



## Independent Communications Authority of South Africa

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

### **COUNCIL DECISIONS– 16 August 2021**

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>DECISION</b>
<b>1.</b>	<p><b>Change and Update of ICASA Licensee Information-EXTRISERVE (PTY) LTD t/a LM RADIO</b></p> <p>The purpose of the submission was for Council to note the notice by Extriserve (Pty) Ltd trading as LM Radio, requesting the Authority to effect changes to its licence.</p> <p>1.1 On 18 July 2014, the Authority granted and issued Extriserve (Pty) Ltd with an Individual Broadcasting Service (I-BS) licence and a Radio Frequency Spectrum (RFS) Licence.</p> <p>1.2 On 07 July 2021, the Authority received a notice from Extriserve (Pty) Ltd advising the Authority of changes with respect to its contact person, contact details and physical address.</p> <p>1.3 Extriserve (Pty) Ltd did not submit its notice to the Authority within the prescribed period of seven (7) days of the occurrence of the change as stipulated in the regulations.</p> <p>1.4 The licensee submitted a letter to the Authority requesting a condonation for late filling of the notice.</p> <p>Recommendation to Council:</p>	<b>The recommendation was approved.</b>

	It was recommended that Council notes and approves the changes.	
<b>2.</b>	<p><b>Change and Update of ICASA Licensee Information-Capricorn FM (PTY) LTD</b></p> <p>The purpose of the submission was for Council to note the notice by Capricorn FM (PTY) Ltd, requesting the Authority to effect changes to its licence information.</p> <p>2.1. On 28 August 2019, the Authority granted and issued Capricorn FM with a renewed Individual Broadcasting Service (I-BS) licence and a Radio Frequency Spectrum (RFS) Licence.</p> <p>2.2. On 06 June 2021, the Authority received a notice from Capricorn FM advising the Authority of changes with respect to its contact person (s) and contact details.</p> <p>2.3. The licensee submitted a letter to the Authority requesting a condonation for late filling of the notice. In the letter, the Licensee states that the failure to notify the Authority of the changes was an oversight and therefore, they take full responsibility for the failure.</p> <p>2.4. The Compliance division was satisfied that the Licensee had complied with the regulations in the filing of its notice.</p> <p>Recommendation to Council</p> <p>It was recommended that Council approve the changes to the licences of Capricorn FM.</p>	<b>The recommendation was approved.</b>
<b>3</b>	<p><b>Transfer of control of an I-ECNS licence, from Telemedia (Pty) Ltd's current shareholders to Telemedia (Pty) Ltd's proposed new shareholders.</b></p> <p>The purpose of the submission was to request Council to approve the transfer of control of an I-ECNS licence from Telemedia (Pty) Ltd's current shareholders, to Telemedia (Pty) Ltd's ("the</p>	<b>The recommendation was deferred to the next Council meeting, subject to the analysis of the spectrum transfer being tabled to Council.</b>

	<p>Applicant”) proposed new shareholders (“the Transferee”).</p> <p>3.1 On 04 December 2020, the Independent Communications Authority of South Africa (“the Authority”) received an application from the Applicant to transfer the control of its I-ECNS licence to the Transferee. The application was not fully completed.</p> <p>3.2 The Applicant submitted a new application for the transfer of control on 11 December 2020.</p> <p>3.3 On 22 January 2021, the Authority published General Notice 667 in Government Gazette No. 44095 inviting all interested persons to make written representations in relation to the application within fourteen (14) working days of the date of the publication of the notice in the Government Gazette.</p> <p>3.4 On 07 April 2021, an e-mail was sent to the Applicant requesting a breakdown of the Transferee shareholding, and clarification on the Transferee's HDI information. The requested information was provided on 09 April 2021.</p> <p>3.5 The Applicant was not found guilty of any contravention by the CCC. Further, the Applicant has paid the licence fees due and payable at the date of the applications. Furthermore, the Transferee has 36.18% ownership interest held by HDIs.</p> <p>Recommendation to Council</p> <p>3.6 It was recommended that Council approves the application for the transfer of control of the I-ECNS licence for the following reasons:</p> <p>3.6.1 The Applicant has not been found guilty of any contravention by the CCC;</p>	
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	<p>3.6.2 The Applicant has paid the licence fees due and payable at the date of the applications; and</p> <p>3.6.3 The Transferee has 36.18% ownership interest held by HDIs.</p> <p>3.7 It is further recommended that Council approves the vetted Reasons Document.</p>	
<b>4</b>	<p><b>Request of Extension of Commencement of Operations by Kwese Free TV.</b></p> <p>The purpose of the submission was to request Council to approve the request from Kwesé Free TV (Pty) Ltd ("Licensee"), to extend the commencement of its broadcast operations by 24 months.</p> <p>4.1 On 11 September 2019, the Authority issued the Licensee with a Commercial Free-To-Air Television Broadcasting Service Licence.</p> <p>4.2 In terms of regulation 5 of the Regulations on Amended Standard Terms and Conditions for Individual Broadcasting Services, the Licensee is required to commence its operations on or before 10 September 2021.</p> <p>4.3 The Compliance division received a request from the Licensee to extend its commencement date by 24 months, from 01 October 2021 to 30 September 2023.</p> <p>4.4 The Compliance division considered the submission, and was of the view that the Licensee demonstrated that the delays it was experiencing, were beyond its control. Therefore, this warranted for the granting of its request for extension of commencement of its operations.</p> <p>4.5 The request for condonation was also considered by the Compliance division and approved, as it did not unfairly prejudice any other stakeholders.</p> <p>Recommendations to Council</p>	<p><b>A requested for the Licensee to provide a detailed report, on how the Licensee intends on being on-air on the recommended commencement date</b></p> <p><b>The recommendation was approved.</b></p>

	<p>4.6 It is recommended that Council approve the Licensee's request for extension of commencement of operations for a period of 24 months, starting from 11 September 2021 to 10 September 2023 for the following reasons:</p> <p>4.6.1 The request is in line with the provisions of Regulation 5(1)(b) of the Amended Standard Terms and Conditions Regulations; and</p> <p>4.6.2 The Licensee has demonstrated that the delays it has experienced are beyond its control and shown good cause for the extension of its commencement period.</p>	
<b>5</b>	<p><b>Complaints and Compliance Committee V VUMA FM - Submission</b></p> <p>The purpose of the submission was to table the recommendation of the CCC before Council in the matter between CCA and Vuma FM.</p> <p>5.1 On 9 November 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>5.2 CCA alleged that Vuma FM has contravened provisions of the terms and conditions of its Individual Broadcasting Service Licence, the Universal Service and Access Fund Regulations, 2011 and the General Licence Fees Regulations, 2012.</p> <p>5.3 On 11 May 2021, the CCC received a proposed settlement agreement between the parties. The settlement agreement arose from the approval, by Council to the amendments to Clauses 4 and 5 of Vuma FM's Individual Commercial Sound Broadcasting Service.</p> <p>5.4 At the hearing held on 14 May 2021, the CCC was not persuaded that the proposed settlement agreement dealt with all the issues of non-compliance raised by CCA.</p>	<p><b>The recommendation was approved.</b></p>

	<p>5.5 As a result, the CCC directed the parties to have further settlement discussions with a view to reaching a more comprehensive settlement agreement. The parties were afforded 21 days to file an amended settlement agreement for CCC's consideration.</p> <p>5.6 Pursuant to the CCC's directive on 14 May 2021, the parties filed an amended settlement agreement dated 18 June 2021.</p> <p>Recommendations to Council</p> <p>5.7 The CCC recommends that the following order be issued by Council of ICASA:</p> <p>5.7.1 Direct Vuma FM to desist from any further contravention in terms of section 17E(2)(a) of the ICASA Act; and</p> <p>5.7.2 Order that the settlement agreement, between CCA and Vuma FM, dated 18 June 2021 be made an order of the CCC.</p>	
<b>6</b>	<p><b>Recommendation of the Complaints and Compliance Committee regarding Matatiele Concerned Community and The Voice of Matatiele Community Radio</b></p> <p>The purpose of the submission was to table the recommendation of the Complaints and Compliance Committee ("CCC") in the matter between Matatiele Concerned Community ("Complainant") and The Voice of Matatiele Community Radio ("Respondent").</p> <p>6.1 On 11 December 2020, the complainant lodged a complaint with the CCC against the respondent for the following allegations of contravention:</p> <p>6.1.1 That TVOM has contravened Regulation 9(1)(e) of the Community Broadcasting Services Regulations</p>	<b>The recommendation was approved.</b>

	<p>of 2019 ("the Regulations"). By having political Office Bearers involved or playing a role in the TVOM Board, namely- ANC Office Bearers from Matatiele Local Municipality and Alfred District Nzo Municipality.</p> <p>6.1.2 That TVOM has not held an AGM since its formation and after being granted with the Licence, this was in contravention of clause 6.2 and clause 9 of the Constitution of TVOM.</p> <p>6.1.3 That TVOM has contravened regulation 12(1) of the Regulations, by not getting the Management Contract approved by the Authority.</p> <p>6.1.4 That TVOM has contravened clause 4 of its licence conditions. By not providing any feedback on its operational, and financial performance to the community.</p> <p>6.1.5 That TVOM has contravened clause 5 of its licence conditions on Programming. The Complainant alleged that the licensee was not complying with any part of clause 5.</p> <p>6.2 The hearing of the CCC to hear oral arguments from the parties was held on 20 May 2021.</p> <p>Recommendations to Council</p> <p>6.3 It was recommended that Council considers the following order for approval:</p> <p>6.3.1 The Voice of Matatiele Community Radio should desist from the non-compliance of failing to hold an AGM on an annual basis.</p> <p>6.3.2 Within 14 days after ICASA has published its finding and order, The Voice of Matatiele Community Radio</p>	
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	<p>is ordered to convene an AGM, with a view to electing members of the Board.</p> <p>6.3.3 The Voice of Matatiele Community Radio should desist from the non-compliance of failing to report on its operational and financial performance to the community.</p> <p>6.3.4 The Voice of Matatiele Community Radio should reduce the annual membership fee from R120 to R60.</p>	
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**ISSUED BY: Secretariat Office**  
**on behalf of Council**