MEDIA DEVELOPMENT & DIVERSITY AGENCY

MDDA Response to ICASA's Proposed Amendments to the Radio Frequency Spectrum Regulations, 2015

The Media Development and Diversity Agency (MDDA) welcomes ICASA's proposed amendments to the Radio Frequency Spectrum Regulations, 2015, as a necessary and timely step toward a coherent national framework for satellite services in South Africa. These are not merely technical provisions; they are expressions of national sovereignty, scientific investment, and the principle that new technologies must enter the South African market on terms that serve all South Africans equitably. The MDDA affirms that no operator, regardless of the connectivity benefits they promise, should be exempt from these obligations.

The MDDA does, however, align with concerns raised about the precision of certain provisions. Regulation 28B(3) requires satellite space segment operators to “coordinate with the Management Authority” before commencing operations to mitigate interference with astronomy devices. It does not establish timelines, dispute resolution mechanisms, or consequences where coordination fails to produce agreement. MDDA respectfully submits that "coordinate" should be replaced with language that requires documented agreement or, where agreement cannot be reached, a defined escalation process with binding outcomes.

Regulation 28A(8) on the ESIM must be subject to ‘permanent monitoring’ and control by a network control and monitoring centre. But the regulation does not specify who operates that NCMC, where it must be located, or whether it can be based outside South Africa. A foreign operator could satisfy this requirement with a monitoring centre in Europe or the

US, meaning South Africa has no practical oversight of a facility that has the power to switch off transmissions in its territory. That is a sovereignty gap.

The 90-day licensing exemption for foreign ESIMs in Regulation 28A(6), while aligned with international practice, contains drafting gaps that undermine its enforceability. The provision exempts foreign ESIMs that comply with six listed international instruments but does not specify who determines compliance, or to whom it must be declared. While Regulation 28A(1) requires all transmissions to ESIMs in South Africa to be authorised, it does not resolve this gap. The 28A(6) exemption itself constitutes the authorisation, meaning no notification to ICASA is triggered, and the obligation in 28A(1) falls on the satellite operator rather than the ESIM operator, leaving the actual subject of the exemption outside any practical accountability chain. The provision also fails to define when the 90-day period begins, creating exploitable ambiguity for operators making repeated entries.

The MDDA respectfully requests that the Authority introduce a lightweight pre-operation notification requirement for exempt ESIMs, a clear definition of when the exemption period commences, and an explicit obligation to seek authorisation, not licensing, before its expiry.

The MDDA further notes that the proposed framework, while technically sound, does not adequately address affordability, and access without affordability is not access. These are precisely the communities transformation policy was designed to serve. The MDDA notes that the framework's implicit reliance on Equity Equivalent Investment Programmes as an alternative to ownership requirements carries a structural risk. EEIPs remain legally contested and, as ICASA itself has confirmed, cannot be fully implemented without amendment to the Electronic Communications Act. Building a transformation mechanism on a legally unsettled foundation risks producing a framework that is administratively compliant but substantively hollow. More fundamentally, empowerment measured by rand value invested rather than by demonstrable benefit to historically marginalised communities is an incomplete measure of transformation. The MDDA submits that if EEIPs are ultimately accepted as a compliance pathway, their conditions must be defined with sufficient specificity to ensure that investment reaches communities.

The MDDA therefore requests that ICASA consider three additions to the final regulations: that licensed satellite operators offer differentiated pricing for non-commercial public interest broadcasters and publishers as a licence condition; that any EEIP commitments include measurable, auditable allocations toward community media connectivity, not schools alone, but the broader public interest media ecosystem; and that hardware access or subsidised rollout mechanisms for community media be explored, consistent with South Africa's existing tradition of universal service obligations.

The goal is a framework that does not merely open the sky, but ensures the ground is reachable for those who need it most.