



# **BOTSWANA COMMUNICATIONS REGULATORY AUTHORITY**



## **DISCUSSION PAPER**

### **LOCAL CONTENT GUIDELINES (DRAFT)**

2024

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## **1. INTRODUCTION**

- 1.1.** Botswana Communications Regulatory Authority (BOCRA) has been mandated through the Communications Regulatory Authority Act [No. 19 of 2012] (CRA Act) to regulate the communications sector in Botswana, comprising telecommunications, internet and information and communication technologies, radio communications, broadcasting, postal services and related matters. BOCRA has further been mandated as per Section 6 (2) (r) of the CRA Act to make industry regulations necessary for its responsibilities under the Act such as standards applicable to regulated entities.
- 1.2.** Broadcasting plays a critical role in Nation Building and provides a platform to support national identity and culture through the airing of Local Content. BOCRA as a regulator, mandates the licensed broadcasters to certain quotas of local content in order to promote the interest of consumers, with respect to quality and variety of services, and where appropriate, the variety of services offered throughout Botswana. Broadcasting of local content as majority content in audio and visual media is a source of national pride. It stimulates and flourish the development of local creativity which when harnessed, has the potential to effectively contribute to citizenry and national economy.

## **2. BACKGROUND**

- 2.1.** BOCRA has licensed three (3) Commercial Radio Stations (Duma FM, Yarona FM and Gabz FM), one (1) Campus radio station (UB Radio), two (2) Commercial Television Stations (On Air and Ytv) and one (1) Subscription Management Services (Multichoice Botswana). These broadcasters were mandated by the repealed Broadcasting Regulations, 2014 to broadcast a minimum of 20% local content quota for television and 40% for radio. These quotas were to be achieved on or before the end of their license period as according to Schedule 3 of the Licence Conditions.
- 2.2.** The licensed broadcasters achieved their set local content quotas over the

years with FM radio stations reaching an average of 57.49% of their local content quota in quarter 3 of 2023 and Ytv achieving 49% of their quota. The recently renewed FM Radio Licence Conditions provide that radio stations should achieve a minimum of 51% Local Content Quota within three (3) years of licence issuance and the Authority shall from time to time in consultation with the broadcasters set a minimum local content quota. On the other hand, the Campus Radio Stations are mandated by the Licence Conditions to achieve a minimum of 80% Local Content Quota within three (3) years of licence issuance. The television stations are mandated to achieve a minimum of 45% local content quota within three (3) years of licence issuance.

- 2.3.** The Communications Regulatory Authority Regulations, 2022 (CRA Regulations), mandates BOCRA to issue and publicise the Local content guidelines from time to time which will among others prescribe the local content quota and the quality of content. Section (10) 4 of the CRA Regulations further provides that the local content value shall be defined in the guidelines. These guidelines provide for a different approach of progressive achievement of local content quotas by the licensed broadcasters. In accordance with Regulation 10 of the CRA Regulations, 2022, and the Provisions of the Broadcasting Licence Conditions, the Authority shall prescribe an annual minimum local content quota for broadcasters to ensure that the quotas are achieved progressively. The progressive achievement of quotas will enable the Authority to consider the effect that the set annual quotas have on broadcasters and give broadcasters an opportunity to improve their local content productions over time.

### **3. SCOPE**

- 3.1.** Overtime, Broadcasters have voiced that it is not clear even on the definition of local content stated in the Regulations what exactly constitutes the components of local content. The lack of Policies on local content for broadcasting have made it difficult to come up with what exactly should be recognised as local content for broadcasting. It is in this regard that the Authority intends to develop local

content guidelines in accordance with the provisions of the CRA Regulations, 2022 to provide direction on what constitutes local content and set the local content quota to be achieved by the regulated broadcasters.

- 3.2.** This discussion Paper seeks to consult with the industry stakeholders on the proposed Local content guidelines for broadcasters. The discussion paper gives the background of local content broadcasting in Botswana, proposes guidelines for commercial and non - commercial broadcasting before stating proposed penalties and monitoring techniques.

#### **4. CATEGORIES OF BROADCASTING LICENSES**

- 4.1.** There are three (3) categories of Broadcasting namely Commercial Broadcasting, Non – Commercial Broadcasting and State Broadcasting. The third category, State Broadcasting is exempted from Regulation by the CRA Act, 2012. The two categories are based on different aspects ranging from transmission purpose, roll out, target market, ownership & control, funding and revenue generation.
- 4.2.** Commercial Broadcasting means a broadcasting service operated for profit and controlled by a person who is not a public or community broadcasting licensee.
- 4.3.** Non-Commercial Broadcasting means a broadcasting service which:
- 4.3.1. is fully controlled by a non-profit entity and carried on for non-profitable purposes;
  - 4.3.2. serves a particular community;
  - 4.3.3. encourages members of the community served by it, or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting services; and
  - 4.3.4. may be funded by donations, grants, sponsorship or advertising or

membership fees, or by any combination of the above;

**4.4.** The non-commercial broadcasting can be classified based under different categories like;

4.4.1. Group of persons with Ascertainable common interest such as religion, farming, academic etc; or

4.4.2. Sector of the public such as Tribal; or

4.4.3. Geographically founded.

## **5. BENCHMARKING**

**5.1.** Many countries have local content guidelines and policies in the broadcasting sector to protect and promote local programming. The Authority carried out desktop research to study international standards and comparative best practice for local content guidelines. It was discovered that countries such as Ghana, South Africa, Zambia and Australia have solid regulations that have detailed provisions on local content and guidelines on local content. These countries have defined attributes that are considered to form local content. It has been discovered that local content quotas vary from country to country with most countries having a prescribed quota for each genre. Below are examples of local content quotas in different countries:

### **5.1.1. Australia**

- 55% for commercial free-to-air broadcasting, with sub-quotas for adult drama, children's programmes and documentaries. A 10% expenditure requirement for predominantly drama subscription television channels.
- Up to 25% for commercial free-to-air radio.

### **5.1.2. Zambia**

- a minimum weekly average of 35% for Public and Private Non-Profit

Content Service Provider licensee.

### 5.1.3. South Africa

- 35% for commercial radio broadcasters
- 70% for public and community radio broadcasters
- 35% for Free – to air commercial television broadcaster
- 55% for public television broadcasters
- 10% for subscription television broadcasters

## 6. DEFINING LOCAL CONTENT

- 6.1.** The Communications Regulatory Authority Regulations, 2022 defines local content as the output or results of the regulated sectors' production that have been produced using material or resources gathered in Botswana, and which mostly use Botswana personnel and services.

## 7. PROPOSED BROADCASTING LOCAL CONTENT GUIDELINES

### 7.1. Local Content Guidelines for Radio Broadcasting (Commercial & Non – Commercial)

- 7.1.1. Local Content for Radio shall mean musical work, radio drama and documentaries that have been produced using material or resources gathered in Botswana, and which mostly use Botswana personnel and services. This applies to categories of Radio Broadcasting namely Terrestrial Radio and Digital Radio Broadcasting.

*Q1: Are the genres specified on the definition of Local content for radio (musical work, radio drama and documentaries) sufficiently covered? Please suggest genres which should also be considered as local content for radio.*

7.1.2. A musical work / song, shall qualify as local content in radio broadcasting if-

- 7.1.2.1. The lyrics were written by a Botswana Citizen; or
- 7.1.2.2. The lyrics are principally performed by a musician(s) who are Botswana Citizens; or
- 7.1.2.3. The lyrics are principally performed by a musician who is a non – citizen but features a Botswana Citizen; or
- 7.1.2.4. It is wholly or partly recorded in Botswana.
- 7.1.2.5. A Musical Work/Song shall still be considered Local Content if:
  - a. Its beat/instrumental is produced by a Non - Citizen of Botswana but performed by a Botswana Musician(s); or
  - b. It is mixed and mastered by a Non – Citizen of Botswana ; or
  - c. At least 50% of the production crew are Botswana Citizens.

7.1.3. For a Documentary and Drama to be considered as local content in radio broadcasting, it shall be produced –

- 7.1.3.1. by a local broadcasting service provider; or
- 7.1.3.2. by a local independent production entity; or
- 7.1.3.3. by a person who is a citizen of, or permanently resident in Botswana; or
- 7.1.3.4. by a juristic person, where the majority of the producers, shareholders or members of whom are citizens of, or permanently resident in Botswana; or
- 7.1.3.5. by persons referred to in subparagraphs (7.1.3.1), (7.1.3.2), (7.1.3.3) or (7.1.3.4), in circumstances where the prescribed number of key personnel who are involved in the production of the broadcasting programme, are citizens of, or permanently resident in, Botswana; or
- 7.1.3.6. by persons referred to in subparagraphs ((7.1.3.1), (7.1.3.2), (7.1.3.3) or (7.1.3.4), in circumstances where the prescribed percentage of the production costs are incurred in Botswana; or





- 7.1.3.7. either a Producer or Owner of the works is a Motswana or resident of Botswana with no specific percentage shareholding; or
- 7.1.3.8. the writer or writers of a programme script are Batswana citizens
- 7.1.3.9. in the case of a drama program – at least 75% of the major supporting cast appearing in the program are Batswana; or
- 7.1.3.10. the program is produced and/or post-produced in Botswana; or
- 7.1.3.11. At least 50% of the production crew are Botswana Citizens.

***Q2: Should the Authority specify a minimum percentage of production budget/cost spent in Botswana? Suggest the percentage of budget to be spent.***

***Q3: Should musical work be considered local content if the production costs are not incurred in Botswana?***

***Q4: Do the proposed criteria for local content for radio adequately represent Botswana's music landscape?***

***Q5: Should content for radio produced by a Motswana who is a permanent resident at a foreign country, using resources from outside Botswana be considered local content?***

***Q6: Should other elements like language, culture and diversity be considered when developing the guidelines?***

***Q7: What other items should be considered when classifying audio and/or visual creative work as local content?***

7.1.4. Local content for radio Broadcasting should not include the following:

- 7.1.4.1. Local News, with exception of channels which broadcasts news exclusively.
- 7.1.4.2. Weather and Traffic Updates
- 7.1.4.3. Advertisements and Informercials, with exception of channels that broadcast informercials exclusively.
- 7.1.4.4. Sports Events such as Live feed Match, with exception of channels that broadcast sports exclusively.
- 7.1.4.5. Radio Jingles
- 7.1.4.6. Radio Shows such as Breakfast Show, Drive – time, Chat Shows

***Q8: Should the guidelines define genres that are excluded as Local content for radio?***

***Q9: Is the list above adequate or there's other genres which should not be considered as local content?***

***Q10: Are there genres listed above which should not be included in the list of exclusions?***

## **7.2. Local Content Quotas for Radio Broadcasting**

- 7.2.1. The Authority shall prescribe an annual minimum local content quota for broadcasters to ensure that the quotas are achieved progressively in accordance with Regulation 10 (1) of the CRA Regulation, 2022.
- 7.2.2. The prescribed Local Content Quotas for non-commercial Radio Broadcasters shall be beyond those of Commercial Radio Broadcasters reasons being that non-commercial radio stations promote works done by the local content developers. Non-commercial broadcasters are the breeding ground for new

artists and developers of dramas and documentaries to show case their talent, unlike in commercial broadcasters where they have to look for a sponsor for their works to play on radio.

### 7.3. Proposed Local Content Quota for Radio Broadcasters

Period	Commercial Radio Broadcasters	Non – Commercial Radio Broadcasters
Date of Issuance – 2 years	40%	80%
Three years	51%	80%
Six years	561%	80%
Nine years	61%	80%
Twelve years	66%	80%
Fifteen years	71%	80%

**Q11: Are the quotas practical for radio stations to implement considering the creative landscape in Botswana? Please make suggestions.**

## **8. Local Content Guidelines for Television Broadcasting (Commercial & Non – Commercial)**

8.1.1. Local Content for television shall mean the television programmes that have been produced using material or resources gathered in Botswana, and which mostly use Botswana personnel and services. This applies to categories of Television Broadcasting namely Satellite Free to Air, Satellite Subscription Television and Digital Terrestrial Television – Content Service Provider.

**8.2.** For a programme to be considered as local content in television broadcasting, it shall be produced –

8.2.1.1. by a local broadcasting service provider; or

8.2.1.2. by a local independent production entity; or

8.2.1.3. by a person who is a citizen of, or permanently resident in Botswana; or

8.2.1.4. by a juristic person, where the majority of the directors, shareholders or members of whom are citizens of, or permanently resident in Botswana; or

8.2.1.5. by persons referred to in subparagraphs (8.2.1.1), (8.2.1.2), (8.2.1.3) or (8.2.1.3), in circumstances where the prescribed number of key personnel who are involved in the production of the broadcasting programme, are citizens of, or permanently resident in, Botswana; or

8.2.1.6. by persons referred to in subparagraphs (8.2.1.1), (8.2.1.2), (8.2.1.3) or (8.2.1.3), in circumstances where the prescribed

percentage of the production costs are incurred in Botswana; or

8.2.1.7. either a Producer or Owner of the works is a Motswana or resident of Botswana with no specific percentage shareholding; or

8.2.1.8. the writer or writers of a programme script are Batswana citizens

8.2.1.9. in the case of a drama program – at least 75% of the major supporting cast appearing in the program are Batswana; or

8.2.1.10. at least 50% of the program is produced in Botswana

8.2.1.11. at least 50% of the programme is post – produced in Botswana; or

8.2.1.12. At least 50% of the Production crew are Batswana; or

8.2.1.13. in the case of an animated program – the program satisfies at least three (3) of the following requirements:

- a. the production designer is a Motswana citizen; or
- b. the character designer is a Motswana citizen; or
- c. the supervising layout artist is a Motswana citizen; or
- d. the supervising storyboard artist is a Motswana citizen
- e. the key background artist is a Motswana citizen.

8.2.2. The requirements stated above shall apply across all television programme genres not specified such as Documentaries, Reality Shows, Comedy, Series etc.

***Q12: Are the genres specified on the definition of Local content for television sufficiently covered? Please suggest genres which should also be considered.***

***Q13: Should content for radio produced by a Motswana who is a***

*permanent resident at a foreign country, using resources from outside Botswana be considered local content?*

*Q14: Should other elements like language, culture and diversity be considered for the local content criteria for Television?*

*Q15: What other elements should be considered?*

*Q16: Do the criteria for local content for television adequately represent Botswana's creative talent?*

8.2.3. The Television Programming genres stated below shall not be classified as Local Content:

8.2.3.1. Local News, with exception of channels that broadcast news exclusively

8.2.3.2. Musical Work/Music Videos, with exception of channels that broadcast musical work/videos exclusively

8.2.3.3. Advertisements and Infomercials, with exception of channels that broadcast infomercials exclusively.

8.2.3.4. Sporting Events e.g. live feed Match, with exception of channels that broadcast sports exclusively.

### **8.3. Subscription Management Service**

8.3.1. With regard to Subscription Management Service, at least 1 channel carried by the Subscription Management Service shall be channels that are licensed within Botswana jurisdiction, with Botswana Content that is compiled and uplinked in Botswana.

8.3.2. The Subscription Management Service may have reserved slots for he licensed Radio Broadcasters in Botswana among its audio channels.

#### 8.4. Local Content Quotas for Television Broadcasting

8.4.1. The Authority shall prescribe an annual minimum local content quota for broadcasters to ensure that the quotas are achieved progressively in accordance with Regulation 10 (1).

8.4.2. The Authority in consultation with the television broadcasters, shall prescribe annual local content quotas that the television broadcasters shall be obliged to achieved progressively.

8.4.3. Every Television Broadcaster must ensure that a minimum of 40% of their local television content programming consists of content produced by independent television production houses.

*Q17: Is 8.4.3. viable considering content production landscape in Botswana? If not viable what quota or percentage would be practical?*

#### 8.5. Proposed Local Content Quota for Television Broadcasters

Period	Commercial Television Broadcasters	Non – Commercial Television Broadcasters
Date of Issuance – 2 Years	20%	80%
Three years	45%	80%
Six years	45%	80%
Nine years	50%	80%
Twelve years	50%	80%
Fifteen years	55%	80%

*Q18: Is the proposed quotas practical considering the television creative industry*

*in Botswana?*

## **9. CALCULATION OF THE LOCAL CONTENT QUOTA**

**9.1.** Local content quota for both radio and television shall be calculated as a percentage of local music and/or programmes over a total number of all music and/or programmes aired by a station.

***Q19: Are songs in high rotation considered when calculating local content?***

***Q20: Are repeats considered when calculating local content? Please make suggestions.***

***Q21: Is the proposed approach appropriate for calculating local content, if not what other approach should be used?***

## **10. APPLICATION**

**10.1.** These Guidelines apply to Broadcasting Content Service Providers under the ambit of the Authority including Subscription Management Service and Non – Commercial Broadcasters.

## **11. MONITORING OF COMPLIANCE TO LOCAL CONTENT GUIDELINES**

**11.1.** Broadcasters are expected to comply with the provisions of all regulatory tools including the Guidelines. The Authority procured a Broadcasting Monitoring System (BMS) for both radio and television broadcasting which is currently used to independently monitor compliance with parameters such as amongst others Quality of Service, Local Content Quotas. The system produces reports on how the broadcasters have performed for a specific period. This tool will be utilised to monitor if the licensed broadcasters are complying with these guidelines.

**11.2.** The Authority will further monitor compliance to these guidelines through the Performance Reports that are submitted by the broadcasters quarterly. The reports generated by the BMS will be used to authenticate the data presented by



the broadcasters.

***Q22: What mechanisms should be put in place to ensure that broadcasters are compliant with requirements of these guidelines?***

## **12. PENALTIES**

- 12.1.** In the event of a finding that the Licensee has failed to comply with the provisions of these Guidelines, the Authority may impose penalties in accordance with the Communications Regulatory Authority Penalties Schedule and Enforcement Guidelines.
- 12.2.** The penalties will also be imposed in accordance to the provisions of the CRA Act, the CRA Regulations and the License Conditions.
- 12.3.** The Authority shall take appropriate measures to enforce these Guidelines in conjunction with penalties.

## **13. IMPLEMENTATION AND REVIEW**

- 13.1.** These Guidelines shall come into effect from ...)
- 13.2.** Licensees are expected to have met the requirements of the Guidelines within six (6) months after coming into effect.
- 13.3.** The Authority in consultation with Broadcasters shall review these guidelines as and when necessary.

### **Contact details:**

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