



## **Broadcasting Services Act**

### **Fact Sheet Eight:**

#### **Powers granted to the Minister of Information and Publicity**

##### **Introduction:**

The Broadcasting Services Act (BSA) (2001) gives the Minister of Information and Publicity wide and discretionary powers to regulate (control) the broadcasting industry in the country. These powers scare away potential investors in the sector and make it virtually impossible to operate a private broadcasting radio or television. Further, these powers practically work to censor the information that is circulating in the public realm by forcing broadcasters to practice self-censorship lest their licences be revoked without notice. Some of these powers, and their negative impact on the industry, are discussed below.

##### **Unconstitutional powers:**

In terms of the law, the Minister of Information determines in his/her discretion:

- (1) the appointment, termination and alteration of the conditions of tenure of office of members of the BAZ board (section 4).
- (2) who obtains a licence.
- (3) the terms and conditions attached to an issued licence (section 11).
- (4) whether an issued licence should be amended (section 15), suspended or cancelled (section 16).
- (5) whether to close a broadcaster on the basis that in spite of the registered shareholding, a broadcaster is to his/her mind being “controlled” by some other person(s) or body; (section 20, as read with section 2(1)).
- (6) the content of programmes.
- (7) when to take over broadcasting stations and broadcast at a time determined by him/her (Section 39 and the Fifth Schedule (Part III)).

These powers are in direct violation of Section 20 (1) of the Constitution of Zimbabwe in that they unreasonably and adversely limit the individuals’ right to receive and impart ideas, views and information through the media and without interference or hindrance.

The fact that power is centralised in one person means that he/she can censor the information that is available to the public. Section 20(2) of the Constitution only grants the government the right to interfere with individual’s right to free expression only if these rights amount to a threat to public safety, health, morality, defence, or the economic interests of the state. Anything that does not fall into any of these legitimate reasons for restriction is not justifiable by law and amounts to a constitutional violation.

The use of one person as being overall in charge of the broadcasting regulatory authority, party and the head of competing electronic and print mass media, with absolute and unrestrained power is hardly justifiable in any democratic society. Political and not professional considerations will no doubt influence decisions that relate to the industry. The Minister’s powers reveal the government’s determination to control information available to Zimbabweans by maintaining a monopoly of the airwaves which was declared illegal by the Supreme Court of Zimbabwe in 2000.

It cannot be over-emphasised that the Minister’s powers are not limited to regulating the “technical administration, technical operation or general efficiency of ... wireless broadcasting

or television...” – as Section 20 (2) of the Zimbabwean Constitution stipulates but are in fact meant to directly affect the nature, quality and quantity of information to be broadcast by private players in the sector.

A democracy – such as Zimbabwe professes to be – takes for granted the existence of a pluralistic political system, where everyone has the right to pursue their dreams through a free press, free speech and freedom of association and assembly. Centralised control of the means of communication, as well as of the nature of information disseminated, by any one individual is typical of autocracies and is harmful to the nourishment of democracy.

Making the Minister the central licensing authority in the broadcast media illustrates the hunger, on the part of the government, to control the way people speak, think and share ideas.

Ends.