GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF COMMUNICATIONS

NO. R. 1054 **29 SEPTEMBER 2017**

GOVERNMENT GAZETTE NOTICE FOR PUBLIC COMMENT: FILMS AND PUBLICATIONS BOARD DRAFT TARIFFS REVIEW

REPUBLIC OF SOUTH AFRICA

I, Ms. N.T.F. Mpumlwana, hereby publish for public comment, the Draft Tariffs Review developed under section 31(1) A of the Films and Publications Act, 61 of 1996, as amended.

Any person who wishes to submit representations or comments in connection with the Draft Tariffs Review is invited to do so within 30 (thirty) days from the date of publication in the Government Gazette and by no later than 16h00 on the last day. Comments received after this time may not be considered.

Hand deliver to: The Film and Publication Board
Eco Glade 2, 420 Witch Hazel Avenue
Centurion, 1609
Attention: Tshepo Mogale

Or e-mail to: tariffs.submissions@fpb.org.za

A copy of the Draft Tariffs Review is also available free online at www.fpb.org.za

SCHEDULE

1. The Film and Publication Board (Board) is a public entity of the Department of Communications, established in terms of the Films and Publications Act 65, 1996 (as amended in 2004 and in 2009).

2. **The mandate of the Board can be summarised as follows:**

   2.1 To regulate the creation, production, possession and distribution of films, games and certain publications by way of classification;

   2.2 To protect children from exposure to disturbing and harmful material and from premature exposure to adult material; and

   2.3 To criminalise child pornography and the use and exposure of children to pornography.

3. Section 18(1) of the Films and Publications Act requires any person who intends to distribute any film or game and certain publications in the Republic of South Africa first to register with the Board and to submit to the Board for examination and classification such film, game or publication.

4. Although the current legislation is not platform-specific, the Board's compliance and classification activities have over the years focused more on physical platforms and less on the online space, resulting in children being exposed to unclassified content accessed through the internet and other mobile platforms.

5. Media convergence – a new technology trend enabled by the digitisation of media content, the widespread availability of high-speed broadband

connections, and the proliferation of Internet-enabled devices has fundamentally transformed the way media content is distributed and consumed. Consumers can now access media content across geographic boundaries, anytime, anywhere, and however they want it.

6. Section 31(1)A of the Act empowers the Minister in consultation with the Minister of Finance, make regulations regarding fees payable in respect of any application, exemption, permit or appeal under this Act. The current tariff structure does not make adequate provision for the increasing volumes of online content and growth and development of the video on demand industry as a whole. As a public entity, the grant received from National Treasury through the Department of Communications is largely used to subsidize the cost of the administrative functions performed by the FPB pursuant to the provisions of the Act. Thus in the financial year 2015/16 strategy FPB resolved to review the tariffs by appointing Enterprises of the University of Pretoria, to conducted in-depth research on the market trends and legislative framework review. Enterprise included on this exercise industry engagements through round table discussions held in Gauteng and Durban to assess the relevancy of the current tariffs, and also issue directives on how the FPB Board must charge classification and registration of content distributed online for the South African market. This is to ensure online content distributors that fall under our jurisdiction register with the Board and pay the justifiable fee and have their content classified pre distribution. Against this background, in order to give effect to the Act, the Minister of Communications in consultation with the Minister of Finance, intends to adopt the attached Draft Tariffs.

7. The purpose of the Draft Tariffs is to ensure that tariffs payable by distributors are justifiable, fair and relevant.
8. This Draft Tariffs Review is also available for free online at **www.fpb.org.za**

Annexure

Annexure A	**Physical Content and General Penalties (tariffs)**
Annexure B	**Online Distribution and General Penalties (tariffs)**

Ms. N.T.F. Mpumlwana
FPB Council Chairperson

13/09/2017
Date

Film and Publication Board™

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FPB DRAFT TARIFFS 2017

Annexure A (Physical Content and Distributor Size)

1. Physical Content tariffs

Tariff number	Serial No	Description	Tariff category	Proposed Fee (no size differentiation)	Proposed Fees with size differentiation		
					Small client	Medium client	Large client
1	1.1	Distributor or exhibitor of films or interactive computer games, and mobile cellular and internet content	Registration	R1 222.00	R1 222	R1 222	R1 222
2	1.1.1	Distributor or exhibitor of films or interactive computer games, and mobile cellular and internet content	Registration	R1 635.00	R1 635	R1 635	R1 635
3	1.2	Internet Service Provider	Registration	R611.00	R611	R611	R611
4	1.3	Annual renewal of distribution certificate: Online	Registration	R166.00	R83	R166	R249
5	1.3.1	Annual renewal of distribution certificate: Manual	Registration	R218.00	R109	R218	R327
6	1.4	Issue of new certificate on change of details	Registration	R261.00	R131	R261	R392
7	2.1.1	Periodical (annual fee)	Classification - Publication submitted in terms of Section 16(4) of the Act	R16 426.00	R8 213	R16 426	R24 639
8	2.1.2	Single Issue	Classification - Publication submitted in terms of Section 16(4) of the Act	R1 851.00	R926	R1 851	R2 777
9	2.2.1.1	New release of original English - language film	Classification - Films - Public entertainment format	R3 423.00	R1 712	R3 423	R5 135
10	2.2.1.2	New release of original non-English language film	Classification - Films - Public entertainment	R1 711.00	R856	R1 711	R2 567

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		(Subtitled) - 50% of the original language	format				
11	2.2.1.3	New release of an adult movie (First 3 hours)	Classification - Films - Public entertainment format	R3 423.00	R1 712	R3 423	R5 135
12	2.2.1.4	New release of an adult movie (3 to 4 hours)	Classification - Films - Public entertainment format	R4 441.00	R2 221	R4 441	R6 662
13	2.2.1.5	New release of an adult movie (4 to 6 hours)	Classification - Films - Public entertainment format	R5 459.00	R2 730	R5 459	R8 189
14	2.2.1.6	Trailer of a film	Classification - Films - Public entertainment format	R34.00	R17	R34	R51
15	2.2.1.7	Re - release of original English language film - 50% of the applicable tariffs	Classification - Films - Public entertainment format	R1 711.00	R856	R1 711	R2 567
16	2.2.1.8	Re - release of original non-English language films (Subtitled) - 50% of the applicable tariffs	Classification - Films - Public entertainment format	R926.00	R463	R926	R1 389
17	2.2.2.1	New release of original English - language film (First 1 hours)	Classification - Films - Home Entertainment format	R1 537.00	R769	R1 537	R2 306
18	2.2.2.2	New release of original English - language film (2 to 3 hours)	Classification - Films - Home Entertainment format	R2 306.00	R1 153	R2 306	R3 459
19	2.2.2.3	New release of original English - language film (3 to 5 hours)	Classification - Films - Home Entertainment format	R3 075.00	R1 538	R3 075	R4 613
20	2.2.2.4	New release of original non-English language film (Subtitled)	Classification - Films - Home Entertainment format	R2 289.00	R1 145	R2 289	R3 434
21	2.2.2.5	New release of original non-English language film (Not Subtitled)	Classification - Films - Home Entertainment format	R7 630.00	R3 815	R7 630	R11 445
22	2.2.2.6	New release of an adult movie (First 3 hours)	Classification - Films - Home Entertainment format	R3 423.00	R1 712	R3 423	R5 135
23	2.2.2.7	New release of an adult movie (3 to 4 hours)	Classification - Films - Home Entertainment format	R4 441.00	R2 221	R4 441	R6 662

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24	2.2.2.8	New release of an adult movie (4 to 6 hours)	Classification - Films - Home Entertainment format	R5 459.00	R2 730	R5 459	R8 189
25	2.2.2.9	Re - release of original English - language film	Classification - Films - Home Entertainment format	R769.00	R385	R769	R1 154
26	2.2.2.10	Re- release of original non-English language film (Subtitled)	Classification - Films - Home Entertainment format	R1 145.00	R573	R1 145	R1 718
27	2.2.2.11	Re- release of original non-English language film (Not Subtitled)	Classification - Films - Home Entertainment format	R3 815.00	R1 908	R3 815	R5 723
28	2.2.3.1	Foreign Productions (First 3 hours)	Classification - Films - Serials in any language or format	R3 423.00	R1 712	R3 423	R5 135
29	2.2.3.2	Foreign Productions (3 to 4 hours)	Classification - Films - Serials in any language or format	R610.00	R305	R610	R915
31	2.2.3.4	South African Productions (First 5 hours)	Classification - Films - Serials in any language or format	R3 423.00	R1 712	R3 423	R5 135
32	2.2.3.5	South African Productions (5 hours and more)	Classification - Films - Serials in any language or format	R610.00	R305	R610	R915
33	2.2.4.1	Public entertainment format	Classification - Films - Films produced in Africa (including Bollywood)	R913.00	R457	R913	R1 370
34	2.2.4.2	Home Entertainment format	Classification - Films - Films produced in Africa (including Bollywood)	R830.00	R415	R830	R1 245
35	2.3.1	New release in original format	Classification - Interactive Computer Games	R2 794.00	R1 397	R2 794	R4 191
36	2.3.2	New release in different format	Classification - Interactive Computer Games	R2 794.00	R1 397	R2 794	R4 191
37	2.3.3	Re- release in original format	Classification - Interactive Computer Games	R1 396.00	R698	R1 396	R2 094
38	2.3.4	Re- release in different format	Classification - Interactive Computer Games	R1 396.00	R698	R1 396	R2 094
39	2.3.5	Re-classification of games distributed with magazine	Classification - Interactive Computer Games	R1 398.00	R699	R1 398	R2 097

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40	2.3.6	Posters of films and interactive computer games	Classification - Interactive Computer Games	R46.00	R23	R46	R69
41	2.4.1	Exemption of Films for Film Festival	Classification - Exemptions	R2 281.00	R1 141	R2 281	R3 422
42	2.4.2	Exemption of a film in home - entertainment format	Classification - Exemptions	R1 100.00	R550	R1 100	R1 650
43	2.4.3	Exemption of a film in home - entertainment format (additional disc)	Classification - Exemptions	R278.00	R139	R278	R417
44	2.4.4	Exemption of an Interactive computer Game	Classification - Exemptions	R1 369.00	R685	R1 369	R2 054
45	2.4.5	Copy of a certificate of registration, classification or exemption or decision	Classification - Exemptions	R261.00	R261	R261	R261
46	2.4.6	List of all titles classified by the Board (per year)	Classification - Exemptions	R2 281.00	R1 141	R2 281	R3 422
48	2.5.1	Trailer of a film	Classification - Appeal to Appeal Tribunal	R67.00	R34	R67	R101
49	2.5.2	New release of a film	Classification - Appeal to Appeal Tribunal	R6 846.00	R3 423	R6 846	R10 269
50	2.5.3	New release of an adult movie	Classification - Appeal to Appeal Tribunal	R10 917.00	R5 459	R10 917	R16 376
51	2.5.4	Copy of report of Appeal Tribunal	Classification - Appeal to Appeal Tribunal	R82.00	R41	R82	R123
52	2.6	Expedited Classification @ 25% above standard classification fees	Expedited Classification				

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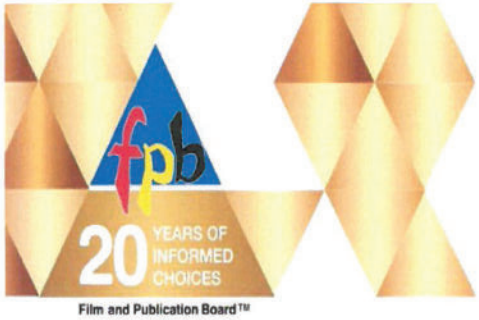

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2. SPLIT OF REVENUE BY CLIENT SIZE

ISTRIBUTOR SIZE	NUMBER OF TITLES SUBMITTED PREVIOUS YEAR
SMALL	LESS THAN 5
MEDIUM	5 – 99
LARGE	100+

Annexure B (online distribution and general penalties)

1. **ONLINE DISTRIBUTOR ANNUAL LICENSE FEES (FILMS/GAMES)**

NUMBER OF TITLES	FILMS	SERIALS
0 – 499	R 259.31/TITLE	R1,037.24/SEASON
500 – 999	R 207.45/TITLE	R 829.79/SEASON
1,000+	R 165.96/TITLE	R 663.83/SEASON

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The fees above are applied in a stepped fashion (i.e. If a distributor offers more than 1,000 titles, the "0-499"fee is applied for the first 499 titles, the "500-999" fee is applied for the next 500 tittles, and the "1,000+" fee is applied for the remaining titles).

2. **NON-COMPLIANCE PENALTY FEES**

2.1 **NON-COMPLIANCE PENALTY FEES PER TITLE (ONLINE DISTRIBUTORS - FILM CONTENT)**

Offence	Number of film titles offered by distributor		
	0 – 499	500 - 999	1,000+
Failure to register Failure to renew license	R518.62	R414.90	R331.92
Failure to display classification decision Incorrect display of classification decision Failure to submit for classification	R43.22	R34.58	R27.66

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2.2 NON-COMPLIANCE PENALTY FEES PER TITLE (ONLINE DISTRIBUTORS - SERIAL CONTENT)

Offence	Number of serial titles offered by distributor		
	0 – 499	500 - 999	1,000+
Failure to register Failure to renew license	R2,074.88	R1,659.58	R1,327.66
Failure to display classification decision Incorrect display of classification decision Failure to submit for classification	R172.87	R138.30	R110.64

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The first penalty fee outlined in the tables above is to be applied in the same stepped fashion as the tariff in respect of all title. Where a distributor offers both film and serial content, the penalty must be applied in respect of both types of content. This fee is set in line with the expected annual tariff cost related to the content.

The second penalty fee outlined in the tables is to be applied per title for which there was a failure, based on the number of total titles offered at the time. this penalty must be applied per title for which there was a failure, based on the number of total titles offered at the time. This penalty must be applied per month for which there was a failure. this represents double the monthly cost that must be paid in respect of those titles.

2.3 **NON-COMPLIANCE PENALTY FEES PER TITLE (EXCLUDING ONLINE DISTRIBUTORS)**

Offence	Penalty fee recommendation
1. Failure to register with FPB	Twice the registration fee
2. Failure to display classification decision on classified content	Twice the relevant classification fee
3. Incorrect display of classification decision	Twice the relevant classification fee
4. Failure to renew distributor license	Twice the renewal fee
5. Failure to submit content for classification	Twice the relevant classification fee

3. **Accreditation of international rating agencies**

The tariff review also focused on accrediting international rating agencies, this is subject to the FPB bill being passed.

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