

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 1723

4 February 2022

**ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)****SUBMISSION OF ANNUAL FORECAST OF LICENCE FEES AND UNIVERSAL SERVICE AND ACCESS FUND CONTRIBUTIONS FOR 2021/2022 BY BROADCASTING AND ELECTRONIC COMMUNICATIONS SERVICES (ECS) AND ELECTRONIC COMMUNICATIONS NETWORK SERVICES (ECNS) LICENSEES**

1. The Independent Communications Authority of South Africa ("Authority") has a mandate in terms of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"), as amended and the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("ECA"), as amended to regulate Broadcasting and Electronic Communications Services ("ECS") and Electronic Communications Network Services ("ECNS"), in the public interest.
2. Section 4(3)(g) of the ICASA Act, provides that "*the Authority may, by notice in writing, direct the holder of a licence in terms of the underlying statutes to produce or furnish to the Authority, at a time and place specified in the notice, any documents and information specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on such a licensee by this Act or the underlying statutes*".

Dr. K Modimoeng (Chairperson), Y Kedama, Dr. C Lewis, Adv. LS Mkumatela, T Semane,
PJ Zimri, (Councillors), WA Ngwepe (CEO)

3. Schedule 3, regulation (3) of the ICASA General Licence Fees Regulations, 2012 ("the GLF Regulations") as published in *Government Gazette* no. 36323 dated, 28 March 2013, as amended, requires Broadcasting and ECS/ECNS Licensees, to submit an annual forecast of licence fees for the year under review, using the format in Schedule 3(1) of the GLF Regulations, on or before the end of April every year.
4. Therefore, the Authority hereby calls upon affected Broadcasting and ECS/ECNS Licensees, to submit an annual forecast of the licence fees and the Universal Service and Access Fund contribution, in line with the Annual Turnover definition as set out in the Universal Service and Access Fund Regulations, published in *Government Gazette* no. 34010 dated, 10 February 2011.
5. Further, only Broadcasting service licensees pay a certain portion to the Media Development and Diversity Agency ("MDDA"). Therefore, in their respective submissions every Broadcasting service Licensee must specify the portion of their fees each will pay to the MDDA.
6. In addition, every Broadcasting and ECS/ECNS licensee must submit a trial balance; detailed management accounts and reconciliations of the trial balance; and a calculation of the forecast of the licence fees and Universal Service and Access Fund contribution.
7. For a Licensee that may not be in operation yet, the Authority would like to refer them to regulation 5 (4) and (5) of the Regulations on Amendment Standard Terms and Conditions for Individual Licences, 2015 as published in *Government Gazette* no. 39875 dated, 30 March 2016 (the "Regulations"). The clauses in the said Regulations provide as follows:
 - "(4) *Where a Licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it has not generated any revenue from the licensed service.*
 - (5) *Where a Licensee is not legally required to have audited financial statements, it must submit a letter from an independent accounting officer*

and must submit a clearance certificate from the South African Revenue Services as proof that it did not generate any revenue from the licensed service."

8. Every Broadcasting service and ECS/ECNS licensee, therefore, **must submit on or before 30 April 2022**, the requisite information referred to in this notice to the following contact persons:

For Broadcasting

ATTENTION: Ms. Busi Mashigo

Manager: Broadcasting Compliance

By e-mail: BMashigo@icasa.org.za

For ECS/ECNS

ATTENTION: Ms. Keitumetse Setshedi

Manager: ECS/ECNS Compliance

By e-mail: Ecsecns.compliance@icasa.org.za; KSetshedi@icasa.org.za

9. Any Licensee that may fail to submit the required information by the deadline referred to above, will be in contravention of section 4(3)(g) of the ICASA Act and schedule 3 of the Regulations. If found guilty of contravening the legislative and regulatory obligations set out herein, a Licensee may be liable to pay a fine of up to R1 000 000 (one million rands).



Dr. Keabetswe Modimoeng

Chairperson

Date: 24/01/2022