

Presentation to the Parliamentary Portfolio Committee on Communications

Update on the Spectrum Licensing Process
as well as the Monitoring of the 2021
Municipal Elections

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Chairperson

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**INDEPENDENT COMMUNICATIONS
AUTHORITY OF SOUTH AFRICA**

Presentation Outline

Part A: General Information

Part B: Spectrum Licensing Process

Part C: Monitoring of Municipal Elections

Part D: Conclusion



PART A: General Information



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Strategic Overview

1. VISION

An inclusive digital society

2. MISSION

To ensure that all South Africans have access to a wide range of high-quality communication services at affordable prices

3. VALUES

All ICASA's regulatory activities are centred on five core values, which are innovation, collaboration, accountability, results-driven and stakeholder-centric

Legislative and Other Mandates

Legislative Mandates

- The Constitution of the Republic of South Africa, 1996
- The Independent Communications Authority Act of No. 13 of 2000
- The Broadcasting Act No.4 of 1999
- The Electronic Communications Act No. 36 of 2005
- The Postal Services Act No. 124 of 1998
- The Promotion of Administrative Justice Act No.3 of 2000

Policy Mandates

- Outcome 12: Providing an Efficient, Effective and Development-Oriented Public Service
- Outcome 14: Providing a diverse, socially cohesive society with a common national identity

PART B: Spectrum Licensing Process



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Objectives of Licensing IMT Spectrum

The Authority seeks to license 326 MHz of radio frequency spectrum in the IMT700, IMT800, IMT2600 and IMT3500 bands, which have been identified for International Mobile Telecommunications for the provision of national broadband wireless access services. The primary aim of licensing the IMT spectrum is to ensure nationwide broadband access for all citizens in line with the NDP and SA Connect Policy, and in particular to:

- i. promote universal access and service (ensuring connectivity in under-serviced areas)
- ii. give consumers more choice (in terms of quality of services and user experience)
- iii. promote investment in the sector and stimulate economic growth
- iv. ensure affordability of services
- v. promote effective competition
- vi. promote transformation of the sector
- vii. create opportunities for new entrants (including SMMEs)
- viii. promote interoperability and a technologically neutral licensing framework

Process Undertaken to Date

02 October 2020: The ITAs were published

28 December 2020: 6 applications were received

27 January 2021: MTN filed its separate application against certain aspects of the auction ITA

08 March 2021: Authority was interdicted from proceeding with the licensing process pending hearing of Part C of Telkom's application

15 September 2021: High Court granted a Court Order, amongst other things, setting aside the decision to publish the ITAs

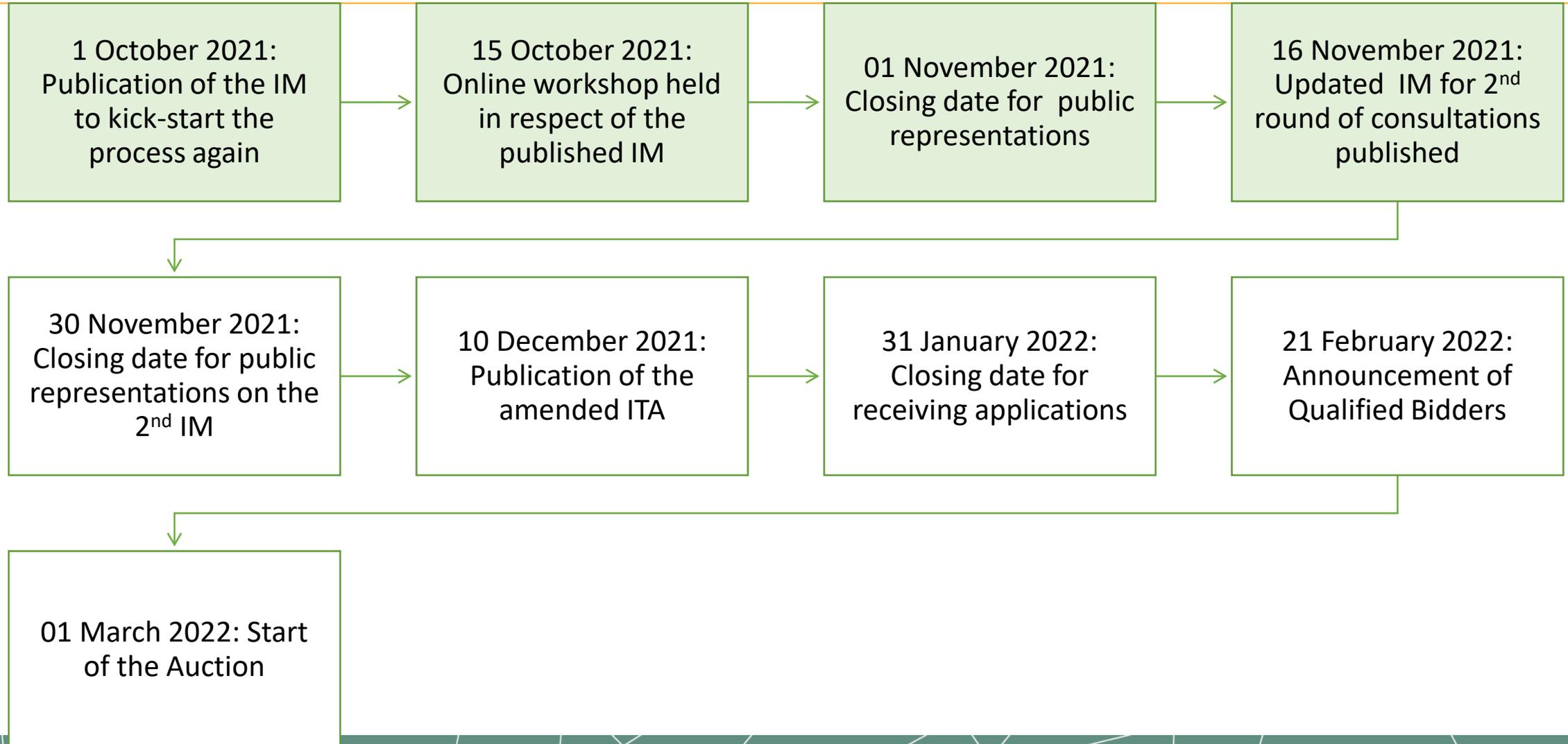
22 December 2020: Telkom filed court application to set aside the ITAs

12 January 2021: e.tv filed court papers to set aside the ITAs

23 February 2021: Vodacom submitted its counter application against that of MTN

March to September 2021: Parties to litigation underwent settlement negotiations

IMT Auction Licensing Timetable



Licensing of the WOAN

- The Authority has initially set aside 80 MHz (IMT700: 2x10 MHz, IMT2600: 1x30 MHz and IMT3500: 1x30 MHz) assignment in total for the spectrum requirements for the WOAN.
- The spectrum set-aside for the WOAN is empirically supported and seeks to enable it to be a credible national wholesale operator.
- In light of the ongoing consultation processes on the IMT Spectrum and other related considerations, including legal imperatives, ICASA has resolved to temporarily suspend the timetable relating to the licensing of the WOAN in order to allow the conclusion of the consultation process relating to the permanent licensing of the IMT spectrum.
- In the intervening period, the Authority will engage other international jurisdictions to draw lessons from their experiences in relation to the WOAN licensing model.
- Based on the outcomes of further engagements and subsequent analysis of the model thereof, and the findings from the IMT spectrum consultation processes (where applicable), the Authority will publish a notice advising of the process to be followed in respect of the licensing of the WOAN by no later than March 2022.
- The Authority remains committed to ensuring transparency in its process of issuing the Individual Electronic Communications Network Service (I-ECNS) and Radio Frequency Spectrum licences for the purpose of operating a WOAN.

Part C: Monitoring of Municipal Elections



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ICASA's Role in the Broadcast of Municipal Elections

The Authority derives its mandate to monitor broadcast coverage pertaining to the Municipal Elections from the following pieces of legislation

Electronic Communications Act No 36 of 2005 (ECA)

Section 56 - 59 of the ECA outlines how election broadcasts should be handled by broadcasters, political parties and ICASA – including **equitable treatment of political parties and independent candidates by broadcasters** during election period

The Authority is required to review the elections broadcasting regulations to assess their relevance every election year. ICASA prescribed the Municipal Elections Party Elections Broadcasts and Political Advertisements Amendment Regulations, 2021

Other Related Legislation

- i. The Constitution, 1996
- ii. Electoral Act No. 73 of 1998
- iii. Electoral Commission Act No. 51 of 1996
- iv. Local Government: Municipal Electoral Act No. 27 of 2000
- v. ICASA Act No. 13 of 2000
- vi. The Broadcasting Act No. 4 of 1999

New Measures Introduced in the 2021 Regulations

Pursuant to the *New Nation Movement NPC* Constitutional Court judgement, airtime slots were allocated to both political parties and independent candidates to broadcast their PEBs during the elections broadcast period

The Authority increased the availability of PEB airtime slots from 8 to 10. SABC is obliged to make available, every day and throughout the election broadcast period, ten (10) time slots of fifty (50) seconds each for the broadcast of PEB

Community and Commercial broadcasters may elect to broadcast PEBs and, if they elect to do so, they must comply with the Regulations and the relevant provisions of the ECA

Political parties and independent candidates can use PAs provided for in the Regulations to access the electorate on the broadcasting services platform

Non-Compliance by Licensees and Received Complaints

The Authority's monitoring of elections coverage commenced on 21 October 2021 and is ongoing. All election broadcast materials are expected to comply with the related legislation and regulations. To date no areas of non-compliance have been identified from the monitoring activities. Should there be any transgressions identified during monitoring, these will be referred to the CCC for consideration and adjudication.

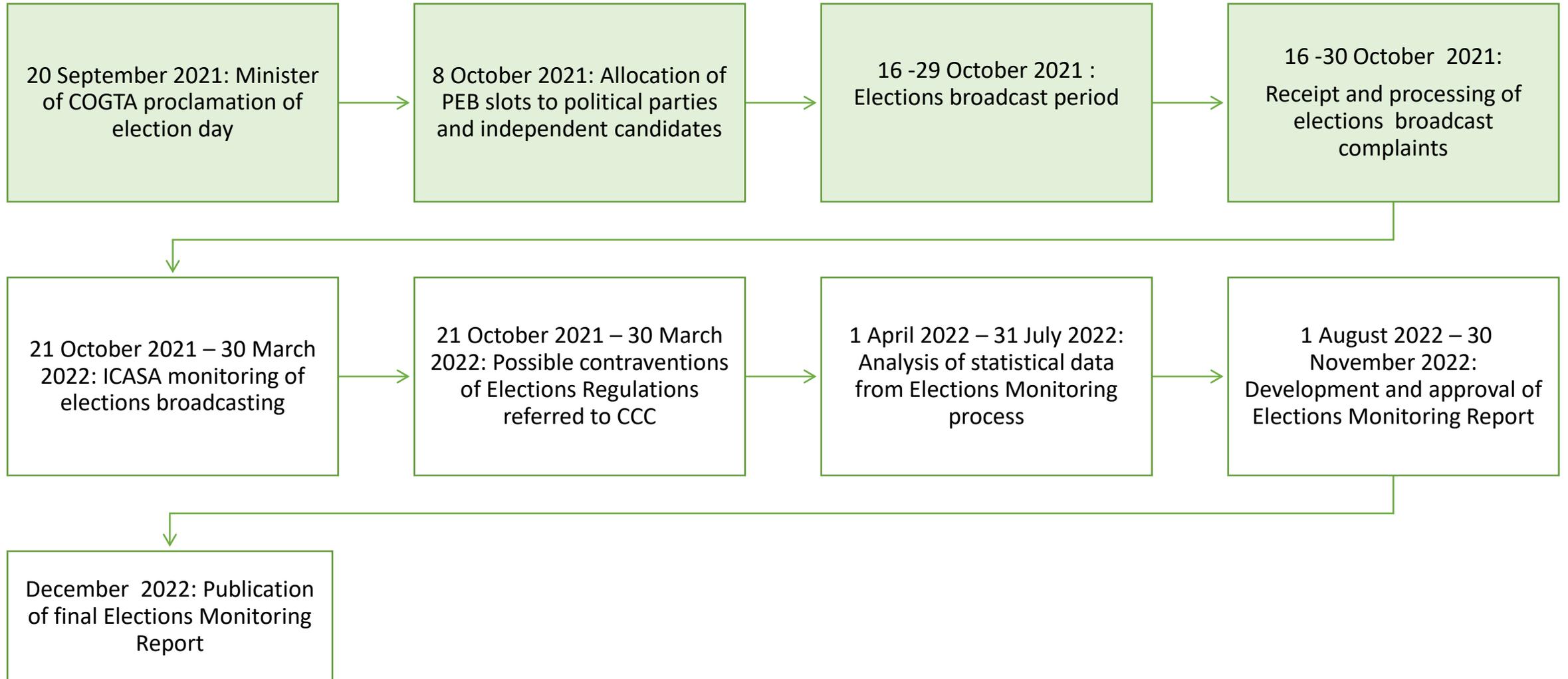
Complaints Received

Three Complaints have been received to date:

1. Two complaints were received against the SABC (The first complaint related to alleged failure by the SABC to cover a manifesto launch, and the second related to alleged misrepresentation of a party president);
2. One complaint was received against Qwa-Qwa Community Radio (Alleged exclusion of the complainant from an on-air election debate).

These complaints have been resolved and closed.

Elections Monitoring Timetable



PART D: Conclusion



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Conclusion

- The increased number of political parties and independent candidates contesting the municipal elections demonstrates a maturing democracy and active citizenry and their willingness to be active participants during elections
- The Authority's ongoing monitoring processes seek to ensure that the coverage of elections by broadcasting licensees promotes 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 in line with the legislative and regulatory framework



THANK YOU



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