Independent Communications Authority of South Africa
350 Witch-Hazel Avenue,
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Centurion

COUNCIL DECISIONS– 11 August 2020

ITEM NO.	AGENDA ITEM	DECISION
1.	**Applications for the transfer of an Individual Electronic Communications Service (I-ECS) and Individual Electronic Communications Network Service(I-ECNS) Licenses from Valley Junction 70 CC to African Mobile (Pty) Ltd** The purpose of the submission was to recommend that Council approve the transfer of I-ECS and I-ECNS licenses from Valley Junction Trading CC (the Applicant) to Africawide Mobile (Pty) Ltd (the Transferee). 1.1 On 30 September 2019, ICASA received applications from the applicant to transfer its I-ECS and I-ECNS licenses to the Transferee. 1.2 On 04 October 2019, the CCC indicated that according to its records there were no compliance issues against the Applicant. 1.3 The Applicant in its application did not request confidentiality in terms of sec 4D of the ICASA Act 13 of 2000. **Regulatory grounds to refuse the transfer applications.** 1.4 In terms of Regulation 12 of the Process and Procedures Regulation, the Authority may	**The recommendation was approved.**

	refuse to transfer a license if the licensee had not complied with one or more of the following: 1.4.1 Where the licensee has been found guilty of a contravention by the Complaints and Compliance Committee of the Authority, and has not complied with the order by the Authority in terms of section 17 of the ICASA Act or; 1.4.2 Where the transferee's ownership and control by historically disadvantaged persons was less than 30%. 1.5 It was indicated that the Applicant has not been found guilty of any contravention by the CCC. On the 02 October 2019, the CCC informed Licensing division that there were no compliance issues raised against the Applicant. 1.6 Further the Applicant paid the license fees due and payable at the date of the Applications. 1.7 The Transferee was 100% owned by historically disadvantaged individuals. **Recommendation to Council:** 1.8 It was recommended that Council approves the application for the transfer of control of I-ECS and I-ECNS licences from the applicant to the Transferee.	
2.	**Update on the Implementation of the Southern African Development Community(SADC) Roam -Like-At-Home Initiative.** The purpose of the submission was for	**the recommendation was approved**

	Council to: 2.1 Provide Council with an update on the progress made to date on the SADC Roam-like-at-Home project; and 2.2 Request permission to inform the Honourable Minister of the Department of Communications and Digital Technologies (DCDT) of the progress made on the SADC Roam-like at-Home project. 2.3 In July 2007, SADC ICT Ministers convened an urgent meeting of policy makers, National Regulatory Authorities (NRAs) and Mobile Network Operators (MNOs) to look into the reduction of retail roaming tariffs within the SADC region. 2.4 The SADC ICT Ministers decided to intervene at the SADC level after recognising the jurisdictional challenges by NRAs in regulating International Roaming Services. 2.5 The SADC roaming project was thus established and was being implemented as follows: 2.5.1 Phase I: Roaming tariff transparency guidelines; 2.5.2 Phase II: Roam like at Home (RLAH); and 2.5.3 Phase III: Cost based roaming regulation. **Progress Made to date** 2.6 The Authority have so far managed to deliver the following deliverables in the SADC Roaming project.	

	2.7	South Africa has implemented Phase I in its entirety. The minimum information requires specified in the Roaming Tariff Transparency Guidelines, which came into effect on 01 June 2013, were incorporated in the ICASA End User and Subscriber Charter Regulations of 2016.All South African operators comply with the Guidelines.	
	2.8	Implementation of Phase II which entailed the establishment of a Wholesale Cost and Retail Roaming Tariff glide path by some member states was implemented retrospectively in February 2017.	
	2.9	South Africa was able to finalize the calculations of both the Wholesale and retail roaming tariffs ceilings for the ICT Sector to ensure that the interest of the consumers was promoted as far as the object 2 (n) of the Electronic Communications Act no 36 of 2005.	
	2.10	The Authority also commenced the implementation of Phase III: Cost based Roaming Price Regulation, as per SADC ICT Ministerial Instruction.	
	Phased III of the SADC Roaming Project: Roaming Cost Model Phase		
	2.11	Implementation of Phase III of the SADC Roaming project began in October 2017. That was in line with instructions received from the Ministers at the SADC ICT Ministerial meeting held in Durban, South Africa from 04-07 September 2017.	
	2.12	Phase III of the SADC Roaming	

		project entailed the development of a harmonized cost model for SADC Members states to be used by all National Regulatory Authorities.	
	2.13	The cost model established the costs incurred by operators in the provision of roaming services to determine reasonable wholesale and retail roaming prices within the SADC region.	
	2.14	The resultant understanding of incurred costs should enable the NRAs to come up with and implement appropriate and proportional regulatory measures that would benefit both the operators and consumers. That in turn will facilitate smooth communication for cross border travel and trade as well as increase regional integration.	
	The model determined the following:		
	2.15	Price Caps for inter-operator tariffs (IOTs) Wholesale Roaming Services for voice, SMS and data; and	
	2.16	Price Caps for retail charges for voice, SMS and data roaming service.	
	2.17	The SADC Roaming cost model was a generic top down costing model that primarily ascertain wholesale roaming rates to be used by the Mobile Network Operators (MNOs) within the SADC region for purpose of calculating the cost of providing retail roaming services within the region.	

	2.18 The objective of the cost model was not to prescribe roaming charges across the region, but to provide a standardized tool that allows NRAs to calculate the costs incurred by MNOs in providing roaming services based on the operator specific costing model and cost drivers such as traffic volumes, routing of roaming services, exchange rate fluctuations and industry Weighted Average Cost of Capital (WACC) for various operator. 2.19 The increased understanding of the underlying costs of providing roaming services brought about by the model has provided a platform for a coordinated regional response, to the formulation of roaming regulations that will facilitate the development of regionally acceptable standards on roaming charges and ensure consumer protection at a regional level with respect to roaming services. **Progress in the Financial Year 2019/20** 2.20 CRASA convened a CRTT meeting in Benoni, South Africa from 17-18 June 2019. 2.21 After the CRTT meeting, the SADC Roaming Forum meeting took place on the 19-20 June 2019.During the meeting the results of the cost model were presented to the operators. 2.22 The operators were required to consider the impact of the proposed IOTs on their individual business operations and make written submissions to regulators. The regulators forwarded all submissions received to the CRTT	

by 15 July 2019 for consideration.

Feedback from Mobile Network Operators (MNOs)

Pursuant to its communique, ICASA received the following responses from the MNSs:

Vodacom

2.23 Vodacom requested a meeting with the Authority to discuss the implementation of Phase I. Vodacom also raised the following concerns and additionally requested the Authority to provide reasoning behind the implementation of the cost model propositions as their concerns were not incorporated into the cost model user cases:

2.23.1 In terms of section 4 of the Competition Act, the involvement of regulatory bodies had not deterred the Competition Commission from considering such initiatives as potential violations in terms of that section in the past, nor the fact that the aim was to lower rather than increase prices.

2.23.2 Vodacom wishes the Authority to confer with the Competition Commission in that regard to allow it to participate freely; and

2.23.3 The adopted regional Wholesale and retail propositions in which

		the IOTs were calculated in some of the Use Cases results in the MNOs making losses,	
	MTN MTN indicated that it did not have any major challenges in its negotiations **Cell C** 2.24 Cell C was not implementing the Use Case Scenarios. It had in the past requested ICASA to provide the legal provision empowering it to undertake the SADC Home and Away Roaming Study to clarify all legal impediments before embarking on that exercise. 2.25 As such ICASA did not receive ICASA Cell C co-operation in obtaining data for use in the cost modelling phase in determining IOT and ITR ceiling rates. **Telkom** 2.26 Telkom requested for an extension to adequately respond to the Authority as it needed to comply with its internal governance process before making a submission to the Authority, which was allowed by the Authority to which they later submitted the relevant information. 2.27 Telkom had no major challenges in providing the required data, however through analysis the majority of Telkom's rates did not conform to the Ministerial Directive Implementation rates **Progress in the in the financial year 2020/21.**		

	2.28	After the letters received from the MNOs, the Authority engaged with them to resolve the concerns raised in their correspondence and further submitted a revised request for data in a form of a template on 03 May 2020. The deadline for submission was on 02 June 2020.	
	2.29	The Authority received uniform data request on 22 April 2020 from the Communications Regulators Association of Southern Africa (CRASA). The requested data was required for the monitoring of the Ministerial Decision.	
	2.30	The Authority has received submissions from all the MNOs.The Authority was currently analyzing and collating the data, to submit report to CRASA.	
	2.31	A virtual CRTT meeting with all members took place on the 19 June 2020. Vodacom 's concerns with respect to the loss-making regional Wholesale and Retail propositions were discussed by the member states.	
	2.32	It was concluded that while the MNOs might be losing revenues under various User case proposition, that may not necessarily mean they would be losing profits.	
	2.33	To resolve the matter, South Africa and fellow CRTT members agreed to obtain sight of their respective MNOs Cost Models to analyze and validate the User Cases that the MNOs were claiming to lead to losses.	

	2.34 In Cases where it was proved that MNOs were indeed making losses, their respective regulators may consider such a case for possible adjustment of the retail price propositions for those specific MNOs. **Recommendation to Council** It was recommended that Council: 2.35 Notes the progress made to date on the SADC Roam Like at Home project; and 2.36 Grants permission to inform the Minister of DCDT of the progress made to Date on the SADC Roam like at Home Project.	

ISSUED BY: Secretariat Office
on behalf of Council