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29 June 2026

Dear Sir,

DRAFT AMENDMENT OF THE RADIO FREQUENCY SPECTRUM REGULATIONS, 2015 AND DRAFT AMENDMENT OF THE RADIO FREQUENCY SPECTRUM FEES REGULATIONS, 2010 - WRITTEN REPRESENTATIONS

1. Introduction

1.1. rain (Pty) Ltd ("rain") welcomes the publication, on 15 May 2026, of the Draft Amendment of the Radio Frequency Spectrum Regulations, 2015 (Government Gazette No. 54677, Notice 3927 of 2026) and the Draft Amendment of the Radio Frequency Spectrum Fees Regulations, 2010 (Government Gazette No. 54677, Notice 3926 of 2026) (together, the "Draft Amendments"). rain acknowledges that the Draft Amendments give effect to the findings of the Inquiry into the Licensing Framework for Satellite Services ("the Inquiry"), which ICASA initiated on 14 August 2024 and concluded with published findings on 17 April 2025 (Government Gazette No. 52530, Notice 3144).

1.2. As a licensed spectrum holder and active participant in South Africa's electronic communications sector – holding licensed spectrum across multiple frequency bands and operating terrestrial 4G and 5G networks – and as a licensee that has paid the prescribed annual radio frequency spectrum license fees in respect of its spectrum assignment for many years- rain has a material interest in ensuring that the regulatory framework governing spectrum management, satellite services, and interference protection is clear, proportionate, competitively neutral and capable of effective enforcement, including against entities that have no physical or asset presence in the Republic, and aligned with the country's broader connectivity objectives.

1.3. rain's comments welcome the overall direction of the Draft Amendments but propose targeted amendments and seek clarification on specific provisions to ensure that the final regulations are workable, internally consistent, practically enforceable, competitively neutral, and properly calibrated to achieve the Authority's stated objectives of regulatory certainty, spectrum efficiency, and investment facilitation. rain's comments are structured around five principal areas: (a) the proposed ESIM framework under new regulation 28A; (b) the satellite space segment registration framework under new regulation 28B and Form F; (c) the amendments to the Fees Regulations; (d) the radio astronomy protection obligations; and e) the practical enforcement of obligations imposed on foreign entities.

1.4. rain's central concern is that the new framework should not create a de facto two-tier regulatory regime under which South African spectrum licensees remain readily identifiable, subject to direct enforcement and liable for substantial annual spectrum fees, while foreign entities benefit from no-fee registration or licensing exemptions without equivalent and practically enforceable accountability. Registration, recognition and exemption mechanisms should therefore be supported by clear monitoring, jurisdictional, service-of-process and enforcement arrangements.

2. Earth Stations in Motion – Regulation 28A

2.1. rain supports the introduction of a national regulatory framework for Earth Stations in Motion ("ESIM") in the form of proposed regulation 28A. The absence of dedicated national regulations governing ESIM operations has created regulatory uncertainty, and rain welcomes the Authority's effort to align South African regulation with applicable ITU resolutions and technical standards referenced in proposed Annexure K, provided that the framework contains effective safeguards against harmful interference and can be enforced against the relevant satellite and network operators.

2.2. Regulation 28A(6) provides that foreign ESIMs complying with ITU Resolution 156 (WRC-15), ITU Resolution 121 (WRC-23), ITU Resolution 169, ITU-R Reports S.2223 and S.2357, and ETSI EN 303 978 are exempt from licensing in South Africa for periods not exceeding 90 calendar days. rain notes that this approach is broadly consistent with the principle of recognising foreign authorisations, as supported by the majority of stakeholders during the Inquiry process, and with ITU Resolution 22 (WRC-19), which requires administrations to make publicly available their procedures for licensing or authorising ESIM operations in their territories. The final regulation should, however, state that compliance is required with the listed instrument or instruments applicable to the relevant ESIM category, frequency band and mode of operation, rather than appearing to require cumulative compliance with every instrument listed in regulation 28A(6).

2.3. However, rain submits that the practical enforceability of the 90-day exemption will be limited unless the final regulations expressly prescribe: (a) whether the exemption constitutes a deemed authorisation for regulatory purposes under the Electronic Communications Act, 2005 ("ECA"), or whether a prior electronic notification or registration is required; (b) the entity responsible for making that notification, including whether it is a satellite operator, NCMC operator, aircraft or vessel operator, land-vehicle operator, or the relevant South African service provider; (c) whether the 90-day period is calculated continuously, cumulatively, per terminal, per vehicle or vessel, or per operator, and the reference period against which it is calculated; (d) the records and terminal or network identifiers that must be retained to demonstrate compliance; (e) how the Authority intends to monitor and enforce compliance with the 90-day threshold in practice, particularly for ESIMs fitted to aircraft or vessels with recurring or periodic presence in South African airspace or territorial waters; and (f) whether a foreign ESIM that exceeds the 90-day threshold is required to obtain a South African radio frequency spectrum licence, before the threshold is exceeded, and if so, through what process.

2.4. rain further requests clarification on the relationship between regulation 28A(6) and regulation 28A(7), which addresses foreign ESIMs on aircraft, ships, or land vehicles authorised in their country of origin where the ESIM is within South African territory for not more than 90 calendar days and the licence details are included in the vessel or aircraft licence. It is not immediately clear from the text of the Draft Amendments whether these two sub-regulations establish alternative or cumulative conditions, and the final regulations would benefit from explicit drafting to resolve this ambiguity. Regulation 28A(7) also refers to an ESIM on a land mobile vehicle but requires the relevant licence details to be included only in a ship's or aircraft's licence. This omission should be corrected. rain recommends that regulations 28A(6) and 28A(7) be consolidated into a single exemption that clearly specifies the applicable foreign authorisation, technical compliance, notification, record-keeping, NCMC-control and 90-day requirements for each category of ESIM.

2.5. Regulation 28A(8) requires that all ESIMs be subject to permanent monitoring and control by a network control and monitoring centre ("NCMC") or equivalent facility, and that they be capable of receiving and acting upon enable-transmission and disable-transmission commands from the NCMC. The Draft Amendments define the NCMC as a facility providing permanent monitoring and control over satellite terminals, described as a critical regulatory mechanism for preventing harmful interference in shared frequency bands. rain supports the principle of NCMCbased interference management but submits that the final regulations should prescribe minimum functional requirements for: (a) the criteria that an "equivalent facility" must satisfy; (b) whether the NCMC or equivalent facility must be located within the Republic or whether offshore facilities are permissible; (c) whether "permanent" monitoring accommodates operationally realistic arrangements referenced to applicable ITU technical standards; (d) continuous availability of a 24-hour interference contact; (e) the maximum period within which an ESIM must execute a disable-transmission command; (f) the retention and production to the Authority of control, location and transmission logs; and (g) the Authority's ability to test the disable function. Where an offshore NCMC is permitted, the registered operator should nevertheless be required to appoint a representative in the Republic for receipt of regulatory and interference notices.

2.6. Regulation 28A(9) provides that ESIM operators shall not claim protection from, or impose constraints on, terrestrial services operating under the national frequency allocation table and the National Radio Frequency Plan ("NRFP"). Regulation 28A(10) further provides that, upon receiving a report of harmful interference from terrestrial licensees, the Authority may require the immediate cessation of ESIM transmissions. As a holder of licensed terrestrial spectrum across multiple frequency bands, rain submits that the final regulations should establish: (a) a designated 24-hour channel through which terrestrial licensees may submit harmful interference reports; (b) the timeframe within which the Authority will acknowledge and assess a report and, where warranted, order cessation of ESIM transmissions; and (c) whether interim or precautionary measures may be ordered pending full investigation of a reported interference event; (d) the technical information required to establish a prima facie interference case; and (e) the criteria and process for restoring transmissions. Regulation 28A(10) should distinguish between an unverified report and confirmed harmful interference: the Authority should be empowered to impose interim measures where there is a prima facie risk of material harm and should direct cessation or modification where harmful interference is confirmed.

2.7. rain notes that the table in proposed Annexure K, which sets out the radio frequency bands available for ESIM operations and the applicable ITU provisions, appears in the published Draft Amendments to contain incomplete or truncated entries in several rows. rain requests that the Authority publish a complete, fully populated and technically verified version of Annexure K prior to finalisation of the regulations and engage with industry where the final version differs materially from the draft. rain also requests that the Authority confirm the interference management framework applicable at the boundaries of ESIM frequency use and adjacent terrestrial allocations, including that Annexure K does not alter the rights or protection afforded to existing terrestrial assignments or the coordination requirements applicable to satellite operations in or adjacent to the 3400–4200 MHz range.

2.8. Regulation 28A(2) relies principally on the sealing or seizure of radio apparatus where unauthorised operation is identified. While such measures may be effective where a terminal is physically accessible in the Republic, they may be insufficient to address a distributed network operated and controlled from outside the Republic. The final framework should also permit the Authority, subject to the applicable statutory process, to direct the registered satellite operator or NCMC to disable specified terminals or transmissions, require the production of relevant network records, and require cooperation from any relevant South African licensee. Any obligation placed on a South African licensee in this regard should be expressly stated, proportionate and limited to matters within that licensee's control.

3. Satellite Space Segment Registration – Regulation 28B and Form F

3.1. rain supports the introduction of a registration framework for foreign satellite space segment operators under regulation 28B. The rationale articulated in the explanatory memorandum – to establish direct regulator-operator contact for rapid interference resolution and to maintain an authoritative register of satellite networks active in South Africa – is sound and proportionate. rain notes and welcomes the confirmation that registration is at no fee and does not confer any right to provide services in the Republic. The effectiveness of this approach will, however, depend on registration being a verifiable condition precedent to operations directed at South Africa and on the register identifying whether an operator's registration is active, suspended, withdrawn or cancelled.

3.2. The term "foreign satellite space segment operator" is not defined in the Draft Amendments. rain requests that the final regulations define: (a) whether the obligation applies to all foreign operators whose satellites are capable of illuminating South African territory, irrespective of whether they are actively providing services in the Republic; (b) whether operators providing services indirectly through agreements with licensed South African operators are required to register independently, or whether registration by the licensed South African operator would suffice; and (c) whether South African-licensed satellite operators are subject to any equivalent notification or registration obligation under the amended regulatory framework. The definition should distinguish between incidental technical coverage of the Republic and the intentional provision, directly or indirectly, of satellite capacity or services to persons in the Republic.

3.3. Form F requires disclosure of the operator's ITU filing reference, frequency bands filed under Article 4.4 of the ITU Radio Regulations, emission designations, service type, and coverage area. Certain of these fields may engage commercially sensitive or technically proprietary information. rain requests that the Authority clarify: (a) which fields of Form F will be made publicly available on the Authority's website, and which will be retained on a confidential basis; (b) the process by which an operator may request confidential treatment of specific fields under section 4D of the ICASA Act, read with the ICASA Guidelines for Confidentiality Requests (Government Gazette No. 41839 of 17 August 2018); and (c) the retention period applicable to Form F information, and the process for updating or withdrawing information where an operator's operational status or ITU filing changes. Form F should additionally require the operator's incorporation or registration number, registered office, physical and email address, the identity and address of its South African representative for service of process, a 24-hour interference contact, the identity of relevant South African licensed counterparties, the intended date of commencement of operations, and evidence of the operator's authorisation in its home jurisdiction. The final regulations should also prescribe the validity period of a registration, annual confirmation requirements, a defined period for notifying material changes, and the procedure for suspension, withdrawal and deregistration.

3.4. Regulation 28B(3) requires satellite space segment operators to coordinate with the relevant Management Authority (as defined under the Astronomy Geographic Advantage Act, 2007 ("AGA Act")) before commencing operations. rain supports this obligation as an appropriate measure to protect South Africa's radio astronomy infrastructure, including the MeerKAT telescope complex and the SKA-mid array. rain requests that the final regulations prescribe (a) what constitutes "commencing operations" for purposes of the coordination trigger; (b) the content of the coordination process and the timeframe within which coordination must be concluded; and (c) the dispute resolution mechanism that applies if the Management Authority and the operator cannot agree on appropriate mitigation measures; and (d) the documentary evidence of completed coordination that must be lodged with the Authority. The coordination requirement should be objective and time-bound and should not operate as an indefinite or procedurally unreviewable impediment to registration or service commencement.

3.5. Regulation 28B(4) requires satellite space segment operators providing services in South Africa to provide and maintain lawful interception capabilities to facilitate implementation of RICA. rain acknowledges the importance of lawful interception as a national security and law enforcement imperative. However, rain notes that the practical application of RICA-equivalent obligations to foreign-registered satellite operators raises complex technical, jurisdictional, and implementation questions. As presently drafted, regulation 28B(4) does not identify the entity in the satellite service chain that is responsible for the required capability, particularly where the space segment operator does not contract with the end user, operate the gateway, or hold customer-related information. rain requests that the Authority identify the statutory basis and responsible entity and prescribe the technical standards or architectures required for compliance, the treatment of functions already performed by a South African ECS or ECNS licensee, and the regulatory pathway through which South African law enforcement agencies will engage with foreign-operated satellite networks. The final regulations should avoid imposing duplicative or technically impossible obligations on different entities in the same service chain and should require a locally appointed representative capable of receiving and responding to lawful notices.

3.6. Regulation 28B(5) requires NGSO satellite operators providing services in South Africa to suppress satellite transmissions in the channel adjacent to 10.7 GHz. rain requests that the final regulation specify (a) the ITU recommendation or technical standard that underpins this specific requirement; and (b) the measurement methodology and technical specifications by which the Authority will assess and verify compliance; (c) the precise frequency range meant by "the channel adjacent to 10.7 GHz"; (d) the applicable unwanted-emission or power-flux-density limit; and (e) the location, reference bandwidth and operating conditions at which compliance must be measured. The expression "channel adjacent to 10.7 GHz" is insufficiently precise to support consistent compliance or enforcement.

3.7. The proposed amendment to regulation 42 introduces a fine of up to R5 000 000 for contraventions of regulations 28B(3) to 28B(6). rain does not oppose the principle of financial sanctions for non-compliance. However, rain requests clarification on: (a) whether the maximum fine applies to each instance of a contravention or constitutes an aggregate maximum; and (b) whether the Authority intends to adopt a graduated enforcement approach – including compliance notices, directions to remedy, suspension or deregistration, and escalating penalties – prior to imposition of the maximum fine, consistent with the enforcement frameworks applicable to other spectrum-related obligations under the ECA and the ICASA Act. The dedicated penalty provision does not expressly address a failure to register under regulation 28B(1), and the final text should clarify the applicable consequence of operating without registration. It should also identify the procedure through which a fine will be imposed, including notice, an opportunity to make representations and the applicable adjudicative process. A monetary fine alone may have limited practical effect against a foreign operator with no local assets or presence, and should therefore be supported by enforceable suspension, cessation, deregistration and service-of-process mechanisms to the extent permitted by the enabling legislation.

3.8. To give the registration regime practical effect, each foreign satellite space segment operator should be required to appoint and continuously maintain a representative and address for service in the Republic, to accept service of notices and process at that address, and to notify the Authority promptly of any change. The appointment of a representative should not relieve the foreign operator of its substantive obligations or liability.

3.9. Where a South African licensee contracts with or acquires capacity from a registered foreign satellite operator, that licensee should be entitled to rely on the registration status reflected in the Authority's public register. A South African licensee should not be subject to strict or retrospective liability solely because the foreign operator subsequently fails to comply, unless the South African licensee knew of the non-compliance or failed to act after receiving a lawful direction from the Authority.

4. Radio Frequency Spectrum Fees Amendments

4.1. The Draft Amendments to the Radio Frequency Spectrum Fees Regulations, 2010, propose a revised formula for the Gateway Earth Station ("GES") licence fee: Fee = Max (RUL; UNIT × FREQ × BW × SEC). The introduction of the frequency factor (FREQ), which applies a sliding scale from 1.0 at lower frequencies to 0.05 in the 30–50 GHz range, is intended to incentivise use of higher, less congested frequency bands and to reduce the effective fee burden on high-throughput satellite ("HTS") systems. rain acknowledges the policy rationale for this approach. As a licensee that has paid substantial spectrum fees over many years, rain supports objectively justified adjustments that promote efficient spectrum use. The revised methodology should, however, remain transparent, non-discriminatory and competitively neutral and should not confer an unintended regulatory cost advantage on satellite operators merely because the relevant network or gateway is controlled from outside the Republic.

4.2. rain requests that the final regulations, or a consolidated version published simultaneously with them, clearly identify every variable used in the new formula and its applicable value. This should include: (a) the applicable UNIT and minimum uplink fee, including the annual CPI adjustment mechanism; (b) the applicable SEC value, the categories qualifying for that value and the evidence required to claim it; (c) the FREQ value at band boundaries and for assignments above 50 GHz; (d) whether BW refers to paired, unpaired, assigned, occupied, aggregated or peak uplink bandwidth; and (e) the applicable rounding, proration and multi-carrier rules. Worked examples should be published to ensure that the formula is objectively calculable and consistently administered.

4.3. The Draft Amendments also propose a revised blanket licence fee formula for satellite terminal networks: Terminal Network Fee = UNIT × BW × SEC. The explanatory memorandum confirms that the scope of the formula has been extended from VSAT networks to any satellite terminal network, and the amended reference table expressly includes ESIM terminals. rain requests confirmation of: (a) which entity must hold the blanket licence and pay the fee where the gateway and NCMC are situated outside the Republic but terminals operate in the Republic; (b) whether the fee is calculated per operator, network, ITU filing, frequency band, beam, service category or blanket licence; (c) how BW is calculated for dynamically allocated, shared, multi-beam or multi-band capacity; and (d) whether a licensee operating both a GES hub and a terminal network under a single blanket licence structure is required to pay fees under both formulae, and if so, how uplink bandwidth is to be accounted for to avoid double-counting.

4.4. The introduction of the "Blanket Licence" definition – covering authorisations for networks connecting to an unlimited number of terminals with similar technical and operational characteristics – is noted. rain requests that the Authority define objectively the meaning of "similar technical and operational characteristics", particularly for terminal networks encompassing diverse endpoint devices such as maritime ESIMs, aeronautical ESIMs, and land-mobile units. The final regulations should also clarify what constitutes a single "network", when a material change requires an amendment or a separate blanket licence, and what aggregate information concerning terminal categories, active terminals, operating bands and geographic use must periodically be reported to the Authority

4.5. The Draft Amendments to the Fees Regulations state that they will come into force upon publication in the Government Gazette. rain requests clarification on whether any transitional provisions are contemplated for existing licensees whose fee obligations may change materially upon commencement. Because annual spectrum fees may already have been paid for the current licence year, rain submits that the amended fee methodology should apply prospectively from the next licence year commencing after publication, or from another clearly prescribed future date. The final regulations should expressly provide that they do not retrospectively reopen or recalculate fees already invoiced and paid, and should prescribe how any overpayment, credit, refund or pro-rated adjustment will be treated.

4.6. The final regulations should confirm that the no-fee registration of a foreign space segment operator does not exempt that operator, its South African contracting party or the relevant network from any radio frequency spectrum licence, service-licence, general licence fee or spectrum-fee obligation that otherwise applies. The Authority should identify the entity liable for the Terminal Network Fee where a foreign satellite network serves terminals in the Republic through an offshore gateway. The framework should prevent de facto fee avoidance while also ensuring that a South African licensee is not made liable for a foreign operator's fees in the absence of a clear legal basis and an obligation expressly imposed by the final regulations.

5. Radio Astronomy Protection

5.1. rain supports the inclusion of radio astronomy protection obligations in the Draft Amendments. South Africa's radio astronomy infrastructure – including the MeerKAT telescope complex and the SKA-mid array under construction in the Northern Cape – represents a globally significant scientific asset, and the maintenance of appropriate Radio Quiet Zones ("RQZs") under the

Astronomy Geographic Advantage Act, 2007 is important for South Africa's standing as a leading radio astronomy jurisdiction. The relevant protection obligations should nevertheless be measurable, proportionate, technology-neutral and enforced consistently against domestic and foreign operators.

5.2. Regulation 28B(6) requires satellite space segment operators to take all necessary protection measures contained in ITU Recommendation ITU-R RA.769-2 and the Radio Astronomy Protection Levels Regulations (No. R.90 of 2012). rain requests clarification on: (a) whether the coordination and emission limitation requirements apply only in respect of formally proclaimed RQZs under the AGA Act, or extend to broader protection zones associated with the relevant astronomy facilities; and (b) the relationship between the coordination obligation in regulation 28B(3) and the existing framework under the AGA Act, including whether a single coordinated process is envisaged or whether separate engagement with both ICASA and the Management Authority is required. The final regulations should identify the relevant geographic areas, measurable protection thresholds, responsible decision-maker, prescribed information, applicable timelines and evidence of completed coordination. A single coordinated process should be adopted insofar as legally permissible, to avoid duplicative or inconsistent requirements.

5.3. rain notes the potential cumulative effect of the radio astronomy protection obligations on satellite operators serving underserved and rural areas in proximity to the Karoo RQZ. rain endorses the approach noted in the explanatory memorandum of balancing the protection of radio astronomy resources against the need to facilitate satellite connectivity to underserved communities, and requests that the Authority provide practical guidance on how this balance will be operationalised in the final regulations or in supplementary guidance. That guidance should be published before commencement and should set out objective mitigation measures, a hierarchy of available technical solutions, decision-making timeframes and a process for resolving or reviewing disputed coordination requirements.

6. Overarching Observations

6.1. Both sets of Draft Amendments are stated to come into operation upon publication in the Government Gazette. rain requests that the Authority consider whether phased commencement is required to allow affected operators to assess compliance requirements, particularly in respect of the ESIM authorisation requirements under regulation 28A and the registration obligation under regulation 28B. Existing foreign operators should be afforded a defined period within which to register and complete required coordination, while the amended fee methodology should commence prospectively in accordance with paragraph 4.5 above.

6.2. The Draft Amendments are presented as amendments to the Radio Frequency Spectrum Regulations, 2015, which have been amended on multiple occasions (by Government Notices No. 386 of 2015, 781 of 2016, 585 of 2019, and 737 of 2021). rain requests that the Authority publish a consolidated version of the Regulations following promulgation of the final amendments, to facilitate compliance and interpretation by operators. A consolidated version of the Fees Regulations, together with a marked-up version showing all amendments and implementation guidance, should be published at the same time.

6.3. As noted in section 2 above, the published Annexure K contains drafting and formatting ambiguities. rain requests that a complete and verified version of Annexure K be published, either as part of the final regulations or as a supplementary technical notice, with an opportunity for industry comment where the final version differs materially from the draft.

6.4. The final regulations should set out a coherent enforcement architecture for foreign operators, including: (a) appointment of a South African representative and address for service; (b) an active public registration register; (c) defined powers and procedures for compliance directions, suspension and deregistration; (d) network-level cessation and disable-transmission mechanisms; (e) the process for imposing and recovering penalties; and (f) the consequences for continued provision of services following suspension or deregistration. Without these mechanisms, the substantive obligations imposed on foreign operators may be difficult to enforce in practice.

6.5. Competitive neutrality should be an express implementation principle. rain and other domestic spectrum licensees have paid annual spectrum fees and remained subject to direct regulatory supervision over many years. The recognition of foreign authorisations, no-fee registration and blanket licensing may be appropriate but should not result in foreign networks obtaining a material compliance or fee advantage because their principal infrastructure, control functions or assets are located outside South Africa.

6.6. The final regulations or accompanying guidance should include a responsibility matrix identifying the obligations of the foreign space segment operator, NCMC operator, GES licensee, terminal-network licensee, ECS or ECNS licensee, aircraft or vessel operator and end user. The matrix should address registration, spectrum licensing, applicable fees, type approval, interference management, radio astronomy coordination, lawful interception and regulatory reporting. This is particularly important where different entities control different elements of the service chain

7. Conclusion

7.1. rain supports the Authority's objective of establishing a clear and proportionate regulatory framework for satellite services and ESIM operations in South Africa. The Draft Amendments represent a meaningful step towards regulatory modernisation in this sector, and rain commends ICASA for the consultative process that preceded their publication. That objective will be fully realised only if the final framework is also competitively neutral and capable of effective enforcement against both domestic and foreign entities.

7.2. rain's comments are directed at proposing targeted amendments and seeking the clarifications necessary for ensuring that the final regulations are workable and internally consistent and practically enforceable. rain does not oppose the overall direction of the Draft Amendments and looks forward to the Authority's consideration of the amendments, safeguards and implementation measures set out in these representations.

7.3. rain would welcome the opportunity to expand on these comments in oral representations should the Authority elect to hold public hearings on the Draft Amendments.

Sincerely,

Conrad Leigh (Jun 29, 2026 15:55:59 GMT+2)

Conrad Leigh
CEO
rain

rain comments on draft amendments to both the Radio Frequency Spectrum Regulations and the Radio Frequency Spectrum Fees Regulations (29 June 2026)

Final Audit Report 2026-06-29

Created:	2026-06-29
By:	Christa Scheepers (christa.scheepers@rain.co.za)
Status:	Signed
Transaction ID:	CBJCHBCAABAABGZLFQG9MkO--Ff2RdyWlxQu8ioiKiKu

"rain comments on draft amendments to both the Radio Frequency Spectrum Regulations and the Radio Frequency Spectrum Fees Regulations (29 June 2026)" History

Document created by Christa Scheepers (christa.scheepers@rain.co.za)
2026-06-29 - 1:53:38 PM GMT

Document emailed to Conrad Leigh (conrad@rain.co.za) for signature
2026-06-29 - 1:53:42 PM GMT

Email viewed by Conrad Leigh (conrad@rain.co.za)
2026-06-29 - 1:55:26 PM GMT

Document e-signed by Conrad Leigh (conrad@rain.co.za)
Signature Date: 2026-06-29 - 1:55:59 PM GMT - Time Source: server - Signature Appearance Selected: DRAW

Agreement completed.
2026-06-29 - 1:55:59 PM GMT