



Independent Communications Authority of South Africa

350 Witch-Hazel Avenue,
Eco-Point Office Park
Centurion

COUNCIL DECISIONS– 15 June 2021

ITEM NO.	AGENDA ITEM	DECISION
1.	<p>Applications for the transfer of Neelana Communications (Pty) Ltd's Individual Electronic Communications Service and Individual Electronic Communications Network Service licences to Gatsby Security SPV (Pty) Ltd and accompanying vetted Reasons Document</p> <p>The purpose of the submission was to recommend that Council approve the recommendation not to proceed with the consideration of the transfer applications of I-ECS and I-ECNS licences from Neelana Communications (Pty) Ltd (the Applicant) to Gatsby Security SPV (Pty) Ltd (the Transferee) as the applications before the Authority are incomplete.</p> <p>1.1 On 01 September 2020, the Authority received applications for the transfer of I-ECS and I-ECNS licences from the Applicant to the Transferee.</p> <p>1.2 On 19 November 2020, the CCA and Finance Divisions confirmed that the Applicant has submitted all outstanding documents and complied with the General Licence Fees Regulations for the related period.</p> <p>1.3 The Applicant was also requested to submit a Business Plan, Consumer Analysis</p>	The recommendation was approved.

	<p>Reports, and a detailed Independent Competition Analysis Report. The Applicant has not submitted the Transferee's Business Plan, Competition Analysis and Consumer Analysis Reports, despite the Authority's insistent request, for it to make an informed decision.</p> <p>1.4 As a result of not submitting the abovementioned documents, the Licensing Division was unable to proceed with the consideration of the licence transfer applications by the Applicant.</p> <p>Regulation 11 (Form G) of the Processes and Procedures Regulations states the following.</p> <p>1.5 Clause 8.7 requires the transferee to provide a Business Plan in respect of a licensed service.</p> <p>1.6 Clause 9.2 requires the Applicant to provide an Independent Competition Analysis Report regarding the impact of this transaction.</p> <p>1.7 Clause 9.3 requires the Applicant to provide a Consumer Interest Analysis Report post the transaction.</p> <p>Conclusion</p> <p>1.8 The Applicant did not provide the Authority with the Business Plan, the Competition and Consumer analysis reports post transaction as required in terms of the Processes and Procedures Regulations.</p> <p>1.9 Accordingly, and based on the legal opinion, the Licensing Division was unable to proceed with the consideration of the licence transfer applications by the Applicant.</p> <p>Recommendation to Council:</p> <p>It was recommended that Council approve that the division should not proceed with the consideration</p>	
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	<p>of the applications, as these are incomplete, in that the applicant has failed to submit the Transferee's Business Plan, Competition Analysis and Consumer Interest Reports for the Licensing Division to make a conclusive assessment. It is further recommended that Council approves the vetted Reasons Documents on the Authority's decision.</p>	
<p>2.</p>	<p>Change and update of ICASA Licensee Information - Dimension Data (Pty) Ltd.</p> <p>The purpose of the submission was to advise Council of notices by Dimension Data (Pty) Ltd, requesting the Authority to effect changes to its licence and to request Council to approve the submission.</p> <p>2.1. On 15 January 2009, the Authority granted and issued Dimension Data (Pty) Ltd with Individual Electronic Communications Network Service (I-ECNS) and Individual Electronic Communications Service (I-ECS) licences with licence numbers 0209/IECNS/JAN/09 and 0209/IECS/JAN/09, respectively.</p> <p>2.2. On 13 September 2018, the Authority received a notice from Dimension Data (Pty) Ltd (Notification 1), advising the Authority of changes with respect to its shareholding change and contact details.</p> <p>2.3. During the clarity seeking and information gathering process, which was concluded in November 2019, the Authority received additional notifications, one on 30 August 2019, (Notification 2) for change of information and another notification on 07 November 2019 (Notification 3).</p> <p>2.4. Regulation 14(A) of the Regulations on Processes and Procedures for Individual Licences, 20101 (as amended by Amendment Individual Processes and Procedures Regulations, 20152), provides</p>	<p>The recommendation was approved.</p>

	<p>that a “<i>notice of change of information in respect of an Individual licence must be submitted in the format as set out in Form O</i>”.</p> <p>2.5. Dimension Data (Pty) Ltd submitted all the notices to the Authority within the prescribed period of seven (7) days of the occurrence of the change. Compliance is satisfied that Dimension Data (Pty) Ltd has complied with the Regulations in the filing of its notices.</p> <p>Recommendation to Council</p> <p>It was recommended that Council note the notifications and approve the updating of Dimension Data’s licences.</p>	
3	<p>Recommendation by CCC to Council in the matter between Compliance and Consumer Affairs Division of ICASA and Close TV Broadcasting Network Holdings (Pty) Ltd</p> <p>The purpose of the submission was to table the recommendation of the CCC in the matter between CCA and Close TV.</p> <p>4.1. On 29 October 2020, CCA of ICASA referred a complaint to the CCC for investigation in terms of Section 17B(a) of the Independent Communications Authority of South Africa (“ICASA”) Act No 13 of 2000.</p> <p>4.2. The CCA alleged that Close TV has contravened Regulation 5(1) and 5(3) of Schedule 1 (Individual Broadcasting Services licences) of the Standard Terms and Conditions Regulations for Individual Licences 2010 (as amended in 2016), in that Close TV has failed to commence operations to date.</p> <p>4.3. The CCA argued that six (6) years have elapsed since Close TV was issued with a Subscription Broadcasting Service licence in 2015. Close TV has failed to commence its operations or to make an application to the</p>	<p>Council was advised that it can extend the commencement period subject to an application by licensee.</p> <p>The recommendation was approved.</p>

	<p>Authority for an extended commencement period.</p> <p>Recommendation to Council</p> <p>4.4 In terms of Section 17E2(c), the CCC recommends that the following order be issued by Council of ICASA:</p> <p>4.4.1 Directs the licensee to desist from any further contravention in terms of section 17E(2)(a) of the ICASA Act.</p> <p>4.4.2 That Close TV takes the following remedial action:</p> <p>4.4.2.1 Within 21 days, from the date ICASA publishes its judgment, Close TV is to submit an application to Council of ICASA, for an extended commencement period.</p> <p>4.4.2.2 Within 90 Calendar days from the date the application for extension of operations as mentioned in (a) above is granted, Close TV is to submit to Council of ICASA a comprehensive plan of action setting out, amongst others, operations plan,</p>	
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	<p>and mode of implementation, as well as deadlines.</p> <p>4.5 The CCC makes the following recommendation to the Council of ICASA, that Council investigate the issue of delays by CCA to refer non-compliance, with a view to identifying the cause thereof, and putting in place measures to prevent such delays in the future.</p>	
4	<p>Awareness and implementation of the Code 116 for Child Help Line Services</p> <p>The purpose of the submission was to brief Council on the implementation of the Child Helpline Code 116, and to obtain approval from Council to support the Ministry of Communications and Digital Technologies and Childline SA in the launch of the code set to kick off on 8 June 2021.</p> <p>5.1 On 15 April 2020, the Authority published an amendment of the Numbering Plan Regulations in Government Gazette No 43230 (the Regulations). The Regulations mandated the use of the short code 116 for Child Helpline Services.</p> <p>5.2 In addition, the Regulations were also amended with the insertion of sub-regulation 17(6), which requires that within nine (9) months from the date of the publication of the short code 116, this would be the exclusive number for Child Helpline Services.</p> <p>5.3 The Regulations came into effect in July 2020, and, in terms of the provisions of the Regulations, the toll-free number has been phased out and should no longer be in use.</p> <p>5.4 Post implementation of the Regulations, Childline SA requested for an additional extension to which the designated Committee, namely the Number Portability</p>	<p>The recommendation was approved.</p>

	<p>Review Committee (the Committee), advised that it could not advance the request.</p> <p>Recommendations to Council</p> <p>5.5 It was recommended that Council:</p> <p>5.5.1 Note the implementation of the code 116;</p> <p>5.5.2 Delegate a member of Council to represent ICASA at the official launch of the code on 8 June 2021; and</p> <p>5.5.3 Approve the initiatives, driven from the divisional level, to get the message out to the public and to licensees on the launch, awareness and implementation of the code.</p>	
5	<p>Notice of public hearings on the review of the 1999 Independent Broadcasting Authority (Advertising, Infomercials and Programme Sponsorship) Regulations Discussion Document for approval and publication</p> <p>The purpose of the submission was to request Council to approve the Notice to hold public hearings on the Review of the Independent Broadcasting Authority (IBA) (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999, Discussion Document for publication in the Government Gazette. The public hearings will be held on 14 July 2021.</p> <p>6.1 The Review of the Advertising, Infomercials and Programme Sponsorship Regulations Committee is in the process of reviewing the IBA (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999, published in Government Gazette No 6487 of 01 April 1999.</p>	The recommendation was approved.

	<p>6.2 The Authority published the Discussion Document on the Review of the Independent Broadcasting Authority (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999, in Government Gazette No 44333 of 26 March 2021. The closing date for written submissions was 07 June 2021.</p> <p>6.3 The Authority received seven (7) written submissions from stakeholders: namely, eMedia Investments, MultiChoice, Media Monitoring Africa, NAB, Outsurance, SABC and SASFED. Four (4) stakeholders indicated that they are interested in making oral presentations at the public hearings.</p> <p>Recommendations to Council</p> <p>It was recommended that Council approve the Notice to hold public hearings on the Review of the IBA (Advertising, Infomercials and Programme Sponsorship) Regulations Discussion Document, for publication in the Government Gazette.</p>	
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ISSUED BY: Secretariat Office
on behalf of Council