

Dear South Africa is a network of online platforms designed to facilitate government and encourage the public to participate in unbiased decision-making processes or policy formation at SOE, municipal, provincial and national levels.



Draft Films and Publications Amendment Regulations 27 February 2020 – 12 October 2020

Ms Stella Ndabeni-Abrahams, the Minister of Communications and Digital Technologies has published for public comment the Draft Films and Publications Amendment Regulations, 2020.

The proposed amendments seek to change a variety of components within the Act but primarily, positions the Film and Publication's Board as the arbiter to monitor and regulate protected speech. These amendments also seek to introduce rate tariffs that can be charged to all "commercial" and non-commercial" users which as set out in the definitions, has a broad scope and can include all members of the Republic.

The above notice for an amendment to the Films and Publications Act, 1996 (Act No. 65 of 1996) was initially released on 27 February 2020 where the closing date was set to within 30 days from the date of publication. The public participation process was opened again on the 3rd of July 2020 where the closing date was set to 30 working days of the publication. The closing date was then further extended twice more and finally set to 12 October 2020.

Submissions and enquiries were directed to Mr Pandelis Gregoriou at clientsupport@fpb.org.za .

Dear South Africa (DearSA) hosted a participation project through an online and mobile platform to facilitate, educate and encourage public participation and comment to shape this amendment.

<https://dearsouthafrica.co.za/fpb2020/>

Included on the web page was:

- 1 - the published Amendments and related documents as downloadable PDFs
- 2 - draft regulation and notice
- 3 - a live view of public comments (with a counter and breakdown reflecting number of participants)
- 4 - video summaries
- 5 - links to relevant media articles
- 6 - a portal which posed a single question (with the option of three responses)
- 7 - a comment facility to provide input on the Amendment



Each public entry was individually delivered to clientsupport@fpb.org.za . DearSA also captured all public entries which have been used to produce this report.

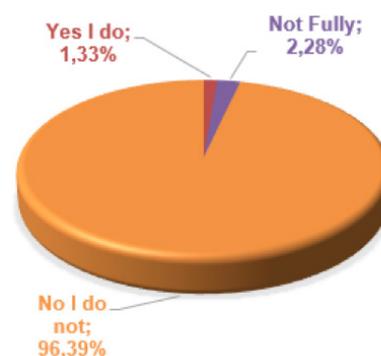
Note: In order to accurately reflect public comment, DearSA's projects are unbiased and hold no partisan opinion or agenda. Raw captured data is attached as an Excel file.

A total of **14,621** comments were received by the set closing date of 12 October 2020 (included in the Excel file). This report reflects the entries received by the closing date.

Questions presented;

Do you support this amendment to the Draft Films and Publications Amendment Regulations, 2020?

Yes, I do	[194 selected]	1.33%
No, I do not	[14,093 selected]	96.39%
Not fully	[334 selected]	2.28%



Comments

The participants are encouraged to provide comment to justify their selection in order to help shape the policy amendment.

Of the “Yes, I do” comments, the public in this category agree to the proposed amendments but on the basis that content such as pornography and similar types of content are restricted from children and the youth of the Republic. There is a high number of gender-based violence attacks that take place daily and the public outlined that showing explicit sexual content may be perpetuating this problem. It was also mentioned that although they agree to the amendments, they are also concerned that this legislation is conflicting with the Freedom Charter, Constitution, and values of a Democratic country.

Some of the “Yes, I do” comments carried conditions, including:

- 1 – Monitor and heavily penalise the “commercial” and “non-commercial” users that are supporting or enabling dubious content such as: pornography, bestiality, blasphemy, negative sexual cultures etc.
- 2 – Exclude content that does not fall into any criminal behaviour activity to avoid infringing on human rights.



Of the “Not Fully” comments, the public are against the proposed amendments due to the infringement on freedom of speech. It was outlined in these comments that as a democratic country, this piece of proposed legislation has a totalitarian and autocratic approach to shaping the news and media and the public deserve to know what is transpiring across all levels without restrictions.

“The purpose of the Film and Publication Board is exists to regulate a specific industry in line with government policy, not to control the content that people are now creating almost daily with no motive for profit or commercialisation.”

Majority of the Not Fully comments carried conditions, including:

- 1 – Protect the children by rating content appropriately, without charging the “non-commercial” sector.
- 2 - Improve censorship on pornography, bestiality, content that shows sodomy or blasphemy. This requires much needed attention and development and let the normal day-to-day media content to resume as it always has.

Of the “No I do not” comments, the main theme of the public opposing these amendments refers to a “gross” violation of human rights particularly, freedom of speech. Up until now and globally, individuals have been able to exercise their full right to share and create content that they care for. Any content that is criminal, should be confiscated and those individuals should be investigated and prosecuted. It is not necessary to encroach on members of the public that are socialising, working, and growing themselves in line with the industry standards on multiple media platforms.

There is also concern around the employment opportunities in the small business sector that may not be able to afford the tariffs that have been proposed by the Film and Publications Board. Many small, medium, and large businesses have already been severely impacted by the pandemic, COVID-19, and if a business make its sole income from media content then this may lead to further retrenchments. Businesses would be forced to make arrangements to make funds available for the tariffs. Employment shortages are one of the most important factors in South Africa and we cannot afford further losses.

Another finding from these views is that the public have a few questions relating to the proposed amendments in line with the following;

- Based on the tariff rate fees collected, what does the Film and Publications Board intend to do with this money?
- Will NGO's, NPO's and other similar private organisations be expected to pay these tariff fees?
- Are the Film and Publications Board going to create a process to apply for exemption from the tariff fees?
- How will the Film and Publications Board oversee that all content is being monitored?
- What issues of society will the Film and Publications Board be solving by implementing these proposed amendments?

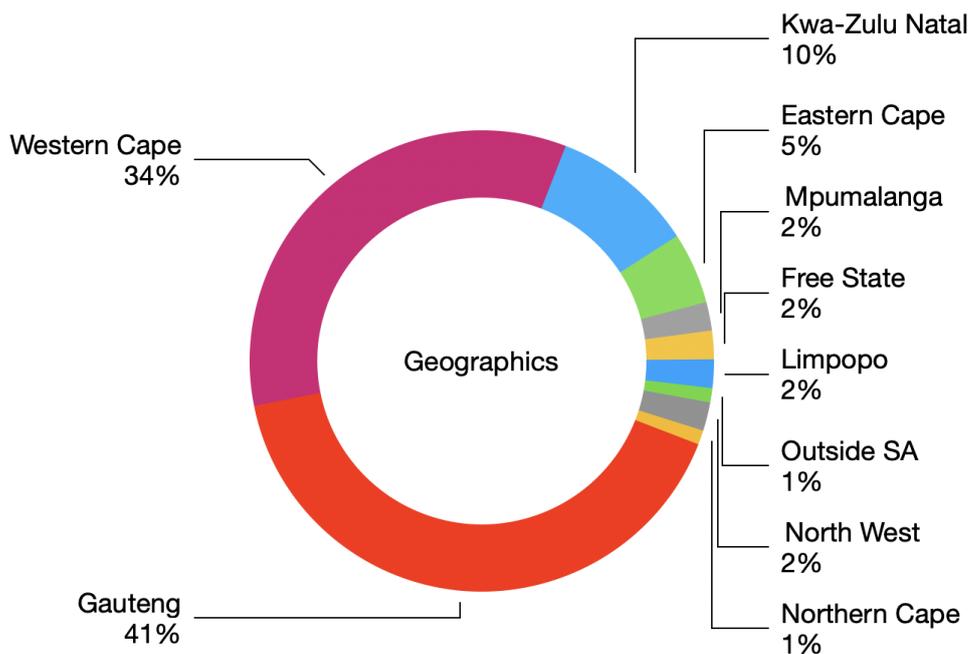
Suggestions from the “No I do not” comments, include;

- 1 – Implement a monitoring or rating procedure on potentially sensitive or graphic or sexually graphic topics rather than on all content without limiting freedom of speech.



Demographics

Comments originated from all provinces with the greatest input arising from Western Cape, followed by Gauteng and KZN. Demographics can be further broken down into comment options (yes, no, not fully) per region upon request.



Thank you

Rob Hutchinson - Dear South Africa