GENERAL NOTICE

NOTICE 661 OF 2015

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005), AS AMENDED:

REGULATIONS

The Independent Communications Authority of South Africa ("the Authority") hereby intends to amend the regulations in the schedule as follows:

Standard Terms and Conditions Regulations – Class Licences, Government Gazette No. 33296 of 14 June 2010.

A copy of the proposed regulations is available on the Authority's website (www.icasa.org.za) and in the ICASA Library at 164 Katherine Street, Pin Mill Farm, Sandton, Block D, Ground floor during the Authority's business day office hours.

Interested persons are hereby invited to submit written representations with regard to the proposed regulations. Written representations must be submitted to the Authority within thirty (30) working days from the date of the publication of this notice by post or hand delivery or email or facsimile transmission as follows:

Independent Communications Authority of South Africa

FOR ATTENTION: Peter Mailula

Private Bag X10002

SANDTON

2146

OR

Block C, PinMill Farm

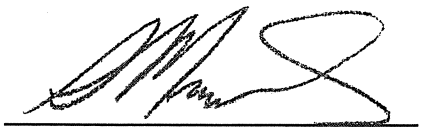
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DR SS MNCUBE

CHAIRPERSON

ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)

REGULATIONS

The Independent Communications Authority of South Africa has, under section 8 read with section 4 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended, and section 17E(2)(b) of the ICASA Act, 2000 (Act No. 13 of 2000) made the regulations in the schedule.

SCHEDULE 1

1. Definitions

In these regulations "the Regulations" means the regulations published by Government Notice No. 525 of 2010.

2. Amendment of regulation 2 of the Regulations

2.1 Regulation 2 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

"(1) A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of the following changes:

(a) the name of the Licensee;
(b) contact details including the contact person;
(c) shareholding;
(d) Physical address; and
(e) Financial year end."

2.2 Regulation 2 of the Regulations is hereby amended by the repeal of subregulation (2).

3. Amendment of regulation 3 of the Regulations

Regulation 3 of the Regulations is hereby amended by the addition of the following subregulation:

"(4) A licensee must provide services within its licence area.

4. Amendment of regulation 5 of the Regulations

The following regulation is hereby substituted for regulation 5 of the Regulations:

"5. COMMENCEMENT OF OPERARIONS

A Licensee must commence operation of the BS specified in the Licence within twelve (12) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the twelve (12) months period."

5. Amendment of regulation 9 of the Regulations

The following regulation is hereby substituted for regulation 9 of the Regulations:

"(1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide any information including documents or books not ordinarily required, so as to enable it to:

(a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation;
(b) allow for the assessment and allocation of applicable fees and related requirements;
(c) facilitate the efficient use of radio frequency spectrum; and

(d) collect and compile information to be used for research purposes, planning, reporting and conducting inquiries."

(2) In respect of each information request referred to in subregulation (1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries may be addressed.

(3) A licensee must submit all the required information as required by the Authority in terms of subsection (1).

(4) In the event where the Licensee or its representative refuse or fail to provide the Authority with requested information in terms of subregulation (1), the Authority may, after reasonable attempts, refer the matter to the Complaints and Compliance Committee."

6. Amendment of regulation 10 of the Regulations:

Regulation 10 of the Regulations is hereby amended by the substitution for regulation 10 of the following subregulation:

"10. PUBLIC SERVICE ANNOUNCEMENTS

The Licensee must broadcast:

(a) when requested by the National or a Provincial Commissioner of Police, without charge, any information or other matter concerning a disaster or immediate grave danger to public safety and security which the Commissioner may and on reasonable grounds request to be broadcast. Such request should be confirmed in writing by the Commissioner concerned within twenty-four (24) hours; and

(b) any public service announcements in the public interest as may be requested by the Authority in writing."

7. Insertion of regulation 10A in the Regulations

The following regulation is hereby inserted in the Regulation, after regulation 10:

"10A. GENERAL OBLIGATIONS OF LICENSEES

(1) A Licensee shall:

(a) inform the Authority, in writing, within fourteen (14) days of any judgment or judgments given in a court of law against it; and

(b) any conviction in respect of an offence involving dishonesty of any of its directors or senior managers.

(2) A Licensee shall keep the following records, in accordance with the template determined by the Authority and provided to the Licensee, relating to its broadcasting activities and provide same to the Authority on a quarterly basis:

(a) a log of all advertisements broadcast;

(b) a log of the percentage of air-time per hour allocated to advertisements;

(c) a log of all sponsorships received for programmes, news, game shows, welfare activities or similar programming together with details of payment, financial or otherwise, received for such sponsorship; and

(d) a log of programmes broadcast.

(3) A station must clearly identify itself at intervals of not more than thirty (30) minutes.

(4) A Licensee shall use profit and other income for the promotion of its broadcasting activities and in the service of its community.

(5) The licensee shall not pay a dividend to any of its board members, directors, trustees, management and staff. This, however, does not stop or prohibit a payment in good faith of reasonable remuneration for a service rendered to the Licensee.

(6) The Licensee shall furnish to the Authority, for every completed one (1) year of its license or upon a written demand by the Authority, the name, address and contacts details of the donors together with the details of the amount donated by such donors.

(7) Ownership and Control of Community Television and Community Radio:

(a) a Licensee must be owned by community members with the Board of Directors as custodian of the licence.

(b) a Licensee must encourage the community within its coverage area to participate in ownership, management of television station or radio station.

(c) a Licensee must be managed by person(s) tasked by the Board of Directors to ensure the licensee's daily operation. However, this exclude private company since a community television or class sound community radio is a nonprofit.

(d) The Board of Directors/ Trustees and station management must not occupy dual roles with regard to being managers/presenters at the radio station.

(6) The programming of community television or community radio must meet the needs of community members within its broadcasting coverage area by encouraging the following:

(a) The participation of community within its coverage area in the production of content; and

(b) The majority of content produced must be from the coverage area. This is to ensure that involvement of content producer(s) outside the coverage area is limited as to enable the reflection and participation of local producers.

(7) If the licensee decides to employ the services of a content producer(s) outside the coverage area, it must be relevant to the community and must include community members' inputs through community structures such as membership or listeners' associations or viewers associations.

(8) The broadcast of pre-recorded material must be limited as to ensure coverage of immediate programmes like current affairs, infotainment, and news with the exception of content like dramas or movies.

(9) The programme syndication/networks or programme sharing must not exceed 20% of the licensee's original programming.

(10) If the registrant intends into entering into a management agreement with another entity. Attach details and nature of the agreement, including timelines. Should a management agreement's time line lapse, if and when renewed such must first be lodged with the Authority.

(11) Submission of information for the annual compliance report must be in line with the Compliance Procedure Manual Regulations 34863 of 15 December 2011 and Licence Terms and Conditions.

(12) The following persons (office bearers) are prohibited from playing any role in the Board, Management and staff of a community sound broadcasting service:

(a) Members of the Local Executive Committees of political parties, the youth affiliates and women affiliates of political parties, and any organization that is in an alliance with a political party;

(b) Members of the Regional Executive Committees of political parties, youth affiliates, women's affiliates of political parties and any organization that is in an alliance with a political party;

(c) Members of the Provincial Executive Committees of political parties, the youth wings, women's wings of political parties and any organization that is in alliance with a political party;

(d) Councillors;

(e) Mayors;

(f) Members of the Provincial Legislatures; and

(g) Members of Parliament.

8. Substitution of regulation 11 of the Regulations:

The following regulation is hereby substituted for regulation 11 of the Regulations:

"11. CONTRAVENTIONS AND FINES

(1) Any person that contravenes these regulations, except regulation 4, is liable to a fine not less than R2 500, 00 (Two thousand, five hundred Rand) but not exceeding R100 000, 00 (One hundred thousand Rand).

(2) Any person that contravenes regulation 4, is guilty of an offence and subject, on conviction, to 30 (thirty) days imprisonment and/or is liable to a fine not less than R50 000, 00 (Fifty thousand Rand) but not exceeding R100 000, 00 (One hundred thousand Rand)."

9. Short Title and Commencement

These regulations are called the Amendment Standard Terms and Conditions for Class Broad casting Services, 2015 and will come into operation by publication in the Government Gazette.

SCHEDULE 2

1. Definitions

In these regulations "the Regulations" means the regulations published by Government Notice No. 525 of 2010.

2. Amendment of regulation 2 of the Regulations

Regulation 2 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

"(1) A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of the following changes:

(a) the name of the Licensee;
(b) contact details including the contact person;
(c) shareholding;
(d) Physical address; and
(e) Financial year end."

3. Amendment of regulation 3 of the Regulations

Regulation 3 of the Regulations is hereby amended by the addition of the following subregulation:

"(4) A licensee must provide services within its licence area."

4. Substitution of regulation 5 of the Regulations

The following regulation is hereby substituted for regulation 5 of the Regulations:

"5. COMMENCEMENT OF OPERARIONS

A Licensee must commence operation of the ECNS specified in the Licence within twenty four (24) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the twenty four (24) months period."

5. Substitution of regulation 9 of the Regulations

The following regulation is hereby substituted for regulation 9 of the Regulations:

"(1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide any information including documents or books not ordinarily required, so as to enable it to:

(a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation;
(b) allow for the assessment and allocation of applicable fees and related requirements;
(c) facilitate the efficient use of radio frequency spectrum; and
(d) collect and compile information to be used for research purposes, planning, reporting and conducting inquiries.

(2) In respect of each information request referred to in subregulation (1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries may be addressed.

(3) A licensee must submit all the required information as required by the Authority in terms of subsection (1).

(4) In the event where the Licensee or its representative refuse or fail to provide the Authority with requested information in terms of subregulation (1), the Authority may, after reasonable attempts, refer the matter to the Complaints and Compliance Committee."

6. Substitution of regulation 11 of the Regulations:

The following regulation is hereby substituted for regulation 11 of the Regulations:

"11. CONTRAVENTIONS AND FINES

Any person that contravenes these Regulations is liable to a fine not less than R2 500, 00 (Two thousand, five hundred Rand) but not exceeding R100 000, 00 (One hundred thousand Rand)."

7. Short Title and Commencement

These regulations are called the Amendment Standard Terms and Conditions for Class Electronic Communications Network Service 2015, and will come into operation by publication in the Government Gazette.

SCHEDULE 3

1. Definitions

In these regulations "the Regulations" means the regulations published by Government Notice No. 525 of 2010.

2. Amendment of regulation 2 of the Regulations

Regulation 2 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

"(1) A Licensee must submit written notice to the Authority within seven (7) days of the occurrence of the following changes:

(a) the name of the Licensee;
(b) contact details including the contact person;
(c) shareholding;
(d) Physical address; and
(e) Financial year end."

3. Substitution of regulation 3 of the Regulations

The following regulation is hereby substituted for regulation 3 of the Regulations:

"(1) The licence area is a district or local Municipality as defined in the Local Government Municipal Structures Act, No 117 of 1998.

(2) A licensee must provide services within its licence area."

4. Substitution of regulation 5 of the Regulations

The following regulation is hereby substituted for regulation 5 of the Regulations:

"5. COMMENCEMENT OF OPERARIONS

A Licensee must commence operation of the ECS specified in the Licence within twelve (12) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application, prior to the expiry of the twelve (12) months period."

5. Substitution of regulation 9 of the Regulations

The following regulation is hereby substituted for regulation 9 of the Regulations:

"(1) The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide any information including documents or books not ordinarily required, so as to enable it to:

(a) monitor and enforce consumer protection, quality of service, competition, compliance with licence conditions and other requirements of the Act and related legislation;

(b) allow for the assessment and allocation of applicable fees and related requirements;
(c) facilitate the efficient use of radio frequency spectrum; and
(d) collect and compile information to be used for research purposes, planning, reporting and conducting inquiries."

(2) In respect of each information request referred to in subregulation (1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries may be addressed.

(3) The licensee must provide the information in accordance with such format as may be prescribed by the Authority.

(4) In the event where the Licensee or its representative refuse or fail to provide the Authority with requested information in terms of subregulation (1), the Authority may, after reasonable attempts, refer the matter to the Complaints and Compliance Committee."

6. Substitution of regulation 12 of the Regulations:

The following regulation is hereby substituted for regulation 12 of the Regulations:

"12. CONTRAVENTIONS AND FINES

Any person that contravenes these Regulations is liable to a fine not less than R2 500, 00 (Two thousand, five hundred Rand) but not exceeding R100 000, 00 (One hundred thousand Rand)."

7. Short Title and Commencement

These regulations are called the Amendment Standard Terms and Conditions for Class Electronic Communications Service 2015, and will come into operation by publication in the Government Gazette.