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The Chairperson

Independent Communications Authority of South Africa (ICASA)

350 Witch Hazel Avenue

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Per email: covid19regulations@icasa.org.za

Dear Chairperson

SUBMISSION ON ICASA DRAFT ICT COVID 19 NATIONAL DISASTER REGULATIONS

Introduction

1. We welcome the opportunity to submit comments on the above-mentioned Regulations. Our role is to provide regulatory, policy and legislative advice to telecommunications and broadcasting sector.
2. We are under the assumption that the National State of Disaster will be extended on the 15 May 2021 as prescribed by Regulations under the Authority of the Minister of Cogta.
3. The ICASA ICT Covid 19 National Disaster Regulations should therefore be reviewed and published on the assumption that the Covid 19 National State of Disaster Regulation will be in place for the better part of 2021 and 2022. The ICASA ICT Covid 19 National Disaster Regulations shall be read with Cogta Covid 19 National Disaster Regulations, as published from time to time.
4. Further, the main aim of the ICASA Covid 19 National Disaster Regulations shall be to seamlessly regulate communications through the pandemic, in telecommunications, broadcasting and postal services, in the public interest.

SUBMISSION TO THE ICASA COVID 19 NATIONAL DISASTER REGULATIONS

Add Para 8.9 (a)

ICASA should not extend the duration of the temporary spectrum licenses beyond 31 May 2021, to allow the Appeal process to proceed smoothly and the digital migration to be completed. Further, due the Lockdown being downgraded, ICASA should focus on licensing the IMT spectrum for a longer term through the auction process. However, if ICASA decides to extend the duration, it must be on condition that Telkom, ETV and MTN should withdraw their review applications on the IMT Spectrum auction process.

Add Para 8.9 (b)

There should be no extension of the duration of the temporary IMT spectrum licenses.

Add Para 8.9. (c)

The extension should not be considered and spectrum fees should not be reviewed.

Add Para 8.9 (d)

The extension will further distort competition in the mobile communication market as the dominant players are the only ones benefiting from utilization of the temporary IMT spectrum licenses. A fair and transparent licensing process should be conducted for the licensing of the IMT spectrum.

Add Para 8.9 (e)

There aren't tangible benefits for consumers during the current duration of the temporary IMT spectrum licenses. The data and voice prices are still high and the network coverage in most rural areas is poor. ICASA should consider tangible consumer benefits during the permanent auction of the IMT spectrum.

Add Para 9.2 (a)

ICASA should approve spectrum sharing agreements if the agreements lead to efficient use of spectrum and there is improvement on network coverage or universal access, in particular the rural areas. ICASA should impose universal access obligations as a condition to approve spectrum sharing agreements.

Add Para 9.2 (b)

Spectrum sharing agreements must lead to lower data and voice services prices. Consumer choice of telecoms products must be increased through the spectrum sharing agreements.

Add Para 9.2 (c)

As a condition to approve the spectrum sharing agreements, the Network Operators should be obliged to ensure consumers benefit through lower telecoms products prices.

Add Para 10.2 (a)

The IMT spectrum licenses duration should not be extended as there hasn't been any tangible consumer benefit. ICASA should rather focus on permanent auctioning of the IMT spectrum and impose strict universal access obligations.

Add Para 11.2 (a)

The validity period of three months is acceptable after the expiry of the National State of Disaster; however, it seems likely that the National State of Disaster will persist for the remainder of 2021 and 2022.

Add Para 11.2 (b)

The decommissioning period of six to twelve months is sufficient depending on the type of equipment.

Add Para 12.2 (a)

Complaints may be resolved within the usual prescribed period, unless good cause is shown to extend the period.

Add Para 13.2 (a)

Tariffs may be filed a week before launch to allow ICASA sufficient time to approve.

Add 14.2(a)

The seven days notification period is sufficient and must be retained.

Add Para 15.2(a)

No further consideration should be taken into account with regards to zero rating.

Add Para 16.2 (a)

The performance period of 7h00 till 21h00 may be retained as there is no real impact on the industry.

Add Para 16.2 (b)

The performance period may be retained as is, as there is no real impact to the industry.

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Add Para 17.2 (a)

The percentage of program syndication must be reviewed from 45 % to the initial 20% as broadcasters are able to produce content on their own and are able to operate remotely.

Add Para 18.2 (a)

Licensees may submit program logs and recordings electronically, the suspension may be lifted.

Add Para 19.2(a)

This requirement for sign language may be retained as demand for covid related content remains high for all viewers.

Add Para 20.2(a)

Submission of electronic copies of Applications for Licenses should be a permanent requirement as it is cost efficient and convenient.

Add Para 20.2 (b)

Submission for channel authorisation can be reviewed to seven week days.

Add Para 21.2 (a)

ICASA should re-impose the local content obligations on a gradual basis, for example the exemption can be considered for weekends only.

Add Para 21.2(b)

ICASA should consider encouraging repeats of local content during weekends and pre-recorded content for sound broadcasting services.

Add Para 22.2(a)

In line with the Cogta Disaster Management Regulations, Licenses may be required to only have meeting of not more than 100 people with a requirement to observe Covid 19 Protocols like wearing a mask, social distancing and sanitizations.

Add Para 22.2(b)

The suspension of the 90 day period may still be imposed as long as the 30 day period for phase 2 of the licensing process is also suspended.

Add Para 22.2(c)

Consideration of Special Event for Covid 19 only should be reviewed to allow any other special event programming based on demand and need.

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Add Para 23.2(a)

Postal Services should be required to introduce mobile app tracking service as a standard requirement.

Regards,

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