



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

COUNCIL DECISIONS– 28 JANUARY 2022

NO.	AGENDA ITEM	DECISION
1.	<p>Application for the transfer of control of Radio Frequency Spectrum Licences from Telemedia (Pty) Ltd's current shareholders to Telemedia (Pty) Ltd's proposed new shareholders</p> <p>1.1. The purpose of this submission was to request Council that approve the transfer of control of Radio Frequency Spectrum Licences from Telemedia (Pty) Ltd's current shareholders ("the Applicant") to Telemedia (Pty) Ltd's proposed new shareholders ("the Transferee").</p> <p>1.2. On 17 September 2021, the Independent Communications Authority of South Africa ("the Authority") received an application from the Applicant to transfer the control of its Radio Frequency Spectrum licences to the Transferee.</p> <p>1.3. Prior to the application of 17 September 2021, the Independent Communications Authority of South Africa ("the Authority") received an application on 04 December 2020 from the Applicant to transfer the control of its I-ECNS licence to the Transferee.</p> <p>1.4. On 31 August 2021, Council approved the application received from the Applicant for the transfer of the control of its I-ECNS licence.</p>	<p>The recommendation was approved by Council.</p>



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	<p><u>Recommendation to Council</u></p> <p>1.5. It was recommended that Council approves the application for the transfer of control of the Radio Frequency Spectrum licences for the following reasons:</p> <p>8.5.1 The Applicant has not been found guilty of any contravention by the CCC;</p> <p>8.5.2 The Applicant has paid the licence fees due and payable at the date of the applications; and</p> <p>8.5.3 The Transferee has 36.18% ownership interest held by HDIs.</p>	
2.	<p>Change and update of ICASA licensee information - Crazyweb Tech CC</p> <p>2.1. The purpose of the submission was to advise Council of a notice from Crazyweb Tech CC, requesting the Authority to effect changes to its licence information and to recommend that Council approve the submission accordingly.</p> <p>2.2. On 29 May 2009, the Authority granted and issued the Licensee an Individual Electronic Communications Network Service (I-ECNS) and an Individual Electronic Communications Service (I-ECS) Licence with licence numbers 0392/IECNS/MAY/09 and 0392/IECS/MAY/09, respectively.</p> <p>2.3. On 08 January 2021, the Authority received a notice from the Licensee advising the Authority of changes with</p>	<p>The recommendation was approved by Council.</p>



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	<p>respect to its licence information and shareholding. The Licensee had submitted a notification to the Authority in 2018 within the prescribed period of seven (7) days of the occurrence of the shareholding changes.</p> <p>2.4. Though the matter was considered by EXCO, questions were raised in relation to:</p> <p>2.4.1 the resulting percentage of Historically Disadvantaged Groups;</p> <p>2.4.2 the reason for the sale of the shares.</p> <p>2.5. The Licensee did not submit the requested information despite several follow ups by the Compliance Unit.</p> <p>2.6. The said information has now finally been received with the new submission, with further clarity being received in September 2021. The clarification provided is to the effect that changes were done to make way for an HDG shareholding. (i.e., that the licensee intended to make HDG part of the new shareholding).</p> <p>2.7. Both notifications are being dealt with simultaneously.</p> <p>2.8. The second notification (of January 2021) was accompanied by a request for condonation of the late submission, wherein the licensee cited an oversight on their part.</p> <p>2.9. The Licensee lodged both notices to change its contact details, addresses and shareholding, through Form 'O' of</p>	



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	<p>Regulation 14 (A) of the Regulations on Processes and Procedures for Individual Licences, 2010, as published in Government Gazette No. 33293, dated 14 June 2010, and as amended by Government Gazette No 39875, dated 30 March 2016.</p> <p>2.10. In the analysis and assessment to ascertain whether there is a change of control in any licence, Compliance refers to the legislative and regulatory instruments as set out below:</p> <p>2.10.1 The legal documents of Crazyweb Tech CC that were submitted in the matter, in this case: the shareholders' agreement, and an affidavit by the Licensee clarifying the issue of control, as stated below;</p> <p>2.10.2 The shareholder's agreement generally provides (clause 5.2 and 9.8) that for any transaction or binding changes to take place, a special resolution is mandatory (which covers all decisions taken on the day-to-day running of the business for certain decisions/transactions to be binding);</p> <p>2.10.3 The affidavit by Crazyweb Tech CC specifically clarifies the fact that though Ms Magasa holds 40% of the shareholding, "any special resolution will need 100% (one hundred percent) of the entire issued share capital of the company." Therefore, Ms Magasa is no position to act alone in taking any binding decision without or to the exclusion of one or both the</p>	



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	<p>other two shareholders (holding 30% each, i.e., a combined 60% shareholding, in Crazyweb Tech CC);</p> <p>2.10.4 Therefore, flowing from the Legal Opinion by Adv Hamilton Maenetje SC, the meticulous analysis and assessment of the aspect of control per the legal instruments of Crazyweb Tech CC, Compliance Unit is satisfied that there is no change of control with respect to both notices because the majority shareholders remain the same prior to and post the shareholding changes.</p> <p>2.11. In terms of shareholding in Crazyweb, the is 40% ownership held by historically disadvantaged groups (HDGs) with respect to the second notification.</p> <p><u>Recommendation to Council</u></p> <p>2.12. It was recommended that Council approves the notification and update of Crazyweb Tech CC's licences.</p>	
3.	<p>Virtual public hearings on the Discussion Document on the review of the 2014 Call Termination Regulations</p> <p>3.1 The purpose of this submission was for Council to note that the Call Termination Review Council Committee ("the Committee") will be conducting virtual public hearings on the Discussion Document published in Government Gazette No 45426.</p>	<p>The recommendation was noted by Council.</p>



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	<p>3.2 On 28 May 2021, the Authority undertook a review of the pro-competitive conditions imposed on licensees as required in terms of section 67(8) of the Electronic Communications Act, 2005 (Act No 36 of 2005) ("ECA") and Regulation 8 of the Call Termination Regulations, 2014 (as amended) ("the Regulations").</p> <p>3.3 On 11 June 2021, the Authority held a virtual stakeholder workshop, to discuss questions of clarity on the process its associated questionnaire.</p> <p>3.4 The Authority subsequently received written submissions on questions of clarity from Vodacom, Cell C, MTN, Telkom and Switchtel, before the closing date of 21 June 2021, as stipulated in the Notice.</p> <p>3.5 On 28 June 2021, the Authority published a briefing note to respond to stakeholders' questions of clarity.</p> <p>3.6 The Authority received responses to the questionnaire from Vodacom, MTN, Cell C, Telkom, FirstNet, Switchtel and ECN, before the submission deadline of 31 August 2021.</p> <p>3.7 The Council Committee considered the responses from the abovementioned licensees in drafting a Discussion Document, which outlines the Authority's preliminary view with regards to the review of the 2014 pro-competitive remedies.</p> <p>3.8 On 5 November 2021, the Authority published the Discussion Document in Government Gazette No 45426, inviting</p>	



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	<p>interested persons to submit written representations on the Discussion Document.</p> <p>3.9 The Authority rejected requests for extension of the submission deadline, which were received from Vodacom, Telkom and SACF. The reason for this rejection was that an ample period of 45 working days had been afforded for submissions, as prescribed in section 4B of the ICASA Act.</p> <p>3.10 The Authority subsequently received written submissions on the Discussion Document from Vodacom, Cell C, MTN, Telkom, Mr Ewan Sutherland (in his personal capacity), ISPA and Switchtel, on or before the closing date of 11 January 2022. No late submissions were received.</p> <p>3.11 On 18 January 2022, the Committee resolved to conduct virtual public hearings on the Discussion Document on 07 February 2022.</p> <p><u>Recommendation to Council</u></p> <p>3.12 The Committee recommends that Council notes that the Committee will be holding virtual public hearings on the Discussion Document on 07 February 2022.</p>	

**ISSUED BY: Secretariat Office
on behalf of Council**