Independent Communications Authority of South Africa
350 Witch-Hazel Avenue,
Eco-Point Office Park
Centurion

COUNCIL DECISIONS– 19 February 2019

ITEM NO.	AGENDA ITEM	DECISION
1.	**Request for Council to approve the notice inviting comments on the licensing process for IMT Spectrum** The purpose of the submission was to request Council to: • Approve the notice on the Information Memorandum (IM) on the licensing process of International Mobile Telecommunications (IMT) Spectrum to provide Mobile Broadband for Wireless Access Services in Urban and Rural Areas using the Complimentary bands, the IMT700, IMT800, IMT2300, IMT2600 and IMT3500; • Approve the publication of the (IM) for comment; and • Approve letter to the Minister of Communications in respect of publication of the IM on the licensing process of IMT.	**It was resolved that the letter to the Minister to be revised to include the pronouncement made by the president during the State of the Nation Address to license spectrum and also to consider issues of transformation, within the sector.**
2.	**CCC Matter - SANCO and others vs Moretele Community Radio** The purpose of the submission was to table the recommendation of the	**After considering all the facts before it, the CCC's findings were that there has been no contravention of the applicable legislation and**

	CCC to Council in the matter between SANCO and Others versus Moretele Community Radio (MCR). SANCO lodged a complaint against MCR for investigation by the CCC in terms of Section 17b of the ICASA Act. The charges before the CCC were as follows: • Clause 11 (11.3) of MCR's Constitution provides that, "the assets of MCR shall remain the property of the radio station and cannot be shared or otherwise distributed among the Board of Directors, Club Membership, Staff and/or the Presenters". • The contravention before the CCC is that MCR registered one of its cars under Oscar Meselane who is a staff member of MCR and not registered under the entity's assets. • MCR's Board of Directors failed to provide for the participation of community members in the programming of the radio station in line with clause 4.2 (4.2.1) of MCR's Licence Conditions which states that *"the programming of community radio must meet the needs of community members within its broadcasting coverage area by encouraging the participation of community within its coverage area in the production of content."* • The Constitution of MCR states	**licence conditions, therefore, there was no order against the licensee.** **Council approved the recommendation of the CCC.**

	that the term of office for the elected Board of Directors shall be thirty-six (36) months from the date of elections. However, it appears that three members, Mr Sona Mathebula, Mr Lesego Kwakwa, and Mr Khumalo overstayed their term of office and have been serving as Board Members of MCR since 2011 up until the time of the lodging of the complaint. • That MCR's Board of Directors were continuously paid their monthly stipends regardless of their failure to meet for a period of five (5) months after the death of the Station Manager. The MCR's Board of Directors appointed the current Station manager without following the proper recruitment procedures, such as advertising the position either internally or externally.	
3.	**Broadcasting Annual Compliance reports for Sound and Television Services Licensees** The purpose of the submission was to request Council to consider and approve the Twenty (20) Annual Compliance Reports ACR's as part of the 2018/2019 Financial Year Annual Performance Plan (APP). The reports are submitted pursuant to: • The Compliance and Consumer Affairs Division (CCA) compiles annual reports for class and individual radio and television	**Council resolved to approve the submission.**

	(including subscription) services in accordance with the APP. • All commercial broadcasters' reports are compiled annually, except for SABC TV. There are no specific criteria used to compile reports for commercial broadcasters. It is of utmost importance to monitor and compile reports for the commercial sector (Individual Licensees) given the extent of the coverage (geographic and or population wise) in the country. • Regarding the community sector (Class Sound and TV), as overwhelming in numbers as it is, it is equally important to monitor the community participation aspect of the sector as well as guard against political interference and holding of dual roles by members of the governing structure and management. Therefore, the Licensees that are reported on annually will differ to ensure that many more are covered in each reporting cycle.	
4.	**Letter from the Democratic Alliance (DA) concerning Multichoice, ANN7 and SABC** The purpose of the submission was to advise Council of the status of the matter and the proposed closure of the investigation regarding the DA complaint against Multichoice, ANN7 and the SABC. On 29 November 2017, the Authority received a letter from the DA	**Council noted the report.**

	requesting it to: • Direct a notice to MultiChoice to obtain the contracts between itself and ANN7 and the SABC; • Conduct an inquiry in terms of section 4B (1) of the ICASA Act into the alleged relationship between MultiChoice, the SABC and ANN7; and • Publicly release the contracts between MultiChoice, ANN7 and the SABC. The Channel Distribution Agreements, as well as responses from MultiChoice and the SABC have since been received and analysed. The conclusion of the investigation was that neither MultiChoice, ANN7 nor the SABC contravened the Electronic Communications Act or Broadcasting Act with regards to the Channels Distribution Agreements that were the subject of the investigation. The DA was advised of the status of the investigation and the outcome in December 2018, but has since indicated its dissatisfaction with the outcome and requested additional information.	
5.	**Application for the amendment of an Individual Commercial Sound Broadcasting Service Licence (I-CSBS) and Radio Frequency Spectrum (RFS) Licence by Cape Town Radio (Pty) Ltd** The purpose of the submission was to provide Council with an analysis of the licence amendment applications by Cape Town Radio (Pty) Ltd (CT	**Council resolved that the Applicant's applications to amend:** • **its I-CSBS licence to change its Geographic Coverage Area from Cape Town Metropolitan area to Western Cape Province be declined;**

	Radio) t/a as Smile FM, and recommend that the proposed amendment be declined.	• **its RFS licence to introduce the Simonstown transmitter on the frequency of 102.4 MHz be approved; and** • **its RFS licence to add transmitters in Grabouw, Table Mountain, Plettenberg Bay, Franschoek, Paarl, Hout Bay, Villliersdorp, George, Hermanus, Knysna, Riversdale, Stellenbosch, Oudshoorn, Ladismith, Piketberg, and Worcester be declined.**
6.	**Sound Broadcasting Service and Radio Frequency Spectrum Licence renewal applications – Batch 1, YFM (Pty) Ltd, 94.5 KFM, 567 Cape Talk, 94.7 Highveld Stereo, and Talk Radio 702** The Applications were submitted in terms of section 11 of the ECA read with the Licensing Processes and Procedures Regulations for applications, amendments, renewals, surrender and transfer of individual licence and matters pertaining thereto and applications pertaining to special temporary authorisations.	**Council resolved that PRIMEDIA be advised that its renewal applications are being considered by the Authority, and that PRIMEDIA apply for exemption for the Authority to consider the applications in total.**

ISSUED BY: Secretariat Office on behalf of Council