

ORGANISATION UNDOING TAX ABUSE

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1. EXECUTIVE SUMMARY

The Organisation Undoing Tax Abuse (“OUTA”) welcomes the opportunity to provide commentary on the 2025 Draft White Paper on Audio and Audiovisual Media Services and Online Safety. This is in response to the gazetted notice 3369 of 2025 published on 11 July 2025.

We recognise several positive developments compared to the 2023 draft, including:

1. The removal of burdensome turnover-based licensing thresholds for on-demand services, replaced with a more proportionate registration/ notification system;
2. The absence of proposals for new levies or taxes on streaming services or electronic devices, which OUTA strongly opposed in 2023;
3. The greater alignment of terminology with international best practice (AAVMS, VSPs, VLOPs) which aids regulatory clarity; and
4. A focus on skills development and media literacy through existing institutions and SETAs, rather than establishing new entities.

However, the 2025 draft still raises a number of serious concerns that require urgent attention:

1. The proposed ombudsman for online safety risks duplicating existing regulators, adding complexity and cost rather than streamlining oversight;
2. The mechanism allowing financial contributions in lieu of South African content quotas introduces governance and accountability risks, given poor audit records across relevant entities;
3. The planned increase in foreign ownership limits to 49% may undermine domestic plurality and cultural sovereignty and should not be left solely to competition law;
4. The 24-month implementation timeline is highly ambitious in light of the Department of Communications and Digital Technologies’ history of delayed projects, such as Broadcasting Digital Migration;

5. SABC governance and funding reforms remain unresolved. The draft does not adequately address the broadcaster’s persistent unauthorised, irregular, fruitless, and wasteful expenditure (“UIFW expenditure”) and systemic mismanagement; and
6. Key aspects of the new registration/ notification regime remain unclear, creating uncertainty for service providers and potential investors.

In OUTA’s view, unless these issues are resolved, the 2025 White Paper risks repeating the implementation failures of previous policy processes and will not deliver a modern, accountable and citizen-centred regulatory framework.

2. **ABBREVIATIONS**

4IR	Fourth Industrial Revolution
5G	5th Generation Wireless Networks
AAVCS	Audio and Audiovisual Content Services
ACS	Audio Content Service
AM	Amplitude Modulation
ASO	Analogue Switch-Off
AU	African Union
AVMSD	Audiovisual Media Services Directive
BDMP	Broadcasting Digital Migration Policy (2008)
DAC	Department of Arts and Culture
DSAC	Department of Sports, Arts and Culture
DED	Department of Economic Development

DTI	Department of Trade and Industry
DoC	Department of Communications
DCDT	Department of Communications and Digital Technologies
DIRCO	Department of International Relations and Cooperation
DSBD	Department of Small Business Development
DTT	Digital Terrestrial Television
DTH	Direct-to-Home satellite
DTPS	Department of Telecommunications and Postal Services
ECA	Electronic Communication Act, 2005, as amended
ECTA	Electronic Communications and Transactions Act, 2002 as amended
ECNS	Electronic Communications Network Service
ECS	Electronic Communication Service
FM	Frequency Modulation
FPB	Film and Publications Board
GSM	Global System for Mobile Communications
HDTV	High-definition Television
IBA	Independent Broadcasting Authority
ICASA	Independent Communications Authority of South Africa
ICT	Information and Communications Technology

IDC	Industrial Development Corporation
IoT	Internet of Things
IP	Internet Protocol
IPTV	Internet Protocol Television
ISP	Internet service provider
ITU	International Telecommunication Union
LTE	Long -term evolution
MDDA	Media Development & Diversity Agency
MIL	Media and Information Literacy
NDP	National Development Plan 2030
NFVF	National Film and Video Foundation
NGO	Non -Governmental Organisation
NPC	National Planning Commission
OCS	On-demand Content Services
Ofcom	Office of Communications: The Independent Regulator in the UK
OTT	Over - the -top
SABC	South African Broadcasting Corporation
SADC	Southern African Development Community
SARS	South African Revenue Service

SMME	Small Medium and Micro Enterprises
SOE	State-owned Entity
STB	Set -top box
UK	United Kingdom
USA	United States of America
USAASA	Universal Services and Access Agency of South Africa
VOD	Video on Demand
VSPS	Video Sharing Platform Services

3. INTRODUCTION

OUTA is a proudly South African non-profit civil action organisation, comprising of and supported by people who are passionate about improving the prosperity of our nation. OUTA was established to challenge the abuse of authority, particularly the abuse of taxpayers' money. The purpose of this submission to the Department of Communications and Digital Technologies ("DCDT") is to comment on the 2025 Draft White Paper on Audio and Audiovisual Media Services and Online Safety ("AAVCS"). This is in response to the gazette notice number 3369 of 2025 published on 11 July 2025. Together with this, the submission aims towards ensuring that the abuse of tax monies and irrational policy introduction is avoided and that sound policy is formulated.

DCDT has indicated that the 2025 White Paper ("Policy") consists of high-level policy proposals and principles that form a framework for the work that needs to be done and that the related activities will be discussed in the implementation plan and policy directions.

OUTA recognises improvements made since the 2023 Draft White Paper on Audio and Audiovisual Content Services, particularly the shift away from burdensome licensing requirements for on-demand services and the removal of explicit proposals for new taxes on streaming or devices.

However, OUTA remains concerned that the 2025 White Paper leaves significant risks unaddressed, namely:

- The creation of an ombudsman for online safety, while well-intentioned, may duplicate existing regulatory structures and add complexity.
- Provisions that allow financial contributions in lieu of local content quotas raise serious concerns about transparency and accountability.
- The proposed increase in foreign ownership limits risks undermining plurality and domestic control.

- The 24-month implementation timeline appears unrealistic, given the Department's history with delayed programmes such as Broadcasting Digital Migration.

This submission provides section-by-section commentary, followed by a synthesis of concerns and recommendations.

4. SECTION SPECIFIC COMMENTS ON THE 2025 WHITE PAPER

4.1. Introduction and Policy Context (Section 1)

- OUTA supports the stated intent to modernise the regulatory framework and address online harms.
- OUTA submits that the 2025 White Paper does not adequately reflect lessons from past implementation failures (e.g. Set-Top Box programme, delayed migration). This omission undermines confidence that timelines will be met.

4.2. Objectives of the White Paper and Approach (Section 2)

- OUTA notes alignment with constitutional principles of freedom of expression, plurality and diversity.
- We support the tiered, risk-based regulatory approach.
- OUTA believes that the role of the ombudsman is insufficiently defined. It is unclear whether it will have binding powers, how it will interact with ICASA and FPB, or how duplication of functions will be avoided.

4.3. The Current Regulatory Framework (Section 3)

- OUTA welcomes recognition of overlaps between statutory, self-regulatory and co-regulatory bodies.
- OUTA is worried that instead of rationalising existing regulators, the 2025 White Paper adds another structure namely the ombudsman. This is contrary to OUTA's 2023 position opposing additional bureaucratic layers.

4.4. Existing Regulatory Institutions and Entities (Section 4)

- OUTA recognises that ICASA, FPB, ARB, BCCSA, Press Council, ISPA and WASPA are already active.
- OUTA is of the opinion that the 2025 White Paper fails to address longstanding governance weaknesses and Unauthorised, Irregular, Fruitless, and Wasteful expenditure in these entities. Without proper accountability reforms, adding an ombudsman will not resolve systemic weaknesses.

4.5. Elements of the New Regulatory Framework (Section 5)

4.5.1. Ad section 5.1: Definitions:

- The move from “Content Services” (2023) to “Media Services” (2025) is noted. OUTA supports clearer alignment with international terminology (AAVMS, VSPs, VLOPs).

4.5.2. Ad section 5.2: Structure (licensing, registration, notification):

- OUTA welcomes the removal of turnover-based licensing thresholds which would have imposed unnecessary costs on OTT providers and, ultimately, consumers.
- OUTA agrees that registration/ notification is a more proportionate approach.
- OUTA submits that details of registration fees and obligations remain unspecified, creating uncertainty for investment.

4.5.3. Ad section 5.3: Regulatory Mechanisms (Ombudsman):

- OUTA supports measures to address online harms but reiterates concerns that an ombudsman risks fragmentation, duplication and inefficiency.
- Clearer articulation of powers, reporting lines, funding, and enforcement is essential. Without clear authority, the ombudsman could become ineffective or symbolic, with disputes bouncing between entities.

4.5.4. Ad section 5.5: Other Material Issues:

- Public Broadcasting: OUTA notes that “public broadcasting” is now restricted to SABC services. While this provides definitional clarity, there is still no credible plan for the SABC’s funding reform. OUTA reaffirms its position that the TV licence model has failed and that exemptions from the PFMA for SABC should not be considered.
- Local Content Quotas: OUTA objects to the mechanism allowing providers to pay into a content fund if quotas are unmet. Past experience with UIFW expenditure in public entities demonstrates the risks of poor governance over such funds. OUTA’s position remains that strict accountability safeguards must be in place before any financial contribution scheme is enacted.
- Ownership and Control: The proposal to raise foreign ownership limits from 20% to 49% mirrors the 2023 draft. OUTA maintains concern that this may dilute South African editorial control. While the Competition Commission is cited as a safeguard, media plurality and cultural sovereignty are not purely competition law issues.
- Funding: OUTA notes the review of MDDA and USAF funds. Concern remains that consolidation without governance reform may perpetuate waste and duplication.
- Implementation: The staged 24-month plan repeats the same ambition OUTA criticised in 2023 as unrealistic. Without clear milestones, resourcing plans and accountability mechanisms, the risk of missed deadlines is high.

4.5.5. Ad sections 5.7: Skills Development, Digital and Media Literacy:

- Although OUTA welcomes the focus on skills and literacy through existing institutions and SETAs, which is consistent with our 2023 recommendation.
- OUTA however notes that no measures are included to ensure accountability for past failures by SETAs and other training entities.

5. CONCERNS

Throughout the years we have witnessed how SOEs squander taxpayers' money; outsource to incompetent service providers who fail to provide services that they were entrusted with, and then taxpayers are requested to pay more money to stabilize those SOEs. Set-top boxes are an example of a failed policy initiative, yet a budget was allocated to ensure that this project was completed.

The following concerns need to be highlighted:

1. Duplication of regulators: The ombudsman may complicate rather than simplify regulatory oversight.
2. Accountability of funds: Contributions in lieu of quotas may be diverted or misused without strict controls.
3. Foreign ownership: Raising limits risks undermining plurality and domestic sovereignty.
4. Unrealistic implementation timeline: Past delays suggest the 24-month plan may be unachievable.
5. Weak SABC reform: Persistent governance and funding problems remain unaddressed.
6. Regulatory uncertainty: Registration/ notification requirements lack detail, creating uncertainty for providers and investors.

The above concerns raise the question of the extent to which accountability is enforced and what transparency mechanisms are in place to ensure that maladministration and wasteful expenditure do not occur as frequently.

6. RECOMMENDATIONS

OUTA therefore wishes to make the following recommendations:

1. Define and limit the role of the ombudsman to avoid duplication. Consider housing this function within an existing regulator subject to parliamentary oversight.
2. Strengthen accountability for funds: Any content fund contributions must be independently audited, ring-fenced and reported publicly.
3. Reconsider foreign ownership liberalisation: Ensure plurality safeguards are legislated beyond competition law.
4. Revise the implementation plan: Provide phased milestones, transparent reporting and independent oversight to avoid repetition of past failures.
5. Address SABC's governance directly: Reject PFMA exemptions; require clear accountability measures and a sustainable funding model before any new obligations are introduced.
6. Clarify registration/ notification requirements: Publish draft regulations on fees, reporting obligations and scope before adoption.
7. Enhance oversight of SETAs and training bodies: Ensure proper monitoring of digital skills and literacy programmes.

7. CONCLUSION

OUTA acknowledges the Department's efforts to streamline the regulatory framework and address online harms in the 2025 Draft White Paper. The shift away from excessive licensing requirements and the absence of new consumer levies are important steps forward.

Nonetheless, the draft policy still leaves unresolved risks around regulatory duplication, weak financial accountability, ownership liberalisation and unrealistic timelines. These gaps, if not addressed, will undermine both public confidence and effective regulation.

OUTA's position remains that policy must not place additional financial or regulatory burdens on South African citizens. Instead, government should focus on enabling affordable access to digital services, fostering innovation and ensuring that regulatory structures are lean, accountable and transparent.