



Chairperson: Signal Distribution Council Committee

ICASA

Email: signaldistribution@icasa.org.za

12 September 2025

Dear Committee Chairperson

JOINT ADDITIONAL SUBMISSIONS: PRIMEDIA (PTY) LTD AND RADIO PULPIT NPC

1. We act on behalf of both:
 - 1.1 Primedia (Pty) Ltd (Primedia) which is the licensee in respect of three FM commercial sound broadcasting services, namely: 947, 702 and Kfm, and one AM commercial sound broadcasting service, namely, Cape Talk; and
 - 1.2 Radio Pulpit NPC (Pulpit) which is the licensee in respect of one AM community sound broadcasting service, namely, Radio Pulpit (Pulpit).
2. In Notice 3185, published in Government Gazette No. 52622 dated 8 May 2025, the Independent Communications Authority of South Africa (ICASA) published Draft Signal Distribution Services Regulations (the Draft Regs) and called for the public to make comments thereon by 20 June 2025. Primedia and Pulpit made written submissions on 20 June 2025 (the Written Submission) and also made oral submissions at the hearing which took place on 19 August 2025 (the Hearing).
3. At the hearing, ICASA requested Primedia and Pulpit to make additional submissions and inputs in respect to a number of issues that these parties raised in their Written Submission and at the Hearing. ICASA also kindly granted us an extension to submit these additional submissions to 12 September 2025, for which forbearance the parties are grateful and thank ICASA for the opportunity to do so.
4. To reiterate, Primedia and Pulpit have taken the extraordinary step of making their submissions on the Draft Regs jointly because of the serious existential threat to their respective AM licences posed by Sentech (SOC) Ltd (Sentech)'s stance on the future of AM/MW.

5. AD DEFERAL OF IMPLEMENTATION DATE AS REQUESTED BY SENTECH

5.1.1 During the Hearing, ICASA requested Primedia and Pulpit's views on the proposed deferral of the implementation date to allow Sentech SOC Ltd (Sentech) to be able to comply with the regulations once promulgated.

5.1.2 Both Primedia and Pulpit are strongly opposed to any deferral of the implementation date.

5.1.3 As ICASA is aware, Sentech has been an ECNS and ECS provider, and before that a signal distribution provider, for decades and is not a newcomer to ICASA's regulatory authority and the legal and regulatory environment in which it operates.

5.1.4 None of the proposed provisions in the Draft Regulations breaks new ground, as the essential models being proposed, namely:

5.1.4.1 the provision of Reference Offers by Sentech; and

5.1.4.2 ICASA having dispute resolution powers,

are essentially based on the provisions of Chapter 8 of the Electronic Communications Act, 2005 (the ECA), dealing with facilities leasing, and on the Facilities Leasing Regulations¹ promulgated in terms of section 44 of the ECA, which Sentech, as an existing ECNS provider has been subject to and has had to comply with for many years.

5.1.5 As ICASA heard from many broadcasters, the Draft Regulations have received overwhelming support from the sector which is anxious to see the Draft Regulations promulgated as soon as possible.

5.1.6 Sentech has engaged in signal distribution as the common carrier for decades and has vast contracting expertise and a legal department dedicated solely to such matters and to regulatory compliance. Pulpit and Primedia can see no reason why its standard term signal distribution contracts cannot be adapted, in short order, to a Reference Offer for the purposes of compliance with the Draft Regulations.

6. AD ADDITIONAL DEFINITIONS:

6.1.1 During the Hearing, ICASA requested Pulpit and Primedia's views on whether or not additional definitions should be contained in the Draft Regulations and gave the following examples, namely, "shared costs", "direct costs" and the like.

¹ Notice 468, Government Gazette No. 33252 dated 31 May 2010.

6.1.2 Primedia and Pulpit agree with other stakeholders who suggested that including such definitions in the Draft Regulations would reduce the likelihood of disputes arising regarding Reference Offers and in actual contracting between broadcasters and Sentech in general.

6.1.3 Pulpit and Primedia are of the view that the following terms, at a minimum, should be defined in the promulgated regulations, namely:

6.1.3.1 “capital”

6.1.3.2 “Common Carrier”. In this regard, Pulpit and Primedia are of the respectful view that the following should be the definition:

“Common Carrier” means Sentech SOC Limited, established and operated in terms of the Sentech Act, 1996, and which is obligated, in terms of section 62(3) of the Electronic Communications Act, 2005, to provide, subject to its technological capacity to do so, broadcasting signal distribution to broadcasting licensees upon their request and in accordance with the national frequency plan on an equitable, reasonable and non-preferential and non-discriminatory basis;”

6.1.3.3 “cost base”

6.1.3.4 “direct costs”;

6.1.3.5 “historical cost”;

6.1.3.6 “replacement cost”; and

6.1.3.7 “shared costs”.

7. AD PROPOSED AMENDMENTS TO REGULATION 8(b)

7.1 Pulpit and Primedia, in their Written submission and in the Hearing called for Regulation 8(b) to be amended to make it clear that Sentech was requested to submit three different Reference Offers, one for each of the different markets.

7.2 After further consideration Primedia and Pulpit are also of the view that the different broadcasting sectors need to be consulted on and have input with regard to the Reference Offers otherwise they are effectively shut out of the contracting process on signal distribution.

7.3 For ICASA’s ease of reference the proposed amendments *to the first part* (our emphasis) of Regulation 8(b) are as follows:

“Submit **[a]** Reference Offers (“ROs”) in relation to network access and provision of terrestrial distribution services for each of the following markets, namely: television, FM sound and AM

sound, for approval by the Authority following an open and transparent public notice and comment procedure on the contents of each of the ROs and after consultations, including oral hearings, with licensed broadcasters operating in each of the markets. The ROs must include at least the following:

8. ICASA'S DISPUTE RESOLUTION ROLE

- 8.1 As ICASA is aware, both Primedia and Pulpit have long advocated for ICASA to play a dispute resolution role in settling disputes between Sentech and broadcasters in relation to the provision of signal distribution services and contractual matters relating thereto.
- 8.2 In its Written Submission and in the Hearing, Pulpit and Primedia submitted that Regulation 8 of the Draft Regs requires to be amended to provide for such a dispute resolution role for ICASA.
- 8.3 During the Hearing, ICASA requested Pulpit and Primedia draft wording of the proposed amendment to Regulation 8 by way of a new Regulation 8(d). Primedia and Pulpit thank the Authority for the opportunity of providing their proposed draft wording of proposed Regulation 8(d) which is as follows:

(d) Dispute Resolution

(i) Where a licensed broadcaster and Sentech have been unable to reach agreement within 45 (forty-five) days on: the contractual terms in relation to a request for signal distribution or an alleged breach of contractual obligations under an existing signal distribution services contract, either party may refer the dispute to the Authority for resolution.

(ii) A dispute referral made in terms of regulation 8(d)(i) of these regulations, must be in writing and must set out the details of the alleged dispute.

(iii) Where the Authority determines that the dispute warrants further investigation then the Authority shall: provide the other party to the dispute with a copy of the referring party's notice of referral, afford the other party 14 (fourteen) days within which to respond and afford the referring party 14 (fourteen) days to reply to the other party's response.

(iv) The Authority may call for further written oral representations thereafter or may determine the matter on the basis of the papers submitted to it by the parties.

(v) The Authority shall, within 14 (fourteen) days of the hearing or of the decision not to hold a hearing, or such longer period as is reasonably necessary, which longer period shall not exceed 14 (fourteen) days, furnish the parties to the dispute with its final decision.

(vi) Regulation 8(d) of these regulations does not, in any manner, limit the power of the Authority to refer a dispute to the Complaints and Compliance Committee, on an expedited basis, in terms of section 17C(1)(b) of the Independent Communications Authority Act, 2000.

9. AD REVIEW OF MARKETS

- 9.1 During the Hearing, ICASA requested Pulpit and Primedia views on a proposal to extend the markets review period referred to in Regulation 10 of the Proposed Regs from the proposed every three (3) years from the date of publication of the regulations to every five (5) years.
- 9.2 Given ICASA's enormous work load, Primedia and Pulpit agree that the obligation upon ICASA to conduct reviews of the various markets should occur not later than every five years from the date of publication of the regulations.
10. Primedia and Pulpit thank ICASA for the opportunity to make these additional written submissions and trusts that these will be helpful.

We trust that you find the above to be in order. Please do not hesitate to contact us should you have any queries or require any further information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Justine Limpitlaw', written in a cursive style.

Justine Limpitlaw