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Attention: The Director-General

Department of Communications and Digital Technologies

C/O Draft White Paper on Audio and Audiovisual Media Services and Online Safety

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Submission by the Freedom of Expression Institute to the Department of Communications and Digital Technologies: Draft White Paper on Audio and Audiovisual Media Services and Online Safety

1. INTRODUCTION

The Freedom of Expression Institute (“FXI”) is a non-governmental organisation founded in 1994 for the promotion and protection of the right to free expression, free media and access to information. The FXI has been and continues to advocate for policy frameworks that support these rights and democracy.

The Department of Communications and Digital Technologies this White Paper on Audio and Audiovisual Media Services and Online Safety to modernise outdated broadcasting laws to include streaming services, video-sharing platforms and other online content providers.

The FXI believes that reform as proposed in the White paper is overdue but as it currently stands risks undermining the core constitutional rights within FXI’s mandate namely freedom of expression, freedom of the press and the right of access to information. In addition, the digital divide, its consequences for

community media and marginalised groups and how these gaps risk deepening these structural inequalities are not adequately reflected.

The White Paper's gesture towards universal access, through reduced data costs and foreign investment is welcome, but it overlooks the entrenched structural inequalities that continue to shape South Africa's digital landscape. Without explicit commitments to address rural under-connectivity, linguistic diversity, and affordability barriers, the reforms may unintentionally deepen existing divides. This would leave marginalised communities further excluded from both the Digital Economy Masterplan and South Africa's Communications & Digital Technology Infrastructure initiatives, both of which are championed by the DCDT

While essential, the reform should include safeguards that protect rights so that the efforts to curb real online harms do not become a licence to chill speech, stifle independent media or limit the public's right to know.

We now deal with the risks identified below and proposed solutions.

2. RISKS AND PROPOSED SOLUTIONS

(A) Insufficient engagement with the digital divide

The White Paper recognises technological change but does not meaningfully grapple with South Africa's persistent disparities in broadband access, device affordability, digital skills and language diversity. According to national ICT indicators, rural and low-income households remain significantly less connected than urban wealthier ones. By assuming rapid transition to online audio-visual services, the policy risks leaving a substantial number behind. In addition, there's an overreliance on market lead solutions to drive access. These market lead solutions will continue to by-pass rural and township communities

Set binding national targets for affordable broadband, with ring-fenced funding and township infrastructure.

(B) Consequences for Community Media

Community radio and television, already struggling with declining donor and advertising revenues, face additional compliance costs in adapting to converged licensing or online content standards proposed in the White Paper. In addition, proposed content regulation and platform obligations could impose complex monitoring or reporting requirements that disproportionately affect community broadcasters. Instead of supporting their transition to hybrid or online models, the policy may inadvertently squeeze them out of the evolving media ecosystem. Further, community media are often the primary vehicles for indigenous languages and local content. If digital migration policies do not explicitly protect and subsidise these outlets, communities will lose critical spaces for linguistic and cultural expression.

Establish dedicated transition funds, training programmes and simplified regulatory pathways for small and volunteer-run stations to go digital.

(C) Disproportionate impact on marginalised groups

Women, persons with disabilities, rural residents, and low-income youth face higher barriers to devices, data and digital literacy. The White Paper lacks gender-responsive or disability-inclusive measures such as accessible formats, community training initiatives, or subsidised data for public interest content. In addition, by not mandating affordable public-interest content delivery across both traditional and digital platforms, the policy undermines the rights to freedom of expression and access to information. Those already excluded may be further isolated from civic debate, education, and emergency communication.

Integrate gender, disability and rural equity considerations in all content and platform regulations.

(D) Risk of exacerbating the digital divide

By failing to embed concrete strategies for universal service and support for community media, the White Paper inadvertently privileges well-resourced commercial players and urban audiences. The likely outcome will be to deepen inequality in information access and cultural representation, weaken community voices thus eroding media pluralism and entrench socio-economic disparities against constitutional imperatives.

Mandate and finance distribution of content in all official languages across both legacy and digital platforms.

(E) Weak alignment with the right of access to information

A positive duty on public and private institutions to disclose information is absent leaving a loophole for “safety” to be used to withhold information.

Align the White Paper with the Promotion of Access to information Act (PAIA) and mandate proactive publication of regulators’ decisions and annual impact assessments.

(F) Imprecise definitions of harm and online safety

The terms are broad enough to catch protected speech which may serve to chill free speech if platforms and publishers remove many a content to avoid penalties.

Define “harm” narrowly and exclude political speech, journalism, whistleblowing and artistic expression unless there is a clear and imminent danger.

(G) Burdensome broadcast-style licencing may prejudice smaller platforms.

Media diversity may be negatively impacted by the services above certain turnover thresholds needing a licence. Community media, which add to media diversity, may struggle with licensing conditions which prove burdensome.

Apply licensing to large entities professionally edited services and exempt small and community platforms which host only user-generated content.

(H) Sweeping powers for a new Online Safety Ombud and overlapping regulators may create regulatory uncertainty

The Online Safety Ombud, ICASA and the Film and Publications Board operating in the same terrain with possible regulatory uncertainty leaving the door open to politicised or inconsistent enforcement that may in turn lead to self-censorship.

Clarify which regulator does what to prevent overlap and forum shopping.

(I) Opaque takedown and algorithmic transparency rules do not guarantee meaningful transparency.

The absence of clear notice and appeal may negatively impact lawful reporting.

Require regular public reporting on takedown numbers and the reasons in plain language. Insert clear public-interest and journalistic exceptions and guarantee expedited independent review or court appeal for takedowns.

6. CONCLUSION

We submit that without explicit measures to bridge existing connectivity gaps and safeguard the viability of community media, the White Paper risks becoming a catalyst for further exclusion. A rights-based approach, anchored in South Africa's constitutional commitments to freedom of expression, freedom of the media and access to information is essential to ensure that the transition to digital audio and audiovisual services narrows rather than widens the digital divide, free speech is not chilled, independent media is not stifled or limit the public's right to know.

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