



Broadcasting Services Act

Fact Sheet Two:

The Broadcasting Authority of Zimbabwe (BAZ)

Introduction:

The world over, democracy demands that the media must be free and unfettered in order to impose checks and balances against the excesses of authorities.

Media freedom, particularly in the broadcast sector, means that, frequency allocation, the licensing of broadcasters, as well as the technical administration of broadcasting is placed in the hands of a self-sufficient independent broadcasting commission/authority or select parliament committee. Political control of the media (or any form control for that matter) is frowned upon in any society that claims to be a democracy, because it is an abridgement of the fundamental human rights to free speech and expression through the media. Zimbabwe is one such country that claims to be a democracy. However, the government continues to manipulate the management of the broadcast media sector through establishing a commission that is neither independent nor self-sufficient.

The Broadcasting Authority of Zimbabwe (BAZ):

Broadcasting Services Act [Chapter 12:06] (BSA), provides for the establishment of the BAZ, which is tasked with regulating the broadcast media in the country (Section 3). However, a close analysis of the sections that deal with the tasks, responsibilities of the BAZ reveals that the Authority is, like the Media and Information Commission (MIC) established under the Access to Information and Protection of Privacy Act (AIPPA) (2002), a proverbial toothless bulldog which plays a secretarial role to the actual broadcasting authority, i.e. the Minister of Information and Publicity!

According to Section 4(2) of the BSA, the Minister, in accordance with any directions the President may give him/her, appoints the board which will run BAZ, consisting of not less than five and not more than nine members.

In reality, this means the BAZ Board is appointed by the Executive, and not by the public (via parliament) as is the case with most democracies the world over.

Further analysis reveals that the members of the BAZ board do not have any security of tenure in office, as the Minister of Information retains the power to suspend or fire them using his discretion (section 4 (3) and (4)). A BAZ Board member maybe dismissed for having conducted him/herself in a manner that “renders him [sic] unsuitable as a member....” What constitutes “unsuitable” behaviour is not defined and is left to the absolute discretion of their employer, the Minister of Information.

The government seems not to trust authorities to effectively control the broadcasting industry. The Minister is effectively the licensing authority with absolute discretionary powers to:

- (1) decide whom and when to issue licences (section 5);
- (2) the terms and conditions applicable to individual licences (section 11);
- (3) decide on the amendment, suspension and cancellation of licences (sections 15 and 16);
- (4) singularly develop and cause the implementation of regulations applicable to the broadcasting industry (sections 25(1) and 46);

- (5) interfere with and/or change the content of programmes broadcast by an licensee (sections 11(5), 39(3) and 25(2); and,
- (6) decide when to declare an “emergency” and take over broadcasting stations, and broadcast using the station and equipment (section 39(2))

The Minister of Information is a government official and party functionary, and his/her unfettered powers to appoint and dismiss members of the BAZ board, renders the board susceptible to political interference and manipulation. It also means that a member's tenure of office is secured only at the benevolence of the Minister.

This provision in the Act granting the Minister wide and discretionary powers whose exercise may circumvent the right to freedom of expression must be reformed to strip him/her of such powers. Instead, it is suggested that the BAZ board should be appointed by and answerable to a representative public institution like the currently existing Portfolio Committee on Transport and Communications, which is composed of diverse and elected representatives of the people of Zimbabwe.

The process of inviting applications, short listing of candidates, interviewing and appointments onto the BAZ board should, as much as possible, be in the public eye so that the citizens of Zimbabwe can feel they have a say in the running of their own country.

Further, it is clear that the structures that are created to administer the BSA and to regulate the broadcast industry are similar to those created under AIPPA and the MIC.

The South African example:

There is a need to create an independent body to run the broadcast sector in Zimbabwe as happens with most countries in the region and the world over. For example, unlike BAZ, South Africa's telecommunications and broadcasting regulating body, the Independent Communications Authority of South Africa (ICASA), is independent and subject only to the constitution of South Africa. The ICASA Act (2000) (section 3 (3)) states that:

The Authority is independent, and subject only to the constitution and the law, and must be impartial and must perform its functions without fear, favour or prejudice.

Further, the President of the Republic of South Africa may only appoint council members after ensuring public participation and transparency in the nomination process (ICASA Act 5(1)). In addition, the ICASA Act sets fixed terms of office for all councillors, and sets clear conditions on termination of service. The Minister of the Department of Communications (DOC), and all other political figures have no power to interfere with the work and affairs of the ICASA. No such guarantees can be found in Zimbabwe's statutes

In fact, through the BSA, the government created the impression of compliance with the Supreme Court's decision to liberalise the sector, yet in actual practice, it kept its grip in all manner of broadcasting in the country.

Ends.