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26 September 2025

TO: DEPARTMENT OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES
C/o Director-General
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**COVER LETTER - SUBMISSION BY MEDIA MONITORING AFRICA ON THE
DRAFT WHITE PAPER ON AUDIO AND AUDIOVISUAL MEDIA SERVICES AND ONLINE SAFETY**

ENDORSED BY:

CAMPAIGN ON DIGITAL ETHICS



THE CENTRE FOR CHILD LAW



Dear colleagues at the DCTD,

INTRODUCTION

1. Media Monitoring Africa (“**MMA**”) welcomes the opportunity to provide submissions to the Department of Communications and Digital Technologies (“**DCDT**”) on the Draft White Paper on Audio and AudioVisual Media Services and Online Safety (“**Draft White Paper**”).
2. MMA recognises that the Draft White Paper raises critical issues that have the potential to shape the future of South Africa’s broadcast and media landscape as well as South Africa’s trajectory for the advancement of online safety. MMA therefore welcomes the efforts of the DCDT to engage and consult with a wide range of stakeholders to enable meaningful public participation on the Draft White Paper.
3. As a point of departure, and to clarify the lens through which these submissions are made, we note at the outset that our position is **firmly in favour of separating the governance of audio and audiovisual media services from that of online safety**:
 - 3.1. MMA supports the need for a relevant and coherent broadcasting policy and sees this as essential for enabling media sustainability going forward. MMA equally supports the need for the South African government to consider effective and rights-based responses to an array of harms and rights violations that manifest online. However, MMA is concerned that the conflation of audio and audiovisual media services and online safety dilutes these two distinct streams.
 - 3.2. Following the publication of the Draft White Paper, MMA convened multi-stakeholder workshops to dissect the Draft, hear diverse views from different sectors, navigate divergence and areas of alignment. From 21-22 August 2025, these multi-sector workshop brought together representatives of CSOs, regulatory bodies, the private sector, and social media platforms. Notably, one of the strongest areas of alignment across stakeholder groups was the clear recommendation to separate audio and audiovisual media services from online safety governance. The recommendation to separate these areas is therefore grounded in inclusive consultation.
 - 3.3. While MMA accepts that coordination will be needed, and while there is some overlap between the two, separating out these streams enables policy responses that are appropriate to each ecosystem. It also prevents regulatory overload and ensures that emerging online harms are addressed with the agility and nuance they require.
4. Therefore, MMA strongly encourages the DCDT to separate these out and have two refined White Papers: (1) Audio and audiovisual media services and (2) Online safety.
5. Accordingly, for purposes of its submissions MMA will address the parts of the Draft White Paper on audio and audiovisual media services separately from the submissions on online safety and have prepared and attached two separate submissions.

- 5.1. Broadcasting, audio and audiovisual media services;
- 5.2. Right-based responses to online safety and regulation.

OVERVIEW OF MMA, CODE & CCL

6. Established in 1993 as a not-for-profit organisation, **Media Monitoring Africa (“MMA”)** is an active South African civil society organisation seeking to promote a culture of human rights.¹ MMA has and continues to play a key role in advocating for access to information, freedom of expression and the responsible free flow of information to the public. MMA has also been at the forefront of finding rights-based responses to emerging challenges and online harms, such as disinformation.
7. MMA has extensive experience advocating for broadcasting ecosystems that meet the information needs of the public. MMA has over 30 years’ experience in media monitoring and direct engagement with media, civil society organisations and government.
8. MMA’s work has consistently related to key human rights issues with the objective of promoting democracy, and human rights, and encouraging a just and fair society. MMA has played and continues to play an active role in media monitoring and seeks to proactively engage with media, civil society organisations, state institutions and citizens, and in doing so advocates for freedom of expression and the free flow of information to the public on matters of public interest, within responsible limits.
9. In addition, MMA is actively working to address online harms, such as disinformation, hate speech, harassment, and incitement to violence. MMA’s focus has also been on raising public awareness about children’s rights and the importance of protecting their privacy on digital platforms. As such, MMA has engaged in several projects aimed at educating children, guardians, and educators on online safety, recognising gaps in online safety mechanisms for children, and empowering children to safeguard against exploitation and harm online.
10. These submissions have been prepared by MMA and are formally endorsed by these two valued entities whose support brings important weight and credibility.
11. The **Campaign On Digital Ethics (“CODE”)** is a South African non-profit, civil society organisation dedicated to advocating for a digital world where technology supports and enhances human rights, equity, and democratic engagement.² CODE endorses this submission in so far as they align with emerging international standards on both online safety and freedom of expression and for offering legal and sound practical solutions.

¹ See Media Monitoring Africa (MMA) (accessible [here](#)).

² See Campaign On Digital Ethics (CODE) (accessible [here](#)).

12. The **Centre for Child Law (“CCL”)** is a child rights strategic litigation organisation that was established in 1998.³ The CCL utilises strategic litigation, extensive empirical research, and advocacy to advance children’s rights in South Africa. Over the last 25 years, CCL has developed a renowned reputation for ensuring that children’s voices are heard and included in all matters affecting them. CCL endorses these submissions, particularly as they relate to advancing children’s safety online.
13. CODE and CCL’s endorsement reflects a shared recognition of the importance of rights-based approaches, the inclusion of civil society voices, the guidance of international law, and the immense imperative of advancing children’s rights in the digital age. This collaborative and supportive approach strengthens the integrity of the submission, ensuring it is grounded in principle, enriched by diverse perspectives, and aligned with South Africa’s constitutional and international obligations.
14. We reaffirm our appreciation for the efforts undertaken thus far, particularly the openness to engage. We remain fully available to provide further input, whether in writing or through oral submissions, and to contribute additional resources or expertise as may be required. It is our hope that this spirit of collaboration will continue to guide the process, ensuring that the next phase is both rights-based and practical.

With kind regards,

William Bird, Director, Media Monitoring Africa

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Transmitted electronically without signature.

³ See the Centre for Child Law (CCL) (accessible [here](#)).



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A RIGHTS-BASED RESPONSES TO ONLINE SAFETY AND REGULATION

**SUBMISSION BY MEDIA MONITORING AFRICA ON THE DRAFT WHITE PAPER ON AUDIO AND
AUDIOVISUAL MEDIA SERVICES AND ONLINE SAFETY**

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THE CENTRE FOR CHILD LAW



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RIGHTS-BASED RESPONSES TO ONLINE SAFETY, INFORMATION INTEGRITY AND REGULATION

OVERVIEW

1. New and emerging digital technologies are transforming our information ecosystem, offering unprecedented access to knowledge, new modes of communication, and powerful tools for expression, participation, and learning. These technologies hold immense potential to advance democratic institutions and promote a wide range of human rights. Yet, this same ecosystem has also become a conduit for harm, amplifying disinformation, hate speech, and incitement to violence at a scale and speed previously unimaginable.¹ Online social media platforms, in particular, have enabled the spread and amplification of a torrent of harmful content. As a result, the integrity of our information ecosystem, which is essential for the realisation of rights, is under threat.²
2. Given the profound impact that digital technologies (and the companies that run them) have on public discourse and human rights, MMA submits that regulation is not optional. States must engage to ensure these actors operate in ways that respect, protect, and promote rights.³ However, concerns about overreach, particularly regarding freedom of expression and access to information, have led to hesitation. This is compounded by the vast power and influence wielded by private platforms.
3. To level the playing field and restore integrity to the digital sphere, states must act, carefully, transparently, and in line with international human rights law.⁴ The challenge is not whether to regulate, but how to do so in a way that preserves the promise of the online world while confronting its risks.
4. The Draft White Paper starts an important conversation on the notion of regulation to advance online safety. However, and while the Draft White Paper touches on ombuds, regulators, and the need to address complex social ills, such as disinformation, MMA submits it does not go far enough and does not provide what is presently, and urgently, needed in South Africa: **A rights-based regulatory response to advance information integrity and online safety.** MMA's proposal does not address the Draft White Paper line-by-line but rather puts forward a proposal on how to achieve this. MMA's proposal is structured to provide some insights into:

¹ General Assembly, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan' (2023) (accessible [here](#)); Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan' A/HRC/59/50 (2025) (accessible [here](#)).

² See the Global Declaration on Information Integrity Inline (2023) (accessible [here](#)) for an overview of state commitments to advance information integrity.

³ United Nations Global Principles for Information Integrity (2024) (accessible [here](#)); African Commission on Human and Peoples' Rights, 'Resolution on developing Guidelines to assist States monitor technology companies in respect of their duty to maintain information integrity through independent fact checking - ACHPR/Res.630 (LXXXII) 2025' (2025) (accessible [here](#)); Human Rights Council, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression' (2018) (accessible [here](#)); Human Rights Council, 'Human rights defenders and new and emerging technologies: protecting human rights defenders, including women human rights defenders, in the digital age' A/HRC/RES/58/23 (2025) (accessible [here](#)).

⁴ Geneva Academy, 'Working Paper: Regulatory Approaches to Online Harms and Human Rights: Three Case Studies' (2022) (accessible [here](#)).

- 4.1. Why a regulatory response is warranted;
 - 4.2. What type of regulation is proposed;
 - 4.3. Who should be regulated; and
 - 4.4. How a regulator could be established and how it would work.
5. Throughout its submissions MMA will draw on relevant local and international insights and provide guidance on how this could be achieved in line with the DCDT's present planning and timelines.

WHY IS A REGULATORY RESPONSE IS WARRANTED?

(i) When rights are being violated at scale, rights-based regulation isn't just reasonable, it's necessary

6. There is increasing consensus that digital technologies are “multiplying online risks and threats”,⁵ and are being “used as a tool for spreading hate speech, harmful narratives and propaganda, including through misinformation and disinformation, which can constitute an incitement to discrimination, hostility or violence and have a negative impact on the realisation of human rights”.⁶ Technological advancements “have also facilitated the spread of misinformation, disinformation and hate speech by many kinds of actors at historically unprecedented volume, velocity and virality, risking the integrity of the information ecosystem...This erosion of the integrity of information spaces can undermine people’s ability to exercise human rights and can hamper efforts to achieve peace, prosperity and a liveable future on our planet.”⁷ Digital technology and platforms have enabled and amplified harmful conduct that threatens democratic institutions.⁸
7. Asking, “what responsibilities do companies have to ensure that their platforms do not interfere with rights guaranteed under international law?”⁹ is not controversial, it is a necessary question to inform how states should respond.
8. MMA submits that introducing regulatory responses to address the plethora of threats to human rights, is neither an irrational nor unreasonable suggestion. It is an appropriate response to reduce harm and protect human rights.
9. It is also not a novel suggestion, states have, the world over, enacted legislation, introduced regulations, and set up systems when the conduct of private industries was harmful to people.
10. The history of public health and environmental regulation offers useful lessons for digital governance:

⁵ General Assembly, ‘Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan’ (2023) (accessible [here](#)).

⁶ Human Rights Council, ‘Human rights defenders and new and emerging technologies: protecting human rights defenders, including women human rights defenders, in the digital age’ A/HRC/RES/58/23 (2025) (accessible [here](#)).

⁷ United Nations Global Principles for Information Integrity (2024) (accessible [here](#))

⁸ Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan’ A/HRC/59/50 (2025) (accessible [here](#)).

⁹ Human Rights Council, ‘Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression’ (2018) (accessible [here](#)).

- 10.1. In the 1970s, Europe introduced mandatory seat belt laws.¹⁰ Backed by UN Regulation No. 16 and WHO data showing dramatic reductions in fatal injuries, this intervention became a global standard for road safety.¹¹ Just as seat belts became mandatory to protect passengers, digital platforms must be required to implement safety mechanisms to shield users from systemic harms like disinformation and hate speech.
- 10.2. A decade later, the fight for smoke-free skies followed a similar arc. Despite years of stalled debate and industry pushback, mounting pressure from flight attendants, passengers, and health advocates led the US Congress to commission a study on cabin air quality.¹² The 1986 report by the National Academy of Sciences, alongside the US Surgeon General's findings on passive smoking, marked a turning point. Public sentiment shifted, and health organisations rallied behind a full ban on smoking aboard flights.¹³ The tobacco industry responded with aggressive lobbying, disinformation campaigns, and attempts to suppress scientific evidence. Yet, despite its influence, the public interest prevailed. Smoking bans were enacted, reshaping norms and protecting millions from second-hand harm.
- 10.3. Environmental assessments emerged as a response to mounting concerns about the impact of human activity on public health, air, and water quality. By the 1970s, landmark interventions like the National Environmental Policy Act (NEPA) in the US and the creation of the Environmental Protection Agency (EPA) formalised the need for accountability, requiring impact assessments before major projects could proceed.¹⁴ This was introduced, not to halt development, but rather to regulate it to protect collective wellbeing. Tech platforms, like extractive industries, reshape social ecosystems and form part of our information infrastructure and must therefore be held accountable for the externalities they produce.
11. These examples show that even entrenched industries can be regulated when the risks are clear and the evidence compelling. Regulating Big Tech is not a matter of censorship; it is a matter of public interest. While tobacco regulation took decades to gain traction, lawmakers today should not wait generations to act. The rise of social media platforms and their concomitant power means that, despite some efforts to ensure online safety and the integrity of the information ecosystem, as multinational behemoth corporations, their interests and priorities are predominantly profit-driven, rather than focused on respecting human rights and deepening democracy. Platforms are seemingly evading accountability and continuing to enable and profit from the pollution of the ecosystem.

¹⁰ UNICEF, 'UNECE celebrates five decades of safety-belt use that have saved millions of lives' (2023) (accessible [here](#)).

¹¹ United Nations, 'Agreement Concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these United Nations Regulations' E/ECE/324/Rev.1/Add.15/Rev.10/Amend.1 (accessible [here](#)).

¹² A Hom & R Davis, 'Clearing the airways: advocacy and regulation for smoke-free airlines' BMJ Journals (2006) (accessible [here](#)).

¹³ R Lopipero & L Bero, 'Tobacco interests or the public interest: 20 years of industry strategies to undermine airline smoking restrictions' BMJ Journals (2006) (accessible [here](#)).

¹⁴ University of South Hampton, 'Origins and History of Environmental Assessment (EA)' (accessible [here](#)).

12. The challenge now is to build a framework that is rights-based and resilient, one that protects rights, promotes transparency, and restores integrity to the information ecosystem.

(ii) Global consensus is shifting with democratic governments and international bodies increasingly agreeing that platforms require oversight

13. There is a growing international consensus that governments must take a more active role in overseeing digital platforms.¹⁵ As of 2025, this is no longer a theoretical debate: major economies have moved decisively. The European Union's Digital Services Act (DSA) and Digital Markets Act (DMA) are now in force, reshaping how large tech platforms operate across Europe. The United Kingdom, Ireland, Australia, and others have enacted robust online safety laws that are entering the enforcement phase. In the United States, while federal regulation remains limited, several states have introduced significant digital governance measures. South Africa has a timely opportunity to draw lessons from these developments and shape a regulatory framework that reflects its own constitutional values and digital realities.
14. Moreover, and as set out below, UN bodies are increasingly supporting regulation that focuses on platform accountability without infringing on freedom of expression. For example, the UN Special Rapporteur on Freedom of Expression has endorsed models where states do not police content directly but instead require platforms to demonstrate due diligence, conduct impact assessments, and ensure transparency.¹⁶ The UN Committee on the Rights of the Child and UNESCO have echoed approaches, calling for safeguards that embed human rights into platform governance and design.¹⁷
15. There is also an argument to be made that even the platforms themselves see value in structured guidance. Emerging anecdotal evidence suggests that platforms themselves welcome clarity and coordination. Reflecting on the DSA's election guidelines, Dr Eileen Culloty of the DCU Institute for Future Media noted it appeared that the platforms appreciated the efforts to provide guidance on what the DSA expects them to do in terms of risk assessment and mitigation in the context of elections.¹⁸ In our own engagements, MMA has observed support from platforms for structured, law-based mechanisms that clarify who they should engage with and what standards they are expected to meet. Legal certainty and institutional coordination are not only regulatory tools, but they are also enablers of responsible platform behaviour.

¹⁵ Tech Policy, 'Online Safety Regulations Around the World: The State of Play and The Way Forward' (2025) (accessible [here](#)).

¹⁶ General Assembly, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan' (2023) (accessible [here](#)).

¹⁷ UNESCO, 'Guidelines for the Governance of Digital Platforms: Safeguarding freedom of expression and access to information through a multistakeholder approach' (2023) (accessible [here](#)) and Committee on the Rights of the Child, 'General comment No. 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 (accessible [here](#)).

¹⁸ IIEA, 'The Digital Services Act: An Initial Review - Podcast' (2025) (accessible [here](#)).

WHAT TYPE OF REGULATION IS PROPOSED?

(i) There is a spectrum of regulatory and non-regulatory approaches

16. A recent analysis of 26 laws in 19 jurisdictions suggest there are four categories of platform regulation:¹⁹
- 16.1. **Content-Based Regulation:** This approach requires platforms to remove specific categories of prohibited content, ranging from illegal material to harmful or undesirable speech. It can be reactive (based on takedown requests) or proactive (ongoing monitoring). Some countries have adopted varying degrees of this approach: European Union (Terrorist Content Online Regulation), United Kingdom (Online Safety Act), New Zealand (Harmful Digital Communications Act).
 - 16.2. **Design-Based Regulation:** Focused on upstream harm prevention, this model mandates changes to platform architecture, such as default settings, algorithmic design, and user controls, to reduce exposure to harm and protect privacy. This has been adopted by the European Union, United Kingdom, Australia, and US states including California (Age-Appropriate Design Code), New York (SAFE for Kids Act), and Utah (Minor Protection in Social Media Act).
 - 16.3. **Transparency Mandates:** Platforms are required to disclose information about moderation practices, algorithms, user base, and revenue streams. Some laws also mandate external audits and researcher access to platform data. The European Union, United Kingdom, Australia, and Ireland have adopted this approach.
 - 16.4. **Procedural Safeguards:** This approach ensures fairness and accountability through clear terms of service, user appeal mechanisms, and mandatory risk or impact assessments. The European Union and United Kingdom make use of this approach.
17. There are also non-regulatory options. During consultations, User Rights were brought to our attention.²⁰ User Rights is Europe's first certified dispute settlement body dedicated to content moderation, recognised by the German Federal Network Agency under Article 21 of the DSA. They provide independent, rights-based assessments of decisions made by social media platforms, such as content removal or failure to act on potentially illegal material, grounded in European and, where relevant, German law. All cases are reviewed by qualified legal professionals and randomly assigned to a second independent mediator, ensuring impartiality, expertise, and procedural integrity throughout. Their evaluations balance legal standards with fundamental rights, including freedom of expression. The decisions are non-binding; however, User Rights explain that "online platforms are required to collaborate with us and assess whether there are grounds for not implementing our decision. Additionally, our decision provides guidance on your next steps if the platform does not comply."²¹ This model demonstrates how independent, rights-based dispute

¹⁹ Tech Policy, 'Online Safety Regulations Around the World: The State of Play and The Way Forward' (2025) (accessible [here](#)).

²⁰ User Rights (accessible [here](#)).

²¹ Id.

resolution can enhance platform accountability without requiring state intervention. MMA welcomes initiatives like this and views this as similar to the Real411.²² While MMA is supportive of this idea, it suggests that the civil society-led processes can work in parallel with regulated responses. We would welcome working with the DCDT and others to help realise and encourage similar system to be adopted locally.

18. Having considered the different models and engaged with diverse stakeholders, MMA accepts that stringent regulations could inadvertently lead to the suppression of lawful speech, and notes that in some instance state responses have “been problematic and heavy-handed and had a detrimental impact on human rights”.²³ MMA is therefore firmly against any form of state response, law reform, or regulation that leads to heavy-handed criminal sanctions, stifles public and political discourse and casts a chilling effect on the free flow of ideas and information. MMA recognises and accepts that regulation must be constitutionally compliant and pursue a legitimate aim under Article 19 (3) of the ICCPR and be necessary and proportionate.
19. MMA submits that many of the challenges can be mitigated by addressing how platforms work, not about the specific content that is shared.

(ii) Regulations should be right-based and focuses on platform systems, structures, and processes.

20. Drawing on guidance from international human rights law experts and comparative foreign examples, MMA submits that while regulation is warranted in South Africa, the regulation is not to censor or adjudicate the legality or authenticity of content, but rather to ensure that Platforms operating in South Africa respect, protect, and promote the rights of people in South Africa. As such, MMA suggests a combination of design-based, transparency mandates, and procedural safeguards.
21. In 2021, the UN Special Rapporteur of Freedom of Expression endorsed the notion of regulations “under which the State does not interfere with content but instead demands due diligence, impact assessments and transparency from companies.”²⁴ In 2025, this position was reinforced by the Special Rapporteur of Freedom of Expression, where she recommended that the

“Regulation of social media should be ‘smart’, focused not on content but rather on enforcing the due diligence, impact assessment, transparency and accountability of companies, and requiring them to review design, structure, systems and policies to address the threats.”²⁵

²² See Real 411 (accessible [here](#)).

²³ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, ‘Disinformation and freedom of opinion and expression’ A/HRC/47/25 (2021) (accessible [here](#)).

²⁴ General Assembly, ‘Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan’ (2023) (accessible [here](#)).

²⁵ Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan’ A/HRC/59/50 (2025) (accessible [here](#)).

22. She used the European Union Digital Services Act as a “promising example of smart regulation” despite some limitations, as “it embodies a risk-based approach to regulation focused not on content but on the enforcement of due diligence.”²⁶

23. The UN Committee on the Rights of the Child has also called for states to require—

“all businesses that affect children’s rights in relation to the digital environment to implement regulatory frameworks, industry codes and terms of services that adhere to the highest standards of ethics, privacy and safety in relation to the design, engineering, development, operation, distribution and marketing of their products and services. That includes businesses that target children, have children as end users or otherwise affect children. They should require such businesses to maintain high standards of transparency and accountability and encourage them to take measures to innovate in the best interests of the child. They should also require the provision of age-appropriate explanations to children, or to parents and caregivers for very young children, of their terms of service.”²⁷

24. In 2023, UNESCO launched its Guidelines for the Governance of Digital Platforms to help safeguard freedom of expression and access to information while addressing online harms such as disinformation and hate speech, through a multistakeholder approach.²⁸ Developed through global consultations involving over 10,000 contributions from 134 countries, the Guidelines set out shared responsibilities for states, platforms, civil society, and others to embed human rights at the core of digital governance. On the question of governance structures, and in particular statutory regulation, UNESCO advises:

“Statutory regulation of digital platforms addressing issues that might impact freedom of expression should be considered only when there is independence in decision-making of the regulatory authorities involved in its implementation. Such regulation should focus on systems and processes for content moderation and curation, rather than determining the legality of individual pieces of content, and must have a basis in law, pursue a legitimate aim under Article 19 (3) of the ICCPR, and be necessary and proportionate.”²⁹

25. In line with the above, MMA proposes an approach that prioritises form over substance. We suggest that the regulatory response be one that seeks to evaluate the integrity of platform processes rather than the content itself. MMA proposes that regulatory responses should ensure that platforms are rights-respecting, responsive, fair, and transparent.

26. It is necessary to note at this juncture that MMA is aware that the Film and Publications Board has an interest in curbing online harms and purports to be a so-called “content regulator”.

²⁶ Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan’ A/HRC/59/50 (2025) (accessible [here](#)).

²⁷ Committee on the Rights of the Child, ‘General comment No. 25 on children’s rights in relation to the digital environment’ (2021) CRC/C/GC/25 (accessible [here](#)).

²⁸ UNESCO, ‘Guidelines for the Governance of Digital Platforms: Safeguarding freedom of expression and access to information through a multistakeholder approach’ (2023) (accessible [here](#)).

²⁹ Id.

27. While the Films and Publications Amendment Act (FPAA) is currently the only South African statute that explicitly references “social media,” MMA submits that the intended scope of the FPB should remain focused on content classification and age-based protections. We acknowledge the FPB’s interest in curbing online harms, but we strongly submit that it is not the appropriate body to lead systemic platform regulation.
28. The FPB is not, and should not become, a general “content regulator” for the internet. Its mandate is narrowly circumscribed to the classification of content distributed by commercial online distributors. It is not the role of the FPB to police the internet or adjudicate the legality or harm of individual pieces of content across platforms. Attempting to do so risks overreach, duplication, and constitutional conflict. More importantly, it reflects a misunderstanding of the regulatory challenge at hand.
29. Moreover, and as addressed below in the proposed way forward, MMA submits that the approach to regulation need be coupled with important independence safeguards. Independence is the cornerstone of any authority tasked with safeguarding rights in the digital environment. While existing regulators such as the FPB play an important role within their statutory mandates, their current reporting lines to the executive reflect a different institutional design and is not appropriate for the type of regulation MMA is envisaging. For a body, whose decisions will directly affect fundamental rights such as freedom of expression, privacy, and access to information, a higher degree of institutional independence is required. Anchoring the proposed new body as a statutory authority accountable to Parliament, rather than to a Minister, would ensure impartiality, strengthen public trust, and align with South Africa’s constitutional tradition of independent oversight institutions. As such, on this basis, the FPB could not be an appropriate body to fulfil this particular role.
30. The core issue is not the substance of individual content, but the systems and processes through which platforms amplify, curate, and moderate that content. MMA’s proposed regulatory response rightly shifts focus from content policing to evaluating the integrity of platform design, governance, transparency, and accountability mechanisms. This is a form-over-substance approach, grounded in international best practice and aligned with rights-based regulation. It requires a dedicated regulatory framework and institutional architecture, not an expansion of the FPB’s existing role.
31. That said, MMA reaffirms the FPB’s vital mandate in combatting child sexual abuse material (CSAM). This is a pressing and specific challenge that demands sustained attention and coordinated action. The FPB has repeatedly stated that protecting children is a core priority, and as a member of international coalitions such as the WeProtect Global Alliance, it is well positioned to strengthen its efforts in this area. We urge the FPB to refocus its energy and resources on CSAM, including by deepening its collaboration with the South African Police Service, enhancing access to hotlines and reporting tools, and working with stakeholders to educate parents, caregivers, and children about online risks and remedies.

32. As will be discussed further below, the FPB will remain a key referral pathway within the proposed Online safety Authority. Its role is essential, but it must be clearly bounded, so that broader platform accountability can be pursued through a fit-for-purpose regulatory framework.

WHO/WHAT IS BEING/SHOULD BE REGULATED?

(i) Responses should target the entities whose design choices and amplification systems cause or enable harm

33. As noted, MMA is not suggesting a system focused on policing content, but on ensuring that systems, structures, and processes operate transparently, fairly, and in ways that respect and uphold human rights. Interlinked to the question: what type of regulation is proposed, is the question who/what is being regulated.
34. At its simplest, and aligned with the distinctions made above, MMA recommends that the services / platforms considered are those that are not covered by the definition of AAVMS . MMA proposes that they rather include social media, certain electronic services, and certain internet services, be considered for the revised White Paper on Online Safety and Information Integrity.
35. Other jurisdictions shed light on who/what should be regulated in this context:
- 35.1. **DSA:**³⁰ The DSA seeks to regulate online intermediaries and platforms, including marketplaces, social networks, content-sharing platforms, app stores, and online travel and accommodation platforms.³¹ Its primary aim is to prevent illegal and harmful activities online and the spread of disinformation. It seeks to ensure user safety, protect fundamental rights, and create a fair and open online platform environment. Notably, and according to the European Commission, the DSA sets out ways to report illegal content, goods or services on online platforms, requires diligence obligations for platforms and stronger obligations for very large platforms, where the most serious harms occur, and empowers authorities will to be better equipped to protect citizens by supervising platforms and enforcing rules together across the EU.³² It establishes a tiered framework for regulating digital services, including intermediary services, hosting services, online platforms, and very large online platforms (VLOPs) and search engines (VLOSEs). An “online platform” is defined as a hosting service that stores and disseminates information to the public at the request of a user, unless this function is minor or purely ancillary to another service. An “online search engine” is defined as an intermediary service that allows users to input queries and retrieve results across websites. Platforms with more than 45 million monthly users in the EU are designated as VLOPs or VLOSEs and subject to enhanced obligations due to their societal impact. The DSA applies to all online intermediaries offering services in the EU, regardless of their country of establishment. Notably, and according to the European Commission, the DSA sets out ways to report illegal content, goods or services on online platforms,

³⁰ Digital Services Act, 2022 (accessible [here](#)), see Article 3, Definitions (accessible [here](#)) and Article 33 (accessible [here](#)).

³¹ See “The Digital Services Act - Ensuring a safe and accountable online environment” (2019) (accessible [here](#)).

³² European Commission, ‘A Europe fit for the digital age: new online rules for users’ (2024) (accessible [here](#)).

requires diligence obligations for platforms and stronger obligations for very large platforms, where the most serious harms occur, and empowers authorities will to be better equipped to protect citizens by supervising platforms and enforcing rules together across the EU.³³

- 35.2. **OSMR Act (Ireland):**³⁴ Ireland's Online Safety and Media Regulation Act (OSMR Act) establishes Coimisiún na Meán and empowers the Online Safety Commissioner to implement binding online safety codes. These codes apply to "relevant online services," which include video-sharing platform services and other information society services under EU Directive 2015/1535. A video-sharing platform service is defined as one that provides audiovisual programmes or user-generated videos to the public via electronic communications networks, for purposes of informing, entertaining, or educating. The Coimisiún na Meán accepts complaints about systemic issues on online platforms, such as difficulties reporting harmful content, lack of response or appeal mechanisms, unclear reasons for content removal or account suspension, misleading platform design, and concerns about advertising transparency or recommender systems. It also considers complaints where platforms may not be meeting their obligations under the Online Safety Framework, particularly where children's protections are lacking. However, it does not intervene in individual disputes or emergencies, such as requests to remove specific content, threats to personal safety, or issues related to online trading. These matters typically fall outside its remit and may be better addressed by law enforcement or consumer protection bodies.³⁵
- 35.3. **Online Safety Act (UK):**³⁶ The United Kingdom's Online Safety Act (2023) introduces duties for internet services to protect users from illegal and harmful content. It defines two key service types: "user-to-user services" and "search services." A user-to-user service is one where users generate, upload, or share content that may be encountered by other users. A search service enables users to search and retrieve content. Following the enactment of the Online Safety Act, Ofcom has become the regulator for online safety, "with a responsibility to help make online services safer for the people who use them."³⁷ According to Ofcom, their role in online safety "isn't about deciding whether particular posts or other content should or shouldn't be available, or whether it complies with specific standards", instead, their "role is to make sure social media sites and other regulated online services have appropriate systems and processes in place to protect their users."³⁸ Ofcom is currently developing a range of tools to make sure services follow the rules – including setting out codes of practice and guidance for companies falling under the scope of the Online Safety Act. It is anticipated that Ofcom will have the power to take enforcement action, including issuing fines to services if they

³³ European Commission, 'A Europe fit for the digital age: new online rules for users' (2024) (accessible [here](#)).

³⁴ Online Safety and Media Regulation Act, 2022 (accessible [here](#)).

³⁵ Coimisiún na Meán, 'What can I report?' (accessible [here](#)).

³⁶ Online Safety Act, 2023 (accessible [here](#)).

³⁷ See Ofcom, 'Today, the Online Safety Act received Royal Assent, meaning Ofcom's powers as online safety regulator have officially commenced' (30 October 2023) (accessible [here](#)).

³⁸ See Ofcom, 'Online safety – what is Ofcom's role, and what does it mean for you?' (9 November 2023) (accessible [here](#)).

fail to comply with their duties. Notably, Ofcom's powers are not limited to service providers based in the UK.³⁹

- 35.4. **Online Safety Act (Aus):**⁴⁰ Australia's Online Safety Act (2021) empowers the eSafety Commissioner to regulate online services and remove severely abusive content. The eSafety Commissioner is a government agency dedicated to keeping people safer online.⁴¹ In terms of the Online Safety Act, the Commissioner is empowered to, among others, compel online service providers to remove seriously harmful content within 24 hours of receiving a formal notice. The Commissioner also has a range of regulatory functions and powers in terms of the Act, as well as compliance and enforcement powers.⁴² The Commissioner can informally approach online service providers and users of those online services, and issue Service Provider Notifications and Removal Notices.⁴³ In addition, other compliance actions are available to the Commissioner, for example, in circumstances where a provision of the Act has been breached, they can issue a formal warning, issue an infringement notice, accept an enforceable undertaking, seek a court-ordered injunction and seek court-ordered civil penalties. Outside of enforcement, the Commissioner also offers a wide range of digital literacy training. In terms of scope, the Act defines a "social media service" as an electronic service whose sole or primary purpose is to enable online social interaction between two or more users. It must allow users to link, interact, and post material for social (not business) purposes. Advertising and revenue generation are excluded from the definition. The Act also defines "designated internet services" as those that deliver material via internet carriage services, excluding social media services, on-demand program services, and other exempt categories.
36. Current South African legislation to varying degrees touches on electronic services and service providers. The Electronic Communications and Transactions Act (ECTA) includes reference to "intermediary" as any person who sends, receives, stores, or provides services related to a data message on behalf of another, and defines "information system" as any system for processing data messages, including the Internet.⁴⁴ It further provides definitions for "Internet," "IP address," "web page," and "web site," however, it does not fully address platforms or user-generated content. The Cybercrimes Act relies on electronic communications services and electronic communications service provider in line with the Electronic Communications Act.⁴⁵ The Films and Publications Amendment Act introduces "commercial online distributor" as any entity distributing films, games, or publications for commercial purposes via the internet and defines "online medium" broadly to include websites, messaging systems, social media facilities, and public telecommunications messaging systems.⁴⁶ While "social media facility" is mentioned, it is not explicitly defined or scoped in terms of functionality, user interaction, or risk.

³⁹ See Ofcom, 'Implementation roadmap' (accessible [here](#)).

⁴⁰ Online Safety Act, 2021 (accessible [here](#)).

⁴¹ See eSafety Commissioner, 'Who we are' (accessible [here](#)).

⁴² eSafety Commissioner, 'Regulatory Posture and Regulatory Priorities November 2021-22' (accessible [here](#)).

⁴³ eSafety Commissioner, 'Compliance and Enforcement Policy' (2021) (accessible [here](#)).

⁴⁴ Electronic Communications and Transactions Act 25 of 2002 (accessible [here](#)).

⁴⁵ Cybercrimes Act 19 of 2020 (accessible [here](#)); Electronic Communications Act 36 of 2005 (accessible [here](#)).

⁴⁶ Films and Publications Amendment Act 11 of 2019 (accessible [here](#)).

37. South Africa's current digital legislation, particularly ECTA, provides a robust foundation for regulating infrastructure, transactions, and intermediary liability. However, it does not address the systemic risks posed by digital platforms, nor does it provide the tools needed to ensure user safety, platform accountability, and rights-respecting governance in the online environment. Moreover, and as noted above, while the Films and Publications Amendment Act is currently the only South African statute that explicitly references "social media", its intended scope should remain on content classification and age-based protections.
38. MMA submits that while current legislation addresses infrastructure, data handling, content distribution, and classification, it lacks functional definitions of social media platforms and fails to distinguish clearly between user-generated content services, search services, and hosting platforms. Greater clarity on these terms is both warranted and urgent. It would enable more practical, proportionate regulatory responses, support the development of risk-based thresholds for platform reach and impact, and establish procedural obligations tied to platform design, transparency, and user safety.
39. MMA submits that the next iteration of the White Paper focusing on online safety consider engaging with both platforms / systems as well as functions. Notably consideration should be given to the following:
- 39.1. User-to-user communication: services that allow users to interact directly, such as social media platforms, forums, and community boards.
 - 39.2. Content hosting: services that store and display user-generated content (text, images, video, or audio), such as video-sharing platforms.
 - 39.3. Search functions: services that allow users to discover content, users, or products via keyword or query, such as search engines.
 - 39.4. Recommendation functions: systems that suggest content, users, or products based on algorithms, user behaviour, or popularity, such as "suggested for you" feeds, "up next," or "people you may know."
 - 39.5. Amplification functions: mechanisms that boost visibility, virality, or engagement, often tied to monetisation or algorithmic design, such as boosted posts, trending modules, or engagement-based ranking.
40. Moreover, and to align with global best practice, the White Paper, as it has already begun doing, recognise categories such as Very Large Online Platforms (VLOPs), Very Large Online Search Engines, Online Platforms, Social Media Platforms, Over-the-Top (OTTP services, and Search Engines.
41. If the intention is to advance platform accountability and online safety, which MMA submits it should be, these terms (subject to how they are defined) capture a broad range of services, can enables tiered obligations based on reach and societal impact, and can ensure coverage of hybrid and emerging formats, including live-streaming and embedded content.

HOW SHOULD WE REGULATE?

42. MMA has considered various ways of taking this forward and seeks to provide guidance to the DCDT on a forward-looking roadmap for online safety and platform accountability, one that responds to the complex realities of systemic harm, platform power, and user vulnerability.
43. In doing so, MMA proposes the establishment of an **Online Safety Authority (OSA)**, an overarching statutory body to serve as the national anchor for platform accountability, user empowerment, and online safety. The OSA is designed as an umbrella institution, a coordinating, enabling, and rights-based body that houses multiple specialised units. Its role is to provide strategic oversight, ensure coherence across mandates, and serve as a centralised gateway for users navigating online harms. This approach responds to widespread confusion about where to turn and mirrors successful consolidation models like the National Financial Ombud Scheme. It is set to be a centralised public-facing gateway comprised of 4 units:
 - 43.1. **Referral Unit (RU);**
 - 43.2. **Online Integrity and Accountability Unit (OIAU);**
 - 43.3. **Children's Online Safety Unit (COSU); and**
 - 43.4. **Digital Literacy and Empowerment Unit (DLEU).**
44. International guidance, coupled with domestic and foreign examples, suggests that an Ombud Institution, Regulator, and/or Authority, including its mandate, should be based on a firm legal foundation. It is therefore suggested that the OSA be established in terms of legislation.

(i) The Online Safety, Integrity, and Accountability Bill

45. MMA notes that the DCDT intends to embark on law reform efforts that may include developing a new body or extending a mandate of an existing body to respond to emerging online harms and advance online safety. MMA submits that the DCDT should have regard to using the revised White Paper as an opportunity to set the basis for the development of an **Online Safety, Integrity, and Accountability Bill**.
46. MMA would welcome the opportunity to work with DCDT on formulating a Bill, and has begun considering the structure and key provisions, which may be of use to the DCDT as it revises the White Paper and considers law reform efforts. Below, MMA has set out a proposed outline, coupled with explanatory notes, comparative examples illustrating feasibility, and guidance on the intention of the proposed chapters.

Purpose

47. South Africa's information ecosystem has transformed dramatically due to the rise and reliance on digital technologies and online platforms. This offers unprecedented access to knowledge, new modes of communication, and powerful tools for expression, learning, and connection. These digital spaces have become central to public discourse, economic participation, education, and social life, unlocking opportunities to realise a wide array of fundamental rights. Yet, for those

rights to be respected, protected, and promoted, the integrity of the ecosystem itself must be safeguarded.

48. That integrity of information ecosystem is under strain. We are witnessing the rise of online harms, disinformation campaigns, and the widespread dissemination of hateful, inciteful, and abusive content. Platforms and digital services wield immense influence over what is seen, shared, and amplified. Their systems, structures, and policies shape how people engage online, often with little transparency and minimal accountability. When left unchecked, this concentration of power, driven largely by commercial imperatives, poses serious risks to democratic participation, social cohesion, and the advancement of human rights.
49. This Bill responds to those risks by establishing the Online Safety, Integrity, and Accountability Authority, an independent statutory body designed to promote a healthy and rights-respecting digital environment. It advances platform accountability, ensures procedural fairness, and provides meaningful redress for users affected by online harms. Through coordinated referrals, systemic oversight, and public empowerment, the Authority will uphold the constitutional rights of all persons, foster digital resilience, and help build a trustworthy information ecosystem for South Africa.

Chapter 1: Definitions

50. This chapter seeks to provide the definitional foundation proposed legislation.
51. It should include key terms such as digital services, online platform, social media platform, very large online platform, search engines, user-to-user communication; content hosting; recommendation functions; amplification functions, among others.
52. This chapter will also note what is excluded, such as AAVS.

Chapter 2: Object of the Act

53. Aligned with above, and the preceding discussion on why regulation is needed and who should be regulated, this chapter intends to set out the purpose and object of the Bill.
54. MMA proposes that the object of this Bill is to establish an independent statutory body, the Online Safety Authority, which is to:
 - a) promote a safe, inclusive, and rights-respecting digital environment for all persons in the Republic;
 - b) regulate online platforms, including social media services, search engines, marketplaces, and other digital intermediaries, in the public interest;
 - c) advance platform accountability through transparency obligations, procedural fairness standards, and systemic oversight;

- d) provide accessible and coordinated redress mechanisms for users affected by online harms, including hate speech, non-consensual intimate imagery, child sexual abuse material, incitement to violence, and fraudulent online practices;
- e) uphold and promote the constitutional rights to dignity, equality, privacy, freedom of expression, and access to information in the context of digital engagement;
- f) foster digital resilience and public empowerment through national digital literacy initiatives, inclusive complaint mechanisms, and participatory governance;
- g) ensure that platforms operating in or impacting the Republic are subject to proportionate regulatory obligations, regardless of physical presence;
- h) enable cooperation with domestic and international regulatory bodies to address cross-border online harms and promote global standards of digital integrity.

Chapter 3: Application and jurisdiction

55. This chapter intends to address the scope of the Bill and the jurisdictional trigger of the Bill.
56. MMA proposes that the Bill applies to online platforms and digital platforms. Mindful that there are different definitions and constructions of these platforms and services, and that there is likely to be robust debate about what should or should not be included, MMA proposes that the application of the Bill relates to digital service providers whose platforms or systems enable one or more of the following core functions:
- a) User-to-user communication: Platforms that allow users to directly interact with one another, such as social media platforms, forums and community boards
 - b) Content hosting: Platforms that store and display user-generated content (text, images, videos, or audio), such as video-sharing platforms.
 - c) Search functions: Services that allow users to discover content, users, or products via keyword or query, such as search engines.
 - d) Recommendation functions: Systems that suggest content, users, or products based on algorithms, user behaviour, or popularity, such as “suggested for you” feeds, “up next”, and “people you may know” features
 - e) Amplification functions: Mechanisms that boost visibility, virality, or engagement, which may be tied to monetisation or algorithmic design, such as boosted posts, engagement-based ranking.
57. Moreover, and mindful that platforms operate across multiple jurisdictions and may not have a physical presence in South Africa, it is important for the Bill to address jurisdiction.
58. Drawing from the UK Online Safety Act, MMA proposes that the Bill makes reference to a “link to the Republic of South Africa”.⁴⁷ This could include platforms and services:
- a) That pose a serious risk to users in South Africa;

⁴⁷ See commentary from Herbet Smith Freehills, ‘The UK Online Safety Act’ (2024) (accessible [here](#)). See also section 3 of the Online Safety Act (accessible [here](#)).

- b) Where users in South Africa are one of the platform markets; or
 - c) That have a significant number of users in South Africa.
59. Similarly to the Online Safety Act, it is proposed that these jurisdictional markers be considered disjunctively. In other words, a “link” would be established if any one of the criteria is met. There may further be scope for the Online Safety, Integrity, and Accountability Authority to give guidance on thresholds based on emerging risks, number of users, market changes, or international best practice.
60. The Motor Industry Ombudsman of South Africa also provides a potential jurisdictional hook. The Automotive Industry Code of Conduct, the Code defines the industry as including “Importers, distributors, manufacturers, retailers, franchisors, franchisees; suppliers, and intermediaries who import, distribute, produce, retail or supply passenger, recreational, agricultural, industrial, or commercial vehicles...”.⁴⁸ The Code goes on to define “Importer” to mean, with respect to any particular goods, a person who brings those goods, or causes them to be brought, from outside the Republic into the Republic, with the intention of making them available for supply in the ordinary course of business.” This suggests there is precedent to support the notion that functional jurisdiction can be relied on to argue that market activity and consumer interaction are the jurisdictional triggers.
61. MMA is also aware of important legal developments that further strengthen the likelihood of founding jurisdiction against companies that were not domiciled in South Africa:
- 61.1. South Africa’s Competition Act establishes the above mentioned “link” for jurisdictional purposes through “economic activity within, or having an effect within, the Republic”. The practical implications of which have recently been tested before the Competition Appeal Court (CAC) in a matter relating to jurisdiction over several foreign banks accused of collusion.⁴⁹ The case raised a distinction between types of *peregrini*, namely “pure” *peregrini* (no presence at all in South Africa) and “local” *peregrini* (those with branches or offices in South Africa). The case engaged questions around which banks were linked to having an effect within the Republic, as section 3(1) states, to justify subject matter jurisdiction. The CAC found some Banks were pure, and others local. The case has been taken on appeal to the Constitutional Court and will likely provide guidance on the correct approach to this important jurisdictional question.
 - 61.2. More recently, the Digital Law Co. secured an order from the High Court ordering Meta to “disable multiple accounts sharing illegal content on WhatsApp and Instagram and identify the individual(s) behind them.”⁵⁰ This demonstrates an important jurisdictional development, affirming that South African courts can hear matters and make orders against international tech companies, reinforcing that foreign companies operating in South Africa must comply with South African law.

⁴⁸ Automotive Industry Code of Conduct (2014) (accessible [here](#)).

⁴⁹ Competition Commission of South Africa v Bank of America Merrill Lynch International and Others (215/CAC/APR23) [2024] ZACAC 1; [2024] 1 CPLR 1 (CAC) (accessible [here](#)).

⁵⁰ BusinessTech, ‘WhatsApp and Facebook owner in big trouble in South Africa’ (2025) (accessible [here](#)).

Chapter 4: Establishment of the Online Safety Authority (OSA)

62. This chapter seeks to create the statutory body – the Online Safety Authority (OSA). The OSA is akin to a chapter 9-style body or the Information Regulator. It is set to act as independent umbrella body with four specialised units for operational delivery.
63. MMA proposes that this chapter includes provisions on the following:
- 63.1. **Legal status and independence:** The OSA is established as an independent statutory body, subject only to the Constitution and the law, and accountable to Parliament. Its independence is essential, given the wide range of fundamental rights implicated in its mandate. The OSA must act impartially and without fear, favour, or prejudice in exercising its powers and performing its functions. To safeguard this independence, the OSA shall report directly to Parliament, through the Portfolio Committee on Communications and Digital Technologies, rather than to the Minister, thereby ensuring freedom from executive interference and reinforcing its credibility and effectiveness. This aligns with existing independence models, such as the Information Regulator, or Chapter 9 Institutions.⁵¹
 - 63.2. **Powers, duties, and functions:** The OSA is set to be the umbrella body, with four specialised units beneath it (RU, OIAU, COSU and the DLEU). Its primary function is oversight and coordination with the purposes of managing and resourcing the four units, ensuring coherence and avoiding duplication. The OSA's role is comparable to the National Financial Ombud Scheme (NFO), which consolidated multiple sectoral ombud schemes into a single umbrella structure to provide consistency, efficiency, and systemic oversight.⁵² In the same way, the OSA is designed to bring together fragmented online safety functions into a unified statutory framework, capable of addressing the complexity of South Africa's digital ecosystem. In exercising its powers, the OSA will (i) oversee and support the effective functioning of its four units; (ii) provide strategic guidance, coordination, and systemic monitoring; and (iii) act as the central institutional anchor for online safety, integrity, and accountability in South Africa.
 - 63.3. **Composition, appointment, and term of office and removal:** This chapter should, as with comparable legal frameworks, detail the composition of the Authority, for example, a multi-member office, which would rely on collegial decision-making and collective accountability is advised. The officers should also reflect plural expertise across human rights, technology, and governance.⁵³ The appointment of officers should follow a transparent, merit-based process that safeguards independence and public trust. A multi-party parliamentary committee would call for nominations, conduct interviews,

⁵¹ See for example, Information Regulator, 'About the Regulator' (accessible [here](#)); ICASA, 'About ICASA' (accessible [here](#)).

⁵² NFO, 'About NFO' (accessible [here](#)).

⁵³ The officers should collectively reflect expertise in human rights and constitutional law; freedom of expression and media regulation; digital governance and technology policy; child protection and online harms; data protection and privacy; civil society engagement and participatory governance; public administration and financial oversight

and prepare a shortlist, with the President making appointments on the recommendation of Parliament to ensure democratic legitimacy and insulation from executive influence. The process should include opportunities for public participation, such as publishing shortlists and inviting submissions. Commissioners would serve a five-year term, renewable once, with clear grounds for suspension or removal limited to misconduct, incapacity, or incompetence, and any removal requiring a parliamentary process rather than ministerial discretion. Within the Authority, one member would be designated as Chairperson, with delegated authority to represent the OSA externally and provide strategic leadership, while a Deputy Chairperson may also be appointed to ensure continuity.

- 63.4. **Financial Provisions and Budgeting:** MMA proposes that the OSA should be financed through a dual funding approach: (i) Parliamentary Appropriations: A baseline appropriation from Parliament, ring-fenced to guarantee institutional independence and sustainability; (ii) Platform Contributions: Supplementary funding derived from regulated platforms, based on the principle that those who contribute to systemic risk and online harm should proportionately bear the cost of oversight and redress. This draws on the foundational principle of the “polluter pays”, mirroring environmental governance models. Just as entities that pollute ecosystems are required to fund mitigation and accountability mechanisms, platforms that profit from user engagement, content amplification, and data extraction, while exposing users to potential harm, shall contribute to the infrastructure that protects those users. MMA proposes that platform contributions should be structured in a tiered model, ensuring proportionality and avoiding undue burden on smaller or low-risk services. Contributions may be scaled according to the number of monthly active users in South Africa; the platform’s risk profile, including history of complaints, systemic amplification of harmful content, or repeated non-compliance; revenue generated from South African users. Further, and in order to ensure safeguards and oversight, all funds received by the OSA should be subject to the Public Finance Management Act and oversight by the Auditor-General. There should also be annual financial reports detailing appropriations, platform contributions, and expenditure.

Chapter 5: Establishment of the Referral Unit

64. This chapter establishes and sets out the purpose of the Referral Unit. This Unit is established within the OSA and is accountable to the OSA. It is intended to be headed by a Director, appointed by the OSA. The unit does not duplicate existing enforcement powers. Instead, it acts as a navigation and coordination hub, streamlining referrals to the appropriate statutory or sectoral bodies and tracking outcomes to identify systemic gaps.
65. Its function would include:
- 65.1. Receiving complaints: The Referral Unit can receive complaint on various online harms, such as hate speech, NCII, CSAM, scams, fraudulent advertising, etc. Complaints are envisaged to be submitted by an individual, group, or organisation alleging exposure to,

or risk of, an online harm. This may include direct victims, civil society organisations acting in the public interest, or whistleblowers with knowledge of systemic failures. Complaints may be lodged by individuals (including children), parents or guardians, civil society bodies, professional associations, and whistleblowers. This ensures that vulnerable groups are not excluded and that systemic issues can be raised even where victims fear retaliation.

- 65.2. Feedback obligations: The Unit must acknowledge receipt of complaints, provide complainants with a reference number, and issue periodic updates on referral status and outcomes. Where a complaint is referred to another body, the complainant should be informed of the referral and given contact details for follow-up.
- 65.3. Referrals: Referring cases to appropriate bodies or units (e.g. SAHRC, FPB, SAPS, ICASA, BCCSA, Press Council, Information Regulator, FIC etc.). Referrals can also be made to the other units within the OSA. This includes maintaining formal MOUs and escalation protocols with each body to ensure timely and coordinated responses
- 65.4. Accessibility and data protections: The Referral Unit will maintain a navigable interface for users, especially vulnerable groups and will ensure special safeguards must apply to sensitive categories of complaints, such as non-consensual intimate imagery (NCII) and child sexual abuse material (CSAM). These include secure handling, restricted access to case files, and anonymisation of complainant details all reporting.
- 65.5. Tracking referral outcomes and identifies systemic gaps: This should include annual report setting out the number and type of complaints received, the bodies to which they were referred, resolution rates, and systemic gaps identified. Statistics should be disaggregated by type of harm, demographic indicators (where available), and referral pathway, to inform policy and systemic reform. All published data must be anonymised to protect complainants' identities, with particular care for children and survivors of gender-based or sexual harms.

Chapter 6: Online Integrity and Accountability Unit (OIAU)

- 66. This chapter deals with the Online Integrity and Accountability Unit which is set to be the dedicated mechanism for platform accountability. It is envisaged as the engine room of systemic oversight, focused on platform conduct. It is established within the OSA and is accountable to the OSA.
- 67. This unit is the specialised enforcement arm. It is the mechanism with regulatory teeth, that is empowered to investigate platform conduct, assess procedural fairness, issue findings, and impose remedies.
- 68. Similar to other jurisdictions, it will develop a code that provides guidance on how to ensure platforms have systems and processes operate with integrity. The Code will guide platforms on what conduct they would need to adhere to in order to operate in South Africa.

69. It will have four functions:

69.1. Transparency Reporting Obligations: Platforms will be required to publish regular reports in accessible formats with supporting data made available detailing:

- a) Content moderation policies and community standards;
- b) risk mitigation strategies for online harms;
- c) the mechanics of content ranking, flagging, and monetisation.

This transparency is especially critical in the context of disinformation, where amplification and monetisation practices often drive harm. By focusing on process disclosure, it avoids adjudicating truth claims and instead holds platforms accountable for how their systems operate. Consideration may be given to tiered obligations based on platform size. It would be empowered to assess the reports and have enforcement powers should the reports fail to meet the standards of the Code of Conduct.

69.2. Complaints Mechanism: It will be empowered to receive complaints where platforms fail to act, including on disinformation-related harms, and assess them through a procedural lens, considering questions such as:

- a) Did the platform respond within a reasonable timeframe?
- b) Was the complainant informed of the outcome and rationale?
- c) Does the platform provide clear information about how it handles flagged content?
- d) Are users informed of decisions and given a chance to contest them?
- e) Has the same issue been flagged repeatedly by different users or entities?
- f) Is there evidence of a pattern of neglect or selective responsiveness?
- g) Has the platform failed to act on similar complaints in the past?
- h) Are similar complaints treated similarly, or is there evidence of arbitrary or biased handling?
- i) Is the complaints process easy to locate and navigate?
- j) Are flagging tools available in multiple languages and accessible formats?
- k) Are vulnerable groups (e.g. children, persons with disabilities) able to use the system meaningfully?
- l) Is there a functioning appeal mechanism?

69.3. Risk Mitigation and Audits: It will oversee platform compliance with risk mitigation duties, including:

- a) Conducting independent audits aligned with transparency reports;
- b) Assessing accessibility and availability of data made available for the OSA and researchers;
- c) Reviewing whether certain types of content are disproportionately promoted;
- d) Assessing whether platform design features (e.g. recommender systems, trending algorithms) systematically elevate harmful or misleading material;

- e) Platforms will be required to identify and mitigate foreseeable risks of amplification, particularly during sensitive periods such as elections, public health emergencies, or social unrest. Failure to comply with these obligations, which would be set out in the Bill, may result in penalties or corrective actions.

69.4. Issuing guidance notes: In addition to its oversight, complaints, and audit functions, the OIAU will be empowered to issue formal guidance notes to support platform compliance, clarify procedural expectations, and respond to emerging risks. Similar to the Information Regulator, or the recent example from the European Commission who issued guidelines under the DSA for the mitigation of systemic risks online for elections,⁵⁴ notes will serve as interpretive tools and proactive instruments for shaping platform behaviour.

70. This chapter will also include enforcement power, ensuring that its decisions, investigations, and oversight mechanisms are not merely advisory but carry legal and procedural weight. It affirms the principle that platform accountability must be enforceable, not aspirational, and that users must have access to effective remedies when harms occur. It will therefore include provisions on:

- a) Investigative Powers
- b) Adjudication and Findings
- c) Remedial Measures
- d) Appeal and Review Mechanisms
- e) Safeguards and Principles

71. This chapter will also consider recommend Incentives for platforms that demonstrate responsible conduct, including:

- a) Tax or financial incentives, subject to consultation with National Treasury
- b) Reduced membership fees for platforms with verified compliance
- c) Certification schemes, such as a “Responsible Platform” badge, modelled on ISO standards

Chapter 7: Children’s Online Safety Unit (COSU)

72. This chapter establishes the COSU, also established and accountable to the OSA. This unit is set up to safeguard the rights, dignity, and developmental needs of children in digital spaces, recognising their distinct vulnerabilities and the constitutional imperative to prioritise their best interests. This unit operationalises South Africa’s constitutional and international obligations and ensures children are not passive recipients of protection but active participants in shaping their digital futures.

73. The rationale for COSU is to move beyond a narrow, harm-centric model of child protection toward a rights-based framework that balances protection with empowerment. This framework

⁵⁴ European Commission, ‘Commission publishes guidelines under the DSA for the mitigation of systemic risks online for elections’ (2024) (accessible [here](#))

is grounded in the principle of evolving capacity, recognising that children's ability to make decisions, understand risks, and assert their rights grows with age, experience, and context. It also emphasises empowerment, by designing digital spaces that build resilience, literacy, and self-determination, rather than simply shielding children from harm. Finally, it embeds participation rights, ensuring that children are consulted in the design, governance, and regulation of the platforms that shape their lives.

74. Drawing from General Comment No. 25 of the UN Committee on the Rights of the Child, COSU affirms that children have the right to access digital technologies in ways that support their development, education, and participation. States and platforms must respect children's evolving capacities when designing age-appropriate services.⁵⁵ Protection must be balanced with empowerment, ensuring children are not excluded from digital life under the guise of safety. Children's views must be actively sought and given due weight in all matters affecting them, including digital governance.
75. To give effect to this vision, COSU will be guided by six principles that reflect the dual components of advancing children's rights online: protection and empowerment. These are:
 - a) Ensuring access, protections, and policies are grounded in children's rights;
 - b) Guaranteeing meaningful and equitable access to the online world;
 - c) Promoting children's agency through participation and empowerment;
 - d) Safeguarding children's rights through proactive and reactive measures to ensure safety and the prevention of harm, particularly given the imperative of platforms needing to demonstrate safety by design;
 - e) Strengthening transparency and accountability; and
 - f) Infusing adaptable and sustainable responses to cater for the evolving nature of technology.
76. This chapter will detail the COSU's core functions:
 - 76.1. Child-Appropriate Complaint Mechanisms:
 - a) Develop simplified, age-appropriate reporting tools (e.g. visual interfaces, chatbot support, multilingual access)
 - b) Ensure complaints can be submitted anonymously or with adult support
 - c) Provide trauma-informed support and referral pathways to child protection services
 - 76.2. Participation and Policy Co-Creation
 - a) Establish child advisory panels to inform digital safety policy
 - b) Facilitate school-based consultations and youth-led forums
 - c) Include children's voices in the development of codes of conduct and platform guidance

⁵⁵ UN Committee on the Rights of the Child, 'General comment No. 25 on children's rights in relation to the digital environment' CRC/C/GC/25 (2021) (accessible [here](#)).

- d) Support the work of the OIPAU by providing guidance on platform obligations in relation to children's rights.

76.3. Education and Outreach

- a) Partner with schools, NGOs (such as the Web Rangers), and caregivers to deliver digital safety workshops
- b) Develop curriculum-aligned resources on online rights, risks, and resilience
- c) Promote safe digital habits and peer-to-peer learning models

76.4. Monitoring and Advocacy

- a) Track trends in child-targeted online harms (e.g. grooming, CSAM, cyberbullying)
- b) Advocate for platform design changes that reduce risk exposure (e.g. default privacy settings, age verification).

Chapter 8: Digital Literacy and Empowerment Unit

77. This chapter establishes the Digital Literacy and Empowerment Unit under the OSA, which seeks to build a digitally resilient society by equipping users with the knowledge, skills, and critical capacities to navigate online spaces safely, ethically, and confidently. The chapter will outline its core functions, which include:

77.1. National Digital Literacy Strategy

- a) Develop a coordinated framework for digital literacy across age groups and sectors
- b) Align with DBE and DHET curricula to embed and adopt innovative approaches in ensuring up to date digital literacy in formal education
- c) Create toolkits for informal learning, community centres, and adult education

77.2. Public Awareness Campaigns

- a) Launch multimedia campaigns on disinformation, cyber bullying, scams, privacy, sextortion, scams, privacy, and online rights
- b) Partner with influencers, broadcasters, and platforms to amplify messaging
- c) Target high-risk groups with tailored interventions (e.g. older persons, rural communities)

77.3. Inclusive Access and Equity

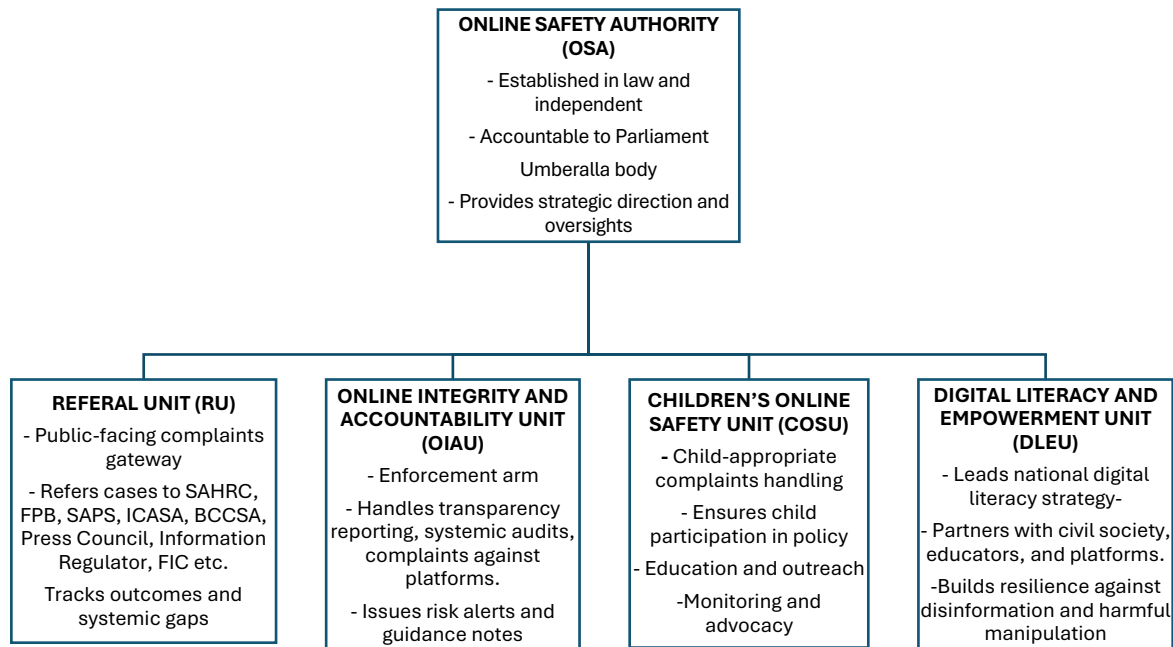
- a) Ensure resources are available in all official languages and accessible formats
- b) Address digital divides by supporting device access, connectivity, and community hubs
- c) Promote gender-sensitive and disability-inclusive digital education

77.4. Civic Engagement and Critical Thinking

- a) Encourage responsible digital participation, respectful dialogue, and media literacy
- b) Support fact-checking initiatives and community-led counter-disinformation efforts
- c) Foster a culture of online accountability and ethical engagement

Chapter 9 Transitional provisions

78. The Bill should also include transitional provisions and amendments to harmonise with existing laws such as the ECTA, FPA, POPIA, Cybercrimes Act, among others, and outline sunset clauses and review timelines to ensure the framework remains adaptive, accountable, and fit for purpose in a rapidly evolving digital landscape.
79. For simplicity's sake and ease of reference the following diagram illustrates the proposed structure discussed above:



CONCLUSION

80. This proposed approach and framing of the Bill and institutional structure should be understood as a blueprint, a potential roadmap rather than a finished product. It sets out a vision for how South Africa might respond to the challenges of online safety, platform accountability, and digital rights, but it does not claim to have resolved every question or foreseen every complexity. The digital environment is dynamic, and any regulatory framework must remain adaptive and open to refinement.
81. What MMA presents here is therefore a point of departure for the DCDT, government, and stakeholders. It offers a coherent architecture, grounded in constitutional principles and informed by comparative practice, that can guide debate and decision-making. At the same time, it

recognises that many of the details, from application and definitions to institutional safeguards and financing models, that will require further testing, negotiation, and refinement.

82. Most importantly, this blueprint underscores the need for extensive public consultation. The issues at stake implicate a wide range of rights and interests, from freedom of expression and privacy to child protection, innovation, and economic growth. Civil society, industry, academia, and especially children and vulnerable groups must be meaningfully engaged in shaping the final framework. Only through such participatory processes can the legislation achieve legitimacy, balance, and durability.
83. In this spirit, the draft should be seen not as a final word, but as an invitation to dialogue, a structured starting point from which South Africa can build a regulatory framework that is principled, proportionate, and future-proof.
84. We reaffirm our appreciation for the efforts undertaken thus far, particularly the openness to engage on critical issues of online safety and governance.
85. We remain fully available to provide further input, whether in writing or through oral submissions, and to contribute additional resources or expertise as may be required

26 September 2025
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26 September 2025

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THE BROADCASTING SECTOR

**SUBMISSION BY MEDIA MONITORING AFRICA ON THE DRAFT WHITE PAPER ON AUDIO AND
AUDIOVISUAL MEDIA SERVICES AND ONLINE SAFETY**

ENDORSED BY:

CAMPAIGN ON DIGITAL ETHICS



THE CENTRE FOR CHILD LAW



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INTRODUCTION

1. In line with MMA's objective of promoting the development of a free, fair, ethical, and critical media culture in South Africa, and Africa more broadly, MMA regularly engages with and responds to significant policy processes. MMA has made both written and oral submission at each stage of the development of the Broadcasting and then Audio Visual Content Services processes over the last 13 years. In doing so, MMA seeks to promote: a broadcasting ecosystem that meets the information needs of the public; a general media environment that is responsive to the demands of convergence and audience preferences in respect of media consumption patterns and platform choices; a public broadcaster that is governed in accordance with international best practice standards for public broadcasting and public interest programming; a free press; and a vibrant, economically impactful, and growing local content production sector to ensure that South African voices are heard on broadcasting platforms, online and in games.
2. Against this background, this submission is structured in two parts:
 - 2.1. In **Part 1**, we provide general comments on certain key features of the Draft White Paper. These comments focus on (1) the delays in process and lack of particularity in the Draft White Paper, (2) limited attention to the SABC; (3) ambiguity in definitions and terminology, (4) ambiguity in market structure and proposed licensing framework, (5) a failure to consider the challenges experienced within the three tiers of broadcasting, and (7) an absence of any clarity on the regulation of the press.
 - 2.2. In **Part 2**, we focus on specific aspects of the Draft White Paper that are relevant to the broadcasting sector, including (1) the importance of regulatory parity; (2) ownership and control; (3) local content obligations; (4) monitoring and compliance of local content requirements; (5) a local content fund; and (6) must-carry, findability and discoverability of public interest content. Where relevant, we have attempted to highlight issues in the Draft White Paper that can, and should, be addressed as soon as possible in the public interest, including through legislative amendments.
3. An executive summary of MMA's submissions is attached as **Annexure A**.
4. MMA's submission is grounded in the public interest, media freedom, universality, accessibility, independence and accountability. MMA has also prepared a parallel submission, focusing exclusively on the proposed ombud for the regulation of online services, to enable the submission of meaningful and relevant contributions in this regard.

PART 1: GENERAL COMMENTS ON THE DRAFT WHITE PAPER

5. MMA supports the urgent need for the development of a clear and focused broadcasting, audio and audiovisual media services policy, grounded in a human rights-based approach and focused on public interest considerations and freedom of expression. MMA's comments in this Part 1 focus on certain key features of the Draft White Paper and include high-level recommendations for addressing areas of concern.

Delays in process and lack of particularity

6. The Draft White Paper states that it is a framework for future policy development,¹ rather than a coherent policy. After years of delay, the failure to develop certain key policy positions, including on issues that could be achieved in the short term, is inadequate and creates uncertainty. Nevertheless, MMA supports the proposed approach in the Draft White Paper of addressing certain issues on a more urgent basis. Where relevant, MMA has made proposals, as set out in Part 2 below, in respect of which progress can, and should, be made in the short term.

Limited attention to the SABC

7. We express our deep concern that the SABC, as South Africa's public broadcaster, has been afforded only cursory attention in this iteration of the White Paper. In previous submissions, we made extensive inputs on the SABC, and we are therefore troubled by its exclusion at this critical juncture. We are aware that the DCDT is in the process of drafting a new SABC Bill — both to modernise the Broadcasting Act and to safeguard the independence and protection of the SABC as a public broadcaster. While we acknowledge this development, we must underscore the urgent need for such a Bill to be finalised and released without delay.
8. It is a matter of public record that the SABC is facing a catastrophic financial crisis. We acknowledge that the DCDT has commissioned work on a new funding model, and we look forward to engaging constructively on that process. However, the development of a rights-based SABC Bill should not be held back while awaiting the outcome of this research. Rather, the Bill should be designed to accommodate the eventual funding model, ensuring that the legislative framework is in place to stabilise and protect the institution as soon as possible.
9. In summary, we are profoundly concerned that an SABC Bill may be introduced without an updated and accepted policy foundation that provides a clear and credible path forward for the future of public broadcasting. We therefore strongly urge the DCDT to release, as a matter of urgency, a rights-based SABC Bill that is fit for purpose: one that secures the SABC's independence, reflects its uniquely African character, and is future-proofed to meet the demands of a rapidly evolving media environment.
10. For this reason, we have not made detailed SABC-specific comments in this submission, but we stand ready to engage robustly once the revised Bill is released. We close with one final point: the section of the White Paper dealing with public interest content must be read in the context of the SABC's role as an essential and irreplaceable component of the public interest. Put simply, the sustainability of South Africa's democracy depends on the retention of a strong, independent, and rights-based public broadcaster.

Ambiguity in definitions and terminology

11. The Draft White Paper acknowledges the importance of terminology, and the need to review existing definitions,² but proposes a licensing framework and obligations in the absence of any such definitions. Undefined and inconsistently used terms in the Draft White Paper include the following: audio and audiovisual media services (**AAVMS**), "broadcasting-like" services, linear online services, on-demand services, on-demand content services, video-sharing platform services (**VSPS**), very large online

¹ Paragraph 1 of the Draft White Paper.

² Paragraphs 5.1, 5.2.4, 5.5.2 and 5.5.3 of the Draft White Paper.

platforms (**VLOPs**), over-the-top services (**OTTs**) and online content services. The Draft White Paper further indicates that existing definitions contained in the Electronic Communications Act 36 of 2005 (**ECA**), such as “electronic communications network” will be considered during the review process, but provides no indication of the concerns with the existing definition or what possible changes might be contemplated.

12. It is extremely difficult for MMA to comment meaningfully on the proposed “new regulatory framework”³ in the absence of any such detail or particularity in respect of both existing and proposed terms. MMA accordingly recommends that steps be taken to ensure that the Draft White Paper clearly conceptualises and sets out relevant definitions for these terms, before any licensing framework is developed, and ensures that the correct terms are utilised in the correct places in the Draft White Paper.
13. In considering definitions and terminology, it is useful to look to the experiences and policies adopted in other jurisdictions which have examined these issues. For example, the policy approach adopted in the European Union (**EU**), including all 27 EU member states and the United Kingdom, may be a relevant consideration. While South Africa should not feel compelled to follow this example, MMA recommends that consideration should still be given to the terminology and definitions that have been set out in EU Directive 2010/13/EU (the Audiovisual Media Services Directive), as amended. Against this background, MMA proposes the adoption of the following terminology and definitions in the Draft White Paper:
 - 13.1. *“**Audio or audiovisual media service** means a service where the principal purpose of the service or a dissociable section thereof is devoted to providing content, which is under the editorial responsibility of a service provider, to the general public by means of electronic communications networks, in order to inform, entertain or educate. Such an audio or audiovisual media service is either a broadcasting service or an on-demand service.”*
 - 13.2. *“**Broadcasting service** means a linear audio or audiovisual media service provided by a broadcasting service licensee for simultaneous listening or viewing of content on the basis of a content schedule and includes any associated on-demand service offering provided by the broadcasting service licensee.”*
 - 13.3. *“**On-demand service** means a non-linear audio or audiovisual media service provided by an on-demand service provider for the listening or viewing of content at the moment chosen by the user and at the user’s individual request on the basis of a catalogue of content selected by the service provider.”*
 - 13.4. *“**Video sharing platform service** means a service where the principal purpose is devoted to providing content, user-generated videos or both,

(a) for which the service provider does not have editorial responsibility; and*

³ See paragraph 5 of the Draft White Paper.

(b) the organisation of which is determined by the service provider, including by displaying, tagging and sequencing through automatic means or algorithms,

to the general public by means of electronic communications networks, in order to inform, entertain or educate.”

13.5. “A person exercises ‘editorial responsibility’ if that person has general or effective control over:

(a) the selection of content that is included in the range of content offered to users; and

(b) the manner in which the content is organised in that range.”

Ambiguity in market structure and proposed licensing framework

14. The Draft White Paper proposes a broad market structure and graduated regulation but provides only three AAVMS “types” while outlining four regulatory treatments (licensing, registration, notification, exemption), ⁴ creating ambiguity. A proper understanding of the market structure is essential for determining when heavier or lighter touch regulation may be required. MMA recommends that the Draft White Paper clarify the proposed regulatory framework, and the applicable triggers and thresholds, to ensure a proportional approach based on regulatory parity.
15. Further, while MMA appreciates the Department’s interest in keeping the Draft White Policy adaptive, ⁵ the proposed regulatory and/or licensing framework contained in the Draft White Paper is opaque and unclear. As it currently stands, the Draft White Paper recognises that the regulatory distinction between individual and class licences will remain (to enable the imposition of a differing levels of regulation and public interest obligations), ⁶ but does not clarify how this would apply in the context of the AAVMS “types”, including in respect of “broadcasting-like services, if at all, nor does it provide any indication of the criteria that might be applied.
16. Further, MMA notes that paragraph 5.2.3 of the Draft White Paper proposes the imposition of registration and notification obligations on “categories of AAVMS” other than broadcasting (or “broadcasting-like services, without any indication as to the services that might fall within this broad category), so as to “achieve a more level playing field”, while at the same time subjecting those entities to co-regulation and self-regulation through codes of conducts, guidelines and other relevant instruments. This suggests that the licensing regime applicable to broadcasting services will not be applicable to other categories of AAVMS, although this is not clear. Further, no indication is provided in the Draft White Paper as to the AAVMS services which would be subject to the registration and notification obligations, with only a vague reference to “VSPs and online content services” (which are, again, not defined terms). Compounding this lack of clarity, there is also no explanation of the differences between the registration and notification processes, or indeed how these processes might differ from the current licensing processes.
17. It is difficult for MMA to comment meaningfully on the proposed “new regulatory framework” in the absence of any such detail. This proposed regulatory and/or licensing framework necessarily requires a clear, comprehensive restatement in a further iteration of a draft White Paper, to allow the public an

⁴ See paragraph 5.2.6 of the Draft White Paper.

⁵ Paragraph 2.2 of the Draft White Paper, as read with the Explanatory Memorandum to the Draft White Paper.

⁶ Paragraph 5.2.1 of the Draft White Paper.

opportunity to comment on an understandable and coherent policy statement on the proposed regulatory and/or licensing framework.

Failure to consider the challenges experienced within the three tiers of broadcasting

18. The Draft White Paper proposes maintaining the distinction between the three tiers of broadcasting (public, commercial and community), to enable the Independent Communications Authority of South Africa (**ICASA**) to determine the level of public interest obligations that need to apply to each tier.⁷ However, the Draft White Paper does not consider or deal with fundamental concerns inherent within the three tiers of broadcasting, such as systemic sustainability failures of existing licensees, governance challenges, and signal distribution costs, particularly in the context of community broadcasting service licensees.
19. MMA recommends that the Draft White Paper consider the existing tiers of broadcasting and the challenges faced by each of these tiers and develop a targeted support framework for each tier. In this regard, MMA recommends that a simplified licensing or renewal process be considered for community broadcasting service licensees, together with modernised content logging or reporting and light-touch compliance. MMA further recommends that community broadcasting service licensees should be guaranteed carriage or findability on major platforms, with zero-rated streaming for core public interest content.

Absence of clarity on the regulation of the press/news media

20. In response to previous iterations of the Draft White Paper, MMA has submitted that press outlets operating online only should be exempt from any registration or licensing requirements, and has requested that the position of the press/news media that are members of the Broadcast Complaints Commission of South Africa (BCCSA) and or the Press Council should be dealt with in the Draft White Paper, including a proper summary of the submissions received from interested parties.
21. While the Draft White Paper broadly discusses the Press Council, Press Ombud and Appeals Panel, it only notes that MMA/SOS are *“concerned that members of the press should be subject to licensing or other statutory registration schemes, and that online press outlets should be exempt from any such requirement”*.⁸ Despite noting this submission, the Draft White Paper fails to take it into consideration and fails to set out any policy proposals around the press, including its online operations. MMA respectfully submits that this has, once again, been omitted in error.

PART 2: COMMENTS WITH A SPECIFIC FOCUS ON THE BROADCASTING SECTOR

22. MMA recognises the extent and complexity of the policy proposals that are required in order to achieve the overarching vision set out in the Draft White Paper. While MMA supports the Department’s proposed phased approach to implementation through the “Programme of Implementation”, as outlined in paragraph 6 of the Draft White Paper, MMA submits that there are a number of issues which can, and should, be addressed as soon as possible, specifically within the broadcasting sector.

⁷ Paragraph 5.2.2 of the Draft White Paper.

⁸ See paragraph 1 of the Explanatory Memorandum to the Draft White Paper.

The importance of regulatory parity

23. Paragraph 2.97 of the Draft White Paper proposes the adoption of regulatory parity i.e. the adoption of a technology-neutral approach that ensures regulation of similar services in the same manner, irrespective of the platform or device on which the service is provided. However, the Draft White Paper states that the level of regulation may be based “on whether the content provided is linear or on-demand”.
24. The grounding of the Draft White Paper within the adoption of regulatory parity is important for the broadcasting sector. Regulatory parity ensures that like services face like obligations, regardless of delivery technology. In a converged market where linear channels, broadcaster-owned applications, and global OTT or video-on-demand services all reach South African audiences, regulatory parity: (1) prevents arbitrage between licensed broadcasters and OTT service providers; (2) preserves public interest outcomes (local content, accessibility, and the prominence or findability of public interest content) across interfaces; (3) delivers consistent consumer standards; (4) reduces market distortions and supports plurality; and (5) keeps the framework technology-neutral and future-proof, generally using a proportionate, risk-based ladder (in terms of which heavier-touch obligations apply in respect of editorial or linear services). This approach is aligned with international best practice (such as the European Union’s Audiovisual Media Services Directive and the United Kingdom’s new online prominence regime) while advancing the Draft White Paper’s stated goal of technology-neutral regulation
25. Against this background, MMA submits that the Draft White Paper should give careful consideration to the accompanying obligations applicable to AAVMS providers, which should be scaled to the function performed, with online press outlets exempted from any such requirements (as discussed above). For example, MMA submits that regulatory parity should be based on an assessment of editorial or organisational control (broadcasting or video-on-demand) versus hosting (user-to-user, such as VSPs and social media). Other considerations may include the risk of harm (i.e. the potential for systemic harms), and the capacity of the service (i.e. audience reach or revenue which might justify proportionate obligations).

Cross-media limitations

26. MMA supports the proposed amendments to the ECA, as set out in paragraph 5.6.2 of the Draft White Paper, regarding the removal of the cross-media ownership limitations contained in section 66 of the ECA, and the removal of the distinction between AM and FM sound broadcasting licences, and proposes that these amendments are capable of implementation in the short-term.

Ownership and control

27. MMA emphasises its support for the proposed policy environment set out in the Draft White Paper which encourages increased foreign direct investment, growth and development of the ICT sector as a whole, while recognising the importance of a diversity of content and ownership.⁹ MMA further supports the express recognition in the Draft White Paper of the imperative to revise the relevance and effectiveness of the current foreign ownership restrictions within a constantly changing operational landscape characterised by ongoing technological advancements and the global trend in which such ownership restrictions are being relaxed and/or abolished.¹⁰

⁹ See paragraph 5.6 of the Draft White Paper.

¹⁰ Paragraph 5.6.1 of the Draft White Paper.

28. MMA notes that the Draft White Paper proposes retaining the foreign ownership restrictions imposed on linear individual audio-visual content services (broadcasting services) under section 64 of the ECA, subject to an increase to a maximum threshold of 49% (from the current 20% threshold).¹¹
29. MMA's comments below should be understood within the context of section 64 of the ECA, as it is currently drafted, which provides as follows:

“64 Limitations on foreign control of commercial broadcasting services

(1) A foreigner may not, whether directly or indirectly –

(a) exercise control over a commercial broadcasting licensee; or

(b) have a financial interest or an interest either in voting shares or paid-up capital in a commercial broadcasting licensee, exceeding twenty (20) percent.

(2) Not more than twenty (20) percent of the directors of a commercial broadcasting licensee may be foreigners.”¹²

30. While MMA supports the proposal to increase the existing threshold contained in section 64 of the ECA, MMA submits that further amendments, which can be effected in the short-term, are urgently required to comprehensively revise the relevance and effectiveness of the current foreign ownership restrictions. The Draft White Paper recognises this inherent need to amend the legislative provisions applicable to foreign ownership and control, but falls short of contemplating or addressing the inherent challenges and uncertainties contained within section 64 of the ECA. One exception is the possible introduction of a definition of “control” in the ECA in line with Competition Act 89 of 1998 (**Competition Act**), although this proposal is couched in discretionary language, no definition is actually set out in the Draft White Paper, and there is no further express description of the circumstances, or the factual or legal situations, which would give rise to “control”.
31. MMA submits that additional challenges, which have not been addressed in the Draft White Paper, include the absence of a definition for the terms “a foreigner” and “financial interest” and the obsolete nature of the term “paid-up capital”, in the context of South Africa company law. A failure to address these challenges and uncertainties will further undermine the achievement of the proposed enabling policy environment contemplated in the Draft White Paper, and will continue to hinder foreign direct investment, growth and development in the South African audio and audio-visual content industries, and the ICT sector as a whole. MMA submits that legislative proposals should be developed in the short-term to address these issues.
32. In addition, MMA notes that a previous iteration of the Draft White Paper published in 2023 (the **2023 Draft White Paper**) proposed an additional amendment to the foreign ownership restriction: permitting a foreign person or persons from an African Union (**AU**) member country to exceed the 49% threshold (set out above), subject to a reciprocal agreement between South Africa and the relevant AU member country.¹³ The 2023 Draft White Paper stated that the purpose of this amendment was to support South

¹¹ Paragraph 5.6.2 of the Draft White Paper.

¹² See paragraph 5.6.2 of the Draft White Paper, which paraphrases this provision by simply stating that the current legislative framework “prohibits a foreigner from exercising control over a commercial broadcasting licensee, by limiting financial interest, interest in voting shares or paid-up capital, to a maximum of 20%”.

¹³ See paragraph 7.3.2 of the 2023 Draft White Paper.

Africa's commitment to promoting investment in a reciprocal manner in the AU and to ensure alignment with the Agreement establishing the African Continental Free Trade Area (**AfCFTA Agreement**).¹⁴

33. MMA supports this proposal and submits that it is unclear why it has been removed from the Draft White Paper. MMA submits that the inclusion of this amended foreign ownership restriction, which could be limited to 65% to 70%, would advance South Africa's commitments under the AfCFTA Agreement and the associated protocols, including the Protocol on Trade in Services which recognises that "Communications Services" is a priority sector for liberalisation. Again, this is a legislative amendment which is capable of being implemented in the short term.

Local content

34. MMA notes that paragraph 2.7 of the Draft White Paper proposes that, consistent with Constitutional values and principles, the promotion and protection of plurality of voices and diversity of content will continue to be a priority alongside the mandatory inclusion of local content, and that some funds currently collected from licensees will be managed within a dedicated programme to support local content production.
35. MMA submits that local content obligations should be considered within the appropriate context, including:
- 35.1. Principle 11.3 of the African Principles on Freedom of Expression and Access to Information Declaration which states that "[States] shall take positive measures...which shall facilitate: ...The promotion of local and African languages, content and voices";
 - 35.2. Article 15 of the AU Declaration on Internet Governance which requires member States to "*promote local content*";
 - 35.3. Article 17(c) of the Southern African Development Community (**SADC**) Protocol which requires member States to agree to cooperate in the area of information in order to ensure "*the ... [d]evelopment and promotion of local culture by increasing local content in the media such as magazines, radio, television, video, film and new information technologies*"; and
 - 35.4. Article 17(e) of the SADC Protocol which requires member States to agree to cooperate in the area of information in order to ensure "*the [e]ncouragement of the use of indigenous languages in the mass media as vehicles of promoting local, national and regional intercommunication*".
36. Against this background, MMA supports the Draft White Paper's policy proposal of regulatory parity, particularly as it applies to the imposition of any "public interest" obligations such as local content quotas which require that a broadcasting service licensee broadcast a minimum percentage of locally produced content per week. However, MMA emphasises that any regulatory parity in the context of local content obligations should not mean that the local content quotas that are currently imposed on broadcasting service licensees are reduced to align with any lower obligations that may be imposed on other types of AAVMS, including in instances in which the application of local content quotas may not be appropriate. Further, MMA submits that it is not clear from the Draft White Paper whether future local content obligations imposed on AAVMS, more generally, will be proportionate and in line with the

¹⁴ Para 42 of the Executive Summary to the Draft White Paper.

principles of regulatory parity, and MMA recommends that the policy position in this regard should be clarified and better articulated in the Draft White Paper so as to provide certainty.

37. However, MMA supports the proposal set out in paragraph 5.5.6 of the Draft White Paper that local content requirements are to remain in force for broadcasting service licensees. However, MMA submits that the currently prescribed local content quotas can, and should, be improved to better support local content industries, broadcasters, and ICASA.
38. MMA recommends that the Draft White Paper be amended, and that appropriate regulatory amendments be effected in the short term, reflecting the following wording:

“Broadcasting service licensees must ensure that a minimum amount of local content is broadcast in the following percentages:

(a) In the case of new free-to-air broadcasting service licensees, 20%, with an obligation to increase to:

(i) 45% within 5 years for commercial operators; and

(j) 65% within 5 years for community operators and new SABC channels;

(b) In the case of existing subscription broadcasting service licensees, 15% measured across the bouquet;

(c) In the case of new subscription broadcasting service licensees, 5% measured across the bouquet, with an obligation to increase to 15% within 5 years;

(d) In the case of SABC 1 and SABC 2, 65%; and

(e) In the case of SABC 2 and eTV, 45%.”

39. MMA further supports the imposition of an additional quota of not more than 5% for content from other AU countries on all broadcasting service licensees, provided the relevant country has reciprocal quotas to encourage the broadcasting of South African content within its territory.
40. MMA believes that simplifying the local content quotas in the manner set out above, which can be implemented in the short term, will have the tangible effect of making the local content requirements more practicable and measurable, while still fulfilling the primary purpose of the local content requirements i.e. being the development, protection, and promotion of the South African content industries, which are both diverse and productive.
41. More broadly, MMA proposes that certain categories of AAVMS should have a minimum spend quota expressed as a percentage of their annual turnover in respect of the production of original local content (including co-productions) in the following percentages:
- 41.1. All commercial (free to air or subscription) and community terrestrial television broadcasters: 20%;
- 41.2. SABC: 25%;
- 41.3. Satellite broadcasters: 10%

41.4. Qualifying on-demand content services: ¹⁵ 15% of their annual South African turnover, and that a minimum of 65% of all amounts referred to above should be spent on independently-commissioned productions.

Monitoring compliance with local content requirements

42. The Draft White Paper is silent on any challenges experienced with the achievement of local content requirements, or of the effective monitoring and enforcement of local content requirements by ICASA. In practice, ICASA has long faced challenges with properly monitoring the compliance of broadcasting service licensees with local content requirements. By way of example, ICASA has produced only one annual compliance report for SABC 1, 2 and 3 in the past 23 years. This absence of regulatory capacity is a notable failure which has not been addressed at all in the Draft White Paper.
43. While the imposition of simpler quotas, as set out in paragraph 36 above, is critical to enabling effective reporting and monitoring processes, MMA submits that it is further necessary for the Draft White Paper to also deal comprehensively with ICASA's failures in regard to monitoring and compliance enforcement of the local content requirements.
44. MMA respectfully submits that this issue can be addressed in the short-term by way of specific legislative amendments. For example, MMA recommends that the applicable regulatory framework be amended to include a prescribed compliance reporting form for broadcasting service licensees so as to facilitate reporting on and monitoring of compliance with local content requirements. ¹⁶ MMA respectfully submits that this would simplify the reporting, monitoring and compliance processes in respect of local content, and should accordingly be reflected in the Draft White Paper.

Local content fund

45. MMA notes the proposal in paragraph 5.5.6 of the Draft White Paper that, where it is not possible for a broadcasting service licensee to meet the local content quota due to the nature of the service, the broadcasting service licensee may choose to pay a specified amount of money, or a minimum percentage of its gross revenue, into a fund which supports the creation of audio and audio-visual South African content (a type of "pay or play" approach).
46. While MMA, in principle, supports this proposal, MMA is of the view that further clarity is required regarding the purpose and mandate of this proposed fund for local content, and in particular, the extent to which this purpose and mandate differs from those of the existing Media Development and Diversity Agency (**MDDA**), to whom broadcasting licensees currently contribute, as well as the Media Industry Fund proposed by the Competition Commission in its Media and Digital Platforms Market Inquiry: Provisional Report, dated February 2025. ¹⁷ MMA submits that it is further not clear in the Draft White Paper whether this local content fund would be funded by way of an additional annual levy based on a percentage of turnover generated in South Africa, and respectfully submits that the policy position in this

¹⁵ For the sake of clarity, this would include Netflix, Amazon Prime etc but would not include VSPs.

¹⁶ See, for example, Justine Limpitlaw "Mobilising Regulatory and Funding Initiatives in Support of the South African Local Television Production Sector", commissioned by the National Film and Video Foundation and the Independent Black Filmmakers Collective, dated 2022, accessible here: https://www.nfvf.co.za/wp-content/uploads/2025/01/NFVF-Local-Content-Report_October-2022-.pdf.

¹⁷ See the Competition Commission "Media and Digital Platforms Market Inquiry: Provisional Report" published in February 2025, accessible here: https://www.compcom.co.za/wp-content/uploads/2025/02/CC_MDPMI-Provisional-Report_Non-Confidential-Final.pdf.

regard should be finalised in the Draft White Paper. In any event, MMA considers that any duplication of efforts in this context would result in an unnecessary use of resources that would be better spent on local content production.

47. Similarly, MMA notes that paragraph 5.5.12 of the Draft White Paper proposes a review into potentially consolidating the MDDA and the Universal Service Access Fund (**USAF**) into a Digital Development Fund, which is to be applied “to the creation and protection of locally produced content”. MMA submits that it is unclear whether the Digital Development Fund is the fund envisioned in paragraph 5.5.6 of the Draft White Paper (as referred to above) or an entirely separate fund. In this regard, it should also be noted that the functions of the USAF are distinct from those of the MDDA and, contrary to what is stated in the Draft White Paper, broadcasting licensees do not currently contribute to both the MDDA and the USAF. In any event, precisely how a single, consolidated fund (presumably in the form of the Digital Development Fund) will operate to fulfil all the public interest functions of the USAF and the MDDA, as well as the proposed functions of the Digital Development Fund, is unclear and is not further delineated in the Draft White Paper. MMA respectfully submits that clarity in this regard is required at this stage, and should be elucidated in a further iteration of the Draft White Paper, so as to ensure that the chosen fund is actually fit-for-purpose.

Must carry, findability and discoverability of public interest content

48. Paragraph 5.5.4 of the Draft White Paper states that the must carry rules have “*achieved their intended objective (to make public interest content available) and need review*”.
49. In the Findings and Positions Document on the Review of the ICASA Must Carry Regulations, 2008 issued on 26 March 2021 (the **Must Carry Findings Document**), ICASA found that “*there are different views on what programmes should form part of [m]ust [c]arry. One view is that the status quo should remain, and all [Public Broadcasting Service (PBS)] channels be carried, whilst the other view is that only public interest programmes should be carried*”.¹⁸
50. In the Reasons Document published with the 2022 amendments to the ICASA Must Carry Regulations, ICASA indicated that it “*still holds its view as expressed in the [Must Carry] Findings Document that the rationale for [m]ust [c]arry is to ensure universal access to [PBS]. This rationale is expressed in the fact that even the members of the public who do not struggle with reach also benefit from the must-carry rules*”.¹⁹ The Reasons Document further indicated that “[m]ust [c]arry is driven by a central public interest principle of universal access to ensure that PBS programming is available to all citizens, targeting those citizens that use [subscription broadcasting service] as their means of access to television”.²⁰
51. Against this background, MMA submits that the principle of must carry must continue to be understood as a tool for ensuring that all South Africans can access programming that services the public interest, regardless of the platform they use, until section 60(3) of the ECA is amended. As such, until any such amendment of the ECA, MMA supports the position on must carry which can be summarised as: *must carry must pay*.
52. However, MMA notes further that paragraph 5.5.4 of the Draft White Paper proposes a review and the development of rules ensuring the “findability” or “discoverability” of “public interest content” on both

¹⁸ See paragraph 3.5 of the Must Carry Findings Document.

¹⁹ See paragraph 3.1.9 of the Reasons Document.

²⁰ See paragraphs 3.1.9, 3.2.19 and 3.14.4 of the Reasons Document.

linear and on-demand platforms. MMA supports the design of alternative and innovative ways to meet societal needs in the face of particular technological demands. In this regard, MMA supports the approach of expanding the must carry rules to “must carry, must list and must be findable”.

53. However, MMA is concerned by the lack of definitional clarity in this section of the Draft White Paper. In particular, “public interest content” is broadly described as “*being of particular value for society, for democratic, cultural, or social reasons*” and is not clearly circumscribed to set out the types of content in respect of which the proposed findability or discoverability obligations ought to apply.
54. MMA notes that the term “public service programming” was more comprehensively defined in paragraph 5.2.6 of the 2023 Draft White Paper as “*programming that is of a cultural and linguistic nature, has social consideration for historically disadvantaged groups and other special needs and interests, particularly education including programmes for schools and provisions for persons with disabilities*”. Moreover, it was indicated that such programming could “*cater for regional interests and communities of interests*”.
55. MMA submits that section 2(s) of the ECA requires that broadcasting services, viewed collectively –
- “(i) *promote the provision and development of a diverse range of sound and television broadcasting services on a national, regional and local level, that cater for all language and cultural groups and provide entertainment, education and information;*
 - (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;*
 - (iii) *cater for a broad range of services and specifically for the programming needs of children, women, the youth and the disabled*”.
56. Against this background, MMA strongly recommends that “public interest content” is expressly defined in the Draft White Paper in similar terms, so as to ensure that any proposed review is adequately restricted in scope and generates recommendations that are targeted to achieving the objectives of the ECA. MMA accordingly recommends that the criteria for “public interest” channels be clarified, including defining substantive criteria such as local content, news provision, local language programming, underserved communities, and educational programming.
57. MMA further submits that incentives should be included in the Draft White Paper, and possible regulatory amendments, in respect of the findability and discoverability of public interest content, particularly for the purposes of enhancing information integrity, as well as additional incentives in respect of content focusing on language diversity and material for the visually and audibly impaired.
58. In addition, MMA submits that the Draft White Paper, and possible regulatory amendments, should address findability and discoverability of public interest content through prominence (such as first-screen placement, default carousels, top tier EPG positions, mandatory search inclusion and clear

labelling) and accessibility by design (including availability of captions, audio description, sign language and accessible user experience).

CONCLUSION

59. South Africa has the opportunity to adopt an effective and considered regulatory framework that will appropriately regulate the broadcasting sector, as well as the AAVMS sector more broadly, in a manner that protects human rights, respects freedom of expression, and values public interest considerations.
60. Any policy in this regard should not be developed in a vacuum and should not slow or impede any possible legislative amendments which can be effected in the short term, particularly within the broadcasting sector.
- 61.

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ANNEXURE A

MMA's key submissions and recommendations are summarised in the table below:

	Topic	Submissions	Recommendations
1.	Ambiguity in definitions and terminology	The Draft White Paper fails to define a number of critical terms or otherwise uses them inconsistently.	Clearly define the following terms: • audio and audiovisual media services; • “broadcasting-like” services; • linear online services; • on-demand services; • on-demand content services; • video-sharing platform services; • very large online platforms; • over-the-top services; and • online content services.
2.	Ambiguity in market structure and proposed licensing framework	The proposed market structure and regulatory/licensing framework in the Draft White Paper is opaque and ambiguous.	Clarify the proposed regulatory framework and the applicable triggers and threshold for different service providers.

5.	Failure to consider the challenges experienced within the three tiers of broadcasting	The Draft White Paper does not deal with fundamental concerns inherent within the three tiers of broadcasting, particularly in the context of community broadcasting service licensees.	Consider the challenges faced by each of the three tiers of broadcasting and develop a targeted support framework for each tier. In respect of community broadcasting service licensees in particular: • Simplify licensing or renewal process; • Modernise content logging or reporting; and • Guarantee carriage or findability on major platforms, with zero-rated streaming for core public interest content.
6.	Absence of clarity on the regulation of the press	The Draft White Paper does not consider the position of the press in relation to the proposed regulatory/licensing framework.	Set out policy proposals around the press, including its online operations.
7.	The importance of regulatory parity	The adoption of regulatory parity is important to the broadcasting sector, and its application must be carefully considered.	Scale obligations applicable to AAVMS providers according to: • the function performed; • the risk of harm; or • the capacity of the service with online press outlets exempted from any such requirements.
8.	Cross-media limitations	MMA supports the removal of the cross-media ownership limitations contained in section 66 of the ECA and the removal of the distinction between AM and FM sound broadcasting licences.	Implement these amendments in the short-term.

9.	Ownership and control	MMA supports the proposed amendments to foreign ownership restrictions but submits that there are further amendments that are required and can be effected in the short-term.	• Implement the increase to the existing threshold contained in section 64 of the ECA in the short-term. • Introduce an amendment permitting foreign persons from an AU member country to exceed the proposed threshold, subject to a reciprocal agreement between South Africa and the relevant AU member country. • Introduce a definition of “control” in the ECA in line with the Competition Act. • Describe the circumstances, or the factual or legal situations, which would give rise to “control”. • Define the terms “foreigner” and “financial interest”.
10.	Local content	MMA supports the continued emphasis on local content obligations but submits that further clarity and simplification are required in respect of local content quotas imposed on different service providers.	• Impose local content obligations on AAVMS which are proportionate and in line with the principles of regulatory parity. • Amend existing local content quotas applicable to broadcasting service licensees in the short-term. • Impose an additional quota of not more than 5% for content from other AU countries on all broadcasting service licensees, subject to a reciprocal agreement between South Africa and the relevant AU member country. • Impose a minimum spend quota on AAVMS expressed as a percentage of their annual turnover in respect of the production of original local content.
11.	Monitoring compliance with local content requirements	The Draft White Paper is silent on any challenges experienced with the achievement of local content requirements, or of the effective monitoring and enforcement of local content requirements by ICASA.	• Amend the regulatory framework to include a prescribed compliance reporting form for broadcasting service licensees. • Comprehensively address ICASA’s lack of regulatory capacity in respect of local content requirements.

12.	Local content fund	The Draft White Paper is not clear on the functions of the proposed local content fund and how it will operate in relation to other public interest funds in this sector.	Clarify the purpose and mandate of the proposed fund for local content and its relationship to the following public interest funds: • Media Development and Diversity Agency; • Universal Service Access Fund; and • Media Industry Fund, as proposed by the Competition Commission in its Media and Digital Platforms Market Inquiry: Provisional Report, dated February 2025.
13.	Must carry, findability and discoverability of public interest content	The principle of must carry must continue to be understood as a tool for ensuring that all South Africans can access programming that services the public interest	• Implement a “must carry must pay” position; • Expressly define “public interest content” in terms similar to those contained in section 2(s) of the ECA. • Include incentives in respect of the findability and discoverability of public interest content, as well as additional incentives in respect of content focusing on language diversity and material for the visually and audibly impaired. • Address findability and discoverability through: prominence and accessibility by design.