustainability. This is closely linked to the principle that the community should have access to air time, and that this should be provided on an impartial basis.

It is also clear that community TV can play an important role in articulating community interests in a way that national and regional television cannot. It also provides a platform for marginalized groups in society. As most of the station workers are volunteers, community TV provides useful training role for those intending to seek a career in the media industry. It is also clear that public access television is not just restricted to the USA and Canada, it can be found in such places as the United Kingdom, New Zealand, Denmark and Fiji. There also appears to be a link in most countries to “must carry” obligations on cable operators. In Brazil, for example, Law 8.977 of June 1, 1995, “requires cable operators to make available” six channels free “for public use, to ensure the exercise of free speech”¹².

Q.16.a Should there be any additional programming requirements for Local Television other than those set out in legislation?

Q.16.b What percentage of broadcast hours should news and current affairs have on LTV?

Q.16.c What workable models can be identified from international experiences for use in South Africa?

Q.16.d What aspects of Public Access case studies should be considered for LTV in South Africa?

Q.16.e Should South Africa consider international precedents and limit ERP for LTV?

Q.16.f If the Authority was to introduce local community television, how should this be done? Should the Authority prescribe a model for Community Television or should it be flexible by allowing incumbents to demonstrate the best model for South Africa by allowing a trial period of eight years and if it succeeds, the successful model be adopted for South Africa?

¹² Olson, B. 2002. The History of Public Access Television. USA: Eau Claire Community Television, p.10.

SECTION D

COMMERCIAL LOCAL TELEVISION SERVICES

As mentioned previously section 2 of the IBA Act places an obligation upon the Authority to promote the introduction of a diverse range of television services at national, regional and local level. This obligation has only been met in sound broadcasting.

Section 2 further indicates that the Authority must attempt to promote public, commercial and community broadcasting services which are responsive to the needs of the public and which promote national and regional identity, culture and character. It is for this reason, amongst others, that the Authority should consider the public demand and financial viability of introducing Commercial LTV.

17. LEGISLATIVE FRAMEWORK

The legislative framework guiding the Authority in its inquiry into Commercial LTV is contained in the IBA Act and the Broadcasting Act.

17.1 Licensing

In terms of section 46(1) of the IBA Act in considering an application for a commercial broadcasting licence, the Authority shall with due regard to the objects and principles enunciated in section 2, *inter alia* take into account:

- (a) the demand for the proposed broadcasting service within the proposed licence area;
- (b) the need for the proposed service within such licence area, having regard to the broadcasting services already existing therein;
- (c) the expected technical quality of the proposed service, having regard to developments in broadcasting technology;
- (d) the capability, expertise and experience of the applicant;
- (e) the financial means and business record of the applicant;
- (f) the business record of each person who, if a licence were granted to the applicant, is or would be in a position to control the operations of the applicant either in his or her individual capacity or as a member of the board of directors or top management structure;

- (g) the applicant's record and the record of each person referred to in paragraph (f), in relation to situations requiring trust and candour;
- (h) whether the applicant is precluded by or in terms of section 48, 49, 50 or 51 from holding a broadcasting licence; and
- (i) whether either the applicant or the person referred to in paragraph (f) has been convicted of an offence in terms of this Act.

17.2 Programming

Legislative guidance is also given in the Broadcasting Act, with regards to the type of programming a commercial broadcasting service is expected to provide. Section (30)(1) states that commercial broadcasting services when viewed collectively-

- (a) must as a whole provide a diverse range of programming addressing a wide section of the South African public;
- (b) must provide, as a whole, programming in all South African official languages;
- (c) may provide programming in languages other than South African official languages, where the Authority is convinced that such services can be commercially viable; and
- (d) must within a reasonable period of time be extended to all South Africans and provide comprehensive coverage of the areas which they are licensed to serve.

If a Commercial LTV selects the option of being a free-to-air broadcaster it would also be guided by section 30(2) which states that the programming provided by free-to-air broadcasting must as a whole-

- (a) reflect the culture, character, needs and aspirations of the people in the regions that they are licensed to serve subject to licence conditions;
- (b) provide an appropriate significant amount of South African programming according to the regulations of the Authority;
- (c) include news and information programmes on a regular basis, including discussion on matters of national and regional, and where appropriate local, significance; and
- (d) meet the highest standards of journalistic professionalism.

This is further amplified by section (30) (4) which states that -

“The programming provided by free-to-air television broadcasting services must as a whole include levels of South African drama, documentaries and children’s programmes that reflect South African themes, literature and historical events, as prescribed by regulation”.

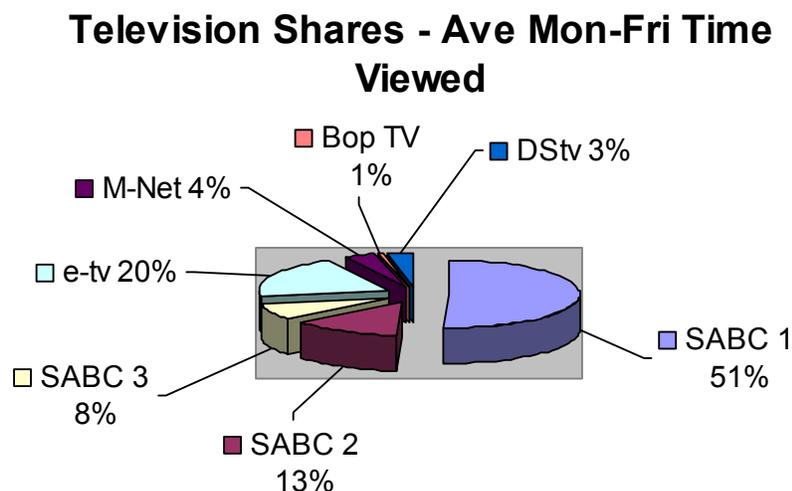
The above sections emphasise the importance of reflecting South African culture on our airwaves and that even though a commercial free-to-air broadcaster’s main purpose is to make profit, they are also expected to broadcast diverse programme genres including South African drama, children’s programming, news and documentaries.

Q.17.a If a Commercial LTV is introduced, should it be limited to free-to-air or can it look at other categories of licence such as Terrestrial subscription?

18. ECONOMIC FEASIBILITY AND ADVERTISING

Commercial LTV should be allowed to generate its revenues from advertising and sponsorship. As a Commercial LTV, it would also be subject to advertising limits and programming requirements including South African Television Content.

AMPS 2002B has shown that there has been a great deal of movement within the Television arena with e-tv and SABC 1 pulling more viewers, followed by SABC 2 and M-net’s main channel.



SOURCE: AMPS2002B

Commercial LTV would be competing with these entrenched players and would need to be creative through their programming in order to claim a percentage of market share.

The introduction of commercial LTV should be done in such a way that the new entrant would be able to sustain itself. In recent years, the Authority has received enquiries regarding the introduction of commercial LTV. These inquiries were from aspirant broadcasters in Durban, Johannesburg and Cape Town. Potentially the Authority would also licence regional television services.

Q.18.a There is a perception that increasing channels will not bring diversity and choice for audience but will have a negative impact on audience behaviour. Do you agree with this perception? If yes, why? If no, why not?

Q.18.b Which areas do you think the Authority should consider licensing the Commercial LTV?

19. INTERNATIONAL PRECEDENT

19.1 USA

In the USA, commercial local television forms part of public television and although it is run on a commercial basis, i.e. payment for air-time, it is for non-profit purposes. It generates its funding from sponsorship and donations from local businesses and membership fees.

19.2 Australia

In 1956, initially, two commercial metropolitan television broadcasting licences were granted in both Sydney (ATN and TCN) and Melbourne (GTV and HSV), followed by national services (the ABC) in Sydney and Melbourne. The introduction of commercial metropolitan television services to other capital cities and regional areas was a staged approach. Commercial metropolitan television services commenced operation in Brisbane (BTQ and QTQ), Adelaide (ADS and NWS) and Perth (TVW) in 1959 and Hobart (TVT) in 1960.

In allocating licences, the Australian Broadcasting Control Board (later called the Australian Broadcasting Authority) was tasked to ensure that adequate and comprehensive programmes were provided by commercial television stations to serve the best interests of the general public. In addition, under the television ownership limitations, a person was prohibited from owning, or being in a position to exercise control, either directly or indirectly

for more than one station in any capital city or more than two stations in Australia (the 'two station rule').

19.3 Lessons learnt from international precedent

Most countries do not have commercial local television as this falls under community or public television services. Australia is not a good example as this reflects the way in which television services were first established in the country, rather than a model to be utilised in a country with existing television services.

Lack of international examples should not prevent South Africa from assessing the potential for LTV, especially since interest has been shown in this type of licence.

Q.19.a What model should the Authority develop for commercial LTV?

Q.19.b Should there be any specific programming requirements beyond that set out in the legislation for commercial local television?

Q.19.c What advertising limits if any should be imposed on commercial local television?

Q.19.d Is commercial local television a viable operation or should the Authority consider subjecting Satellite broadcasters to carry commercial local television on their bouquet?

Q.19.e What funding model should be considered for commercial local television?

20. CONCLUSION

With the exception of Australia where television originally began in the capital cities as commercial metropolitan television broadcasting services, there are few examples of the successful introduction of commercial local television as a free-to-air service.

Q.20.a The Authority recognises that there are no models to emulate, how do you think commercial LTV should be introduced or if it should be introduced at all?

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