

16 May 2018

**Independent Communications Authority
Of South Africa**

164 Katherine Street,
Attention: Ms. Fikile Hlongwane
Per email: fhlongwane@icasa.org.za
Copy: FreetoAirLicensing@icasa.org.za

And

SOS

Suite 1 Art Centre, 22 6thh Street cnr 4th Ave
Parkhurst
2193
Johannesburg
Email: Info@soscoalition.org.za

And

Media Monitoring Africa

PO Box 1560
Parklands
2121
Email: mmpinfo@mediamonitoring.org.za

RE: RESPONSE TO SUBMISSIONS

Dear Ms Hlongwane

1. Concerns raised by SOS coalition and Media Monitoring Africa

1.1

The Independent Communications Authority of South Africa has given notice in terms of Section 9 (2) of the Electronic Communication Act, 2005 as amended (at no 36 2005). This is a response in terms of section 9(2)(d).

1.1.1

The requirements for making an application for a Commercial Free to Air Licence and Spectrum were outlined by ICASA as follows:

1. Applications must be made in writing.
2. Applicants must answer all questions set out in this application form fully. If any question is considered not applicable, please mark N/A with further explanation as to why it is not applicable.

3. The Applicant must submit the original completed application plus fifteen (15) hard copies and three (3) soft copies thereof before closing date.
4. In terms of section 4D of the Independent Communications Authority of South Africa Act, Act 13 of 2000 ("ICASA Act"), Applicants may request that any part of the application be treated as confidential. The request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential. The Applicants must submit separate any confidential information from the original application and clearly mark it as such. Fifteen (15) hard copies and three (3) soft copies of the confidential information must be submitted jointly with the original application referred to above.
5. All applications, save for confidential information referred to above, made pursuant to this ITA will be made available for inspection by interested persons and copies of the applications will be obtainable at the Authority's library upon payment of a fee.
6. Each application must be permanently bound (using either heat binding or spiral binding). 4 No. 37953 GOVERNMENT GAZETTE. This gazette is also available free online at www.gpwonline.co.za
7. Each application must have a cover page with the name of the Applicant, the proposed name of the broadcasting service and year of application on it.
8. The page(s) immediately following the cover must be the contents page(s) which detail each section of the application and corresponding page numbers.
9. Pages including the appendices must be numbered sequentially starting with the page immediately following the contents page(s) as page 1 and ending with the very last page of the application.
10. In the event that the Applicant has to submit its application in more than one part or volume, each part or volume must have a cover page. In this case the cover page must specify the number of the part or volume (i.e. Part One, Part Two or Volume One, Volume Two). Each volume or part must also have the full set of content pages and be sequentially numbered as indicated above.
11. The application must include a percentage of equity ownership held by Applicants from historically disadvantaged groups (HDGs) that is not less than 30%.
12. In terms of section 52 of the Act, no broadcasting service licence may be granted to any party, movement, organisation, body or alliance which is of a party-political nature.
13. Applicants must take into account the limitations provided in terms of sections 64, 65 and 66 of the Act, amongst others.
14. Every application for the provision of Individual Commercial Free To Air Television Broadcasting Service must be accompanied by a proof of payment of a non-refundable application fee R600 000. The payment shall be in the form of an electronic transfer or via a direct deposit into the following bank account of the Authority. This gazette is also available free online at www.gpwonline.co.za
BANK: First National Bank BRANCH: Weirda Valley BRANCH CODE: 260950 ACCOUNT NO: 61037058222 REFERENCE: Name of your station
15. Applications must be addressed for the attention of the Acting General Manager: Licensing and must be submitted at Block D, Pinmill Farm, 164 Katherine Street, Sandton, Johannesburg.
16. The closing date for the submission of applications shall be no later than 11:00 am, South African time, on or before 30 August 2017.

17. Failure to comply with any of the above requirements will render the application subject to disqualification.

Infinity Media Networks (Pty) Ltd meets all the requirements as outlined above to make the application. It is therefore unfounded and alarming that the SOS and MMA would make allegations that the application is inappropriate.

In their written submissions SOS and MMA attempt to discredit Infinity Media with slanderous and defamatory accusations in an attempt to eliminate any competition.

2. The crisis of state capture

2.1

The former Public Protector in her State Capture report made alarming findings regarding the influence of the Gupta family in the leadership of the ruling party.

African News Network 7 (ANN7) was also the centre of attention when news emerged about it being in close contact with former Minister of Communications, Faith Muthambi with regard to the non-encryption specifications for the Digital Terrestrial Television (DTT) and other distressing allegations were also mentioned.

It is worth pointing out that Infinity Media is now under new management under the leadership of Mr Mzwanele Manyi with other shareholders. The Gupta family does not form part of the new Infinity Media shareholding or leadership. The new management subscribes to open, honest and transparent broadcasting which is in the public's interest.

SOS and MMA's accusations on the issue of state capture are all based on previous shareholders who are no longer affiliated to the business in any way.

3. Substantive concerns regarding the application itself

3.1

Infinity Media, notwithstanding the negative publicity has managed to broadcast some of the best programming regardless of limited resources and the dark cloud of 'State Capture' attached to the brand.

The programming is broad and includes:

Sports shows

Religion based shows

Motoring

Lifestyle and health

Current affairs

Entertainment

Regardless of being the object of slanderous and defamatory accusations and unsubstantiated statements Infinity Media continues to operate as one of the most competitive news channels in the country regardless of the change in ownership.

Infinity Media's new owners are not connected to 'State Capture' but simply exercised their Constitutional Right of Freedom to Trade in purchasing the business.

3.2

The new structure of Infinity Media adhered to Section 64 (1) of the ECA and does not comprise of any foreign ownership.

3.3

Section 18 of the Bill of Rights guarantees everyone the right to freedom of association. Section 19 guarantees political rights.

The fact that Mr Manyi had previously held office as a Public Servant does not contravene the provisions of section 52 of the ECA or the Constitution because he was not even a political office bearer. In addition the application to ICASA for FTA licence is by a juristic person, Infinity Media not Mr Manyi in his personal capacity.

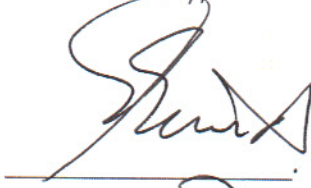
It is also objectionable to the extreme that SOS and MMA seem to be exhibiting dictatorial apartheid style tendencies by seeking to make choices for which political party public candidate should Mr Manyi support.

The 90% ownership issue by Mr Manyi is not in contravention of any law in the republic of South Africa and therefore should be dismissed as petty and devoid of substance. Notwithstanding the above Mr Manyi has since diluted his shareholding and has introduced new shareholders whose details have been available to ICASA already.

4. Conclusion

Despite all allegations previously made by SOS and MMA and their PR exercise to the contrary they were ultimately against DSTV terminating the ANN7 contract. This is an indication that these bodies acknowledge the relevance and weight of the ANN7. This stance is an even further and clearer indication that Infinity Media even through major change of ownership should be considered to be granted Commercial Free to Air Licence Spectrum on Mux3. The concluding points of the submission made render the allegations made as baseless.

Yours faithfully,



Gary Naidoo
Director