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Contents

No.		Gazette No.	Page No.
	GENERAL NOTICES • ALGEMENE KENNISGEWINGS		
Independent Communications Authority of South Africa / Onafhanklike Kommunikasie-owerheid van Suid-Afrika			
144	Processes and Procedures Regulations for Class Licences (526/2010): Amendment of the Class Licensing Processes and Procedures Regulations, 2010	44336	3

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

GENERAL NOTICE 144 OF 2021

AMENDMENT OF THE CLASS LICENSING PROCESSES AND PROCEDURES REGULATIONS, 2010

The Independent Communications Authority of South Africa ("the Authority") hereby publishes the amendments to the Processes and Procedures Regulations for Class Licences, 2010, (Notice No. 526 of 2010) to the extent reflected in the Schedule.

DR KEABETSWE MODIMOENG

CHAIRPERSON

DATE: 24/03/2021

The independent Communications Authority of South Africa has, under section 5(7) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended, made the regulations in the Schedule.

SCHEDULE

1. Definitions

In these regulations "the Regulations" means the regulations published by Government Notice No. R. 526 of 14 June 2010, as amended by Government Notice No. R. 157 of 30 March 2016.

2. Amendment of regulation 1 of the Regulations

2.1 Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Applicant" of the following definition:

"'**Applicant'** means a person who has submitted an application for the amendment, transfer or renewal of Broadcasting Service licence;"

2.2 Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Application" of the following definition:

"'**Application'** means an application for amendment, transfer or renewal of Broadcasting Service licence;"

2.3 Regulation 1 of the Regulations is hereby amended by the insertion after the definition of "Application" of the following definition:

"'**Community of interest'** means a community which has a specific definable common interest, for example religion or culture;"

2.4 Regulation 1 of the Regulations is hereby amended by the insertion after the definition of "Fees" of the following definition:

"'**Geographically founded community'** means a community whose communality is determined principally by residing in a particular geographical area;"

2.5 Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Historically Disadvantaged Persons" of the following definition:

"**Historically Disadvantaged Persons ("HDP"**) – means women, persons with disabilities and youth, who before the Constitution of the Republic of South Africa, 1996 came into operation, were disadvantaged by unfair discrimination on the basis of race, gender, disability, sexual orientation or religion;"

2.6 Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Licence" of the following definition:

"'**Licence'** means a class licence issued in terms of section 5(4) of the Act;"

2.7 Regulation 1 of the Regulations is hereby amended by the insertion after the definition of "Licence Exemption", of the following definitions:

"'**Low Power Commercial Sound Broadcasting Services'** means services operating from and broadcasting to shopping malls/centers, sports grounds, show grounds, and drive-in movie theatres, or any other similar commercial places;"

"'**Low Power Community Sound Broadcasting Service'** means a community low power sound broadcasting service operating from and broadcasting to, for instance, old age homes, and links between old age homes and places of worship, or between places of worship, or any other similar communal places;"

2.9. Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Registrant" of the following definition:

"'**Registrant'** means a person who has submitted a notice for the registration of a licence;"

2.10. "'**Registration**' means a registration for a class licence in terms of section 16 and section 17 of the ECA;"

2.11. Regulation 1 of the Regulations is hereby amended by the insertion after the definition of "Registration" of the following definitions:

"'**Special Event'** means an event of a cultural, religious, political, sporting, commercial or of a similar nature, taking place within the applicant's community or coverage area, which must take place irrespective of whether a Licence has been granted or refused;"

"'**Special Event Community Sound Broadcasting Service Licence'** means a temporary sound broadcasting Licence with a term of validity not exceeding forty-five (45) days;"

2.12. Regulation 1 of the Regulations is hereby amended by the insertion, after the definition of "transfer" of the following definitions:

"'**Temporary Community Television Broadcasting Service Licence'** means a non-renewable temporary television broadcasting services licence with a term of validity not exceeding twelve (12) months."

3. Amendment of regulation 2 of the Regulations

Regulation 2 of the Regulations is hereby amended by the substitution for paragraph (b) of sub-regulation (1) of the following paragraph:

"(b) documentation to be submitted with a notice for registration and applications".

3. Amendment of regulation 3 of the Regulations

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

"**3. Application of these regulations**

These Regulations apply to all licences issued in terms of section 5(4) of the Act."

4. **Amendment of regulation 4 of the Regulations**

Regulation 4 of the Regulations is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

"(1) The prescribed forms in these Regulations are as follows:

(a) **Form A**: Registration of a licence to provide electronic communications network service and electronic communications service;

(b) **Form B:** Registration of a licence to provide a Community Broadcasting Service or a Special Event Community Sound Broadcasting service or a Temporary Community Television Broadcasting service or Low Power Community Sound Broadcasting service;

(c) **Form D:** Application to amend a Licence (Regulation 8(1));

(d) **Form F:** Application to renew Broadcasting Service licence or Notice to renew ECS/ECNS Licence (Regulation 9(1));

(e) **Form H:** Application to transfer a Licence (Regulation 10);

(f) Form K: Notice to surrender of a Licence (Regulation 11)**;**

(g) **Form L:** Notice of change of information in respect of a Licence (Regulation 12);

(h) **Form M:** Licence exemption services and networks (Regulation 13);

(i) **Form N:** Application for a Low Power Commercial Sound Broadcasting Service Licence; and

(j) **Form P:** Application for Broadcasting Spectrum licence."

5. **Amendment of regulation 5 of the Regulations**

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

"5. Submission of applications, registrations, notices and other documents."

(1) Documents (including applications, notices and registrations) must be submitted to the Authority in hard copy or as may be prescribed otherwise.

(1A) Registrants/Applicants must submit either one (1) soft copy of the application electronically (via email) and /or two (2) hard copies (including an original) of the application as well as a soft copy of the application on a USB or a disc.

(2) Where any document is required in terms of these Regulations, it must be submitted to the Authority before 16h30 during working days. Further, if a Registration/Application/Notice is submitted after 16h30, the Registrations/Application/Notice will be considered to have been received on the next day."

(5) The Authority will not consider any application or registration where an applicant or registrant:

(a) fails to pay the applicable fee;

(b) is not compliant with sub-regulation (1), (3) and (4); and

(c) is in arrears with respect to any fees and/or is not compliant to the Compliance Procedure Manual Regulations forms prescribed by the Authority or legislated in terms of the Act.

6. **Amendment of regulation 7 of the Regulations**

The following regulation is hereby substituted for regulation 7 of the Regulations:

"**7. Registration for a licence (section 16 and 17 of the Act)**

(1) Notice of a registration for a licence to provide electronic communications network service and electronic communications service in terms of sections 16(2) and 17(1) of the Act, must be in the format as set out in **Form A**.

(2) Notice of registration for a licence to provide a Community Broadcasting Service or a Special Event Community Sound Broadcasting Service or a Temporary Community Television Broadcasting service or Low Power Community Sound Broadcasting Service in terms of sections 16(2) and 17(1) of the Act, must be in the format as set out in **Form B**.

(3) The notice of registration (**Form A**) must be accompanied by the founding documents of the registrant, e.g. the registration certificate, including share certificates and/or Memorandum of Incorporation (MOI) where applicable and any other related

information in respect of electronic communications service and electronic communications network services.

(4) The Authority will make a determination and publish a notice in the Provinces/areas in which it will invite registrations for Community Broadcasting Services Licences.

(5) Incomplete registration forms will be rejected within sixty (60) days of failure by the registrant to submit outstanding information."

7. **Amendment of regulation 8 of the Regulations**

7.1. The following heading is hereby substituted for the heading to regulation 8 of the regulations:

"**8. Application to Amend a Licence"**

7.2. Regulation 8 of the Regulations is hereby amended by the deletion of sub-regulations (5) and (6).

8. **Amendment of regulation 9 of the Regulations**

8.1. The following heading is hereby substituted for the heading to regulation 9 of the regulations:

"**9. Application to renew a Broadcasting Service Licence or Notice to renew an ECS/ECNS Licence**"

8.2. Regulation 9 of the Regulations is hereby amended by the deletion of sub-regulations (3) and (4).

9. **Amendment of regulation 10 of the Regulations**

9.1. The following heading is hereby substituted for the heading to regulation 10 of the regulations:

"**10. Application to transfer a Licence (section 16(6) of the Act)**"

9.2. Regulation 10 of the Regulations is hereby amended by the deletion of paragraph (d) of regulation 10.

10. **Amendment of regulation 11 of the Regulations**

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

"**11. Surrender of a Licence**

(1) A licensee that elects to surrender its licence must submit a notice in the format as set out in Form K.

(2) The notice referred to in regulation 11(1) must be submitted in no less than ninety (90) days prior to the date determined by the licensee, on which the surrender of its licence will take effect and on which it will cease to provide the services in respect of which the licence was granted.

(2A) A Licensee may not cease providing services prior to having submitted a notice for the surrender of its licence to the Authority.

(3) A licensee that intends to surrender its licence must take appropriate steps to inform its end-users/listeners/viewers of its intention to cease providing its services two (2) months prior to the cessation of such services. The abovementioned notification to end-users/listeners/viewers and contemplated period shall take place within the ninety (90) days as set out in sub-regulation (2).

(3A) Prior to submitting the notice for surrender of the licence, a licensee must have informed its end-users/listeners/viewers of its intention to cease providing services.

(5) All amounts due and payable to the Authority must be paid within twenty-two (22) days of the date on which the service provided in terms of the licence is discontinued, except where the Authority, upon the request by the licensee and on good cause shown, extends the said time in this regard."

11. **Amendment of Regulation 12 of the Regulations**

11.1. The following heading is hereby substituted for the heading to regulation 12 of the regulations:

"12. Notice of change of information in respect of a Licence"

11.2. Regulation 12 of the Regulations is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

"(2) A licensee must submit the notice within fourteen (14) days of the change occurring where the type of service being offered has changed:

(a) name, principal place of business and/or contact details of the licensee changes."

(b) type of the service being provided."

12. **Amendment of regulation 13 of the Regulations**

The following regulation is hereby substituted for regulation 13 of the Regulations:

"**13. Licence exempt services and networks**

(1) A person intending to operate, construct or maintain a Private Electronic Communications Network licence exemption services must apply to the Authority in the format as set out in Form M.

(2) A person intending to provide Electronic Communications Service (ECS) licence exemption services in terms of section 6 of the ECA must apply to the Authority in the format as set out in Form M."

13. **Amendment of regulation 13A of the Regulations**

The following regulation is hereby substituted for regulation 13A of the Regulations:

"**13A Registration for a licence to provide a Special Event Community Sound Broadcasting Service and Temporary Community Television Broadcasting Service**

A person intending to provide a Special Event Community Broadcasting Sound service or Temporary Community Television Broadcasting Service must apply to the Authority in the format as set out in Form B, accompanied by the applicable fee."

14. **Amendment of regulation 14 of the Regulations**

Regulation 14 of the Regulations is hereby amended by the substitution for sub-regulations (1) and (2) of the following sub-regulations:

"(1) Where in the opinion of the Authority, it is necessary as a matter of procedural fairness and transparency, the Authority may take any or all of the following steps:

(a) publish a notice in the Government Gazette of the application or registration;

(b) invite interested persons to submit written representations in relation to the application, notice or registration within twenty (20) working days;

(c) allow the applicant or registrant an opportunity to submit written responses to representations received in relation to the application, notice or registration within the period specified by the Authority; and

(d) conduct a public hearing in relation to the application, notice or registration.

(2) The Authority will publish its decision in the Government Gazette on an application or registration accordingly."

15. **Amendment of regulation 14A of the Regulations**

The following regulation is hereby substituted for regulation 14A of the Regulations:

"Failure to comply with these Regulations, will amongst others result in the Authority not considering the registration or application."

16. **Short Title and Commencement**

These Regulations are called the Class Licensing Processes and Procedures Amendment Regulations, 2021 and will come into operation upon publication in the Government Gazette.

17. **Substitution of Form A of the Regulations**

17.1. The following Form of Schedule 1 is hereby substituted for Form A of the Regulations:

"FORM A

REGISTRATION OF A LICENCE TO PROVIDE ELECTRONIC COMMUNICATIONS NETWORK SERVICE AND ELECTRONIC COMMUNICATIONS SERVICE

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note: (a) Registrants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) and any regulations published under the Act with regard to the requirements to be fulfilled by registrants.

(b) Information required in terms of this Form which does not fit into the space provided must be attached to the Form as an appendix. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information in the Form is not applicable.

1. PARTICULARS OF THE REGISTRANT	
1.1 Full name of registrant:	
1.2 Designated contact persons (maximum of two):	
1.3 Registrant's principal place of business:	
1.4 Registrant's postal address:	

1.5 Registrant's telephone number/s (including mobile numbers):	
1.6 Registrant's telefax number/s:	
1.7 E-mail address of designated contact person (maximum of two):	

2. LEGAL FORM OF REGISTRANT	
2.1. Indicate the legal form of registrant (e.g. private company incorporated in terms of the Companies Act, 2008):	
2.2. Registration number of registrant:	
2.3. Attach certified copies of Identity Document/s, the certificate of registration and memorandum and articles of association or other founding documents of the registrant (e.g. the registration certificate, including share certificates and/or Memorandum of Incorporation (MOI) where applicable and any other related information) marked clearly as **Appendix 2.3.3** of **FORM A**, indicating the applicant's compliance with the requirements of section 5(8)(b) of the Act.	

3. NATURE OF SERVICES TO BE LICENSED	
3.1. Indicate if the service to be provided is:	
1. an electronic communications network service	
2. an electronic communications service	
3.2. Provide a description of the service to be provided:	

3.3. Indicate the geographic area (local or district municipality) in which the service is to be provided:
3.4. Provide a description of the persons (including resellers, subscribers and end-users) to whom the service will be provided and the way the service is to be provided to them:

4. FINANCES
4.1. Provide details of the way the proposed service is to be funded:
4.2. Provide details of the registrant's anticipated capital expenditure (CAPEX) necessary for the commencement of the provision of services; and operating expenditure (OPEX) during the registrant's first year of operation.

5. OWNERSHIP AND MANAGEMENT
5.1. Provide details of all ownership interests in the registrant (percentage of shareholding) and the identity and address of each shareholder in the registrant.
5.2. Indicate the extent to which any ownership interest referred to above is held by an historically disadvantaged person.
5.3. Indicate whether the holder of any ownership interest in the registrant is a foreign citizen or an entity registered or incorporated in any country other than South Africa.
5.4. Indicate whether the registrant is listed on any stock exchange and provide

details of any such listing.
5.5. Indicate whether any person holding an ownership interest in the registrant holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this registration relates.
5.6. Provide details (including name, nationality, identification or passport number, position and address) of each member of the registrant's: (i) board of directors or similar body; (ii) senior management.
6. RADIO FREQUENCY SPECTRUM
Indicate if the registrant has submitted or intends to apply for a radio frequency spectrum licence for the provision of the services to which this registration relates. The registrant must indicate from the frequencies provided by the Authority which frequency band it seeks to utilise to provide the service.

7.	**GENERAL**
7.1.	Provide details of undertakings (if any) and other matters which, in the registrant's view, the Authority should consider:
7.2.	Attach a resolution authorising the designated contact person signing this registration notice. The resolution must be marked clearly as **Appendix 7.2** of **FORM A**.

The person signing the registration on behalf of the registrant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence issued pursuant to this registration set aside should any material statement made herein, at any time, be found to be false.

Signed …….

(REGISTRANT)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" *end of substitution*

18. **Substitution of Form B of the Regulations**

18.1. The following Form of Schedule 1 is hereby substituted for Form B of the Regulations:

"FORM B

REGISTRATION OF A LICENCE TO PROVIDE A COMMUNITY BROADCASTING SERVICE / SPECIAL EVENT COMMUNITY SOUND BROADCASTING SERVICE / TEMPORARY COMMUNITY TELEVISION BROADCASTING SERVICE / LOW POWER COMMUNITY SOUND BROADCASTING SERVICE

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note:

(a) Registrants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by registrants. Registrants are referred, in particular, to the Community Sound Broadcasting Regulations, 2019 (published under GN439 in Government Gazette 42323 of 22 March 2019) and the Community Sound Broadcasting Licence: Criteria to Measure Community Support Regulations, 1997 (published under GN R1388 in Government Gazette 18380 of 17 October 1997).

(b) Information required in terms of this Form which does not fit into the space provided must be included in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information is not applicable.

1. PARTICULARS OF THE REGISTRANT	
1.1. Full name of registrant:	

1.2. Designated contact persons (maximum of two):	
1.3. Registrant's principal place of business:	
1.4. Registrant's postal address:	
1.5. Registrant's telephone number/s (including mobile numbers):	
1.6. Registrant's telefax number/s:	
1.7. E-mail address of designated contact person (maximum of two):	

2. LEGAL FORM OF REGISTRANT	
2.1. Indicate the legal form of the registrant (e.g. Non-Profit entity incorporated in terms of the Companies Act, 2008):	
2.2. Registration number of the registrant:	
2.3 The following documents must be submitted with the registration: the certificate of registration accompanied by either an approved memorandum of incorporation, a constitution which has been signed by the founding members/Board. The founding documents must have provision for the following: minimum of 51% quorum for the annual general meeting,	

provision for membership and an appeals mechanism in case of rejection upon application and clear separation of powers between management and board of directors. Should the registrant fail to submit these documents, the registration will not be considered. Attach as **Appendix 2.3.1 of Form B.**

3. NON-PROFIT STATUS OF REGISTRANT	
Provide details of the registrant's non-profit status. Please provide a certified certificate of registration as a Non-Profit Entity or provide a deed of trust and Letter of Authority from the Master's Office in respect of a Community Trust.	
4. COMMUNITY	
4.1 Indicate whether the community to be served by the proposed broadcasting service is:	
4.1.1 geographically founded community; ***or***	
4.1.2 group of persons or sector of the public with a specific, ascertainable common interest.	
4.2 Where the community to be served by the registrant is a geographically founded community, provide details of the community to be served, including: (i) whether the community is urban, peri-urban or rural	

	(ii) the number of people in the community (iii) gender, language, income and demographic statistics in relation to the community. **(Attach as Appendix 4.2 of Form B)**
4.3	Where the community to be served by the registrant is a community of common interest, provide details of the community to be served, including: (i) the nature of the common interest; (ii) the size of the community in the geographic area in which the service is proposed to be provided; and (iii) gender, language, income and demographic statistics in relation to the community. **(Attach as Appendix 4.3 of Form B)**

5.	**NATURE OF SERVICES TO BE LICENSED**
5.1	Provide a description of the service to be provided: **Attach as Appendix 5.1 of Form B.**
5.2	Nature of Events (Only for special event and community tv):
5.2.1	What is the event which will be covered by the station if a licence is granted? Please provide details including the dates of events, the nature of the event and a motivation for how a broadcasting licence will contribute towards in the event.
5.3	What dates is the licence required for? If these dates differ from those of the event, please motivate why:

5.4	Indicate the geographic area in which the service is to be provided:
5.5	Provide details of the languages in which the broadcasting service is to be provided. Where it is proposed that the service will be provided in more than one language, provide a breakdown of the number of hours of programming which will be broadcast in each language.
5.6	Provide the registrant's proposed programming schedule. Further provide the proposed programming format and content to be provided, and indicate when your peak time will be, the extent to which output would be locally originated and extent to which it will be externally sourced. Further indicate the proposed minutes of news to be broadcast on a daily basis and provide a percentage split in terms of local, national and international news content. Indicate the duration and scheduling of current affairs programme/s and provide the percentage split in terms of local, national and international content and indicate source as well. The ICASA South African Music Content Regulations, 2016 require class community sound broadcast licences to broadcast the prescribed percentage of local music. Indicate your proposed

	percentage of local music to be broadcast.
5.7	In the case of a special event community sound broadcasting licence, 60% of broadcast content must be related to the special event. **Attach as Appendix 5.7 of FORM B.**

6.	**SERVING THE COMMUNITY'S INTERESTS**
6.1	Provide proof of how the registrant proposes to serve the community's interests:
6.2	Provide proof of how the registrant proposes to encourage members of the community it serves, or persons associated with the promotion of the community's interests, to participate in the selection and production of programming to be provided by the registrant:

7.	**SUPPORT**
Provide proof of support by members of the registrant's community or of persons associated with the registrant's community or of persons who promote the interests of the registrant's community. Kindly submit letters of support from	

NGOs, business and so forth and signatures of support from members of the community/prospective listeners etc. **Attach as Appendix 7 of Form B**

8.	**FINANCES**
8.1	Submit commitment of funding, which includes the amount from financial institutions or any other entity for start-up costs and provide details of the way the proposed service is to be funded (e.g. sponsorship, donations etc.) **Attach as Appendix 8.1 of Form B**
8.2	Provide details of the registrant's anticipated: i. capital expenditure necessary for the commencement of the provision of services; and ii. operating expenditure during the registrant's first year of operation. **Attach as Appendix 8.2 of Form B**
8.3	Provide details of the registrant's business plan: **Attach as Appendix 8.3 of Form B**

9.	**CONTROL AND MANAGEMENT**
9.1	Provide details (including name, nationality, identification or passport number, position and address) of each member of the registrant. Confirm if the individuals below reside within the proposed coverage area **Attach as Appendix 9.1 of Form B** i. board of directors or similar body ii. senior management
9.2	**Attach the proposed organogram as Appendix 9.2 of Form B:**
9.3	Provide details of all ownership interests in the registrant: **Attach as Appendix 9.3. of Form B.**
9.3.1	Provide details of any persons in a position of control of the registrant who is a foreign citizen, or an entity registered or incorporated in any country other than South Africa: Indicate whether any member of the Board of the

	registrant is a foreign citizen or an entity registered or incorporated in any country other than South Africa. Please provide details below.
9.4	Indicate whether any member of the Board of the registrant is also a member of the Board of another licensee issued in terms of the Act. Please provide details below.
10.	**RADIO FREQUENCY SPECTRUM**
10.1	Indicate if the registrant has submitted or intends to apply for a radio frequency spectrum licence for the provision of the services to which this registration relates. The registrant must complete form P contained in these regulations.

11.	**GENERAL**

11.1	Indicate whether the registrant is a member of an entity recognised in terms of section 54 and 55 of the Act.	
11.2	Indicate whether the registrant is a party, movement, organisation, body or alliance which is of a party-political nature.	
11.3	Indicate whether the registrant has ever been convicted of an offence in terms of the Act or related legislation, as defined in the Act. If so, provide details of such conviction.	
11.4	Provide details of other matters or undertakings which, in the registrant's view, the Authority should consider:	
11.5	Attach a resolution authorising the person (s) not more than two signing this registration and liaising with the Authority during the registration process. The resolution must be marked clearly as **Appendix 11.5 of FORM B.**	

The person signing the registration on behalf of the registrant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence issued pursuant to this registration set aside should any material statement made herein, at any time, be found to be false.

Signed …….

(REGISTRANT)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

…" *end of substitution*

19. **Substitution of Form D of the Regulations**

19.1. The following Form of Schedule 1 is hereby substituted for Form D of the Regulations:

"FORM D

APPLICATION TO AMEND A LICENCE

(Regulation 8 (1))

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note:

(a) Applicants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by applicants.

(b) Information required in terms of this Form which does not fit into the space provided must be contained in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the applicant, the applicant must indicate that the relevant information in the Form is not applicable.

1. **PARTICULARS OF THE LICENCE**	
1.1. Licence number:	
1.2. Nature of services authorised to be provided in terms of the licence:	
1.3. Attach a copy of the licence that is the subject of this application marked clearly as **Appendix 1.3**. of **FORM D.**	

2. PARTICULARS OF THE APPLICANT (LICENSEE)

2.1. Full name of applicant:	
2.2. Designated contact persons (maximum of two):	
2.3. Applicant's principal place of business:	
2.4 Applicant's postal address:	
2.5. Applicant's telephone number/s (include mobile numbers):	
2.6. Applicant's telefax number/s:	
2.7 E-mail address of designated contact persons (maximum of two):	

3. PROPOSED AMENDMENT TO THE LICENCE
3.1. Set out the amendment/s (with reference to existing clauses in the licence) to the licence which is/are the subject of this application:

3.2. Set out the applicant's motivation for the proposed amendment/s to the licence, indicating the reasons for the amendment/s: If the amendment is related to programming, attach a research report informing the amendment as Appendix 3.2 of Form D.
3.3. Indicate what has since changed from the original offering. **Attach evidence to support the amendment as Appendix 3.3 of FORM D.**
3.4. Attach minutes and attendance register of the AGM/special meeting as outlined in the founding documents where a resolution was taken to amend the conditions of the licence (in case of class broadcasting service) as **Appendix 3.4 of FORM D.**
3.6. Explain the potential implications of the proposed amendment/s:

4. RADIO FREQUENCY SPECTRUM
4.1. Indicate whether the applicant holds a radio frequency spectrum licence. If so, provide details thereof and attach a copy of the radio frequency spectrum licence marked clearly as **Appendix 4.1 of FORM D.**
4.2. To the extent that an amendment to the applicant's radio frequency

spectrum licence would be necessitated if the amendment in respect of the licence that is the subject of this application is approved, provide details of such an amendment. A separate application to amend the applicant's radio frequency spectrum licence must be submitted to the Authority in this regard at the same time as this application.

5. GENERAL
5.1. Provide details of any other matter and undertaking which, in the applicant's view, the Authority should consider:
5.2. Attach a resolution signed by the majority of the members of the board of directors or trustees authorising the person signing this application marked clearly as **Appendix 5.2** of **FORM D.**

The person signing the application on behalf of the applicant must acknowledge

as follows:

I acknowledge that the Authority reserves the right to have any licence amended pursuant to this application set aside should any material statement made herein, at any time, be found to be false.

Signed …….

(APPLICANT)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" *end of substitution*

20. **Substitution of Form F of the Regulations**

20.1. The following Form of Schedule 1 is hereby substituted for Form F of the Regulations:

"FORM F

APPLICATION TO RENEW BROADCASTING SERVICE LICENCE

OR

NOTICE TO RENEW ECS/ECNS LICENCE

(Regulation 9 (1))

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note:

(a) Applicants/Notice must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by applicants.

(b) Information required in terms of this Form which does not fit into the space provided must be attached to the Form as an appendix. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the applicant, the applicantmust indicate that the relevant information in the Form is not applicable.

1 PARTICULARS OF LICENCE	
1.1 Licence number:	
1.2 Nature of services authorised to be provided in terms of the licence:	
1.3 Expiration date of licence:	

1.4 Attach a copy of the licence that is the subject of this application/notice marked clearly as **Appendix 1.4** of **FORM F.**	

2 PARTICULARS OF APPLICANT (LICENSEE)	
2.1 Full name of applicant:	
2.2 Designated contact person:	
2.3 Applicant's principal place of business	
2.4 Applicant's postal address:	
2.5 Applicant's telephone number/s (include mobile numbers):	
2.6 Applicant's telefax number/s:	
2.7 E-mail address of designated contact person (maximum of two):	
2.8. Include legal form of Applicant (e.g. private company incorporated in terms of the Companies Act, 2008):	

3	**OWNERSHIP OR CONTROL AND MANAGEMENT**
3.1	Provide details of all ownership interests in the applicant (percentage of shareholding) and the identity and address of each shareholder in the applicant. *Not applicable to community sound and television.*
3.2	Indicate whether the applicant is listed on any stock exchange, and provide details of any such listing: *Not applicable to community sound and television*
3.3	In respect of each holder of any ownership interest/person in the position of control or any person holding an ownership interest in the applicant, provide the details required in 3.1 in respect of each such shareholder. *Not applicable to community sound and television.*
3.4	Indicate the extent to which any ownership interest referred to above is held by a historically disadvantaged person or group.

3.5 Indicate whether the holder of any ownership interest/person in the position of control in the applicant is a foreign citizen or an entity registered or incorporated in any country other than South Africa. For class community sound and television, please indicate if there is an individual in the controlling structure who is a foreign citizen.
3.6 Indicate whether any person holding an ownership interest/control in the applicant holds a licence issued in terms of the Act or holds an ownership interest/control in any other licensee licensed to provide a service similar to that to which this application relates: For class community sound and television please indicate if there is an individual in the controlling structure who holds a position of control in another licensed entity licensed by ICASA.
3.7 Provide particulars of any interest held by the applicant in another licensee licensed in terms of the Act:

3.8 Provide details (including name, nationality, identification or passport number, position and address) of each member of the applicant. Confirm if individuals below reside within the coverage area: (i) board of directors or similar body; (ii) senior management.
3.9. Provide the licensee's current organogram:

4. RADIO FREQUENCY SPECTRUM
4.1. Indicate if the applicant holds a radio frequency spectrum licence. If so, provide details thereof and attach a copy of the radio frequency spectrum licence marked clearly as **Appendix 4.1 of FORM F.**
4.2. Indicate the date on which the applicant's radio frequency spectrum licence expires. A separate application to renew the applicant's radio frequency spectrum licence must be submitted to the Authority prior to the expiry of that licence in terms of the applicable regulations.

5. AMENDMENT TO THE LICENCE
5.1. Indicate whether the applicant seeks any amendment to the licence if this application to renew the licence is granted. If so, a separate application

for the amendment of the licence in terms of these regulations, must be submitted in this regard.

6. FAILURE TO COMPLY WITH REQUIREMENTS
6.1. Provide details of any action taken in relation to the applicant by the Authority or any other person due to a breach or alleged breach by the licensee of the Act and related legislation.
6.2. Provide details of any finding by the Complaints and Compliance Committee against the applicant, as well as details of the sanction imposed by the Authority, if any.
6.3. Provide details of any finding by a body recognised in terms of section 54 or 55 of the Act.

7. GENERAL
7.1. Provide details of any matter and undertakings which, in the applicant's view, the Authority should consider:
7.2. Attach a resolution signed by a majority of the members of the board of directors or trustees authorising the person signing this application. The resolution must be marked clearly as **Appendix 7.2. of FORM F.**

The person signing the registration on behalf of the applicant must acknowledge

as follows:

I acknowledge that the Authority reserves the right, to have any licence renewed pursuant to this application set aside should any material statement made herein, at any time.

Signed …….

(APPLICANT)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" end of substitution

21. **Substitution of Form H of the Regulations**

21.1. The following Form of Schedule 1 is hereby substituted for Form H of the Regulations:

"FORM H

APPLICATION TO TRANSFER A LICENCE

(Regulation 10)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note

(a) Applicants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by applicants.

(b) Information required in terms of this Form which does not fit into the space provided must be attached to the Form as appendix. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the applicant, the applicant must indicate that the relevant information in the Form is not applicable.

1 PARTICULARS OF LICENCE	
1.1. Licence number:	
1.2. Nature of services authorised to be provided in terms of the licence:	
1.3. Attach a copy of the licence that is the subject of this application marked clearly as **Appendix 1.3**. of **FORM H.**	

2. PARTICULARS OF THE APPLICANT (LICENSEE)	
2.1. Full name of the applicant:	

2.2. Designated contact person:	
2.3. Applicant's principal place of business:	
2.4. Applicant's postal address:	
2.5. Designated contact person's telephone number/s (including mobile):	
2.6. Designated contact person's telefax number/s:	
2.7. E-mail address of designated contact person:	

3. PARTICULARS OF TRANSFEREE	
3.1. Full name of transferee:	
3.2. Transferee's principal place of business	
3.3. Transferee's postal address:	
3.4. Telephone number/s (include mobile numbers):	
3.5. Telefax number/s:	

3.6. E-mail address of designated contact person (maximum of two):	

4. LEGAL FORM OF APPLICANT (LICENSEE)	
4.1.1. Indicate the legal form of the applicant (e.g. Natural person or private company incorporated in terms of the Companies Act, 2008):	
4.1.2. ID Number or Registration number of applicant:	
4.1.3. Attach certified copies of the applicant's Identity Document/s, certificate of registration and memorandum and articles of association or other constitutive documents of the applicant (e.g. memorandum and articles of association, association agreement, constitution) marked clearly as **Appendix 4.1.3 of FORM H**, indicating the applicant's compliance with the requirements of section 5(8)(b) of the Act.	
4.2. Where the applicant has been liquidated or sequestrated, provide:	
4.2.1 Liquidator/ Executor's principal place of business:	
4.2.2. Liquidator/Executor's telephone number/s (include mobile numbers):	
4.2.3. Liquidator/Executor's telefax number/s:	
4.2.4. Liquidator'/Executor's E-mail address (maximum of two):	
4.2.5. Attach an affidavit deposed to by the liquidator, indicating the liquidator's consent to the transfer of the licence, marked clearly as	

Appendix 4.2.5 of FORM H,

5. **LEGAL FORM OF TRANSFEREE**
5.1. Indicate the legal form of the transferee (e.g. private company incorporated in terms of the Companies Act, 2008):
5.2. Registration number of the transferee:
5.3. Attach certified copies of the transferee's Identity Document/s, certificate of incorporation and memorandum and articles of association or other constitutive documents of the transferee (e.g. memorandum and articles of association, association agreement, constitution) marked clearly as **Appendix 5.3. of FORM H.**

6. **OWNERSHIP AND MANAGEMENT OF APPLICANT**
6.1. Provide details of all ownership interests in the applicant and the identity and address of each holder of an ownership interest in the applicant. Where an applicant is a juristic person, only shareholdings (or equivalent) of 5% or more of the total issued shares (or equivalent) in the applicant are relevant (not applicable to Broadcasting Services)
6.2. Indicate whether the applicant is listed on any stock exchange, and provide details of any such listing:

6.3. In respect of each holder of any ownership interest in any person holding an ownership interest in the applicant, provide the details required in 6.1 in respect of each such holder:
6.4. Indicate the extent to which any ownership interest referred to above is held by historically disadvantaged persons or group.
6.5. Indicate whether the holder of any ownership interest in the applicant is a foreign citizen or an entity registered or incorporated in any country other than South Africa:
6.6. Indicate whether any person holding an ownership interest in the applicant holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this application relates:

6.7.	Provide particulars of any interest held by the applicant in another licensee licensed in terms of the Act:
6.8.	Provide details (including name, nationality, identification or passport number, position and address) of each member of the applicant's:
6.8.1.	board of directors or similar body;
6.8.2.	senior management.

7.	**OWNERSHIP AND MANAGEMENT OF TRANSFEREE**
7.1.	Provide details of all ownership interests in the transferee and the identity and address of each holder of an ownership interest in the transferee. Where a transferee is a juristic person, only shareholdings (or equivalent) of 5% or more of the total issued shares (or equivalent) in the transferee are relevant.
7.2.	Indicate whether the transferee is listed on any stock exchange, and

	provide details of any such listing:
7.3.	In respect of each holder of any ownership interest in any person holding an ownership interest in the transferee, provide the details required in 7.1 in respect of each such holder:
7.4.	Indicate the extent to which any ownership interest referred to above is held by a historically disadvantaged person or group.
7.5.	Indicate whether the holder of any ownership interest in the transferee is a foreign citizen or an entity registered or incorporated in any country other than South Africa:
7.6.	Indicate whether any person holding an ownership interest in the transferee holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which this application relates:

7.7. Provide particulars of any interest held by the transferee in another licensee licensed in terms of the Act:
7.8. Provide details (including name, nationality, identification or passport number, position and address) of each member of the transferee's: 7.8.1. board of directors or similar body; 7.8.2. senior management.

8. **SUITABILITY OF TRANSFEREE**
8.1. Provide particulars of any licence held by the transferee in terms of the Act which has been revoked:
8.2. Provide particulars of any application or registration submitted by the transferee for a licence in terms of the Act, which was rejected:

8.3.	Provide particulars of any application or registration submitted by the transferee for a licence in terms of the Act which is pending before the Authority:
8.4.	Provide details of any action taken in relation to the transferee by the Authority or any other person due to a breach of the Act, any regulations published under the Act or any terms and conditions applicable to any licence issued in terms of the Act:
8.5.	Provide details of the transferee's business plan in respect of the licensed service Attach as **Appendix 8.5 of FORM H**
8.6.	Provide separately and mark clearly as **Appendix 8.6 of FORM H**, copies of the transferee's audited annual financial statements for the last three years (where applicable):

9. **OWNERSHIP AND CONTROL BY HISTORICALLY DISADVANTAGED PERSONS**
Indicate details of ownership and control by historically disadvantaged persons. **Attach as Appendix 9 of FORM H**

10.**MOTIVATION FOR PROPOSED TRANSFER**
Provide the motivation for the proposed transfer indicating the reasons for the transfer: **Attach as Appendix 10 of FORM H**

11. APPLICANT'S LICENCE OBLIGATIONS
11.1. Indicate those obligations of the applicant in terms of the licence which have been discharged and those which will assumed by the transferee, should this application be granted: **Attach as Appendix 11.1 of FORM H**
11.2. Provide marked clearly as **Appendix 11.2 of FORM H**, a written undertaking given by the transferee, through its duly authorised representative, that it will comply with the applicant's licence obligations in the event of the transfer application being approved by the Authority.
11.3. Provide minutes of AGM or Special GM where the transfer was approved, together with attendance register thereof. Attach as **Appendix 11.3 of FORM H**

12. **COMPLIANCE WITH CHAPTER 9 OF THE ACT**

This section is only applicable where the licence to be transferred is in respect a broadcasting service.	
12.1. Indicate whether the transferee is a member of the Advertising Standards Authority or intends to become a member:	
12.2. Indicate whether the transferee is a member of a body contemplated in section 54(3) of the Act or intends to become a member:	
12.3. Indicate whether the transferee is a party, movement, organisation, body or alliance which is of a party-political nature.	

13. **GENERAL**
13.1. Provide details of any matter or undertaking which, in the applicants' view, the Authority should consider:
13.2. Attach a resolution signed by a majority of the members of the board or trust authorising the persons signing this application. The resolution must be marked clearly as **Appendix 13.2. of FORM H.**

The persons signing the application on behalf of the applicant and the transferee must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence

transferred pursuant to this application set aside should any material statement made herein, at any time, be found to be false.

Signed …….

(APPLICANT)

I certify that this declaration was signed and sworn to before me at …….. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

Signed …….

(TRANSFEREE)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" end of substitution

22. **Substitution of Form K of the Regulations**

22.1. The following Form of Schedule 1 is hereby substituted for Form K of

the Regulations:

"FORM K

NOTICE FOR SURRENDER OF A LICENCE

(Regulation 11)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note: (a) Licensees must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by licensees.

(b) Information required in terms of this Form which does not fit into the space provided must attached as appendix to the Form. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the licensee, the licensee must indicate that the relevant information in the Form is not applicable.

1. **PARTICULARS OF LICENCE**	
1.1 Licence number:	
1.2 Nature of services authorised to be provided in terms of the licence:	
1.3 Expiration date of licence:	
1.4 Date on which surrender of licence is to take effect:	
1.5 Attach a copy of the licence that is the subject of this application marked clearly as **Appendix 1.5** of **FORM K.**	

2. PARTICULARS OF LICENSEE	
2.1. Full name of licensee:	
2.2. Designated contact person:	
2.3. Licensee's principal place of business:	
2.4. Licensee's postal address:	
2.5. Licensee's telephone number/s (include mobile numbers):	
2.6. Licensee's telefax number/s:	
2.7. E-mail address of designated contact person (maximum of two):	

3. PARTICULARS OF OTHER LICENCES
Indicate if the licensee holds any other licences issued in terms of the Act and whether the licensee intends also to surrender any such licences. Separate applications of surrender in respect of such licences must be submitted in this regard.

4. STEPS TO INFORM SUBSCRIBERS AND END-USERS/LISTENERS
4.1. Provide details of the steps the licensee proposes to take to inform end-users/listeners of the cessation of the services in respect of which the licence was granted.
4.2. Attach details and supporting documentation on the steps that the licensee has taken to inform end-users/listeners of the cessation of the services in respect of which the licence was granted, marked clearly as Appendix 4.2. of Form K.

5. FEES PAYABLE
5.1. Indicate those fees and contributions which will be due and payable by the date on which the surrender of the licence is to take effect and, where possible, the amount of such fees and contributions.
5.2. Specify the number of months which will have elapsed from the date on which the licence was issued or from the last anniversary of the date on which the licence was issued, as the case may be:
5.3. Indicate those annual fees and contributions payable at a date subsequent to the date on which the surrender of the licence will take effect, and the proportionate amount which must be paid to the Authority, where this can be calculated as at the date of this application.

6. GENERAL
6.1. Provide details of any matter and undertakings which, in the licensee's view, the Authority should consider:

6.2. Attach a resolution signed by a majority of the members of the board or trustees authorising the person signing this application to sign this application, marked clearly as **Appendix 6.2** of **FORM K**.

Signed …….

(APPLICANT)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" end of substitution

23. **Substitution of Form L of the Regulations**

23.1. The following Form of Schedule 1 is hereby substituted for Form L of the Regulations:

"FORM L

NOTICE OF CHANGE OF INFORMATION IN RESPECT OF A LICENCE

(Regulation 12)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note:

(a) Licensees must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act') and any regulations published under the Act with regard to the requirements to be fulfilled by licensees.

(b) Information required in terms of this Form which does not fit into the space provided must be attached to the Form as an appendix. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the licensee, the licensee must indicate that the relevant information is not applicable.

1 PARTICULARS OF LICENCE
1.1 Licence number:
1.2 Attach a copy of the licence that is the subject of this notice, marked clearly as **Appendix 1.2. of FORM L.**

2 CHANGE TO INFORMATION PROVIDED IN THE REGISTER
2.1 Indicate what the updated information relates to:

2.1.1. Name and contact details of the licensee; and/or	
2.1.2. Type of the service provided by the licensee.	

3 PARTICULARS OF LICENSEE		
Licensee must provide the information requested in this section even where no change has occurred in relation to the licensee's particulars.		
		Indicate with X where the information in question has changed.
3.1 Full name of licensee:		
3.2 Designated contact persons:		
3.3 Licensee's principal place of business:		
3.4 Licensee's postal address:		
3.5 Licensee's telephone number/s (include mobile numbers):		
3.6 Licensee's Fax number/s:		
3.7 Licensee's email address: (maximum of two)		

4. GENERAL	
4.1.	Provide details of any matter which, in the licensee's view, the Authority should consider (e.g. shareholding by HDI/HDG/HDP; women; youth; people with disabilities).
4.2.	Attach a resolution authorising the person signing this notice. The resolution must be signed off by the contact person as per the licensee. The resolution must be clearly marked as **Appendix 4.2. of FORM L**
4.3.	The notification for change of name must be accompanied by CIPC Registration Documents clearly marked as **Appendix 4.3 of Form L**

The person signing the application on behalf of the applicant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence amended pursuant to this application set aside should any material statement made herein, at any time, be found to be false.

Signed …….

(APPLICANT)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

5. knows and understands the contents hereof;
6. has no objection to taking the prescribed oath or affirmation; and
7. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" end of substitution

24. **Substitution of Form M of the Regulations**

24.1. The following Form of Schedule 1 is hereby substituted for Form M of the Regulations:

"FORM M

LICENCE EXEMPTION SERVICES AND NETWORKS

(Regulation 13)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note

(a) Registrant must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by applicants.

(b) Information required in terms of this Form which does not fit into the space provided must be attached to the Form as an appendix. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the applicant, the applicant must indicate that the relevant information in the Form is not applicable.

1. PARTICULARS OF REGISTRANT	
1.1. Full name of the applicant:	
1.2. Designated contact person:	
1.3. Applicant's principal place of business:	
1.4. Applicant's postal address:	

1.5. Applicant's telephone number/s: (including mobile):	
1.6. Applicant's telefax number/s:	
1.7. E-mail address of designated contact person (maximum of two):	

2. **LEGAL FORM OF THE REGISTRANT**	
2.1. Indicate the legal form of registrant (e.g. private company incorporated in terms of the Companies Act, 2008):	
2.2. Registration number of registrant:	
2.3. Attach certified copies of Identity Document/s, the certificate of registration and memorandum and articles of association or other founding documents of the registrant (e.g. memorandum and articles of association, association agreement, constitution) marked clearly as **Appendix 2.3.** of **FORM M**, indicating the applicant's compliance with the requirements of section 5(8)(b) of the Act.:	

3. NATURE OF SERVICES TO BE AUTHORISED	
3.1. Indicate if the service to be provided is:	
(i) an electronic communications network service	
(ii) an electronic communications service	
3.2. Indicate the form of licence exemption being sought	
with reference to the categories of licence exemption as	
set out in the Licence Exempt Regulations.	
3.3. Provide the description of the service, the manner in which it is to be provided and provide a detailed explanation of the purpose for which the	

	service is to be provided.
3.4.	Indicate the geographic area in which the service is to be provided.

4. RADIO FREQUENCY SPECTRUM	
4.1.	Indicate if the registrant holds any radio frequency spectrum licence in respect of radio frequency spectrum to be utilised for the purpose of providing the services for which authorisation is sought in terms of this registration. Attach a copy of any such radio frequency spectrum licence marked clearly as **Appendix 4.1 of FORM M.**
4.2.	Indicate if the registrant has submitted or intends to apply for a radio frequency spectrum licence for the provision of the services to which this registration relates. Furthermore, indicate the frequency band which is proposed to be utilised for the purpose of providing the service.

5. GENERAL
Attach a resolution authorising the person signing this registration to sign and mark it clearly as **Appendix 5** of **FORM M**.

The persons signing the application on behalf of the applicant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence transferred pursuant to this application set aside should any material statement made herein, at any time, be found to be false.

Signed …….

(APPLICANT)

I certify that this declaration was signed and sworn to before me at …….. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" end of substitution

25. **Substitution of Form N of the Regulations**

25.1. The following Form of Schedule 1 is hereby substituted for Form N of the Regulations:

"FORM N

APPLICATION FOR A LOW POWER COMMERCIAL BROADCASTING SERVICE

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note:

(a) Registrants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by registrants.

(b) Information required in terms of this Form which does not fit into the space provided must be included in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information is not applicable.

1. PARTICULARS OF REGISTRANT	
1.1. Full name of registrant:	
1.2. Designated contact persons (maximum of two):	
1.3. Registrant's principal place of business:	

1.4. Registrant's postal address:	
1.5. Registrant's telephone number/s (including mobile numbers):	
1.6. Registrant's telefax number/s:	
1.7. E-mail address of designated contact person (maximum of two):	

2. LEGAL FORM OF REGISTRANT	
2.1. Indicate the legal form of the registrant (e.g. company incorporated in terms of the Companies Act, 2008):	
2.2. ID Number or Registration number of the registrant:	
2.3. Attach certified copies of the certificate of registration and memorandum and articles of association or other founding documents of the registrant (e.g. memorandum and articles of association, association agreement, constitution) marked clearly as **Appendix 2.3.** of **FORM N**, indicating the applicant's compliance with the requirements of section 5(8)(b) of the Act.	

3. COMMUNITY
3.1. Indicate whether the community to be served by the proposed

broadcasting service is:	
3.2. geographically founded community; ***or***	
3.3. group of persons or sector of the public with a specific, ascertainable common interest.	
3.4. Where the community to be served by the registrant is a geographically founded community, provide details of the community to be served, including: (i) whether the community is urban, peri-urban or rural (ii) the number of people in the community (iii) gender, language, income and demographic statistics in relation to the community. **(Attach as Appendix 3.4 of Form N)**	
3.5. Where the community to be served by the registrant is a community of common interest, provide details of the community to be served, including: (i) the nature of the common interest; (ii) the size of the community in the geographic area in which the service is proposed to be provided; and (iv) gender, language, income and demographic statistics in relation to the community. **(Attach as Appendix 3.5 of Form N)**	

4. **NATURE OF SERVICES TO BE LICENSED**
4.1. Provide a description of the service to be provided: **Attach as Appendix 4.1 of Form N**
4.2. Indicate the geographic area in which the service is to be provided:

4.3. Provide details of the languages in which the broadcasting service is to be provided. Where it is proposed that the service will be provided in more than one language, provide a breakdown of the number of hours of programming which will be broadcast in each language.
4.4. Provide the registrant's proposed programming schedule. Further provide the proposed programming format and content to be provided, and also indicate when your peak time will be. In line with provisions regarding Low power sound is not required to provide for news and current affairs programming. Indicate your proposed percentage of local music to be broadcast in alignment with the South African Local Music Regulations on local content. **Attach as Appendix 4.4 of Form N.**

5. SUPPORT
Provide proof of support by members of the registrant's community or of persons associated with the registrant's community or of persons who promote the interests of the registrant's community. Kindly submit letters of support from business and so forth and signatures of support from members of the community/prospective listeners etc. **Attach as Appendix 5 of Form N**

6. FINANCES
6.1. Submit commitment of funding, which includes the amount from financial institutions or any other entity for start-up costs and provide details of the manner in which the proposed service is to be funded (e.g. sponsorship,

donations etc.) **Attach as Appendix 6.1 of Form N**
6.2. Provide details of the registrant's anticipated: i. capital expenditure necessary for the commencement of the provision of services; and ii. operating expenditure during the registrant's first year of operation. **Attach as Appendix 6.2** of **Form N**
6.3. Provide details of the registrant's business plan: **Attach as Appendix 6.3 of Form N**

7. CONTROL AND MANAGEMENT
7.1. Provide details (including name, nationality, identification or passport number, position and address) of each member of the registrant. Confirm if the individuals below reside within the proposed coverage area **Attach as Appendix 7.1 of Form N.** i. board of directors or similar body; and ii. senior management.
7.2. Attach the proposed organogram: **Attach as Appendix 7.2 of Form N**
7.3. Provide details of all ownership interests in the registrant: **Attach as Appendix 7.3. of Form N.** 7.3.1. Provide details of any persons in a position of control of the registrant who is a foreign citizen, or an entity registered or incorporated in any country other than South Africa: Indicate whether any member of the Board of the registrant is a foreign citizen or an entity registered or incorporated in any country other than South Africa. Please provide details below. (Please note no foreign ownership is allowable)

7.3.2. Indicate whether any member of the Board of the registrant is also a member of the Board of another licensee issued in terms of the Act. Please provide details below.

8. RADIO FREQUENCY SPECTRUM
8.1. Indicate if the registrant has submitted or intends to apply for a radio frequency spectrum licence for the provision of the services to which this registration relates. The registrant must complete form P contained in these regulations.

9. GENERAL	
9.1. Indicate whether the registrant is a member of an entity recognised in terms of section 54 and 55 of the Act.	
9.2. Indicate whether the registrant is a party, movement, organisation, body or alliance which is of a party-political nature.	
9.3. Indicate whether the registrant has ever been convicted of an offence in terms of the Act or related	

legislation, as defined in the Act. If so, provide details of such conviction.	
9.4. Provide details of other matters or undertakings which, in the registrant's view, the Authority should consider:	
9.5. Attach a resolution authorising the person (s) not more than two signing this registration and liaising with the Authority during the registration process. The resolution must be marked clearly as **Appendix 9.5 of FORM N.**	

The person signing the registration on behalf of the registrant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence issued pursuant to this registration set aside should any material statement made herein, at any time, be found to be false.

Signed …….

(REGISTRANT)

I certify that this declaration was signed and sworn to before me at ……. on the …… day of …… 20…, by the deponent who acknowledged that he/she:

4. knows and understands the contents hereof;
5. has no objection to taking the prescribed oath or affirmation; and
6. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

…" end of substitution

26. **Substitution of Form P of the Regulations**

26.1. The following Form of Schedule 1 is hereby substituted for Form P of the Regulations:

"FORM P

APPLICATION FOR BROADCASTING SPECTRUM LICENCE

(Regulation 15)

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note:

(a) Application must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under the Act with regard to the requirements to be fulfilled by the applicant. Applications are referred, in particular, to the Community Sound Broadcasting Regulations, 2006 (published under GN755 in Government Gazette 28919 of 6 June 2006) and the Community Sound Broadcasting Licence: Criteria to Measure Community Support Regulations, 1997 (published under GN R1388 in Government Gazette 18380 of 17 October 1997).

(b) Information required in terms of this Form which does not fit into the space provided must be attached to the Form as an appendix. Each appendix must be numbered with reference to the relevant part of the Form.

(c) Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information is not applicable.

1. PARTICULARS OF APPLICANT	
1.1 Application/Radio Station Name:	
1.2 Designated contact person/s:	

1.3 Applicant's principal place of business:	
1.4 Applicant's postal address:	
1.5 Applicant's telephone number/s (include mobile numbers):	
1.6 Applicant's telefax number/s:	
1.7 E-mail address of designated contact person (maximum of two):	
1.8 Applicant's Service Licence No:	

2. **TECHNICAL INFORMATION**		
2.1 Transmitter Site*		
2.2 Signal Distributor*		
2.3 Frequency Applied For*		MHz
2.4 Geographic Co-Ordinates*		
2.5 Physical Address		
2.6 Site Height*		m above sea level
2.7 Mid-Antenna Height*		m above site
2.8 Maximum Effective Antenna Height*		m above terrain

2.9 Designation of Emission*		
2.10 Frequency Stability*		kHz
2.11 Spurious Emission Level*		dB/1mW
2.12 Maximum Deviation*		kHz
2.13 Maximum Effective Radiated Power (ERP)*		kW
2.14 Antenna Horizontal Radiated Pattern*		
2.15 Antenna Polarisation*		
2.16 Programme Source*		
2.17 RDS Service		
2.18 SST Service		
2.19 Period**		
Legend: (*) mandatory fields (**) applies to short term licence applications		

Signature …….

I certify that this declaration was signed and sworn to before me at …… on the …… day of …… 20…, by the deponent who acknowledged that he/she:

5. knows and understands the contents hereof;
6. has no objection to taking the prescribed oath or affirmation; and
7. considers this oath or affirmation to be truthful and binding on his/her conscience.

_____

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

…" end of substitution

Independent Communications Authority of South Africa
350 Witch-Hazel Avenue, Eco Point Office Park
Eco Park, Centurion.
Private Bag X10, Highveld Park 0169

CLASS LICENSING PROCESS AND PROCEDURES AMENDMENT REGULATIONS REASONS DOCUMENT

MARCH 2021

TABLE OF CONTENTS

1. ACKNOWLEDGEMENTS 3

2. INTRODUCTION 3

3. AMENDMENT OF REGULATION 1 OF THE REGULATIONS 4

3.1. "Applicant" and "Application" 4

3.2. Decision by the Authority 6

3.3. Historically Disadvantaged Persons (HDPs) 7

3.4. Decision by the Authority 8

4. AMENDMENT TO REGULATION 2 - PURPOSE AND REGULATION 4- PRESCRIBED FORMS 8

4.2. Decision by the Authority 8

5. AMENDMENT TO REGULATION 3 (APPLICATION OF THESE REGULATIONS) 8

5.2. Decision by the Authority 9

6. AMENDMENT OF REGULATION 5 (SUBMISSION OF APPLICATION, REGISTRATIONS, NOTICES AND OTHER DOCUMENTS) 9

6.6. Decision by the Authority 11

7. AMENDMENT OF REGULATION 7 (REGISTRATION FOR A LICENCE (SECTION 16 AND 17 OF THE ACT) 11

7.3. Decision by the Authority 11

8. AMENDMENT OF REGULATION 9 (APPLICATION TO RENEW A LICENCE (SECTION 19(2) OF THE ACT) 12

8.2. Decision by the Authority 12

This gazette is also available free online at www.gpwonline.co.za

9. AMENDMENT OF REGULATION 11 (SURRENDER OF A LICENCE) 12

9.6. Decision by the Authority 14

10. AMENDMENT OF REGULATION 12 (NOTICE OF CHANGE OF INFORMATION IN RESPECT OF A LICENCE) 14

10.3. Decision by the Authority 15

11. AMENDMENT OF REGULATION 13 (LICENCE EXEMPT SERVICES AND NETWORKS) . 15

11.3. Decision by the Authority 16

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1. ACKNOWLEDGEMENTS

The Independent Communications Authority of South Africa ("the Authority") hereby acknowledges and thanks all stakeholders who have participated in the process aimed at amending the Class Licensing Processes and Procedures Regulations ("draft amendment Regulations").

The following stakeholders have submitted written representations to the draft amendment Regulations:

1) Internet Service Providers' Association ("ISPA");
2) Wireless Access Providers' Association of South Africa ("WAPA"); and
3) South African Communications Forum ("SACF").

2. INTRODUCTION

2.1. The Reasons Document sets out the reasons for the decisions of the Authority on the amendment of the Processes and Procedure Regulations for Class Licences, 2010, published on 14 June 2010 in Government Gazette No: 33297 (Notice No. 526) of 2010 ("the Regulations") as amended by Government Gazette No. 39874 (Notice No. 157) of 30 March 2016.

2.2. The Authority's reason for amending the Regulations was necessitated by the need to provide clarity on the Authority's process with respect to the licensing of Broadcasting, Electronic Communications and Electronic Communications Network Services for Class Licences; to enhance the Regulations and to streamline submission of documents to the Authority thus providing an effective service to Licensees and Applicants.

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2.3. On 9 March 2020, the Authority published the draft Class Licensing Processes and Procedure Amendment Regulations ('the draft Regulations[1]") with the intention of soliciting inputs on the draft Regulations. The Authority, subsequently, conducted public hearings on 5 November 2020 as part of its consultation on the proposed amendments.

2.4. In developing this Reasons Document, the Authority has considered the written submissions which were put before it as well as oral submissions made during the public hearing. The Authority is charged with the obligation to formulate regulations independently and in the public interest.

2.5. The positions (in bold) form the basis for finalising the Regulations.

3. AMENDMENT OF REGULATION 1 OF THE REGULATIONS

3.1. "Applicant" and "Application"

3.1.1. ISPA and WAPA submit that the addition of licence renewals in the definitions of "Applicant" and "Application" respectively would be at odds with the provisions of the Electronic Communications Act No. 36 of 2005 ("the ECA"). They reason that the ECA differentiates the renewal processes for individual and class licences. The renewal of individual licences takes the form of an application and the renewal of class licences takes place through a notice to the Authority. ISPA and WAPA draw the Authority's attention to section 19(2) and (3) and state that sub-section (2) stipulates that the licensee shall "…notify the Authority of its intention to continue to provide the service" while sub-section (3) refers to the

[1] Draft Amendment of the Licensing Processes and Procedures Regulations for Class Licences, 2010 and Amendment Regulations, 2016 published on 09 March 2020, Notice No. 160 Gazette No. 43082.

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submission of such intention as a "renewal notice". Accordingly, ISPA and WAPA argue that the ECA specifically caters for the deeming of class licence renewals which only serves to underscore the assertion that the renewal of class licences has been contemplated as a purely administrative process. In their view, where the reach of the Regulations exceeds the scope of the ECA is in the event of any adverse finding made in what would then be an application rather than a mere notification, that decision would then instantly be subject to review by the now aggrieved class licensee.

3.1.2. Additionally, the continuation of licence surrenders in the definitions of "Applicant" and "Application" respectively would be at odds with the provisions of the ECA. They, posit that though the modalities of class licence surrender are not addressed directly by the ECA, namely section 17(6)(a) of the ECA provides that: "During the term of a class licence the licensee must ensure that the information contained in the register referred to in section 16(3), remains accurate by filing and updating such information where – (a) The licensee surrenders its class licence and ceases to provide" which would in their view, suggest that the process of surrendering a class licence is similarly administrative in nature, and not one requiring the Authority's approval and/or an exercise of the Authority's discretion. Both class licence surrenders and class licence renewals should be processed in accordance with the existing framework for the submission/filing of notices as found within the Regulations, with the current amendment process representing an opportunity for the Authority to rectify and/or clarify the processes for both types of matter.

3.1.3. The distinction between processes subject to an application process and those which can be dispensed with by mere notice is of material importance, particularly where a proposed amendment seeks to alter the fundamental nature of a traditionally administrative process into one

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which would require the Authority's approval (which necessarily introduces the possibility of such an application being declined).

3.2. **Decision by the Authority**

3.2.1. In terms of the surrender process, the Authority has decided to retain the revision of a Class licence surrender process as a notice. The Authority reasons that as opposed to the surrender of an individual licence, wherein the ECA is explicit, in terms of section 12, in that the surrender of an individual licence should be done "by written notice, to the Authority in accordance with the requirements set out in the individual licence or in the manner prescribed by the Authority." The process of how the surrender of a class licence should be undertaken is not as explicit.

3.2.2. In terms of section 4(1)(b) the Authority may make Regulations on "any matter of procedure or form which may be necessary or expedient to prescribe for the purposes of this Act or the related legislation;", read with section 5(7)(b) which mandates the Authority to prescribe Regulations "on any matter relating to the licensing process." Accordingly, it is the view of the Authority that the above provisions empower the Authority to prescribe a process for the surrender of a class licence.

3.2.3. In the cessation of services, as in the case with the surrender of a license, the interests of consumers are an integral factor that the Authority must consider. In the interest of such consumers, the Authority is of the view that even if the process is a notice, the process should set requirements and prescripts that Licenses should comply prior to consideration for the surrender of a license and by implication cessation of services.

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3.2.4. In relation to renewals, the Authority is of the view that Licensees must satisfy conditions for renewal before a renewal of a license can be granted in order to further foster the spirit of compliance amongst Licensees. To this end, the Authority is empowered to prescribe the terms of renewal of a class license in line with section 19(3) of the ECA.

3.2.5. Section 19(3) of the ECA provides, "The Renewal Notice contemplated in subsection (2) must be submitted to the Authority in the manner prescribed as contemplated in section 5(7);". Section 5(7) of the ECA on the other hand mandates the Authority to prescribe Regulations "on any matter relating to the licensing process."

3.2.6. A renewal of a Class ECS licence and Class ECNS licence will continue to be dealt with by way of notification, while Community Broadcasting Services licences will continue to be dealt with in terms of regulation 7 of Community Broadcasting Services Regulations2.

3.3. **Historically Disadvantaged Persons ("HDPs")**

In terms of the definition of HDP, ISPA and WAPA submit that where the Authority wishes to define the initialism "HDP", the Authority should retain the reference to "Historically Disadvantaged Persons" as found in other Regulations for example the draft Regulations in respect of the Limitations of Control and Equity Ownership by Historically Disadvantaged Groups and the application of the ICT Sector Code.

[2] Community Broadcasting Regulations published on 22 March 2019, Notice No. 439, Gazette No.42323

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3.4. **Decision by the Authority**

The Authority concurs with ISPA and WAPA, the initialism of "HDP" is amended to reflect "Historically Disadvantaged Persons".

4. AMENDMENT TO REGULATION 2 - PURPOSE OF THESE REGULATIONS: 4- THE PRESCRIBED FORMS

ISPA and WAPA propose the amendment of sub-regulation 2(1)(b) to correct the erroneous classification of Class licence surrenders as applications as per their argument as depicted in para 3.1 above. ISPA and WAPA further argue that the headings of Forms F and K (regulations 4(1)(d) and (f) respectively) set out in the draft amendment Regulations should be revoked, alternatively tweaked to reflect the distinction between an application and notification[3].

4.1. **Decision by the Authority**

The Authority note the submission by ISPA and WAPA. The title for Form K will be retained as notice. However, the title for Form F will reads as follows **"***Application to renew Broadcasting Service licence or Notice to renew ECS/ECNS Licence"*. A renewal of a Class ECS licence and Class ECNS licence will continue to be dealt with by way of notification, while Community Broadcasting Services licences will continue to be dealt with in terms of regulation 7 of Community Broadcasting Services Regulations.

5. AMENDMENT TO REGULATION 3 (APPLICATION OF THESE REGULATIONS)

ISPA and WAPA propose amendment of regulation 3 of the draft amendment Regulations to include reference to section 6 of the ECA to avoid any potential confusion. They provide that the definition of "Licence" in the draft amendment Regulations needs to be expanded to include licence exemptions. According to ISPA

[3] ISPA-WAPA written representations dated 18 May 2020 and oral representations 5 November 2020

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this is attributed to the fact that the definition of "Licensee" in the ECA extends to licence exemptions. As such, there is little need to include a standalone definition of licence exemption in the Regulations.

5.1. **Decision by the Authority**

5.1.1. The Authority is of the view that the definition for "Licensee" should not extend to include licence exemptions because the two terms are distinctively defined in the ECA. The Authority will incorporate the definition of 'licence exemption' as defined in the ECA.

6. AMENDMENT OF REGULATION 5 (SUBMISSION OF APPLICATION, REGISTRATIONS, NOTICES AND OTHER DOCUMENTS)

6.1. ISPA and WAPA are concerned that certain additions and omissions may have a long-lasting negative impact on class licensees and, by extension, the sector which they seek to serve. According to their respective submissions, the expansion of the obligation to submit hard copies to the filing of notices, as provided for in regulation 5(1) of the draft amendment Regulations, represents a considerable increase to the administrative burden carried by class licensees and is without apparent benefit.

6.2. ISPA and WAPA note further that the proposed amendment would introduce a more onerous obligation on class licensees than is currently imposed on Individual licensees by the Individual Licensing Processes and Procedures Regulations, 2010 (as amended). ISPA and WAPA thus hold the view that the administrative nature of notices favours (if not demands) an efficient means of submission, currently achieved through electronic submission via email to the Authority. Where the Authority wishes to make allowance for the submission of hard copies at its various offices instead of electronic submission, this option should not be reduced to an obligation applicable in all circumstances.

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6.3. ISPA and WAPA welcome the reduction in the number of hard copies required by the proposed amendment to regulation 5(1A), nevertheless they submit that continued reliance on the submission of hard copies is at odds with Government's desire to foster a digital economy. Whilst the Authority should allow for the submission of hard copies where circumstances favour this approach, specifically where it reduces the administrative burden imposed on prospective entrants to the market, authorisation to register Class licences through submission of hard copies should not be conflated with an obligation to submit in that manner.

6.4. Further, the proposed transition from "electronic copy" to "soft copy of the application on a USB or a disc" is, at best, an ill-conceived amendment which serves to exclude the submission of applications, registrations and/or notices via email. ISPA and WAPA submit that the deliberate exclusion of email would represent an arbitrary and regressive limitation on both present and future licensees which is wholly at odds with the stated aims of the ECA and the Regulations thereto. Furthermore, they find it inconceivable that the sector regulator for communications would deliberately seek to move away from what is now the standard for electronic communications in favour of USB drives and optical discs. ISPA and WAPA emphatically oppose the exclusion of email in sub-regulation 5(1A) and strongly urges the Authority to reconsider the proposed changes.

6.5. SACF argues that the requirement of delivery and submission of hard copy documents, discs and flash drives should be a thing of the past. SACF adds that online submission of applications should also address security concerns and the online infrastructure could set a range of permissions including providing a trail of who has had sight of the documentation.

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6.6. **Decision by the Authority**

The Authority will allow USB submissions, e-mail submissions as well as hard copy submissions where applicable, as acceptable forms of submission for applications and/or notices.

7. AMENDMENT OF REGULATION 7 (REGISTRATION FOR A LICENCE (SECTION 16 AND 17 OF THE ACT)

7.1. According to ISPA and WAPA, the addition of an obligation to provide the Authority with a copy of a registrant's Memorandum of Incorporation ("MoI"), as contemplated by regulation 7(3) of the draft amendment Regulations, represents an expansion of existing obligations that is likely to result in an increase of the administrative burden felt by registrants, for little, if any, benefit to the Authority in the performance of its function. They submit that the submission is justifiable given the fact that applicants to Class licences are mostly small Operators, and not all small to medium enterprises have MoIs as this is not a requirement upon registration of their companies with the Companies and Intellectual Property Commission (CIPC).

7.2. Whilst the notion of control of a licence is of central importance to individual radio frequency spectrum and various categories of broadcasting licences, ISPA and WAPA note that no comparable obligations currently exist in respect of class licensees. It is accordingly unclear what the Authority seeks to determine through the review of a registrant's MoI in review of a licence registration that cannot be achieved through a review of its registration certificate or CIPC disclosure certificate.

7.3. **Decision by the Authority**

The Authority concurs with ISPA and WAPA submission. Regulation 7(3) will accordingly read as follows: "The notice of registration (Form A) must be

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accompanied by certified copies of Identity Document/s, the certificate of registration and memorandum and articles of association or other founding documents of the registrant (e.g. the registration certificate, including share certificates and/or Memorandum of Incorporation (MOI) where applicable and any other related information)."

8. AMENDMENT OF REGULATION 9 (APPLICATION TO RENEW A LICENCE (SECTION 19(2) OF THE ACT)

8.1. ISPA and WAPA submit that pursuant to submissions made in respect of the nature of class licence renewals, the Authority should discard the proposed amendment to the heading of this regulation.

8.2. **Decision by the Authority**

A renewal of a Class ECS licence and Class ECNS licence will continue to be dealt with by way of notification, while Community Broadcasting Services licences will continue to be dealt with in terms of regulation 7 of Community Broadcasting Services Regulations[4].

9. AMENDMENT OF REGULATION 11 (SURRENDER OF A LICENCE)

9.1. ISPA and WAPA support the use of the phrase "notice" in regulation 11(1) to be legally correct and something which should be retained. However, ISPA and WAPA submit that the use of the phrase "application" in regulation 11(2) and 11(2A) of the draft Amendment should be altered to "notice".

[4] Community Broadcasting Regulations published on 22 March 2019, Notice No. 439, Gazette No.42323

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9.2. SACF has a challenge with the draft amendments which require licensees to notify customers/end users of the termination of services at least two (2) months prior to the submission of the application for surrender. it states that it is unclear why the consumer consultation cannot be done during the ninety (90) day notice period. It argues that the two (2) month period unnecessarily prejudices consumers and effectively increases the duration of the licence surrender. They are of the view that, the Authority requires a service provision for the ninety (90) days.

9.3. Notwithstanding ISPA and WAPA's views on the administrative nature of surrender, the combined effect of regulations 11(2) and 11(2A) is that, irrespective of circumstance, a licensee may not cease service provision without first surrendering its licences on ninety (90) day working days' notice to the Authority.

9.4. In ISPA and WAPA's view, the majority of cases of the cessation of service provision (and by extension the surrender of licences) is likely to be motivated by economic and commercial factors such as business failure rather than a desire by the licensee to voluntarily exit the market. Whilst notice of surrender and the cessation of service provision serve a rational purpose when considering the role which the Authority plays in safeguarding the interests of subscribers, any regulation governing this process must necessarily have regard to practical and commercial factors.

9.5. Given that ninety (90) working days amounts to approximately 4.5 months, a period which ISPA and WAPA note is likely to be longer than the time it takes for a given class licensee's business to fail due to unexpected commercial developments, ISPA and WAPA submit that sub-regulations 11(1) to 11(3A) should rather:

9.5.1. differentiate between the voluntary and involuntary cessation of service provision;

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9.5.2. differentiate between the voluntary surrender of a class licence (allowing for the imposition of notice periods) and the involuntary surrender of a class licence brought about by business failure/closure; and

9.5.3. dispense with arbitrary timelines and provide for notification by a licensee to both the Authority and its subscribers, as soon as practicably possible, of its intention to surrender its class licence/s and/or its intention to cease service provision. It is held that this is the legal position espoused by the ECA on the subject of class licence surrenders.

9.6. **Decision by the Authority**

9.6.1. The Authority notes that the interest of consumers must be considered when deliberating on the reduction/increase of the notice period to consumers/ customers with regards to the cessation of services.

9.6.2. The ninety (90) day notice period contemplated in sub-regulation 11(2) incorporates the two (2) months, stipulated in sub-regulation 11(3), required to provide notice to end-users/listeners/viewers and therefore reaches a fair balance of the interest of consumers and licensees.

10. AMENDMENT OF REGULATION 12 (NOTICE OF CHANGE OF INFORMATION IN RESPECT OF A LICENCE)

10.1. ISPA and WAPA have indicated that the current formulation of regulation 12(2)(b) of the draft amendment Regulations is likely to cause confusion and would, in its current state, suggest that amendments to a class licence could be dispensed with through a notice of change of information, which was presumably not the Authority's intention.

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10.2. SACF submits that it welcomes the number of days proposed. However, the Authority should be specific as to when the fourteen (14) day period commences. The SACF proposed the following wording to the regulation "A licensee must submit written notice to the Authority within fourteen (14) days of the approvals".

10.3. **Decision by the Authority**

10.3.1. The Authority concurs with ISPA and WAPA, as such, the wording in the regulation is revised as follows: "within fourteen (14) days of the change occurring where the type of service being offered has changed."

10.3.2. The reasoning behind this change is in order for the Authority to be aware of services offered by licensees and for consumer protection purposes.

10.3.3. Further, the Authority has deleted regulation 12(3).

11. AMENDMENT OF REGULATION 13 (LICENCE EXEMPT SERVICES AND NETWORKS)

11.1. ISPA and WAPA submit that the effect of the draft amendment Regulations on regulation 13 would be to transform a process which had traditionally been treated as a notification – which they contend is the legally correct view – into one first requiring an application. Given the absence of reasons in the Explanatory Memorandum, they request clarity on the proposed changes. Additionally, that use of the word "draft" in regulation 15 of the draft amendment Regulations was likely in error and should be removed prior to publication of the final amendment Regulations.

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11.2. ISPA and WAPA further draw the Authority's attention to clause 2.3 of Forms A and M together with clauses 4 and 5 (generally) of Form H in which the Authority has removed reference to copies of ID documents, which reference was presumably removed in error.

11.3. **Decision by the Authority**

11.3.1. In the Authority's view, the notification process has posed some challenges as well as concerns in that there are more exempt services in the market than the Authority has on record. In order to not place a burdensome obligation on exempt services, the Authority maintains the current status quo.

11.3.2. The Authority has included the requirement for ID copies in the relevant Forms.

DR KEABETSWE MODIMOENG
CHAIRPERSON

DATE: 24/03/2021

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