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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE 2338 OF 2024

GENERAL NOTICE – SUBMISSION OF ANNUAL FORECAST OF LICENCE FEES AND UNIVERSAL SERVICE AND ACCESS FUND CONTRIBUTIONS FOR 2024/2025 BY BROADCASTING AND ELECTRONIC COMMUNICATIONS SERVICES (ECS) AND ELECTRONIC COMMUNICATIONS NETWORK SERVICES (ECNS) LICENSEES

1. The Independent Communications Authority of South Africa ("Authority") has a mandate in terms of the Independent Communications Authority of South Africa Act (Act No. 13 of 2000 ("ICASA Act"), as amended, and the Electronic Communications Act No. 36 of 2005 ("ECA"), as amended, to regulate Broadcasting and Electronic Communications Services ("ECS") and Electronic Communications Network Services ("ECNS"), in the public interest.

2. Section 4(3)(g) of the ICASA Act, provides that "*the Authority may, by notice in writing, direct the holder of a licence in terms of the underlying statutes to produce or furnish to the Authority, at a time and place specified in the notice, any documents and information specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on such a licensee by this Act or the underlying statutes"*.

3. Schedule 3, regulation 3 the ICASA General Licence Fees Regulations, 2012 as published on 28 March 2013 in *Government Gazette* no. 36323, as amended ("GLF Regulations"), requires Broadcasting and ECS/ECNS Licensees, to submit an annual forecast of licence fees for the year under review, using the format in Schedule 3(1), of the GLF Regulations, on or before the end of April every year.

4. Therefore, the Authority hereby calls upon affected Broadcasting and ECS/ECNS Licensees, to submit an annual forecast of the licence fees and the Universal Service and Access Fund contribution, in line with the Annual Turnover definition as set out in the Universal Service and Access Fund Regulations, published in *Government Gazette* no. 34010 dated, 10 February 2011.

5. Further, only Broadcasting service licensees pay a certain portion to the Media Development and Diversity Agency ("MDDA"). Therefore, in their respective submissions, every Broadcasting service Licensee must specify a portion of the amount each will pay to the MDDA.

6. In addition, every Broadcasting and ECS/ECNS licensee must also submit either a trial balance; detailed management accounts and or draft financial statements; and a calculation of the forecast of the Annual Licence Fees (ALF) and Universal Service and Access Fund (USAF) contribution. NB. JSE listed companies who are under closed period as per the JSE rules from the date of issue of this notice to 30 April 2024, may submit Agreed Upon Procedure reports for ALF & USAF (that's calculations confirmed by their respective External Auditors).

7. For a Licensee that may not be in operation yet: -

   7.1 The Authority would like to refer Individual Licence holders to regulation 5 (4) and (5) of the Regulations on Amendment Standard Terms and Conditions for Individual Licences, 2015 as published in *Government Gazette* no.39875 dated, 30 March 2016. The clauses in the said Regulations provide as follows:

   "(4) Where a Licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it has not generated any revenue from the licensed service.

   (5) Where a Licensee is not legally required to have audited financial statements, it must submit a letter from an independent accounting officer and must submit a clearance certificate from the South

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African Revenue Services as proof that it did not generate any revenue from the licensed service."

7.2. Except for a Class Broadcasting Licence holder, the Authority hereby refers Class ECS and ECNS Licensees to regulations 5 (4) and (5) of both schedules 2 and 3 of the Regulations on Amendment Standard Terms and Conditions Regulations for Class Licenses, published in *Gazette* no.44328 dated, 25 March 2021. The clauses in the said Regulations provide as follows:

"(4) Where a Licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it did not generate any revenue from the licensed service.

(5) Where a Licensee is not legally required to have audited financial statements ("AFS"), it must submit a letter from an Independent Accounting Officer and must submit a clearance certificate from South African Revenue Services ("SARS") as proof that it did not generate any revenue from the licensed service."

8. The notice refers to Licensees whose financial year ends in October 2023, November 2023, December 2023, January 2024, February 2024 and March 2024, to submit their annual forecast of the licence fees they are likely to pay in the 2024/2025 financial year.

9. Therefore, Broadcasting service and ECS/ECNS licensees referred to in paragraph 8 above, **must submit on or before 30 April 2024**, the information referred to in this notice to the contact persons as follows:

For Broadcasting

ATTENTION: Ms Busisiwe Mashigo
Manager: Broadcasting Compliance
By e-mail: BMashigo@icasa.org.za

For ECS/ECNS

ATTENTION: Ms Keitumetse Setshedi
Manager: ECS/ECNS Compliance
By e-mail: Ecsecns.compliance@icasa.org.za

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10. Any Licensee that fails to submit the required information by the deadline referred to above, will be in contravention of section 4(3)(g) of the ICASA Act and schedule 3 of the ICASA General Licence Fees Regulations, 2012.

11. If found guilty of contravening the legislative and regulatory obligations set out herein, a Licensee may be liable to pay a fine of up to R1,000,000.00 (one million rands).

Yolisa Kedama
Acting Chairperson
16 / 02 / **2024**

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