

**APPLICATIONS FOR THE AMENDMENT OF THE INDIVIDUAL COMMERCIAL
SOUND BROADCASTING SERVICE AND RADIO FREQUENCY SPECTRUM
LICENCES BY PRIMEDIA (PTY) LTD TRADING AS 94.5 KFM IN TERMS OF
SECTIONS 10(1)(c) AND 31(4)(b) AND (d) OF THE ELECTRONIC
COMMUNICATIONS ACT NO. 36 OF 2005**

REASONS FOR DECISION

AUGUST 2026

1. INTRODUCTION

This document sets out the reasons for the decision of the Independent Communications Authority of South Africa ("the Authority") in relation to the application for the amendment of the Individual Commercial Sound Broadcasting Service ("I-CSBS") and Radio Frequency Spectrum ("RFS") licences by Primedia (Pty) Ltd t/a 94.5 KFM ("the Applicant").

2. BACKGROUND

- 2.1. The Applicant holds an I-CSBS and RFS licences to provide commercial sound broadcasting services in the Primary Market of the Western Cape Province. The Applicant's I-CSBS and RFS licences were renewed on 11 September 2019 and are set to expire on 16 December 2028.
- 2.2. On 19 December 2024, the Authority received applications from the Applicant to amend its I-CSBS and RFS licences. The amendment application of the I-CSBS licence is lodged in terms of section 10(1)(c) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the EC Act"), read with Regulation 9 of the Processes and Procedures Regulations for Individual Licences, 2010¹ as amended ("the Regulations"), and the amendment application for the RFS licence in terms of section 31(4)(b) and (d) of the EC Act, read with Regulation 9(1) of the Radio Frequency Spectrum Regulations of 2015 ("the RFS Regulations of 2015").²
- 2.3. A resolution of authority authorising Ms. Tholoana Ncheke to bring these applications on behalf of the Applicant was duly submitted. The Applicant attached proof of payment of the application fee of Seventy-Eight Thousand Six Hundred and Fifty Rands (R78 650.00).
- 2.4. The Applicant did not request confidentiality in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("the ICASA Act").

¹ Government Gazette No. 39871 published on 30 March 2016.

² Government Gazette No. 38641 published on 30 March 2015.

- 2.5. On 13 February 2025, the Authority published a notice³ in the *government gazette*, inviting interested parties to submit written representations and responses in relation to the application within twenty-eight (28) working days from the date of publication of the notice.
- 2.6. The Authority received no written representations by the closing date of 25 March 2025.
- 2.7. On 26 August 2025, the Authority resolved to hold public hearings in respect to the Applicant's applications and further requested the Applicant to submit written representations in terms of section 3(2)(b)(ii) of the Promotion of Administrative Justice Act, 2000 (Act No. 03 of 2000) ("PAJA").
- 2.8. On 29 January 2026, the Applicant submitted its written representations.
- 2.9. On 19 February 2026, a public hearing was held virtually. Pursuant to the hearing, the Applicant was afforded seven (7) working days to respond to the Authority's questions of clarification.
- 2.10. On 06 March 2026, the Applicant submitted its written response to the Authority's written questions.
- 2.11. On 18 August 2026, the Authority approved the Applicant's amendment to its RFS licence to add three (3) additional gap fillers in its existing coverage area in the Primary Market of the Western Cape but disapproved the Applicant's one (1) additional gap filler. The Authority further disapproved of the Applicant's amendment of its I-CSBS and RFS licences to the extent that they relate to the Secondary Market of the Northern Cape Province.

3. PARTICULARS OF THE APPLICANT

- 3.1. The full name of the Applicant is Primedia (Pty) Ltd t/a 94.5 KFM. The Applicant's principal place of business is 12 Fredman, Sundown, Sandton, 2196.

³ Government Gazette No. 52110 published on 13 February 2025.

4. APPLICABLE LEGISLATIVE FRAMEWORK

4.1. The following legislative and regulatory provisions are applicable when dealing with amendment applications:

- (a) Section 5(2)(b) of the EC Act;
- (b) Section 10(1)(c) of the EC Act;
- (c) Section 31(4)(b) and (d) of the EC Act;
- (d) Section 31(2)(a) and (b) of the EC Act;
- (e) Section 30(3) of the EC Act;
- (f) Section 10(2) read with 9 (2) to (6) of the EC Act;
- (g) The ICASA Act;
- (h) The Broadcasting Act No. 4 of 1999, as amended ("Broadcasting Act");
- (i) The Promotion of Administrative Justice Act No. 03 of 2000 ("PAJA");
- (j) Regulation 9 (Form C) of the Authority's Processes and Procedures Regulations for Individual Licences, 2010⁴, as amended ("the Regulations");
- (k) Regulations 9(1) of the Radio Frequency Spectrum Regulations of 2015 ("RFS Regulations of 2015")⁵;
- (l) The Authority's Position Paper published on 13 January 2004, called the "Review of Ownership and Control of Broadcasting Services and Existing Commercial Sound Broadcasting Licences" ("The Authority's Position Paper");
- (m) Terrestrial Broadcasting Frequency Plan of 2013, published under Government Gazette No. 36321 of 2 April 2013; and
- (n) Schedule 1 (Administrative Fees) of the General Licence Fees Regulations, 2012 as published in Government Gazette No. 36323 of 28 March 2013 ("Fees Regulations")⁶.

⁴ Government Gazette No. 33293 published on 14 June 2010.

⁵ Government Gazette No. 38641 published on 30 March 2015.

⁶ Includes notices published by the Authority pursuant to the provisions of the Regulations.

5. DISCUSSION AND ANALYSIS

5.1 Prescribed Format

5.1.1. The prescribed format for the amendment of the I-CSBS and RFS licences is contained in Regulation 9 (Form C) of the Regulations and Regulation 9(1) of the RFS Regulations of 2015, respectively. Regulation 9 of the Regulations states that: *"An application to amend a licence must be:*

- (a) in the format set out in Form C; and*
- (b) accompanied by the applicable fee."*

5.1.2. Regulation 9(1) of the RFS Regulations of 2015 states that: *"In terms of Form A of Annexure A, an RFS amendment application must include the following:*

- (a) A copy of the radio frequency spectrum licence and information regarding conditions imposed on the licence;*
- (b) The proposed dates after which the proposed amendment shall become valid;*
- (c) Details of all proposed amendments and the reasons for the proposed amendments;*
- (d) Proof of payment of the prescribed application fee; and*
- (e) Any other information the Authority may require."*

5.1.3. The Authority is satisfied that the amendment applications were submitted in terms of Regulation 9 (Form C) of the Regulations and Regulation 9(1) (Form A of Annexure A) of the RFS Regulations of 2015, respectively. The Applicant made the required payment of Seventy-Eight Thousand and Six Hundred and Fifty Rand (R 78,650) to amend both the I-CSBS and RFS licences and has accordingly provided the Authority with proof of payment.

5.2. Application of section 9(2) to (6) of the EC Act

5.2.1. The Authority followed the process outlined in sections 9(2)(a), (d), (e), (4)(a), (5), and (6) of the EC Act in the following manner:

5.2.1.1. Section 9(2)(a) of the EC Act provides that:

"The Authority must give notice of the application in the Gazette and –

(a) invite interested persons to apply and submit written representations in relation to the applications for individual licences within a period mentioned in the notice."

5.2.1.2. On 13 February 2025, the Authority published a notice⁷ in the *government gazette*, inviting interested parties to submit written representations and responses in relation to the application within twenty-eight (28) working days from the date of publication of the notice.

5.2.1.3. Section 9(2)(d) of the EC Act provides that the Authority must:

"give interested persons an opportunity to submit written responses to any representations submitted in terms of paragraph (a)."

5.2.1.4. The Authority received no written representations and responses by the closing date of 25 March 2025.

5.2.1.5. Section 9(2)(e) of the EC Act provides that the Authority *"may conduct a public hearing in relation to any application for an individual licence."*

5.2.1.6. As mentioned in paragraph 2.9 above, the Authority held a virtual public hearing on 19 February 2026.

5.2.1.7. In terms of section 9(3) of the EC Act, *"The Authority may require an applicant or an interested party who has submitted written representations in terms of subsection (2)(a) to furnish the Authority, within the period specified by the Authority, with such further information as may be reasonably necessary in order to consider the application."*

⁷ Government Gazette No. 52110 published on 13 February 2025.

5.2.1.8. In terms of section 9(4) of the EC Act,

"(a) Applications, representations, responses and other documents relating to an application which are submitted to the Authority are, subject to this subsection, open to public inspection during the normal office hours of the Authority.

(b) The Authority must, at the request of any person and on payment of such fee as may be prescribed, furnish him or her with copies of documents requested by such person.

(c)(i) The Authority may, at the request of an applicant or person who has submitted representations or responses, decide that—

(aa) any document or information that is commercially sensitive; or

(bb) any other matter reasonably justifying confidentiality, is not open to public inspection, if such document or information can be separated from the application, representations or other documents in question.

(ii) For the purposes of this subsection, commercially sensitive document, information or other matter reasonably justifying confidentiality, excludes documents or information that should, as a matter of law be generally available to the public.

(d) If the Authority refuses a request referred to in paragraph (c)(i), the applicant or person concerned may withdraw the document or information in question."

5.2.1.9. In terms of section 9(5) of the EC Act, the Authority must notify the Applicant of its decision, the reasons for its decision, and any licence conditions applicable after the consideration of the application and any representations received. The Authority notified the Applicant of its decision on 26 August 2026. The reasons for the Authority's decision are contained in this Reasons document.

5.2.1.10. In terms of section 9(6) of the EC Act, whenever the Authority grants an individual licence, the Authority may impose such additional terms and conditions as may be prescribed in terms of section 8 of the EC Act. The Authority did not impose any additional terms and conditions on the licences due to the fact that this application does not relate to the issuance of a new licence.

5.3 Proposed Amendments to the Radio Frequency Spectrum

5.3.1 Section 31(4)(b) and (d) of the EC Act states that: *"The Authority may amend a radio frequency spectrum licence-*

(b) In the interest of orderly radio frequency spectrum management;...

(d) If requested by the licensee concerned to the extent that the request is fair and does not prejudice other licensees."

5.3.2 The following section outlines the applicant's proposed RFS amendments:

Extension of coverage in the Secondary Market in the Northern Cape Province

5.3.3 Clause 3 of the RFS licence reads as follows:

"The greater of the Western and Southern Cape, as set out in the broadcasting service licence and the licensee must comply with the attached technical specification (schedule B2)."

5.3.4 The Applicant seeks approval from the Authority to amend Clause 3 of the RFS licence to read as follows:

"3. Geographic Coverage Area

The greater part of the Northern, Western and Southern Cape, as set out in the broadcasting service licence and the licensee must comply with the attached technical specification (schedule B2)."

5.3.5 Similarly, by amending this clause, the Applicant seeks approval from the Authority to extend its existing coverage from the Primary Market of the Western Cape Province beyond the Southern and Western Cape by adding five (5) transmitters and frequencies in the towns of Kimberley, Colesberg, Kuruman, and Upington in the Secondary Market of the Northern Cape Province as follows:

(a) Colesberg - 97 MHz;

(b) Kimberley - 95.4 MHz;

(c) Kuruman - 98.4 MHz;

- (d) Kuruman Hills – 104.2 MHz; and
- (e) Upington – 93.5 MHz.

Addition of Gap-Fillers: Existing Coverage Area (Western Cape Province)

5.3.6 The Applicant seeks approval from the Authority to add four (4) gap-filler transmitters to extend coverage in the following areas:

- (a) Simonstown – 107.4 MHz;
- (b) Seapoint – 100.7 MHz;
- (c) Plettenberg Bay – 107.5 MHz; and
- (d) Franschoek – 89.8 MHz.

5.4 Proposed Amendment of the I-CSBS licence

The application is lodged in terms of Section 10(1)(c) of the EC Act which provides that:

"(1) The Authority may amend an individual licence after consultation with the licensee-...

(c) To the extent requested by the licensee provided it will not militate against orderly frequency management and will not prejudice the interests of other licensees."

5.4.1 The following section outlines the applicant's proposed I-CSBS amendments:

Coverage Area

5.4.2 Clause 2 of the I-CSBS licence reads as follows:

"Greater part of the Western Cape and Southern Cape, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence."

5.4.3 In line with the proposed amendments in paragraph 5.3.4 read with paragraph 5.3.5, the Applicant seeks approval from the Authority to amend clause 2 to read as follows:

"Greater part of the Northern, Western, and Southern as defined in the coverage map attached to the Licensee's radio frequency spectrum licence."

Local Content Obligations

5.4.4 Clause 5 of the I-CSBS licence reads as follows:

"The Licensee shall ensure at least thirty-five per cent (35%) local content in its music output."

5.4.5 The Applicant seeks to amend Clause 5 to read as follows:

"5.1 The Licensee shall ensure that at least thirty-five percent (35%) local content in its music output.

5.2 The station shall operate a Northern Cape Gig Guide that provides South African music (SA music) artists living, performing and working in the Northern Cape with a free platform to list local concerts and other live music events provided these are not events sponsored by competitor radio operators.

The Gig Guide shall comprise several aspects, namely:

5.2.1 A free web-based platform for SA music artists to provide the station with notifications of upcoming events for inclusion in the Northern Cape Gig Guide.

5.2.2 A dedicated email list serve that is, subject to the requirements of the Protection of Personal Information Act, to be operated by the station and which is to send out monthly reminders to make use of the web-based platform to ensure the inclusion of live events in the Gig Guide, which notification is to be sent to a database to be developed by the station of, inter alia:

- Local artists*
- Local Record Companies*

- SAMRO
- SAMPRA

5.2.3 A 45-second live-read promotion of upcoming South African music events taking place within the Northern Cape to be broadcast twice daily during the performance period from Thursdays to Sundays.

5.2.4 A 90-second live-read of the Northern Cape Gig Guide to be broadcast on a regular slot and during the performance period on the weekend.

5.5 The Northern Cape Gig Guide will be hosted and updated on the station's website/App to publicise upcoming live SA music events taking place in the Northern Cape."

Community-Related Obligations

5.4.6 Furthermore, the Applicant seeks to amend Clauses 8.1 and 8.1.2 of its I-CSBS licence as follows:

5.4.7 Clause 8.1 of its I-CSBS licence reads as follows:

"The Licensee shall offer community sound broadcasters the following training:"

5.4.8 Clause 8.1.2 of its I-CSBS licence reads as follows:

"in house training by way of internships to cover sales marketing, traffic news, and broadcasting production and presentation."

5.4.9 The Applicant seeks to amend Clause 8.1 to read as follows:

"The Licensee shall offer community sound broadcasters, including from the Northern Cape, the following training:"

5.4.10 Further, the Applicant seeks to amend Clause 8.1.2 to read as follows:

"in house training by way of internships (including interns from the Northern Cape) to cover sales marketing, traffic news, and broadcasting production and presentation."

5.4.11 The Applicant seeks further to insert a new Clause 8.1.3 after Clause 8.1.2 of its I-CSBS licence to read as follows:

"To support the economic development of the Northern Cape, the Licensee undertakes to provide airtime worth R250 000.00 (two hundred and fifty thousand Rands) annually to Northern Cape tourism initiatives."

5.5 Proposed Administrative Action in terms of PAJA

5.5.1 On 15 December 2025, the Authority took a preliminary decision that the Applicant's amendment applications for I-CSBS and RFS licences did not satisfy the provisions of the EC Act and the Authority's Position Paper and regulations 7 and 9 of the RFS Regulations of 2015.

5.5.2 The Authority's preliminary reasons were as follows:

5.5.2.1 The Authority categorised broadcasting markets into Primary and Secondary markets in its Position Paper. The Position Paper refers to "Primary markets" as metropolitan areas and their surroundings in the provinces of Gauteng (Johannesburg/Pretoria), KwaZulu Natal (eThekweni/Durban), and Western Cape (City of Cape Town), whereas "Secondary Markets" comprise those surrounding areas in the Northern Cape, North West, Eastern Cape, Mpumalanga, Limpopo, and Free State provinces.

5.5.2.2 The Northern Cape is the Secondary Market, as outlined on page 35 of the Position Paper. The rationale behind the two distinct markets is that when applying for a commercial sound broadcasting service licence, the Authority must publish an Invitation to Apply ("ITA"), inviting interested parties to apply for such a commercial sound broadcasting service licence in those respective markets.

- 5.5.2.3 The Authority is of the considered view that the geographical coverage area upon which the Applicant was initially licensed is the Primary Market of the Western Cape Province.
- 5.5.2.4 Therefore, the Authority points out to the Applicant that sections 9 and 51 of the EC Act trigger the licensing of I-CSBS and RFS licences. As a result, these two provisions are inseparable.
- 5.5.2.5 The Authority further points out to the Applicant that section 10 of the EC Act cannot be used to circumvent sections 9 and 51 processes. Sections 10 and 31(3)(b) of the EC Act only deal with an amendment of both the service and spectrum licences where the Applicant is licensed to provide a broadcasting service in a particular geographic area.
- 5.5.2.6 The Applicant does not have an I-CSBS and RFS licences in the Secondary Market of the Northern Cape Province. The Applicant is currently only licensed to provide commercial sound broadcasting services in the Primary Market of the Western Cape province.
- 5.5.2.7 Therefore, when making this proposed administrative action, the Authority took into account its Position Paper and the aforesaid provisions of the EC Act and RFS Regulations of 2015.
- 5.5.3 The Applicant was therefore invited in terms of section 3(2)(b)(ii) of PAJA to submit to the Authority written representations in respect of the Authority 's preliminary decision.

5.6 The Applicant's Written Representations

- 5.6.1 On 29 January 2026, the Applicant submitted written representations to the Authority.
- 5.6.2 The Applicant summarised its representation by arguing that the proposed administrative action by the Authority does not justify declining the Applicant's amendment applications as follows:

- (a) *"that the proposed administrative action is materially influenced by an error of law by relying on the provisions of the EC Act, which apply to new licence applications, and the Authority should confine itself to the provisions applicable to amendments;*
- (b) *that the Authority has taken into account irrelevant considerations (such as a Position Paper to limit its discretion to grant the 94.5 KFM Amendment where doing so is not justified) and failed to consider relevant considerations (such as 94.5 KFM's existing obligation to broadcast from six transmitter sites in the Northern Cape and the public interests served by granting the application;*
- (c) *that the proposed administrative action is not rationally connected to the purpose of the empowering provision, which provides that ICASA may grant licensee-requested amendment applications, provided doing so will not militate against orderly frequency management nor prejudice the interests of other licensees. Neither of these reasons to decline applies in the present case, and indeed, ICASA does not address either of them in their provided reasons; and*
- (d) *that the proposed administrative action is inconsistent and constitutes unequal treatment, in that ICASA would have departed from its own prior decisions permitting cross-provincial and cross-market coverage (including in respect of Beat FM, Jacaranda FM, and Algoa FM) without providing any rational basis to depart from that practice only in the present case."*

5.7 Public Hearing, Written Questions, and Written Response

5.7.1 On 19 February 2026, the Authority held a public hearing virtually.

5.7.2 The Authority, towards the end of the public hearing, agreed with the Applicant that it will send the Applicant written questions within seven (7) working days, and the Applicant will respond to the same within seven (7) working days from receipt of the Authority's written questions.

5.7.3 The Authority, sought clarification from the Applicant through written questions, as set out below:

5.7.3.1 The Applicant was requested to provide the historical background of the six (6) transmitters located in Alexander Bay, Calvinia, Carnarvon, Garies, Pofadder, and Springbok, as well as the frequency propagation for each transmitter.

5.7.3.2 The Applicant was requested to provide its view on the application of section 10(1)(a) of the EC Act.

5.7.3.3 The Applicant was requested to explain how the Authority's approval of all the frequencies applied for in the Secondary Market of the Northern Cape Province would not prejudice other licensees in the relevant coverage area, particularly if the Authority did not follow a competitive process as contemplated in section 9 of the EC Act, read with regulations 6 and 7 of the RFS Regulations of 2015.

5.7.3.4 The Applicant was requested to explain whether, in the absence of I-CSBS and RFS licences for the Secondary Market of the Northern Cape Province, Clause 3 of the Schedule to its RFS licence authorises it to extend coverage to the four towns mentioned, notwithstanding the six transmitter sites it currently operates.

5.7.3.5 The Applicant was requested to clarify whether, given that section 10 of the EC Act applies only to existing I-CSBS and RFS licences, the existence of the six (6) transmitters means that the Applicant holds an I-CSBS licence authorising it to operate a commercial sound broadcasting service in the four (4) towns in the Northern Cape Province.

5.7.3.6 The Applicant was requested to identify the specific clauses in the I-CSBS licences of the individual licensees it relied upon, which allegedly permit those licensees to extend or overlap their coverage into other provinces.

5.7.3.7 The Applicant was requested to provide its view on the application of section 10(1)(a) of the EC Act, considering that the Authority has issued individual licences containing similar licence conditions.

5.7.3.8 The Applicant was requested to clarify the basis for its submission that Beat FM has extended coverage into Kimberley town in the Northern Cape, and in particular whether this contention is based on:

- (a) the licensed service area contained in Beat FM's licence;
- (b) the transmitter site name or description; or
- (c) the geographic location of the transmitter or the direction of the antenna.

5.7.3.9 The Applicant was further requested to confirm whether (having applied for the Kimberley 95.4 MHz transmitter site currently licensed to Beat FM and given that the site is located close to the boundary between the Northern Cape and the Free State Provinces) it intends to also introduce the commercial broadcasting services into the Free State Province from this transmitter site, particularly in light of its proposal to utilise an omnidirectional antenna which radiates uniformly in all azimuth directions.

5.7.3.10 The Applicant was requested to indicate whether it intends to apply for a further amendment of its I-CSBS and RFS licences in the Free State Province, given its contention that by virtue of its six (6) transmitter sites in the Northern Cape, it is licensed to cover both the Western Cape and Northern Cape Provinces.

5.7.3.11 The Applicant was requested to explain how the examples it relies upon demonstrate approval of expansion into new markets, rather than statutory licence conversion, where such conversions were effected for licences issued under the Independent Broadcasting Authority framework without conferring additional service-area rights. The Applicant was further requested to indicate whether it contends that access to such markets may lawfully be obtained through an Invitation to Apply process. If not the Applicant was requested to explain how its interpretation would not undermine the structured licensing framework governing entry into new markets, including the regulatory mechanisms intended to ensure orderly market introduction and protection of diversity in broadcasting, as reflected in the Authority's policy framework.

Written Response

5.7.4 On 06 March 2026, the Applicant responded as follows, in writing:

5.7.4.1 In response to paragraph 5.7.3.1 above, the Applicant submitted that *"Primedia does not have knowledge of the historical background of these six transmitters, as this history predates Primedia's interest in the licence. However, for as long as Primedia has had ownership interests in 94.5 KFM, that is, since 2004 (when it acquired an effective (and initial) 66% stake in 94.5 KFM through its acquisition of 100% of the shares in New Africa Media (Pty) Ltd), these transmitter sites and frequencies have been part of 94.5 KFM's licence/s. The frequency propagation of all of these transmitters/frequencies is as per Schedule B2 to 94.5 KFM's existing RFS licence (No. 009/RE/COMMERCIAL/RF/SEPT/19) which was submitted as Annexure 4.1 to the 94.5 KFM Amendment Application."*

5.7.4.2 In response to paragraph 5.7.3.2 and 5.7.3.7 above, the Applicant's submission is that it did not apply to amend its I-CSBS and RFS licences in terms of section 10(1)(a) of the EC Act but section 10(1)(c) of the EC Act which is more applicable and sets out the process and required considerations for individual licence amendments requested by the licensee. It accordingly must be considered by the Authority in making its decision in respect of the Applicant. The Applicant further argues that a failure to deal with this amendment application in accordance with section 10(1)(c) or an attempt to deal with this amendment with another inapplicable subsection would give rise to reviewable administrative action in terms of PAJA.

5.7.4.3 In response to paragraph 5.7.3.3 above, the Applicant argues that *"it is not Primedia's interpretation, hence the licence amendment application. The amendment application is to amend the licences of 94.5 KFM to, inter alia, extend the coverage area to four additional towns of the Northern Cape Province. If it were Primedia's view that it is licensed to broadcast in these additional towns, it would not have made the application for the right to provide for the existing licensed 94.5 KFM service to the people of Colesburg, Kimberley, Kuruman, and Upington. For the purpose of clarity, section 9 of the*

EC Act is not relevant for the purposes of this amendment application. 94.5 KFM is not applying for a new individual licence, as contemplated by the provisions of section 9. 94.5 KFM is amending an existing licence and the mechanism for such amendment is section 10 of the EC Act. Relying on the provisions of section 9 would misconstrue the legal framework and trigger questions of rationality insofar as the Authority's decision-making is concerned."

5.7.4.4 In response to paragraph 5.7.3.6 above, the Applicant argues that the Authority may have misunderstood its submissions. The Applicant stated that it used examples of commercial sound broadcasting service licences where the coverage areas thereof, as is the case with 94.5 KFM, overlap both primary and secondary markets and whose coverage extends into more than one province. Examples of such licences include Jacaranda FM and Algoa FM. Further, the Applicant used Beat FM as another example, arguing that Beat FM's amendment application was successful for a Kimberley frequency in a province that was both outside the stated coverage area and in which the broadcaster had no existing transmitter sites, with the intended coverage area being the Free State Province.

5.7.4.5 In response to paragraph 5.7.3.8 above, the Applicant argues that the Authority approved Beat FM's licence amendment in 2018. According to the Applicant, one of the additional frequencies and transmitter sites originally applied for by Beat FM was Kimberley on an omnidirectional transmitter at 30kW on 95.4 MHz. The Applicant further argues that Beat FM subsequently amended its application to reduce the directionality and power of the Kimberley frequency. Nevertheless, the Authority approved Beat FM's licence amendment on 95.4 MHz, having the transmitter site in Kimberley, while the Authority knew that the transmitter site is outside the Free State Province. The Applicant further argues that its amendment applications are permissible in principle and must be considered in accordance with sections 10(1)(c) or 31(3)(b) and 31(4)(d) of the EC Act, as the Authority appears to have had the same view in 2018 in respect of Beat FM.

- 5.7.4.6 In response to paragraphs 5.7.3.9 and 5.7.3.10 above, the Applicant argues that the Authority never licensed Beat FM on the 95.4 MHz frequency since there is no licensed service known as Beat FM.⁸ The Applicant further argues that if Beat FM is to commence operations using the 95.4 frequency band or any other frequency, Beat FM will violate section 7 of the EC Act, which provides that "*... no person may provide any broadcasting service without a licence.*"
- 5.7.4.7 The Applicant argues further that if Beat FM has submitted a renewal application to the Authority, Beat FM must have submitted the renewal application late and therefore, Beat FM must show good cause in terms of section 11(9) of the EC Act. According to the Applicant, Beat FM was issued with its individual licence in 2015, and was required to commence operations within twelve (12) months as prescribed by the Standard Terms and Conditions Regulations, 2010, unless the Authority, in terms of regulation 5(1)(a) of the Standard Terms and Conditions Regulations, 2010, grants an extension of the commencement period.
- 5.7.4.8 Where such an extension is granted, the Authority's powers to give further extension are limited in terms of regulation 5(2) of the Standard Terms and Conditions Regulations, 2010. Accordingly, the Applicant argues that a condonation cannot be granted where Beat FM never came on air during the entire 10-year duration of the licence, has materially and repeatedly failed to comply with sections 11(7)(a), (b), and (c) of the EC Act, or persistently failed to comply with a six-year old CCC judgment ordering Beat FM to commence operations.
- 5.7.4.9 In relation to whether the Applicant would in the future seek to extend the scope of coverage in the Free State Province, the Applicant argues that it does not currently intend to apply for an amendment for expansion of its I-CSBS and RFS licences in the Free State Province. However, such a request by any licensee should be permissible in line with the provisions of the EC Act.

⁸ 94.5 KFM's written response to the Authority's written questions letter dated 06 March 2026, page 7.

5.7.4.10 In response to paragraph 5.7.3.11 above, the Applicant concedes that section 93 of the EC Act empowered the Authority to convert all commercial sound broadcasting service licences without conferring additional service-area rights. However, by using examples of Jacaranda FM and Algoa FM as they straddle both the primary and secondary markets, the Applicant does not claim to *"demonstrate approval of expansion into new markets."*

5.7.4.11 In addition, the Applicant, in response to the question whether it contends that such access may lawfully be obtained through an ITA process rather than an amendment process, argues that the authorisation to extend coverage into the four towns in the Secondary Markets of the Northern Cape Province can be achieved through these amendments.

5.7.4.12 The Applicant further argues that this is not a wholly new service because it already exists, and that all that is needed is to amend both the I-CSBS and RFS licences to extend such coverage.

5.7.4.13 Furthermore, the Applicant argues that *"if it is a new I-CSBS licence, it would require an ITA process and envisages that an entirely new and distinct service, namely, with its own name, format, genre, jingles, presenters, programming, staffing, etc. This is understandably entirely different to an amendment process, but is not what this amendment application relates to, and not the outcome which the Applicant is seeking to achieve."*

5.7.4.14 The Applicant stated that it seeks approval through this amendment process for it to have the right to, *inter alia*, provide its existing licensed service to more people in the Northern Cape (beyond the six towns it is already required to broadcast from in the Northern Cape), namely, to the people of Colesberg, Kimberley, Kuruman, and Upington.

5.7.4.15 In responding to the question of the coverage of the four towns in the Secondary Market of the Northern Cape Province, that it can be achieved through an ITA, and seeking extension through this amendment would undermine the structured licensing framework governing entry into new markets, including the regulatory regime intended to ensure orderly market

introduction and protection of diversity in broadcasting, as reflected in the Authority' Policy framework, the Applicant argues that the Authority must process its amendment applications in line with the provisions of sections 10(1)(c) and 31(4)(d) which speaks to instances where *"...it will not militate against orderly frequency management and will not prejudice the interest of other licensees"* or *"to the extent that the request is fair and does not prejudice other licensees."*

5.7.4.16 The Applicant further argues that the Secondary Market of the Northern Cape Province is not a new market because there are numerous broadcasters (public, community, and commercial) that already broadcast to and in the Northern Cape, none of whom have objected to the Applicant's amendment application.

5.7.4.17 The Applicant further stated that *"It is true that ICASA has long envisaged a standalone green fields I-CSBS licence being granted in the Northern Cape as is evidenced by its 2004 Position Paper on the Review of Ownership and Control of Broadcasting Services and Existing Commercial Sound Broadcasting Licences (at paragraph 12 and particularly 12.1.3). To that end, ICASA issued ITAs for the Northern Cape in 2012, 2015, and 2016 but has never had a qualifying applicant (Reasons for Decision: Licensing Process Northern Cape, 2017). The market realities of the Northern Cape are such that, in Primedia's opinion, a standalone Northern Cape commercial sound broadcasting service is not commercially or financially viable. This view is evidently shared by others given the failure of three separate ITA process for the province to result in a licensed standalone Northern Cape service. Further, Sentech has confirmed to Primedia in writing that the Northern Cape "is an area of low spectrum demand". Primedia is of the view that a failed policy objective cannot constitute "orderly market introduction" where the market itself has been the subject of ITAs for over a decade and there is no appetite for said market."*

5.7.4.18 The Applicant stated further that *"We understand it is ICASA's view that parts of the Northern Cape lack a diversity of commercial services to the detriment of the inhabitants and businesses in those areas. That lack can be overcome in several ways, including by expanding an existing commercial sound*

broadcasting service like 94.5 KFM into the Northern Cape territory in accordance with Primedia's amendment application for 94.5 KFM. The reality is that there has been no historical appetite by the commercial broadcasting sector for a standalone green fields Northern Cape station as evidenced by the three failed ICASA ITAs to date. However, there is appetite by an existing commercial sound broadcasting service, namely 94.5 KFM, to expand its broadcasting service to four additional towns in the Northern Cape, thereby assisting ICASA to fulfil the objects of the ECA and in particular to promote the goals of diversity of services and universal access to commercial sound broadcasting services for the inhabitants and businesses of the Northern Cape."

5.8 The Applicant's Reasons for the Proposed RFS Amendments:

Addition of Gap-Fillers to improve coverage in the Primary Market of the Western Cape

5.8.1 The Applicant is currently providing commercial sound broadcasting services using FM frequency bands in the Primary Market of the Western Cape Province. The Applicant proposed amending the existing technical specifications by adding 4 transmitter sites and frequencies to improve coverage in its existing coverage area in the Western Cape Province, as follows:

- (a) Simonstown 107.4 MHz,
- (b) Sea point 100.7 MHz,
- (c) Plettenberg Bay 107.5 MHz, and
- (d) Franschhoek 89.8 MHz.

5.8.2 The Applicant utilises Sentech for signal distribution services, and Sentech holds a valid Individual Electronic Communications Network Services ("I-ECNS") licence.

5.8.3 The Applicant has attached an existing map coverage and provided a technical analysis conducted by SENTECH demonstrating the feasibility of the proposed transmitter sites and frequencies.

The Authority's Reasons for Granting the Applicant's RFS Amendment in the Western Cape Province

5.8.4 The Authority considered the Applicant's proposed amendments in relation to the addition of the Gap-fillers to improve the Coverage within the Western Cape Province and reasons as follows:

5.8.4.1 The Authority conducted a frequency coverage analysis for the four (4) proposed transmitter sites. The results indicate that the four proposed transmitters' coverage is within the licensed service area of the Western Cape Province.

5.8.4.2 The Authority conducted a desktop Radio Frequency Interference ("RFI") analysis for the proposed transmitters in the Western Cape Province. The results of the analysis are as follows:

Simonstown 107.4 MHz transmitter RFI results:

- (a) The analysis done on the proposed transmitter site at Simonstown 107.4 MHz reveals that it will cause harmful RFI to CCFM on 107.5 MHz, with an ERP of 0.25 kW operating from the Tygerberg transmitter. This contravenes the provision of section 30(3) of the EC Act, which requires the Authority to exercise control over the use of the radio frequency spectrum in order to prevent or reduce harmful interference to authorised or licensed users of the radio frequency spectrum to the extent reasonably possible.

Plettenburg Bay 107.5 MHz RFI results:

- (b) The analysis done on the proposed transmitter site at Plettenburg Bay 107.5 MHz transmitter reveals that it will not induce or be affected by harmful RFI from the existing broadcasters and spare coordinated frequencies. Therefore, the frequency is feasible for the Applicant's use to extend its coverage area.

Sea Point transmitter 100.7 MHz RFI results:

- (c) The analysis done on the proposed transmitter site at Sea Point transmitter 100.7 MHz reveals that it will not induce harmful RFI. However, it was observed that it would receive harmful RFI from Radio 786 on 100.4 MHz, transmitting from the Tygerberg site with an ERP of 0.5 kW. The expected RFI occurs primarily at the fringe areas of coverage and mostly over the sea. Based on the interference assessment above, the Sea Point transmitter 100.7 MHz is deemed feasible for the Applicant's use to extend its coverage area.

Franschhoek 89.8 MHz transmitter RFI results:

- (d) The analysis done on the proposed transmitter site at Franschhoek 89.8 MHz reveals that the Applicant would induce harmful RFI from Voice of the Cape transmitting from the Franschhoek 89.8 MHz site with an ERP of 0.1 kW. The RFI is very minimal and occurs in the non-residential area, over the mountain. Based on the interference assessment above, the Franschhoek transmitter 89.8 MHz is deemed feasible for the Applicant's use to extend its coverage area.

Extension of Coverage Area in the Secondary Market of the Northern Cape

5.8.5 The Applicant seeks approval from the Authority to extend its existing coverage (Primary Market of the Western Cape Province) beyond the Southern and Western Cape by adding 5 transmitter sites and frequencies in the towns of Kimberley, Colesberg, Kuruman, Kuruman Hills, and Upington, respectively, in the Secondary Market of the Northern Cape Province as follows:

- (a) Colesberg - 97 MHz;
- (b) Kimberley - 95.4 MHz;
- (c) Kuruman – 98.4 MHz;
- (d) Kuruman Hills – 104.2 MHz; and

(e) Upington – 93.5 MHz.

5.8.6 The Applicant argues that its amendment application for the RFS licence is premised on the contention that, by virtue of the 6 transmitter sites in Springbok, Calvinia, Pofadder, Garies, Carnarvon, and Alexander Bay, and Clause 3 of the Schedule in the RFS licence, it is already authorised by the Authority to cover the Secondary Market of the Northern Cape Province.⁹

5.8.7 The Applicant stated that "*... these amendments aim to achieve two key goals, namely to:*

- (a) improve the signal with 94.5 KFM's existing coverage area by obtaining the Authority's approval for four gap-filler transmitters and frequencies; and*
- (b) extend the licensed coverage areas to cover four towns in the Northern Cape that are not currently part of 94.5 KFM's coverage area. 94.5 KFM is already licensed to broadcast in a number of other towns in the Northern Cape and so parts of the Northern Cape already fall within 94.5 KFM's existing coverage area*

5.8.8 The Applicant contends that, in terms of Clause 3 of the Schedule in its RFS licence, it is licensed to provide commercial sound broadcasting services in the Secondary Market of the Northern Cape Province.

5.8.9 The Applicant has attached its RFS licence with Schedule B2 showing towns, transmitter sites, and frequencies which the Applicant is authorised to cover.

The Authority's Reasons for Rejecting the Applicant's RFS Amendment licence in the Northern Cape Province.

5.8.10 It is the Authority's position that the approval of the Applicant's amendment to extend coverage into the Secondary Market of the Northern Cape Province depends on whether the Applicant's current I-CSBS and RFS licences permit it

⁹ Annexure A of Form A2 page 1.

to provide commercial sound broadcasting services in the proposed extended coverage in the 4 towns of the Northern Cape Province.

- 5.8.11 The Authority has analysed the Applicant's RFS licence in respect of Schedule B2 and found that towns such as Springbok, Calvinia, Pofadder, Garies, Carnarvon, and Alexander Bay are included, but Colesberg, Kimberley, Upington, and Kuruman are not included.
- 5.8.12 Other towns listed under Schedule B2 of the Applicant's RFS licence fall within the Primary Market of the Western Cape Province.
- 5.8.13 The Applicant in paragraph 5.7.4.3 above admits that the aforesaid 4 towns are not part of the Applicant's coverage area.
- 5.8.14 The Authority is empowered in terms of section 31(4)(d) of the EC Act, read with regulation 9 of the RFS Regulations of 2015, to process an amendment application in relation to an RFS licence.
- 5.8.15 Section 31(4)(d) of the EC Act requires the Authority to determine whether the approval of the RFS amendment application will not militate against orderly frequency management. It is the Authority's position referred to in paragraph 5.8.35 (b) below that authorising the Applicant to extend coverage in the aforesaid towns in the Northern Cape Province will militate against orderly frequency management.
- 5.8.16 The Authority has considered the Applicant's reasons for seeking an amendment to its RFS licence to extend its existing coverage area into the Secondary Market of the Northern Cape Province.
- 5.8.17 As stated above, the existence of the 6 transmitter sites and frequencies in the Northern Cape Province is a result of the past broadcasting landscape.
- 5.8.18 The Authority, therefore, provides a brief historical overview of how the 6 transmitter sites and frequencies raised by the Applicant came about. It should be noted that before the democratic dispensation in 1994, the broadcasting

landscape was different, as the Republic of South Africa was divided into four colonies (Cape Colony, Transvaal, Natal, and Orange Free State).

- 5.8.19 As a result to this legacy of apartheid, after 1994, the Republic of South Africa was demarcated into nine (9) provinces. At the time, the Authority operated as an Independent Broadcasting Authority ("IBA") as established in terms of the Independent Broadcasting Act, 1993 (Act No. 153 of 1993) ("the IBA Act").
- 5.8.20 In 1996, there was an amalgamation of two (2) regulators, IBA and the South African Telecommunications Regulatory Authority ("SATRA"). On 10 October 1996, the then IBA issued the first licence to Electrops 23 Proprietary Limited ("Electrops") in terms of which it was authorised to conduct a private sound broadcasting service in the Western Cape.
- 5.8.21 On 1 July 2000, the ICASA Act repealed the IBA as the body vested with the statutory power to regulate broadcasting services in the public interest. Section 3 of the ICASA Act established the Authority.
- 5.8.22 On 31 March 2003, the Authority issued the Applicant with a commercial sound broadcasting licence, stating that the licensed coverage area was the *"Greater part of the Western and Southern Cape."*
- 5.8.23 Later, in 2005, the EC Act was enacted and contained section 93 of the EC Act that empowers the Authority to convert all licences on no less favourable terms, including the Applicant's I-CSBS and RFS licences. At that point, the Applicant was already licensed in terms of the IBA Act to provide commercial sound broadcasting services in the *"Greater part of the Western and Southern Cape"*, now the Western Cape Province.
- 5.8.24 As a result of the conversion of all broadcasting service licences in terms of section 93 of the EC Act, the existence of the 6 transmitter sites and frequencies in Alexander Bay, Calvinia, Carnarvon, Garies, Pofadder, and Springbok in the Northern Cape Province was already there.
- 5.8.25 The Authority points out that the consequence of the demarcation resulted in these coverage areas falling outside the demarcated boundary between the Western Cape and the Northern Cape Provinces. Currently, these 6 transmitters

are located in the Northern Cape Province. This consequently required the Authority to permit the Applicant to continue providing commercial sound broadcasting services in these 6 towns because already there was a listenership that was benefiting from the Applicant's service.

- 5.8.26 The Authority therefore disagrees with the Applicant's argument that it is authorised to provide commercial sound broadcasting services in the Secondary Market of the Northern Cape Province by virtue of the existence of 6 transmitter sites and frequencies servicing the areas.
- 5.8.27 It is the Authority's view that the Applicant's reliance on Schedule B2 of its RFS licence does not establish authority to provide commercial sound broadcasting services in the additional towns sought through this amendment application.
- 5.8.28 The Authority further points out that if it intended to authorise the Applicant to cover the aforesaid 4 towns, it would have included them in Schedule B2 of the Applicant's RFS licence. This would mean that the only thing that the Applicant was to seek amendment on was to apply for additional gap-fillers in these 4 towns where it is unable to reach its listeners.
- 5.8.29 Therefore, it is the Authority's position that the Authority never authorised the Applicant to extend broadcasting coverage into the 4 towns mentioned above.
- 5.8.30 The Applicant has argued that the Authority has permitted Beat FM to extend its coverage area into the Secondary Market of the Northern Cape Province when it approved Beat FM's 2018 RFS amendment application when Beat FM sought to provide broadcasting service on the 95.4 MHz frequency located in the Kimberley transmitter site.
- 5.8.31 The Authority points out that Beat FM was initially licensed with the I-CSBS and the RFS licences in 2015, with a single transmitter located in Bloemfontein operating on 105.2 MHz. In 2017, Beat FM applied to amend its RFS licence within its approved licensed service area in the Free State Province. Following the Authority's evaluation, the RFS licence amendment was approved in 2018, granting Beat FM four additional transmitters, namely Kimberley 95.4 MHz,

Petrus Steyn 106.7 MHz, Senekal 103 MHz, and Harrismith 96 MHz. The transmitter in question, Kimberley 95.4 MHz, did not alter Beat FM's approved service area, as it is located in Free State near the boundary between the Northern Cape and Free State provinces. The approved technical parameters ensured that the coverage remained contained within the Free State Province.

5.8.32 It is further the Authority's position that section 5 of the Broadcasting Act and the Authority's Position Paper, the Authority is empowered to determine the broadcasting markets, i.e., Primary and Secondary markets. The same goes for the management of the spectrum as a finite scarce resource, that those frequencies the Applicant has identified and applied for to extend broadcasting coverage into the aforesaid 4 towns, are reserved for commercial sound broadcasting services in the Secondary Market of the Northern Cape Province.

5.8.33 In terms of the Authority's Position Paper, when licensing commercial sound broadcasting services, the Authority must publish an Invitation to Apply ("ITA") for a new commercial sound broadcasting service. This is done in terms of sections 9 and 51 of the EC Act. Further, the Authority is required to determine frequencies to be used to provide such a service. As a result, section 31(2)(a) and (b) of the EC Act would apply.

5.8.34 In other words, the Authority must issue a composite ITA where potential applicants will apply for both an I-CSBS and RFS licences.

5.8.35 Therefore, it is the Authority's position that the Applicant's amendment application will militate against orderly frequency management, planning, and efficient utilisation of the radio frequency spectrum as follows:

- (a) The Authority is of the view that the proposed amendment extends beyond the scope of the Applicant's approved licensed service area and, if approved, may undermine the regulatory and spectrum planning framework governing commercial sound broadcasting services. Furthermore, the approval of the application may create an undesirable regulatory precedent that could erode the distinction between authorised primary and secondary markets, thereby compromising the integrity of the

Authority's licensing regime and the equitable allocation of scarce spectrum resources.

- (b) The Authority notes that the four frequency assignments applied for, namely Colesberg 97 MHz, Kuruman 98.4 MHz, Kuruman Hills 104.2 MHz, and Upington 93.5 MHz, are earmarked in the Terrestrial Broadcasting Frequency Plan, 2013, as amended ("TBFP") for the secondary market within the Northern Cape Province. Therefore, the utilisation of these assignments by the Applicant may constrain the Authority's ability to make such spectrum resources available through future ITA processes intended for the secondary market within the province.

5.8.36 Accordingly, the Applicant's amendment application to amend its RFS licence to extend broadcasting coverage into the 4 towns mentioned above is rejected.

5.9 The Applicant's Reasons for the Proposed I-CSBS Amendments

Coverage Area

5.9.1 The Applicant submitted that the Authority must note that its existing I-CSBS licence already allows the Applicant to cover many towns in the Northern Cape Province, and these amendments seek to extend coverage in the aforesaid 4 towns of the Northern Cape Province where its signal does not reach.¹⁰

5.9.2 The Applicant further submitted that there is a history by the Authority of granting access to commercial sound broadcasting services to transmitter sites and frequencies, which enables individual licensees to reach areas inside the Northern Cape, i.e., Radio Algoa FM and Beat FM. The Applicant stated that the Authority has done this on numerous occasions.¹¹

5.9.3 Further, the Applicant stated that it already has six (6) transmitter sites and frequencies in the Northern Cape Province and has established a loyal following

¹⁰ Appendix 3.2 of the Applicant's Reasons for the Proposed Amendments page 2.

¹¹ *Ibid* 3.

of Northern Cape listeners where its signal is heard in Alexander Bay, Calvinia, Carnarvon, Garies, Pofadder, and Springbok.¹²

5.9.4 The Applicant reasons that the Northern Cape listeners have the least access to diverse commercial sound broadcasting content by virtue of the difficult market conditions that exist in the province, as is evidenced by the Authority's historical inability to license a Northern Cape-based commercial sound broadcasting service despite three previous ITAs, due to a lack of uptake from potential Northern Cape-based broadcasters.¹³

5.9.5 Further, the Applicant states that it is well-established in the Primary and Secondary markets of the Western and Northern Cape Provinces.¹⁴

5.9.6 The Applicant stated that it is the only source of broadcasting in the Northern Cape Province. The Applicant has conducted research in the aforesaid 4 towns, and the results of the research revealed that eighty-two per cent (82%) of the respondents in Colesberg, Kimberley, Kuruman, and Upington support the extension of broadcasting service coverage in these 4 towns.¹⁵

5.9.7 The Applicant submitted that the most striking factors are issues of the respondent listeners wishing to have the broadcast of local news and music in those towns.¹⁶

5.9.8 The Applicant reasons that due to the previous licensing process of I-CSBS in 2018 in the Free State Province, the Authority issued Beat 105.2 FM with frequencies previously applied for by the Applicant. The outcome of the licensing process was that Beat 105.2 FM was the one that the Authority issued with an I-CSBS and RFS licences.

5.9.9 The Applicant further reasons that Beat 105.2 FM's coverage area, according to Schedule 2 of its I-CSBS licence, although licensed to cover the Free State

¹² *Ibid.*

¹³ *Ibid* 2 to 3.

¹⁴ *Ibid* 4.

¹⁵ *Ibid* 5.

¹⁶ *Ibid.*

Province, was given an extension of coverage to cover Kimberley in the Northern Cape Province.

5.9.10 Further, the Applicant submits that, as long as the Authority can grant the extended coverage for other licensees, similar situations should also apply in its case in the Secondary Market of the Northern Cape Province.

5.9.11 The Applicant proposed that the Authority must withdraw Beat 105.2 FM's RFS licence because, since Beat 105.2 FM was issued with I-CSBS and RFS licences, it has never commenced operations, and as such, it is in the public interest that the spectrum is used efficiently.

5.9.12 The Applicant further submits that the Authority has a history of awarding frequencies for I-CSBS in the Northern Cape Province, i.e., OFM has an extended reach of listeners in the town of Colesberg – OFM can reach listeners in Kimberley, Kuruman, and Upington in the Northern Province.

5.9.13 Therefore, based on the above submission, the Applicant submits that the Authority must grant its request for an extension of coverage in the 4 towns of Kimberley, Colesberg, Kuruman, and Upington, as it did to other broadcasters such as Beat FM, Algoa FM, and OFM having a footprint in these towns.

5.9.14 Consequently, the Applicant contends that the Authority in granting the Applicant such an extension of coverage would mean that the Northern Cape listeners would have the least access to diverse commercial sound broadcasting content considering the difficulty of market conditions that exist in the Northern Cape Province as is evidenced by the Authority's historical inability to licence a Northern Cape-based commercial sound broadcasting service despite three previous ITAs, due to a lack of uptake from potential Northern Cape-based broadcasters.

5.10 The Authority's Position on the Applicant's submissions in relation to the Coverage Area in the Secondary Markets of the Northern Cape.

5.10.1 In considering this amendment application, section 2 of the ICASA Act provides that:

"The object of this Act is to establish an independent authority which is to –

(a) regulate broadcasting in the public interest and to ensure fairness and a diversity of views broadly representing South African society, as required in terms of section 192 of the Constitution."

5.10.2 Similar text is found in section 2 of the EC Act, which provides that:

"The primary object of this Act is to provide for the regulation of electronic communications in the Republic in the public interest."

5.10.3 This provision provides for a variety of objectives relevant to, among others, the broadcasting services.

5.10.4 Firstly, it is the Authority's considered view that when a licensee is granted and issued with an individual licence, such an individual licence accords such an individual licensee reciprocal rights and obligations to operate within the parameters of such a licence, i.e., specific licence terms and conditions are imposed by the Authority in the licence in terms of the provisions of section 8 of the EC Act. The individual licensee is expected to comply with such licence terms and conditions; failure which the Authority is empowered in terms of section 17C of the ICASA Act to intervene by taking regulatory and enforcement measures to hold the licensee to account for non-compliance.

5.10.5 Secondly, for the section 10 procedure to be activated, an Applicant must have been issued with an individual licence, and such an individual licence must have licence terms and conditions that an Applicant seeks to amend.

5.10.6 The Applicant, in this regard, is, in terms of its I-CSBS licence licensed to cover the *"Greater part of the Western and Southern Cape, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence."* Conversely, its RFS licence authorises the Applicant to cover *"The greater part of the Western and Southern Cape, as set out in the broadcasting service licence and*

the licensee must comply with the attached technical specification (schedule B2)."

- 5.10.7 In dealing with the Applicant's submissions regarding the proposed coverage area in its I-CSBS licence, the Authority is of the considered view that the provisions of section 10 of the EC Act are applicable and the Authority must consider whether the Applicant's amendment application satisfies the provisions of section 10(1)(c) as it relates to the extent requested by the licensee provided it will not militate against orderly frequency management and will not prejudice the interests of other licensees.
- 5.10.8 Section 10(1)(c) of the EC Act is twofold, namely: (i) should not militate against orderly frequency management, and (ii) should not prejudice the interests of other licensees. The Authority is required to assess this provision in respect of the Applicant's amendment of its I-CSBS and RFS licences. For the coverage area with respect to the amendment of the I-CSBS licence, the Authority turns to deal with this section, whether or not the amendment of the Applicant's I-CSBS licence will prejudice the interests of other licensees. The aspect of whether or not the amendment of the Applicant's RFS licence will not militate against orderly frequency management is dealt with above at paragraphs 5.8.10 to 5.8.17 by the Authority.
- 5.10.9 Therefore, in analysing this provision, whether or not the Applicant's amendment application will not prejudice the interests of other licensees, the Authority is not only required to look at the Applicant as a singular licensee and therefore process the amendment on a singular basis, but to take a holistic approach and consider the interests of other licensees, whether they will be prejudiced or not. In other words, the Authority must consider the interests of all individual licensees broadly licensed to provide commercial sound broadcasting services, be it in the Northern Cape Province or any other province in the Republic of South Africa.
- 5.10.10 The Authority points out that no written representations were made in relation to the Applicant's amendment applications. However, to consider the Applicant individually in terms of section 10(1)(c) procedure would mean that the provision is created only for the Applicant. As the custodian of licensing

individual licences, the Authority is duty-bound not to disorganise the established licensing framework as envisaged in Chapter 3 of the EC Act and underlying statutes.

- 5.10.11 In dealing with the provisions of section 10(1)(c) of the EC Act, the question that the Authority must answer is, in terms of section 10(1)(c) procedure, who are those other licensees that would be prejudiced if the Authority approves the Applicant's amendment. Despite no written representations submitted by interested parties to this amendment application, the Authority must consider the public interest issue, including the legislative framework designed to regulate broadcasting.
- 5.10.12 Section 10(1)(c) of the EC Act applies to all individual licensees licensed to provide commercial sound broadcasting services either in the Primary or Secondary markets throughout the country. This means that the Authority must level the playing field of all licensees and prospective applicants in both the Primary and Secondary markets.
- 5.10.13 Section 10(1)(b) of the EC Act requires the Authority to ensure fair competition between licensees. There may be other licensees who wish to overlap their broadcasting services into other markets that they are not licensed to cover, but seeing the Authority having approved the Applicant's amendment would mean a precedent has been established that one may also seek an extension of coverage to other markets that they were not initially licensed to service.
- 5.10.14 As one of the underlying statutes, it is important to consider the provisions of section 5(1) of the Broadcasting Act and the Authority's Position Paper in light of the established legislative and policy framework for licensing coverage areas in the broadcasting sector. Section 5 of the Broadcasting Act provides that:

"Class of licences

(1) Subject to the provisions of this Act, the Authority may, on such conditions as it may determine, issue broadcasting service licence for a specified area in the following broadcasting service categories –

- (a) a public broadcasting service;*
- (b) a commercial broadcasting service; and*
- (c) a community broadcasting service.*

(2)

(3) *Applications for broadcasting licences must be made in terms of the applicable provisions of the Electronic Communications Act and any regulations prescribed thereunder."*

5.10.15 The Authority has, in 2004, published its Position Paper outlining the Primary and Secondary Markets. The rationale behind the two distinct markets is that when applying for a commercial sound broadcasting service licence, the Authority must publish an ITA, inviting interested parties to apply for such a commercial sound broadcasting service licence in those respective markets.

5.10.16 Previously, the Authority has published the ITAs for the assignments earmarked for the Secondary Market in the Northern Cape Province. However, no Applicant was granted and issued with an I-CSBS and RFS licences due to non-compliance with the requirements of the ITAs.

5.10.17 The Authority reiterates its position in paragraphs 5.8.12 to 5.8.13 above that the 6 transmitter sites and frequencies argued by the Applicant do not include the aforesaid 4 towns.

5.10.18 If the Authority intended to include these 4 towns that the Applicant must cover, the Authority must have included them under Schedule B2 of the Applicant's RFS licence.

5.10.19 It is the Authority's considered view that these are specified areas as envisaged in section 5 of the Broadcasting Act.

5.10.20 In the present amendment application, the Applicant follows a similar approach by seeking an amendment to its RFS licence within its Primary Market, namely the Western Cape Province, where it already holds an I-CSBS and the RFS licences. The Applicant is not seeking an amendment to its I-CSBS licence but rather approval to add four (4) gap-fillers in areas of the Western Cape Province where the authorised service experiences inadequate signal strength. The Applicant's existing I-CSBS and RFS licences authorise coverage of the entire Western Cape Province. However, there may be instances where, despite being authorised to serve a province or district municipality, technical

limitations result in weak signal reception in certain areas. In such circumstances, an RFS licensee may apply to the Authority for approval to deploy additional gap-fillers to improve service coverage within its licensed service area. Accordingly, the Applicant seeks approval to amend its RFS licence by adding four (4) gap-fillers within its authorised Primary Market in the Western Cape Province.

5.10.21 Accordingly, the provisions of section 5 of the Broadcasting Act provide the statutory basis for issuing broadcasting service licences for specified areas, while the Authority's Position Paper operates as a guiding policy instrument that informs the Authority's discretion in distinguishing between Primary and Secondary markets. The Authority is therefore not persuaded that the Applicant's I-CSBS licence amendment application may be approved where the requested amendment would extend the Applicant beyond its authorised licensed service area and into a Secondary Market not presently covered by its I-CSBS licence.

5.11 Local Content and Community-Related Obligations

5.11.1 In its application to amend local content obligations and community-related obligations, the Applicant seeks the applicable clauses of its I-CSBS licence referred to in paragraphs 5.4.2 to 5.4.11 above to be amended to add new clauses that would operate in the aforesaid towns in the Northern Cape Province: Provided that the Applicant's RFS licence amendment is approved by the Authority to extend coverage into the 4 towns in the Northern Cape Province.

5.11.2 The Applicant is adding these new clauses as additional promises of performance aimed at providing "...a Northern Cape Gig Guide that provides South African music (SA music) artists living, performing and working in the Northern Cape with a free platform to list local concerts and other live music events provided these are not events sponsored by competitor radio operators."

5.11.3 The Applicant reasons that it is committed to being rooted in the Northern Cape community and to contributing to the socio-economic development of the province.

- 5.11.4 The Applicant states that for the Northern Cape Gig Guide to be fully operational will take four (4) months from the date of the approval of the Applicant's amendment applications.
- 5.11.5 Key to amending these clauses relating to local content and community-related obligations, paragraph 3.2 of Form C of the Regulations requires the Applicant to attach research undertaken supporting the proposed amendment. The Applicant has, in this regard, attached research undertaken by Ground Control Research (GCR).
- 5.11.6 The research undertaken by GCR illustrates the demand, need, and support survey results in the aforesaid towns of Colesberg, Kimberley, Kuruman, and Upington. The Applicant stated that the research conducted appeals to the residents of the above-mentioned towns. Out of the surveyed population, 82% support the extension of coverage.
- 5.11.7 According to the Applicant, *"A clear majority of respondents surveyed said that they liked the sound of 94.5 KFM a lot" – going up to 82 percent of respondents at the 94.5 KFM outdoor broadcasts which were undertaken in Colesberg, Kimberly, Kuruman and Upington."*
- 5.11.8 Another issue was a music factor, which the Applicant states that *"Music was a significant factor in respondents' enjoyment of 94.5 KFM, with many responses along the lines of 'my kind of music', 'my favourite music', etc."*
- 5.11.9 The Applicant further stated that potential 94.5 KFM listeners were looking for *"news that is local to their area"*.
- 5.11.10 The Authority is, in terms of paragraph 3.3 of Form C, further required to consider the implications of the proposed amendments.¹⁷ The Applicant stated that section 10(1)(a) of the EC Act *"...empowers the Authority to make terms and conditions of an individual licence consistent with the terms and conditions being imposed generally in respect of all individual licences of the same type."*

¹⁷ Applicant's Appendix 3.3 of Form C.

5.11.11 The Applicant further states that sub-paragraph (a) is not relevant to this application as section 10(1)(a) envisages a situation in which ICASA *mero motu* imposes amendments to licences upon licensees in order to standardise licence conditions across individual licence types, in this instance, commercial sound broadcasting services. The Applicant states further that this situation is different to the one presented to the Authority by it, which is an application to amend a licence in terms of section 10(1)(c), that is, an amendment requested by the licensee. (the Applicant's own emphasis).

5.11.12 In respect of section 10(1)(b) of the EC Act, the Applicant states that this section empowers the Authority to amend an individual licence "*for the purpose of ensuring fair competition between licences.*" Again, the Applicant states that this section is not directly relevant to this application as it envisages a situation in which the Authority *mero motu* imposes amendments to licences upon licensees in order to ensure fair competition between licences.

5.11.13 However, the Applicant argues that it is important for the Authority to consider the provisions of section 10(1)(c) of the EC Act as applicable and points out that "*...while the Authority does have a discretion to refuse an application to amend a licence, the key basis on which it may exercise its discretion to refuse is if such an amendment would:*

- (a) *Militate against orderly frequency management or*
- (b) *Prejudice the interests of other licensees.*"

5.11.14 The Applicant, therefore, raises an issue of where this leaves "*orderly frequency management.*" The Applicant argues that "*It is trite that spare commercial FM frequencies are available to be applied for by an existing commercial sound broadcaster such as the Applicant.*" This was seen in 2018 when the Authority licensed the Beat FM 94.5 MHz frequency. However, Beat FM failed to commence operations, and as a result was taken to the Authority's Complaints Compliance Committee (CCC). According to the Applicant, Beat FM's failure to commence operations requires the Authority to ensure that the spectrum is used efficiently in the public interest.

5.11.15 The Applicant further argues that similar situations happened in the licensing of commercial sound broadcasting service licences in the Secondary Market of the Northern Cape Province. In this circumstance, *"...none of the Northern Cape ITA applicants were able to meet the requirements to be licensed nor, in Beat FM's case, was it able to even launch operations, much less successfully operate a sustainable and viable radio station with partial coverage in the Northern Cape."*

5.11.16 The Applicant submits that its amendment application in respect of all applied frequencies clearly satisfies the *"orderly frequency management"* and would boost the efficiency of spectrum use. This is the case even where a particular frequency, particularly the Kimberley – 95.4 MHz been assigned to another commercial sound broadcasting service, in circumstances where the broadcaster in question has never actually utilised the frequency because it has failed to even commence broadcasting operations despite promising to do so for almost the entirety of its licence period.

5.11.17 The Applicant further argues that its *"...amendment applicant cannot be said to "prejudice the interests of other licensees" because a competitor does not have the right to simply prevent available unused spectrum from being assigned to an operator on the basis that it, without more, prejudices its interests."*

5.11.18 Furthermore, the Applicant states that *"In any event, the public notice and comment procedure provided for in section 10(2) read with section 9(2) to (6) of the EC Act enables the Authority to consider the Applicant's competitors' legitimate concerns, if any, as part of the amendment process."*

5.12 The Authority's Position on the Applicant's submissions in relation to the Local Content and Community-Related Obligations

5.12.1 Before the Authority can provide its analysis and reasoning in respect of the Applicant's I-CSBS licence amendment on local content and community-related obligations, it is important to first consider the provisions of section 10(1)(a) of the EC Act insofar as it relates to empowering the Authority to impose licence terms and conditions on individual licences.

- 5.12.2 The Applicant is correct when pointing out that section 10(1)(a) of the EC Act does not apply to its amendment application, as it seeks amendment based on section 10(1)(c) of the EC Act. The Authority points out that the Applicant already has an existing I-CSBS licence in the Primary Market of the Western Cape Province, which the Authority has already imposed licence terms and conditions that are consistent with the licence terms and conditions generally imposed to all individual licences of the same type.
- 5.12.3 The Applicant, when seeking approval to amend clauses 5 and 8 of its I-CSBS licence, the Applicant must first hold an I-CSBS and RFS licences to provide commercial sound broadcasting services in the authorised coverage area.
- 5.12.4 However, the hurdle that the Authority in the present matter is faced with is whether the EC Act or underlying statutes permit an individual licensee, such as the Applicant to amend its I-CSBS licence to extend broadcasting coverage and provide local and community-related content where the Applicant or any other individual licensee is not authorised to reach or exist in such a coverage area?
- 5.12.5 As stated above at paragraph 5.10.14, section 5 of the Broadcasting Act and the Authority's Position Paper align with the provisions of sections 8 and 10(1)(a) of the EC Act insofar as setting out licence terms and conditions for individual licences, including specific coverage areas. The Authority is empowered by these prescripts to exercise its discretion to the extent it can impose licence terms and conditions, limit or specify coverage areas for different broadcasting licences.
- 5.12.6 The Authority notes that the Applicant holds an I-CSBS licence to provide commercial sound broadcasting services in the Primary Market in the Western Cape Province. When analysing the Applicant's I-CSBS licence, it is not authorised to provide commercial sound broadcasting services in the Secondary Market in the Northern Cape Province.
- 5.12.7 In dealing with the Applicant's submissions regarding the proposed local content and community-related obligations in its I-CSBS licence, the Authority's position is that the provisions of section 10 of the EC Act would only be applicable where

the Authority has, in the Applicant's I-CSBS licence authorised to cover the 4 towns of Colesberg, Kimberley, Kuruman, and Upington.

5.12.8 The Authority notes the Applicant's response to paragraph 3.2 of Form C, where the Applicant has attached research conducted in respect of the aforesaid 4 towns in the Northern Cape Province on local content and community-related obligations. The Authority points out that although such research has been submitted to the Authority, it would have been applicable where the Applicant was granted and issued with an I-CSBS licence to provide commercial sound broadcasting services in the Secondary Markets of the Northern Cape Province.

5.13 Precedent of Granting on Amendments relating to Extension of Coverage Area

5.13.1 The Authority refers to one of its individual licensees, i.e., Radio Heart 104.9 (Pty) Ltd ("Heart FM")'s 2013 amendment application in relation to the I-CSBS and RFS licences in the Primary Market of the Western Cape Province. The Authority has approved the amendment of Heart FM for an extension of coverage in respect of its I-CSBS and RFS licences overlapping into other geographic coverage within the same Primary Market of the Western Cape Province.

5.13.2 The Authority approved Heart FM's amendment to include two regions in its coverage footprint –

- (a) First from the town of Tulbagh to Suurbrak and from Hermanus to Arniston across the Overberg region (Overberg extension); and
- (b) Second from Saldanha and the Swartland to the north of Cape Town, including Saldanha, Piketberg, and Moorreesburg (West Coast extension).

5.13.3 The Authority approved the categorisation of new commercial frequencies and the amendment of Heart FM's RFS licence to include the above geographic coverage areas within the same Primary Market of the Western Cape Province.

- 5.13.4 Unlike the Applicant, which does not have an I-CSBS and RFS licences authorising it to provide commercial sound broadcasting services in the Secondary Market of the Northern Cape Province, section 10(1)(c) of the EC Act applies to amendments requested by existing licensees in relation to licence terms and conditions that fall within the scope of its authorised licence area.
- 5.13.5 The Applicant previously objected to the Authority approving Heart FM's amendment applications, arguing that *"the extension application by Heart FM is all about seeking entry into a new market, therefore it should follow a new licensing process in terms of section 51 of the EC Act. Primedia urged that only if the Applicant's request is to supplement its licensed service area, then section 10(1)(c) of the EC Act applies (i.e. amendment process)."*¹⁸
- 5.13.6 With this argument, the Applicant does not want the Authority to follow the provisions of section 51 of the EC Act where it faces a fierce competition from other individual licensees providing commercial sound broadcasting services within its space but when it comes to the Applicant's amendment, it argues that the Authority should follow the provisions of sections 10(1)(c) and 31(4)(d) of the EC Act and should not consider the provisions of sections 9 and 51 of the EC Act.
- 5.13.7 Heart FM, in its amendment application, was clear; it holds an I-CSBS and RFS licences to provide commercial sound broadcasting services in the Primary Market of the Western Cape Province. What Heart FM sought was to amend its RFS licence to have additional gap-fillers and transmitter sites to cover other geographic areas within the Primary Market of the Western Cape. Before the 2013 amendment, Heart FM's footprint was confined to the City of Cape Town Metropolitan Municipality, but its I-CSBS licence allows it to cover the Primary Market of the Western Cape Province. In such situations, it is prudent for Heart FM or any other individual licensee to amend both its I-CSBS and RFS licences to extend coverage to areas where its signals cannot reach.
- 5.13.8 Unlike in the present amendment application, the Applicant does not have I-CSBS and RFS licences authorising it to provide commercial sound broadcasting services in the Secondary Market of the Northern Cape Province. Section

¹⁸ The Authority's Reasons for Decision on Heart FM's 2013 Amendment Application page 18.

10(1)(c) of the EC Act applies to amendments requested by existing licensees within the scope of its authorised licence area and does not confer authority to enter a different licensed market.

5.13.9 In other words, if the Applicant had an I-CSBS licence to provide commercial sound broadcasting services in the Secondary Market of the Northern Cape Province, the Applicant is entitled to seek this amendment and request the Authority to align its licence terms and conditions with those of other individual licensees providing similar services in the coverage area.

5.13.10 Accordingly, it is the Authority's considered view that the Applicant failed to demonstrate that it has a legal standing to provide commercially sound broadcasting services in the Secondary Markets of the Northern Cape Province and therefore, its application to amend its I-CSBS licence is refused.

5.14 Applicant's Averments of Extension of Coverage to Beat FM, Algoa FM, and OFM

5.14.1 The Authority has verified the Applicant's allegations that the Authority has, in the past, licensed other licensees to cover more than one province. Below is Beat FM, Algoa FM, and OFM's coverage footprint:

Beat FM

5.14.2 In terms of Clause 2 of Beat FM's I-CSBS and RFS licences, Beat FM is licensed to cover only the Free State Province and not Kimberley.

Algoa FM

5.14.3 In terms of Clauses 2 and 3 of Algoa FM's I-CSBS and RFS licences, respectively, Algoa FM is licensed to cover only the Eastern Cape Province and not parts of Colesberg.

OFM

5.14.4 According to Clause 2 of OFM's I-CSBS licence, the Authority points out that OFM is one of the Greenfields stations that have been licensed to cover the Free State, Northern Cape, and parts of the North West, as defined in the coverage map attached to the Licensee's radio frequency spectrum licence. This was done prior to the coming into effect of the ICASA Act, and when the democratic dispensation came into effect, OFM already had an extended footprint. It should be noted that the Authority also authorized the Applicant to operate 6 transmitter sites, which were in effect before the ICASA Act came into effect.

6. THE AUTHORITY'S DECISION

6.1 The Authority, having considered the Applicant's amendment applications and followed the administrative process in line with the provisions of PAJA, including affording the Applicant an opportunity to make written and oral representations, the Authority resolved to proceed with its decision. Accordingly, the Authority has decided to approve certain amendments sought by the Applicant and to refuse others, as set out below:

6.2 Grant the Amendment of the RFS licence in the Primary Market of the Western Cape Province.

- (a) Plettenberg Bay - 107.5 MHz;
- (b) Sea Point 100.7 MHz; and
- (c) Franschhoek 89.8 MHz.

6.2.1 This approval is in relation to the extension of coverage within the Applicant's existing coverage area in the Primary Market of the Western Cape Province.

6.2.2 The Authority has conducted a desktop analysis of the above three frequencies in the said coverage areas and found that all three frequencies do not cause and are not affected by harmful interference from the existing broadcasters and spare coordinated frequencies.

6.3 Refusal of the amendment of the Applicant's RFS licence in the Primary Market of the Western Cape Province.

(a) Simonstown 107.4 MHz.

6.3.1 This refusal is in relation to the extension of coverage within the Applicant's existing coverage area in the Primary Market of the Western Cape Province.

6.3.2 The analysis done on the proposed transmitter site at Simonstown 107.4 MHz reveals that it will cause harmful interference to CCFM on 107.5 MHz, with an ERP of 0.25 kW operating from the Tygerberg transmitter. This contravenes the provision of section 30(3) of the EC Act, which requires the Authority to exercise control over the use of the radio frequency spectrum in order to prevent or reduce harmful interference to authorised or licensed users of the radio frequency spectrum to the extent reasonably possible.

6.4 Refusal of the Amendment of the Applicant's RFS licences in the Secondary Market of the Northern Cape Province.

- (a) Upington 93.5 MHz;
- (b) Kuruman 98.4 MHz;
- (c) Kuruman Hills 104.2 MHz;
- (d) Colesberg 97 MHz; and
- (e) Kimberley 95.4 MHz.

6.4.1 This refusal is in relation to the extension of coverage beyond the Applicant's existing coverage area in the Primary Market of the Western Cape Province into the Secondary Market of the Northern Cape.

6.4.2 The Authority, when analysing the Applicant's RFS licence in respect of Schedule B2 of its RFS licence, found that towns such as Springbok, Calvinia, Pofadder, Garies, Carnarvon, and Alexander Bay are included, but Colesberg, Kimberley, Upington, Kuruman, and Kuruman Hills are not included.

6.4.3 The Authority decides that the Applicant's reliance on Schedule B2 of its RFS licence does not establish authority to provide commercially sound

broadcasting services in the additional towns sought through this amendment application.

- 6.4.4 The Authority further decides that if it intended to authorise the Applicant to cover the aforesaid 4 towns, it would have included them in Schedule B2 of the Applicant's RFS licence. This would mean that the only thing that the Applicant was to seek amendment on was to apply for additional gap-fillers in these 4 towns where it is unable to reach its listeners.
- 6.4.5 Accordingly, the provisions of section 5 of the Broadcasting Act provide the statutory basis for issuing broadcasting service licences for specified areas, while the Authority's Position Paper operates as a guiding policy instrument that informs the Authority's discretion in distinguishing between Primary and Secondary markets.
- 6.4.6 The Authority is therefore not persuaded that the Applicant's I-CSBS licence amendment application must be approved where the requested amendment would extend the Applicant's coverage area beyond its authorised licensed service area and into a Secondary Market not presently covered by its I-CSBS licence.

6.5 **Refusal of the Amendment of the Applicant's I-CSBS licence in the Secondary Market of the Northern Cape Province.**

Coverage Area

- (a) Refuse amendment of Clause 2 of its I-CSBS licence.

Local Content Obligations

- (b) Refuse amendment of Clause 5 of its I-CSBS licence.

Community-related obligations

- (c) Refuse the amendment of Clauses 8.1 and 8.1.2 of its I-CSBS licence; and

(d) Refuse the insertion of new clause 8.1.3 after clause 8.1.2 of its I-CSBS licence.

6.5.1 This refusal is in relation to the extension of coverage beyond the Applicant's licensed coverage area in the Primary Market of the Western Cape Province into the Secondary Market of the Northern Cape Province.

6.5.2 The Applicant holds an I-CSBS and RFS licence to provide commercial sound broadcasting services in the Primary Market in the Western Cape Province, but it does not hold an I-CSBS and RFS licence to provide commercial sound broadcasting services in the Secondary Market in the Northern Cape Province.

6.5.3 Lastly, it is the Authority's position that the Colesberg, Kimberley, Upington, and Kuruman towns fall within the Secondary Market in the Northern Cape Province; and are not part of the Applicant's licensed coverage area, as is evident in Schedule B2 of the Applicant's RFS licence.



Mothibi G. Ramusi
CHAIRPERSON

DATE: 26 / 08 / **2026**