



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

**COUNCIL DECISIONS– 28 MARCH 2022**

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
1.	<p><b>Notices regarding increase of administrative fees relating to Type Approval and Service Licence applications, annual spectrum licence fees relating to Radio Frequency Spectrum licences and Unreserved Postal Services</b></p> <p>1.1. The purpose of this submission was to recommend that Council approves the draft notices regarding the increase of administrative fees relating to Type Approval and Service Licence Applications, Annual Spectrum Licence Fees relating to Radio Frequency Spectrum Licences, as well as Unreserved Postal Services (“UPS”), for publication in the Government Gazette.</p> <p>1.2. Regulation 10(3) of the Type Approval Regulations (“the TA Regulations”), as published in the Government Gazette No 36785 of 2013, provides that the Type Approval fees stated in Schedule 1 of the TA regulations will be adjusted by a maximum of the Consumer Price index (CPI) as published by Statistics South Africa.</p> <p>1.3. In terms of regulation 9A of the Radio Frequency Spectrum Licence Fee Amendment</p>	<p><b>THE RECOMMENDATION WAS APPROVED</b></p>



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

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>Regulations, 2015, as published in the Government Gazette No 38642 of 2015, the Authority will, on an annual basis, implement an automatic increase in radio spectrum fees by the weighted average CPI of the previous calendar year.</p> <p>1.4. Radio Frequency Spectrum Fees Regulations relate only to the annual spectrum fees increases, and not to spectrum application, permit, examination and certificate fees.</p> <p>1.5. The adjusted Type Approval and Service licence administrative fees, and Radio Frequency Spectrum annual licence fees must be published annually in the Government Gazette.</p> <p>1.6. In terms of Regulation 10 (1) of the UPS Regulations, as published on 27 March 2020, in Government Gazette No 4341, Notice 381, of 2020, the Authority is required to implement an automatic annual increase in the registration, renewal and annual fee. The percentage increase is determined by the Consumer Price Index (CPI).</p> <p>1.7. Regulation 10 (3) requires the Authority to publish, on an annual basis, inflation-adjusted fees on the Authority's website and/or in the Government Gazette.</p>	



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ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>1.8. Effective from the 1st of April 2022, all administrative fees associated with type approval, service licences, all annual licence fees associated with radio frequency spectrum licence and all registration, renewal, and annual fees relating to UPS should be increased by 4.5 %, based on the average CPI. The annexures show the revised fees.</p> <p><u>Recommendation to Council</u></p> <p>1.9. It was recommended that Council approves the draft notices regarding the increase in the administrative fees relating to type approval fees, service licence fees and radio frequency spectrum annual licence fees and all registration, renewal, and annual fees relating to UPS, for publication in the Government Gazette.</p> <p><b>The submission was approved by Council.</b></p>	
2.	<p><b>Report on the analysis of tariff notifications submitted to ICASA for the period 01 July 2021 to 21 December 2021</b></p> <p>2.1. The purpose of the submission was to request Council to approve the report on the analysis of tariff notifications submitted to ICASA for the period 01 July 2021 to 31 December 2021, which will be published on the Authority's website.</p>	<p><b>THE RECOMMENDATION WAS APPROVED</b></p>



**Independent Communications Authority of South Africa**  
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**Centurion**

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>2.2. In terms of the Standard Terms and Conditions for Individual Licences Regulations of 2010 and the End-user and Subscriber Service Charter Regulations of 2016, as amended, Individual Licensees are required to file notifications of tariffs and promotional tariffs with the Authority, seven (7) days prior to launching them in the market.</p> <p>2.3. The analysis contained in this report is based on the prepaid tariffs that were filed in accordance with the Regulations and with Regulation 4 of the ICT COVID-19 National Disaster Regulations, 2020, and of the ICT COVID-19 National State of Disaster Regulations, 2021, during the period of 01 July 2021 to 31 December 2021.</p> <p>2.4. Following the 2021/22 FY second quarter (Q2) Tariff Analysis Report published on ICASA's website on 01 October 2021, the purpose of this report is to provide an update on tariffs that were filed by the different Individual Licensees during the period of 01 July 2021 to 31 December 2021.</p> <p>2.5. The report presents an analysis of the 270 tariff notifications received from individual licensees during the period under review. It entails the following:</p> <p style="padding-left: 40px;">2.5.1 an analysis of the six types of prepaid tariff plans that were on offer in the market in the period under review, namely the standard prepaid data tariffs, promotional prepaid data tariffs, standard prepaid voice tariffs,</p>	



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**Centurion**

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>promotional prepaid voice tariffs, standard prepaid integrated bundles, and prepaid promotional integrated bundles;</p> <p>2.5.2 brief analysis of month-to-month (MtM) LTE and Wi-Fi tariff plans, month-to-month (MtM) LTE and Wi-Fi tariff plans, a comparative analysis of fibre products; and</p> <p>2.5.3 a discussion of regulatory interventions under way to address the cost of data and reduction in the cost to communicate.</p> <p>2.6. The Authority made the following observations in relation to this report:</p> <p>2.6.1 In the mobile data services market, salient changes in the period under review were the price reductions in the amendment notifications filed by licensees. All four major Mobile Network Operators (“MNOs”) reduced the prices of their respective 30-day standard prepaid data bundles.</p> <p>2.6.2 In the voice services market, Cell C filed amendments to the flat-rate tariffs of the MegaBonus and UltraBonus tariff plans. The flat-rate of the MegaBonus tariff plan was increased by 45.3% from R 1.72 to R 2.50 per minute, while the UltraBonus flat-rate was increased by 25% from R 2 to R 2.50 per minute.</p>	



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ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>2.6.3 The Authority also received a number of notifications regarding the introduction and/or amendment of voice bundles from the MNOs.</p> <p>2.6.4 The Authority also observed an increase in the provision of LTE and wireless Internet services, the introduction of 5G products and wireless fibre Internet.</p> <p>2.6.5 The Authority also received a total of 79 notifications regarding fibre services (up from 50 in the preceding reporting period) from various Fibre Network Operators (FNOs) in the period under review, and conducted a brief comparative analysis of fibre packages for current prices and average prices of four different fibre line speeds offered by fibre service providers on various fibre networks.</p> <p>2.7. The National State of Disaster is still in place and, as such, the ICT COVID-19 National Disaster Regulations, 2020, which prescribe minimum standards which licensees must follow during this period, were in force until 10 November 2021.</p> <p>2.8. The 2020 Regulations were repealed by the ICT COVID-19 National State of Disaster Regulations, 2021, published on 11 November 2021. The current Regulations did not extend the validity of the temporary radio frequency spectrum licences issued in April 2020, and</p>	



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ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>these licences were terminated on 30 November 2021.</p> <p>2.9. As such, licensees were required to apply for the assignment of provisional radio frequency spectrum licence, and to pay pro-rated radio frequency spectrum licence fees for the period commencing on 01 December 2021 to 30 June 2022.</p> <p><u>Recommendation to Council:</u></p> <p>2.10. It was recommended that Council approves the report on the analysis of tariff notifications which were submitted to ICASA for the period 01 July 2021 to 31 December 2021, which will be published on the Authority's website.</p> <p>2.11. Council suggested that the graphics and tables on the report be 'repackaged' for better clarity to the consumer.</p> <p>2.12. Council expressed concerns regarding the broader quality of service.</p> <p>2.13. Council thanked the Division for the information in the report. Council requested that the document be published in two parts: the Executive Summary and the full Report. Council expressed that the Executive Summary is hard to follow, and that it should be edited to be more reader friendly.</p>	



**Independent Communications Authority of South Africa**  
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<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>2.14. Management informed Council that it notes the issues raised by Council. Management informed Council that the request for the Executive summary was noted, and that it would further be implemented.</p> <p><b>The recommendation was approved.</b></p>	
<p><b>3.</b></p>	<p><b>The state of the ICT sector in South Africa 31st March 2022</b></p> <p>3.1. The purpose of this submission was to request Council to approve the report on the State of the Information and Communication Technology (ICT) Sector in South Africa for publication on the Authority's website.</p> <p>3.2. The Authority continues to recognise that the access to a comprehensive and timely set of ICT indicators is vital for a proper regulation of the sectors for which it is responsible, namely: the telecommunications, broadcasting, and postal sectors.</p> <p>3.3. The intention is to use these indicators to benchmark values, inform sector policy analysis and ensure compatibility with global benchmarking and data compiled by other regulators. The data used to compile this report was collected over a 12-month period ending 30 September 2021.</p>	<p><b>THE RECOMMENDATION WAS APPROVED</b></p>





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ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>3.4. The data was collected from secondary sources (such as Statistics South Africa (“Stats SA”) and OOKLA) as well as through a detailed questionnaire sent to relevant stakeholders by the Authority. Like the previous report, this report also includes an international comparison of South African Internet speeds for fixed as well as mobile broadband (both download and upload speeds).</p> <p>3.5. The collected data is aggregated to deal with the issues of confidentiality. Responses were received from a total of one hundred and two (102) ECS and ECNS licensees, twenty-eight (28) from television and radio broadcast licensees and seven (7) from postal service licensees.</p> <p>3.6. The report presents the performance and developments in the ICT sector, focusing on the three areas that are regulated by ICASA.</p> <p><u>Recommendation to Council</u></p> <p>3.7. It was recommended that Council notes the report on the State of the ICT sector in South Africa for publication on the Authority’s website.</p> <p><b>The recommendation was approved.</b></p>	



**Independent Communications Authority of South Africa**  
**350 Witch-Hazel Avenue,**  
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ITEM NO.	AGENDA ITEM	COUNCIL DECISION
4.	<p><b>Approval of Discussion Document on the Optimisation of the Frequency Modulation (FM) Sound Broadcasting for publication in the Government Gazette</b></p> <p>4.1. The purpose of the submission was to request Council to approve the Discussion Document on the Optimisation of the Frequency Modulation (FM) Sound Broadcasting for publication in the Government Gazette.</p> <p>4.2. The primary purpose of the optimisation exercise is to achieve efficient use of the VHF 87.5-108 MHz ("FM") band for analogue sound broadcasting and to allocate new frequencies for assignment to meet the increasing need for additional frequencies in African countries.</p> <p>4.3. Moreover, the project is consistent with the International Telecommunications Union's (ITU's) GE84 plan, which provides a plan modification procedure described in Article 4. The procedure allows a frequency assignment's characteristics to be modified or a new assignment to be entered.</p> <p>4.4. Section 30 (2) of the Electronic Communications Act No 36 of 2005 mandates the Authority to control, plan, administer, manage, license and assign the use of radio</p>	<p><b>THE RECOMMENDATION WAS APPROVED</b></p>



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

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>frequency spectrum. In executing the aforementioned mandate, the Authority must ensure compliance with applicable standards and requirements of the ITU's Radio Regulations, and South Africa's National Radio Frequency Plan.</p> <p>4.5. The Committee, as part of the project, submitted thirty-two (32) iterations in total, including South African assignments, into the plan.</p> <p>4.6. Iterations 0, 1, and 2 were submitted during the 1st frequency coordination meeting held from 15 to 19 February 2021. Iterations 13, 14, and 15 were submitted during the 2nd frequency coordination meeting. Iterations 30, 31, and 32 were submitted during the 3rd and final frequency coordination meeting. All other iterations were submitted on a bi-weekly basis.</p> <p>4.7. While identifying new frequencies for FM broadcasting, the Committee took the opportunity to add existing frequency assignments on Annexure A of the Terrestrial Broadcasting Frequency Plan ("TBFP"), which were not on the GE84 plan. To date, South Africa has identified 29 new frequency assignments and added 809 existing frequency assignments to the iteration files of the GE84 plan for consideration by the ITU.</p>	



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

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>4.8. All the frequency assignments were coordinated with our neighbouring countries as part of the project. The new frequency assignments identified must be categorised for Public Broadcasting Services, Commercial Broadcasting Services, and Community Broadcasting Services, thus the need to consult.</p> <p>4.9. During the project, the Authority took the opportunity to identify all frequency assignments that need to be suppressed and withdrawn from the GE84 plan and removed from the TBFP as indicated in Table 3 below. This is because these frequency assignments will cause harmful interference to existing licensed assignments.</p> <p>4.10. Moreover, the committee also identified assignments that needed to be modified. The modification required for these assignments includes changes to site name and location.</p> <p><b>The recommendation was approved.</b></p>	
<b>5.</b>	<p><b>Submission of documents on the review of the 1999 IBA regulations for approval and publication</b></p> <p>5.1. The purpose of this submission was to request Council to approve the following documents for publication in the Government Gazette:</p>	<b>THE RECOMMENDATION WAS APPROVED</b>



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

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>5.1.1 The Findings Document on the Review of the Independent Broadcasting Authority (IBA) Advertising, Infomercials and Programme Sponsorship Regulations, 1999;</p> <p>5.1.2 Draft Regulations regarding Advertising, Infomercials and Programme Sponsorships 2022;</p> <p>5.1.3 The Explanatory Memorandum; and</p> <p>5.1.4 Notice in terms of section 4C (6) of the ICASA Act.</p> <p>5.2. The Committee on the Review of the Advertising, Infomercials and Programme Sponsorship Regulations 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> <p>5.3. 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>5.4. The Authority received seven (7) written submissions from stakeholders, namely: eMedia Investments, MultiChoice, Media Monitoring Africa, the National Association of Broadcasters, Outsurance, the South African Broadcasting Corporation and the South</p>	



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

ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>African Screen Federation. Four (4) stakeholders indicated that they were interested in making oral presentations at public hearings. The public hearings were held on 14 and 26 July 2021.</p> <p>5.5. The Committee has finalised a Findings Document, Draft Regulations, an Explanatory memo and a Notice in terms of section 4C (6) of the ICASA Act, for publication. The Draft Regulations will be published to solicit inputs from stakeholders.</p> <p><u>Recommendation to Council</u></p> <p>5.6. It was recommended that Council approve the following documents for publication in the Government Gazette:</p> <p>5.6.1 The Findings Document on the Review of the Independent Broadcasting Authority (IBA) Advertising, Infomercials and Programme Sponsorship Regulations, 1999;</p> <p>5.6.2 The Explanatory Memorandum;</p> <p>5.6.3 Draft Regulations regarding Advertising, Infomercials and Programme Sponsorships, 2022; and</p> <p>5.6.4 Notice in terms of section 4C (6) of the ICASA Act.</p> <p><b>The recommendation was approved.</b></p>	



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<p><b>6.</b></p>	<p><b>Recommendation By Complaints and Compliance Committee to Council in the matter between Primedia (Pty) Ltd and Magic 828 And LM Radio Stations</b></p> <p>6.1. The purpose of this submission was to table the recommendation of the Complaints and Compliance Committee (“CCC”) in the matter between Primedia (Pty) Ltd (the “Complainant”) and Magic 828 and LM Radio Stations (the “Respondents”).</p> <p>6.2. On 13 May 2021, the Complainant lodged a complaint with the CCC against the Respondents for the following allegations of contravention, viz that:</p> <p>6.2.1 The Respondents failed to comply with Regulation 9(4) of the Standard Terms and Conditions for Individual Licence Regulations contained in Notice 525 published in Government Gazette No 33294, dated 14 June 2010, as amended, in terms of section 4.3(j) of the ICASA Act, 2000 (“the ICASA Act”), read with section 8(3) of the ECA. The section provides as follows: “Programme syndication must not exceed 20% of a licensee’s programme.”</p> <p>6.2.2 This restriction was varied by the ICT COVID-19 National Disaster Regulations in Notice 238 published in Government Gazette 43207 dated 6 April 2020 (“the ICT Covid Regulations”). Regulation 4(9) thereof reads: “Notwithstanding the provisions of the Regulations any licence issued,</p>	<p><b>THE RECOMMENDATION WAS APPROVED</b></p>
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**Independent Communications Authority of South Africa**  
**350 Witch-Hazel Avenue,**  
**Eco-Point Office Park**  
**Centurion**

	<p>the following minimum standards shall apply during the subsistence of the National State of Disaster - (9) Programme syndication must not exceed 45% per week of a broadcasting service licensee's programming."</p> <p>6.2.3 The Complainant alleged that the Respondents exceeded the prescribed limit of 45% by far. In support of the allegation, Primedia attached an affidavit by Mr Alan Matthews, Group Broadcasting Manager at Primedia. The allegation was that, for a period from 05 - 11 April 2021, Magic 828 and LM Radio syndicated 92 hours of programming out of the weekly broadcast period of 98 hours, thereby syndicating 93.87% of their programming during the programme period.</p> <p>6.3. The hearing of the CCC to hear oral arguments from the parties was held on 05 November 2021.</p> <p>6.4. From the totality of the evidence, the CCC has come to the following conclusion: The complaint that the Respondents have failed to comply with section 4(9) of the ICT COVID-19 Regulations in that LM Radio and Magic 828 are syndicating their programmes to one another, at a percentage that is more than 45% is upheld.</p> <p><u>Recommendation to Council</u></p>	
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**Independent Communications Authority of South Africa**  
**350 Witch-Hazel Avenue,**  
**Eco-Point Office Park**  
**Centurion**

<b>ITEM NO.</b>	<b>AGENDA ITEM</b>	<b>COUNCIL DECISION</b>
	<p>6.5. In view of the finding above, the CCC recommends the following order to the Authority:</p> <p>(a) direct the Licensees, LM Radio and Magic 828, to desist from any further contravention of the ICT Covid-19 Regulations as read with the Standard Terms Regulations, in terms of section 17E (2)(a) of the ICASA Act; and</p> <p>(b) direct the Licensees to pay a fine of R30, 000 each, of which R15, 000 is suspended for three years, within 30 days after ICASA has published its decision.</p> <p><b>The recommendation was approved.</b></p>	
<b>7.</b>	<p><b>Reference Geolocation Spectrum Database Migration</b></p> <p>The Project Manager presented the submission.</p> <p>7.1. The purpose of this submission is to request Council to:</p> <p>7.1.1 Approve the report on the migration of the Reference Geo-location Spectrum Database (R-GLSD) from Council for Scientific and Industrial Research (CSIR) to ICASA.</p>	<b>Cllr Kedama / Project Manager</b>



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

ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>7.1.2 Approve that the R-GLSD is now hosted and managed by ICASA as of 01 April 2022 henceforth, as a regulatory mechanism in order to implement Regulation 16 of the Regulations on the Use of Television White Spaces, 2018.</p> <p>7.2. On 23 March 2018, the Authority prescribed the “Regulations on the Use of Television White Spaces”, through promulgation in Government Gazette No 41512 (Notice 147 of 2018) (“the Regulations”).</p> <p>7.3. The Regulations are an enabling mechanism that facilitates the deployment of television white space (TVWS) network technologies based on dynamic spectrum access (DSA), for providing broadband services.</p> <p>7.4. The APP target for the 2021/2022 financial year was to migrate the R-GLSD system onto the Authority’s platform. The R-GLSD migration process has followed a sequential approach, whereby each phase outlined in the plan was completed before moving to the next phase.</p> <p>7.5. Phase 0 was capacity building on the R-GLSD system and the migration process. ICASA personnel attended the live sessions facilitated by the CSIR representatives.</p>	



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

ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>7.6. Phases 1 to 4 were server acquisition, setup and application installation. The ICASA team prepared a virtual machine on their existing hosting environment. The team requested to downsize the recommended server specifications due to the delayed procurement process for new servers.</p> <p>7.7. Phase 5 was the operational testing, and it was performed in two parts - addressing technical and functional testing.</p> <p>7.8. Phases 6 to 9 were the performance testing, transfer of historic data and switchover. Performance tests were done to determine whether the R-GLSD hosted within ICASA data centre met the requirements.</p> <p>7.9. Transfer of a database dump for all transactions on R-GLSD since the system commissioning (19 March 2019), and switchover to the Authority's hosted system was completed during the scheduled slot on Monday 21st March 2022, between 10:00 and 12:00.</p> <p><u>Recommendation to Council:</u></p> <p>7.10. It was recommended that Council approve the report on the migration of the Reference Geo-Location Spectrum Database (R-GLSD) from the Council for Scientific and Industrial Research (CSIR) to Independent</p>	



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

ITEM NO.	AGENDA ITEM	COUNCIL DECISION
	<p>Communication Authority of South Africa (ICASA).</p> <p>7.11. It was further recommended that Council approve that the R-GLSD is now hosted and managed by ICASA as of 01 April 2022 henceforth, as a regulatory mechanism in order to implement Regulation 16 of the Regulations on the Use of Television White Spaces, and of the Responsibilities of Geo-Location Spectrum Database Operators Reference GLSD.</p> <p><b>The recommendation was approved.</b></p>	