Mr Mothibi Ramusi
Chairperson ICASA
Email: broadcastingapplications@icasa.org.za

and

Mr Given Mkhari at email: Given@msgafrika.com
Ms Pheladi Gwangwa at email: Pheladi@msgafrika.com
Ms. Queen Serobe at email: Queen@msgafrika.com

2 July 2026

Dear Mr Ramusi, Mr Mkhari, Ms Gwangwa and Ms Serobe

OBJECTIONS BY PRIMEDIA TO THE LICENCE RENEWAL APPLICATION IN RESPECT OF BEAT FM

1. INTRODUCTION

1.1. Primedia (Pty) Ltd, is the licensee in respect of four commercial sound broadcasting stations, namely:

1.1.1. KFM, operating in the Western, Northern and Southern Cape;

1.1.2. Cape Talk, operating in the Western Cape;

1.1.3. 947, operating in Gauteng; and

1.1.4. 702, operating in Gauteng.

1.2. In Notice 3975 published in Government Gazette No. 54834 dated 12 June 2026 (the Notice), ICASA gave notice of the application by Histotrim (Pty) Ltd t/a Beat 105 FM (Beat) to renew its individual sound broadcasting service licence and associated spectrum licence (together the Licence) in terms of s11 of the Electronic Communications Act, 2005 (the ECA) read with regulation 10 of the Individual Licensing Processes and Procedure Regulations, 2010 (as amended) (the Processes Regs).

1.3. In paragraphs 3 and 6 of the Notice, interested persons were invited to make written representations within fourteen (14) working days from the date of publication of the Notice. Primedia hereby makes such written representations and also requests an opportunity to make oral representations at the hearings to be held.

1.4. Primedia is extremely concerned at the application for renewal which is incomplete, and/or otherwise defective, in many respects, and therefore fails to comply with the statutory and regulatory requirements for a valid renewal application.

1.5. Primedia is also extremely concerned at the fact that the application for renewal has been accepted by ICASA as, in our respectful view, the granting by ICASA of this application for renewal of this licence would be unlawful for being entirely at odds with:

1.5.1. the previous ruling by ICASA's Complaints and Compliance Committee (the CCC);

1.5.2. various provisions of the country's governing broadcasting legislation; and

1.5.3. peremptory requirements, processes and procedures of ICASA's own regulations,

rendering the decision immediately susceptible to being set aside on review by the High Court in terms of section 6 of the Promotion of Administrative Justice Act, 2000 (PAJA).

1.6. Primedia sets out its objections in turn, below.

2. THE RENEWAL APPLICATION IS INCOMPLETE

The renewal application is incomplete in numerous respects, rendering it incapable of being lawfully approved by ICASA. We set out the instances of incompleteness below:

2.1. <u>Mr Mkhari is not authorized to sign the application form, Form E, on behalf of the Licensee:</u>

2.1.1. In clause 2.1 of Form E, the application form required to be submitted for an application for a renewal of an individual licence in terms of section 10(1) of the Processes Regs, the licence renewal applicant is stated to be Histotrim (Pty) Ltd. However, the company that authorised Mr Given Mkhari to sign the licence renewal application is not Histotrim (Pty) Ltd (the licensee in respect of Beat FM according to page one of its individual sound broadcasting service licenced annexed as Appendix 1.4 to Form E and according to the Notice) but a company called Beat FM (Pty) Ltd.

2.1.2. Consequently, it appears that the wrong company passed a resolution authorising Mr Mkhari to sign the application for renewal as Beat FM (Pty) Ltd is not the licensee in respect of Beat FM and the actual licensee (as per the Licence and the Notice) has not authorised Mr Mkhari to sign the licence renewal application on its behalf and therefore his purporting to have done so is not legally valid.

2.2. The required information regarding holders of ownership interests in the applicant has not been submitted:

2.2.1. In clause 3.1 of Form E, the application form required to be submitted for an application for a renewal of an individual licence in terms of section 10(1) of the Processes Regs, the applicant is required, *inter alia*, to submit the identity and address of each holder of an ownership interest in the applicant. (our emphasis)

2.2.2. Although the applicant has stated that the required information is attached as Appendix 3.1, this is not the case.

2.2.3. First, it is not clear what the title of the Appendix 3.1 refers to when it states "Beat FM". The applicant is not Beat FM (Pty) Ltd, the applicant is the Licensee, namely Histotrim (Pty) Ltd. Primedia calls on ICASA to clarify whether or not the shareholders listed here are indeed the shareholders of the Licensee or of some other entity.

2.2.4. Second, Appendix 3.1 to the application lists only the names of shareholders (again, of what entity is unclear) and does not include:

2.2.4.1. the required identities thereof, that is, for example, identity numbers for individual shareholders or company registration numbers for juristic persons, NPO numbers for non-profit entities; nor

2.2.4.2. addresses for each of the shareholders.

2.2.5. Consequently, the application is incomplete because the requirements of clause 3.1 of Form E have not been complied with.

2.3. Details of holders of ownership interests in holders of ownership interests are entirely missing:

2.3.1. In clause 3.3 of Form E, the application form required to be submitted for an application for a renewal of an individual licence in terms of section 10(1) of the Processes Regs, the applicant is required, *inter alia*, to submit the identity and address of each holder of an ownership interest in any person holding an ownership interest in the applicant. (our emphasis)

2.3.2. Although the applicant has stated that the required information is attached as Appendix 3.1, this is not the case.

2.3.3. Appendix 3.1 to the application lists only the names of the shareholders (again, of what entity is unclear) and does not include the information required in terms of clause 3.3 of Form E in particular. It does not include:

2.3.3.1. the <u>names of persons holding ownership interests in each of the shareholders</u> in the licensee which is what is required in terms of section 3.3 of Form E; nor

2.3.3.2. the required identities thereof, that is, for example, identity numbers for individual shareholders or company registration numbers for juristic persons, NPO numbers for non-profit entities <u>of persons holding ownership interests in each of the shareholders</u> in the licensee which is what is required in terms of section 3.3 of Form E; nor

2.3.3.3. addresses for each of the entities <u>or persons holding ownership interests in each of the shareholders</u> in the licensee which is what is required in terms of section 3.3 of Form E.

2.3.4. Consequently, the application is incomplete because the requirements of clause 3.3 of Form E have not been complied with.

2.4. <u>Information about ownership interests in other broadcasting licensees is not provided:</u>

2.4.1. In clause 3.6 of Form E, the application form required to be submitted for an application for a renewal of an individual licence in terms of section 10(1) of the Processes Regs, the applicant is required, *inter alia*, to indicate <u>whether any person holding an ownership interest in the applicant holds a licence issued in terms of the Act or holds an ownership interest in any other licensee licensed to provide a service similar to that to which the application relates</u>. (our emphasis).

2.4.2. The applicant has stated “N/A” in response.

2.4.3. This response is extremely concerning as it is patently untrue.

2.4.4. One of the parties listed in the statement of shareholding in Appendix 3.1 is MSG Africa Broadcasting.

2.4.5. MSG Africa Broadcasting is listed as holding an ownership share in Rhythm (Pty) Ltd, the licensee in respect of Rhythm FM in Appendix 3.1 of that station’s application of renewal notice of which was given in Notice 3971 published in Government Gazette No. 54816 dated 9 June 2026.

2.4.6. Further, Primedia understands that ICASA is aware that MSG Africa Broadcasting has controlling ownership interests in:

2.4.6.1. Janitone (Pty) Ltd; and

2.4.6.2. Janizest (Pty) Ltd.

2.4.7. In this regard:

2.4.7.1. Janitone (Pty) Ltd is listed on Power FM's licence as holding 87.02 percent of the shares in Power FM (Pty) Ltd, the licensee in respect of Power FM's licensee; and

2.4.7.2. Janizest (Pty) Ltd is listed on Capricorn FM's licence as holding 75% of the shares in Capricorn FM (Pty) Ltd, the licensee in respect of Capricorn FM.

2.4.8. Consequently, the application is incomplete because the requirements of clause 3.6 of Form E have not been complied with.

2.5. In this paragraph 2, Primedia has provided ICASA with four instances where the applicant has failed to submit the necessary and relevant information required to be submitted in terms of Form E.

2.6. A failure to submit required information is a violation of section 10(1) of the Processes Regs which requires an application to renew to be "in the format as set out in Form E".

2.7. According to section 16 of the Processes Regs, "*Any contravention to the Regulations, will result in the Authority not considering the application in terms of the Regulations until such time the applicant remedies the contravention*" (grammatical errors in the original).

2.8. Consequently, Primedia submits that ICASA cannot lawfully proceed to consider the application.

3. THE RENEWAL APPLICATION IS FATALLY DEFECTIVE

The renewal application is fatally defective in numerous respects rendering it incapable of being lawfully approved by ICASA. We set out the instances of defect below:

3.1. Submission of False Information:

3.1.1. In relation to the averments made in in paragraphs 2.4 to 2.4.8 above, it is important to note that these matters signal not just incomplete information having been provided in the Beat FM application, but false or misleading information, rendering the application fatally defective.

3.1.2. In terms of section 17H(3)(a) of the ICASA Act, 2000 (the ICASA Act), it is an offence for any person applying for the renewal of a licence “to furnish any false or misleading information or particulars” or to make a statement which is “false or misleading in any material respect” or to wilfully fail “to disclose any information or particulars material to his or her application”.

3.1.3. In terms of section 17H(3)(i) of the ICASA Act, the penalty for a conviction of an offence listed in section 17H(3)(a) is a fine of up to R5 000 000.00 (five million Rand).

3.1.4. Primedia respectfully submits that the information provided by the applicant in response to clause 3.6 of Form E is patently false which constitutes an offence in terms of section 17H(3)(a) of the ICASA Act and in this regard Primedia calls on ICASA to lay charges in respect of the offence as, Primedia submits, it is required to do in terms of its enforcement obligations set out in section 4(3)(b) of the ICASA Act.

3.2. <u>Violation of section 65(2)(b) of the ECA:</u>

3.2.1. In clause 3.8 of Form E, the application form required to be submitted for an application for a renewal of an individual licence in terms of section 10(1) of the Processes Regs, the applicant is required to provide details of each member of the applicant’s Board and senior management.

3.2.2. Primedia reiterates that it is not clear if Mr Mkhari is the sole director of the applicant or of Beat FM (Pty) Ltd, the company purporting to authorise him to sign the application.

3.2.3. Be that as it may, Primedia notes that it is clear from the applicant’s response to clause 3.8 of Form E that both the Board and the senior management of the applicant comprise a single person, namely, Mr Given Mkhari.

3.2.4. This raises additional issues of concern.

3.2.5. Section 65(2) of the ECA restricts a person from:

(a) exercising control "over more than two commercial broadcasting service licences in the FM sound broadcasting service" [sic]*;*

(b) being "a director of a company which is, or of two or more companies which between them are, in a position to exercise control over more than two commercial broadcasting service licensees in the FM sound broadcasting service" [sic]; *and*

(c) being "in a position to exercise control over two commercial broadcasting service licensees in the FM sound broadcasting service and be a director of any company which is in a position to exercise control over any other commercial broadcasting licence in the FM sound broadcasting service" [sic];

3.2.6. Primedia submits that Mr Mkhari appears to be a director of two or more companies which between them are in a position to exercise control over more than two commercial sound broadcasting service licensees in the FM sound broadcasting service as he also appears to be a director of MSG Africa Broadcasting (Pty) Ltd, Power FM (Pty) Ltd, Capricorn FM (Pty) Ltd and of Rhythm (Pty) Ltd, the licensee in respect of Rhythm FM[1], thus making him a director of two or more companies which between them are in a position to exercise control over four FM sound broadcasting service licensees, in violation of section 65(2)(b) of the ECA.

3.2.7. Similarly, as the sole director and sole member in the senior management of both Rhythm FM and Beat FM, it is clear that Mr Mkhari is solely in control of Rhythm FM and Beat FM. However, as Mr Mkhari also appears to be a director of two or more companies, namely, MSG Africa Broadcasting (Pty) Ltd, Power FM (Pty) Ltd, Capricorn FM (Pty) Ltd, which between them are in a position to exercise control over two other commercial sound broadcasting service licensees, namely, Power FM (Pty) Ltd and Capricorn FM (Pty) Ltd, this appears to be a clear violation of section 65(2)(c) of the ECA.

3.2.8. ICASA obviously cannot proceed to renew Beat FM's licence when doing so would violate the provisions of section 65(2) of the ECA. Indeed, Primedia submits that Beat FM should have been referred to ICASA's CCC for these apparent ongoing violations of section 65(2)(c) of the ECA in terms of section 17B(a)(ii) of the ICASA Act and calls on ICASA to do so in compliance with its enforcement obligations under section 4(3)(b) of the ICASA Act.

[1] See the application for renewal in respect of Rhythm FM.

3.3. <u>The Undertaking Regarding Launching the Station is Defective</u>

3.3.1. In response to clause 6.1 of Form E, the Applicant states that it "undertakes to take the necessary steps to ensure the radio station is launched and operational".

3.3.2. With respect, Primedia submits that this response is risible.

3.3.3. It is clear from the 2020 CCC judgment in respect of Beat FM (which is annexed to the renewal application), that the CCC held that Beat FM must launch full broadcasting services "within a maximum of 180 days after the issue of this judgment by the Council of ICASA"[2]. The judgment was dated 23 April 2020.

3.3.4. It is trite that Beat FM did not launch during the entire period of its licence and has yet to do so.

3.3.5. For ICASA to renew the Rhythm FM licences (sound broadcasting service and spectrum) licences in the face of the CCC judgment and Beat FM's failure to launch in the 11 years since the issuance of its licences, would constitute a violation of ICASA's own legal obligations in terms of clause 2(e) of the ECA, 2(c) of the ICASA Act and 2(i) of the Broadcasting Act requiring the efficient use of the frequency spectrum. In this regard we note the Next Generation Radio Frequency Spectrum for Economic Development Policy[3] which provides, at section 18(b) and (c), that:

"(b) The Authority should put measures in place that prevent hoarding of spectrum including mechanisms for the implementation of the "use it or lose it" principle.

(c) The licensed spectrum that is unused for more than 24 months will be subjected to the use it or lose it principle unless prior arrangements are made with the Authority".

3.3.6. Primedia submits that it would clearly not be in the public interest for ICASA to renew Beat's licences when its broadcasting service was never launched during their 10 year licence period, particularly when the promise of performance given by the applicant in relation to such launch and operationalisation is so tepid and obviously devoid of substance. Primedia submits that it is time for the frequencies which have been tied up for over a decade by a failed station which never launched, to be made available to other licensees.

[2] Sub-paragraph 1 of Paragraph [20] of the CCC Judgment.
[3] Notice 166 published in Government Gazette 50725 dated 28 May 2024.

3.4. <u>The statement regarding additional footprint coverage is defective:</u>

3.4.1. In response to clause 8.1 of Form E, the Applicant states, *inter alia*, that "the launch of the radio station is very much dependent on Sentech's footprint coverage".

3.4.2. With respect, Primedia submits that this response is risible.

3.4.3. It is clear from the 2020 CCC judgment in respect of Beat FM (which is annexed to the Beat FM renewal application), that the CCC noted that ICASA awarded additional spectrum to Beat FM over the protests of competitor operators (at paragraph [13]). Further the CCC judgment also quotes the applicant directly at paragraph 3.4.4 of paragraph [8] where it itself stated that "the Authority licensed five of the seven proposed sites".

3.4.4. It is trite that notwithstanding its averments that its amended footprint covers a viable listener base, Beat FM did not launch during the period of its licence and has yet to do so.

3.4.5. For ICASA to renew the Beat FM licences (sound broadcasting service and spectrum) licences in the face of the CCC judgment and Beat FM's failure to launch in the 11 years since the issuance of its licences, would constitute a violation of ICASA's own legal obligations in terms of clause 2(e) of the ECA, 2(c) of the ICASA Act and 2(i) of the Broadcasting Act requiring the efficient use of the frequency spectrum. In this regard we note the Next Generation Radio Frequency Spectrum for Economic Development Policy[4] which provides as section 18(b) and (c) that:

"(b) The Authority should put measures in place that prevent hoarding of spectrum including mechanisms for the implementation of the "use it or lose it" principle.

(c) The licensed spectrum that is unused for more than 24 months will be subjected to the use it or lose it principle unless prior arrangements are made with the Authority".

3.4.6. Primedia submits that it would clearly not be in the public interest for ICASA to renew Beat FM licences that were never launched or operationalised during their 10-year licence period, particularly when the applicant had already acknowledged that its broadcast footprint covered a viable listener base. Primedia submits that it is time

[4] Notice 166 published in Government Gazette 50725 dated 28 May 2024.

for the frequencies which have been tied up for over a decade by a failed station which never launched, to be made available to other licensees.

3.5. No Proven Ability to Fund the Launch and/or Operations of the Station:

3.5.1. In response to clause 8.1 of Form E, the Applicant states, *inter alia*, that “A key dependent to the launch of the radio station in an alignment with funders with respect to securing capital.”

3.5.2. With respect, Primedia submits that this response is risible and clearly indicates the applicant’s own doubts as to its ability to launch the radio station even if the renewal application is granted.

3.5.3. When ICASA initially granted the Beat FM licence it was enjoined by section 51(e) of the ECA to take into account “The financial means and business record of the applicant”.

3.5.4. The 2020 CCC judgment in respect of Beat FM (which is annexed to Beat FM’s renewal application), quotes the applicant directly at paragraph 4.6.2 of paragraph [8] where it stated that MSG Africa Broadcasting “demonstrated that it would be able to offer advertisers a sustainable portfolio of listeners”.

3.5.5. It is trite that notwithstanding its averments regarding its ability to offer advertisers a sustainable portfolio of listeners, Beat FM did not launch during the period of its licences and has yet to launch. It clear that, unfortunately, the applicant never had and does not now have, by its own admission, the financial means to operate Beat FM as a viable commercial sound broadcasting service.

3.5.6. For ICASA to renew the Beat FM licences (sound broadcasting service and spectrum) in the face of the CCC judgment and Beat FM’s failure to launch in the 11 years since the issuance of its licences would constitute a violation of ICASA’s own legal obligations in terms of clause 2(e) of the ECA, 2(c) of the ICASA Act and 2(i) of the Broadcasting Act requiring the efficient use of the frequency spectrum. In this regard we note the Next Generation Radio Frequency Spectrum for Economic Development Policy[5] which provides as section 18(b) and (c) that:

“(b) The Authority should put measures in place that prevent hoarding of spectrum including mechanisms for the implementation of the “use it or lose it” principle.

[5] Notice 166 published in Government Gazette 50725 dated 28 May 2024.

(c) The licensed spectrum that is unused for more than 24 months will be subjected to the use it or lose it principle unless prior arrangements are made with the Authority".

3.5.7. Primedia submits that it would clearly not be in the public interest for ICASA to renew Beat FM's licences that were never operationalised during their first 10-year period, particularly when the applicant never had and does not now have, by its own admission, the financial means to operate Beat FM as a viable commercial sound broadcasting service. Primedia submits that it is time for the frequencies which have been tied up for over a decade by a failed station which never launched, to be made available to other licensees.

3.6. Primedia submits it has clearly demonstrated that Beat FM's renewal application is not only incomplete, but fatally defective in at least five key respects. Consequently, Primedia submits that ICASA should not and cannot, lawfully, grant the Beat FM renewal application, and must refuse to do so.

4. WHAT THE LAW REQUIRED AND REQUIRES OF ICASA WITH REGARD TO BEAT FM

4.1. Primedia wishes to express its deep concern and anxiety about the manner in which ICASA has, seemingly, bent over backwards to accommodate Mr Mkhari personally and Beat FM in particular, to the detriment of Beat FM's competitors and to the commercial radio sector as a whole.

4.2. Primedia respectfully submits that in doing so, ICASA has failed to act lawfully in accordance with its own statutory and regulatory obligations.

4.3. <u>Failure to act in accordance with the ICASA Act</u>

4.3.1. Section 4(1) of the ICASA Act imposes a peremptory legal obligation upon ICASA in saying that it "must exercise the powers and perform the duties conferred and imposed upon it by this Act, the underlying statutes and any other applicable law".

4.3.2. Other applicable laws include subordinate legislation or regulations prescribed by ICASA in terms of the ICASA Act and the underlying statutes, and which impose duties upon it.

4.3.3. ICASA has prescribed the "Standard Terms and Conditions for Individual Broadcasting Services Regulations[6] (the Individual Standard Term Regs), but has failed to act in

[6] Schedule 1 to Notice 523 published in Government Gazette No. 33294 dated 14 June 2010, as amended.

accordance with peremptory provisions thereof causing it also to violate section 4(1) of the ICASA Act.

4.4. Failure to act in accordance with the Standard Terms and Conditions for Individual Licences Regulations

4.4.1. In terms of section 5(1)(a) of the Individual Standard Terms Regs, a licensee must commence operation of the broadcasting service specified in the licence within 12 months from the date of issue of the licence in respect of free to air sound broadcasting services, unless the Authority grants, on good cause shown, an extended commencement period".

4.4.2. However, ICASA's discretion with regard to extended commencement periods is not unbounded. In terms of section 5(3) of the Individual Standard Terms Regs, an extension for the commencement of operations shall only be granted once for a period does not exceed the period stipulated in sub regulation (1) (our emphasis), that is, this peremptory provisions means that an extension period cannot extend beyond a two-year period after the issuance of the licence.

4.4.3. The clear peremptory requirements of these provisions are that the maximum period by which Beat FM had to commence operations in terms of the Individual Standard Terms Regs was 7 December 2017, that is the two-year anniversary of the issuance of its licence.

4.4.4. The Individual Standard Terms Regs are very clear as to what is to happen if operations are not commenced timeously. Section 14(4) of the Individual Standard Terms Regs provides as follows: "Failure to commence with operations in terms of regulation 5 will result in the revocation of a licence". ICASA will be well aware of the peremptory nature of the provision given that it drafted it.

4.4.5. As ICASA is aware, all of the subordinate legislative provisions regarding commencement of operations were entirely ignored by Beat FM.

4.5. Failure to act in accordance with the CCC judgment

4.5.1. In a heroic effort to save the station, ICASA's CCC held, in a statement of breath-taking legal dubiousness, that the matter "cannot simply be addressed by resorting to a strict application of the Regulations"[7] and, on 24 April 2020 (nearly three years after the expiry of the peremptory two year grace period for commencement provided for in the Individual Stand Term Regs), advised that "Beat FM must commence broadcasting at the latest 180

[7] At paragraph [9].

days (including Saturdays, Sundays and Public Holidays, but excluding any Covid 19 Phase 4 Lockdown period) from the day after the issue of this order”[8].

4.5.2. Suffice it to say, not only did Beat FM not commence broadcasting within the said 180 days advised by the CCC, it never commenced broadcasting at all.

4.6. <u>What is ICASA legally required to do?</u>

4.6.1. ICASA remains under a peremptory legal obligation, in terms of regulation 5 read with regulation 14(4) of the Individual Standard Terms Regs, to revoke Beat FM’s licence.

4.6.2. That obligation remains a live one because, for as long as ICASA fails to take a decision on its renewal application, Beat FM’s licence is deemed to continue to exist notwithstanding that it expired on 7 December 2025[9].

4.6.3. Primedia submits that ICASA really has no choice here. It has been under a peremptory legal obligation to revoke Beat FM’s licence for failing to commence broadcasting since 7 December 2017, and at all times since then.

4.6.4. Primedia submits that ICASA cannot lawfully grant a renewal application in respect of a licence in circumstances where a serious violation continues to this day and where the legal obligation upon ICASA to revoke the licence has been in place for over eight years. In this regard, section 11(7) of the ECA[10] empowers ICASA to refuse to renew an individual licence if it determines that *“the licensee has materially and repeatedly failed to comply with:*

(a) the terms and conditions of the licence;

(b) the provisions of the ECA or the related legislation; or

(c) any regulation made by the Authority.”

4.6.5. Primedia submits that, in failing to commence broadcasting operations, Beat FM has failed to comply with its licence, the ECA, the related legislation, the Individual Standard Terms and Conditions Regs and a CCC judgment. Indeed, there is almost no legal requirement that Beat FM has not violated by its inability/refusal to commence broadcasting in the eleven years since its licence was issued.

4.6.6. Consequently, Primedia submits that any decision by ICASA to approve Beat FM’s application for renewal would be able to be successfully challenged in the High Court on numerous review grounds that are provided for in section 6 of PAJA.

[8] Sub-paragraph 1 of paragraph [20].
[9] Section 11(10) of the ECA.
[10] Section 11 deals with renewals of individual licences.

5. PRIMEDIA'S INTERESTS IN THE BEAT FM RENEWAL APPLICATION

5.1. As ICASA is aware, on 18 December 2024, Primedia made an application to amend its KFM licences to include a Kimberly frequency currently assigned to, and unused by, Beat FM.

5.2. Notice of the application was duly gazetted early in 2025.

5.3. No objections or submissions were received in respect of the KFM amendment application.

5.4. The obvious inference of this is that Beat FM had no objection to KFM's application to broadcast on a frequency that had been assigned to it, but which it had never broadcast on. Primedia submits that that speaks volumes about the cavalier attitude that the licensee has consistently displayed regarding its broadcasting licences and frequencies and, frankly, to ICASA itself. Beat FM's conduct in this regard has not only created a moral and ethical dilemma for ICASA, but it also places ICASA in legal jeopardy in so far as the orderly management of frequency is concerned.

5.5. Beat FM was granted frequencies upon the issuance of the licences, it was granted more as a result of an amendment application. It never used them – even after being ordered to do so by ICASA's Compliance Division and by the CCC. As Primedia has repeatedly stated, this is against the "use it or lose it" policy principle applicable to the communications sector.

5.6. Primedia is deeply concerned by Beat FM's conduct and attitude regarding its broadcasting licences and frequencies. Beat FM's hording of spectrum, a scarce and finite public resource, weakens ICASA and indeed sets a dangerous legal precedent, namely that the commercial licensing framework in South Africa can be disregarded by licensees as a matter of convenience and the regulator will turn a blind eye. This is hugely damaging to the industry.

5.7. Primedia therefore reiterates that it is long past time for Beat FM to lose its licences and its frequencies and for its frequencies to be made available to other licensees in accordance with ICASA's own "first come, first served" principle.

6. Primedia thanks ICASA for this opportunity to make written submissions and reiterates its request to make oral submissions at the hearing. Primedia looks forward to receiving Beat FM's response to these submissions in terms of paragraph 10 of the Notice which ought to be provided to Mr Kgothatso Mampa on email: MampaK@primedia.co.za.

Yours Sincerely,

Kgothatso Mampa

Head of Legal, Primedia Broadcasting