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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE 3879 OF 2026

THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

SIGNAL DISTRIBUTION SERVICES REGULATIONS, 2026

The Independent Communications of South Africa hereby, in terms of, section 4 of the Electronic Communications Act of 2005 (Act No. 36 of 2005), hereby publish the regulations in the Schedule.

Mothibi G. Ramusi

Chairperson

Date: 30 March 2026

SCHEDULE

1. DEFINITIONS

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned, and the following words and expressions shall have the meaning set out below:

"Act" means the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended;

"Reference Offer" or **"RO"** means a document setting out the standard terms and conditions for terrestrial signal distribution broadcasting services agreements;

"Sentech" means Sentech SOC Limited, a State-Owned Enterprise responsible for providing broadcasting signal distribution services as a common carrier to broadcasting service licensees;

"Significant Market Power" or "SMP" means significant market power as defined in section 67(5) of the Act;

"Terrestrial signal distribution AM sound broadcasting services" means a wholesale terrestrial signal distribution AM sound broadcasting service required to be provided by Sentech to a broadcasting service licensee in the Republic upon request;

"Terrestrial signal distribution FM sound broadcasting services" means a wholesale terrestrial signal distribution FM sound broadcasting service required to be provided by Sentech to a broadcasting service licensee in the Republic upon request;

"Terrestrial signal distribution television broadcasting services" means a wholesale terrestrial signal distribution audio-visual service required to be provided by Sentech to a broadcasting service licensee in the Republic upon request;

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2. PURPOSE OF THE REGULATIONS

The purpose of these Regulations is to:

(a) define the relevant wholesale markets for the provision of terrestrial signal distribution services;
(b) determine whether there is effective competition in the defined markets;
(c) determine which, if any, licensees have significant market power in those markets where there is ineffective competition;
(d) determine whether there is any market failure;
(e) impose appropriate pro-competitive licence conditions on licensees with significant market power to remedy the market failure;
(f) set out a schedule in terms of which the Authority will undertake periodic review of the markets, taking into account regulation (8) and the determination in respect of the effectiveness of competition and application of pro-competitive measures in those markets; and
(g) provide for monitoring and investigation of anti-competitive behaviour in the defined markets.

3. MARKET DEFINITION

Markets are categorised according to the type of service provided and are defined as follows:

(a) Terrestrial signal distribution for television broadcasting services market – the market for the provision of wholesale terrestrial signal distribution television broadcasting services (analogue and digital) within the Republic.
(b) Terrestrial signal distribution for FM sound broadcasting services market – the market for the provision of wholesale terrestrial signal distribution FM sound broadcasting services within the Republic.
(c) Terrestrial signal distribution for AM sound broadcasting services market – the market for the provision of wholesale terrestrial signal distribution AM sound broadcasting services within the Republic.

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4. METHODOLOGY

In determining the effectiveness of competition in the markets defined in regulation 3 above, the Authority applied the following methodology:

(a) the identification of relevant markets and their definition according to the principles of the Hypothetical Monopolist Test, taking into account the non-transitory (structural, legal, or regulatory) entry barriers to the relevant markets and the dynamic character and functioning of the relevant markets;

(b) the assessment of licensees' market shares in the relevant markets; and

(c) the assessment on a forward-looking basis of the level of competition and market power in the relevant markets.

5. EFFECTIVENESS OF COMPETITION

Pursuant to regulation 4, the Authority has determined that competition in the terrestrial signal distribution for television broadcasting services market, the terrestrial signal distribution for the FM sound broadcasting services market and the terrestrial signal distribution for the AM sound broadcasting services market, as defined in regulation 3, is ineffectively competitive.

6. SIGNIFICANT MARKET POWER

The Authority has determined that Sentech has significant market power, due to its dominance in the following markets:

(a) Terrestrial signal distribution for the television broadcasting services market.

(b) Terrestrial signal distribution for the FM sound broadcasting services market.

(c) Terrestrial signal distribution for the AM sound broadcasting services market.

7. MARKET FAILURE

The Authority has determined that the following market failures exist:

(a) Natural Monopoly: Barriers to entry (such as high sunk costs of infrastructure) limit potential entry and therefore, competition on price and quality of service. With a near-monopoly provider, prices and quality of service are unlikely to be maintained at a competitive level without regulatory intervention.

(b) Lack of transparency: Broadcasting service licensees are unable to obtain sufficient information on whether the prices and the quality provided bear relation to a competitive environment.

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8. PRO-COMPETITIVE TERMS AND CONDITIONS

To address the market failures identified in regulation 7 above, Sentech must comply with the following pro-competitive terms and conditions:

(a) Ensure that all tariffs for terrestrial signal distribution services are reasonably derived from the costs of provision, allowing for recovery of efficiently incurred costs and return commensurate with risk.

(b) Submission of Reference Offers ("ROs"):
  (i) Minimum requirements for a reference offer are contained in Schedule 2,
  (ii) Sentech must submit proposed ROs in respect of each of the defined wholesale markets for approval by the Authority.
  (iii) Where the Authority determines that an RO submitted by Sentech is not consistent with the minimum requirements in terms of paragraph (b)(i), the Authority will direct Sentech to amend the RO within a period determined by the Authority.

(c) Publication of ROs:
  (i) Having determined compliance in terms of paragraph (b)(i), the Authority will publish the draft ROs for public comment in the government gazette.
  (ii) The ROs will become effective upon approval and publication by the Authority in the government gazette.
  (iii) Sentech must publish the approved ROs on its website within fourteen (14) days after approval by the Authority.

(d) Dispute Resolution:
  (i) Where a broadcaster and Sentech have been unable to conclude an agreement, either party may refer the dispute to the Authority for resolution.
  (ii) A dispute referral made in terms of regulation 8(d)(i) of these Regulations, must be in writing and must set out the details of the alleged dispute.
  (iii) Where the Authority determines that the dispute warrants further investigation, then the Authority shall provide the other party to the dispute with a copy of the referring party's notice of referral, afford the other party fourteen (14) days within which to respond and afford the referring party fourteen (14) days to reply to the other party's response.
  (iv) The Authority may call for further written and or oral representations thereafter or may determine the matter on the basis of the information submitted to it by the parties.
  (v) The Authority's determination on the dispute shall be final and binding.

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9. MONITORING AND INVESTIGATION

Upon request by the Authority, Sentech must submit a detailed breakdown of the information and assumptions used to support its terrestrial signal distribution tariffs.

10. SCHEDULE FOR REVIEW OF MARKETS

The Authority will review the markets, to which these Regulations apply, when the Authority deems it necessary or after five (5) years from the date of implementation of these Regulations.

11. CONTRAVENTIONS AND PENALTIES

The contravention of regulation 8 is subject to a fine not exceeding five million Rand (R5 000 000.00).

12. SHORT TITLE AND COMMENCEMENT

These Regulations are called the “Signal Distribution Services Regulations, 2026” and will come into force six (6) months after publication in the Government Gazette.

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SCHEDULE 2

Minimum Requirements of a Reference Offer

The RO that must be submitted to the Authority by Sentech must include, at a minimum, the following:

1. Application of this RO

1.1. This RO is limited to the following service(s):

(a) Terrestrial signal distribution for the television broadcasting services market,

(b) Terrestrial signal distribution for the FM sound broadcasting services market, or

(c) Terrestrial signal distribution for the AM sound broadcasting services market.

2. Definitions of Terms and Abbreviations

2.1. The ROs should define terms and abbreviations used in the agreements to provide clarity and a clear understanding.

3. Term of the Agreement

3.1. The effective date on which the agreement shall begin.

3.2. The period over which the agreement will last.

3.3. The extension of the term, which the parties will agree on.

4. Services to be provided

4.1. Specification of terrestrial signal distribution services in respect of television, AM and or FM sound services.

4.2. Conditions governing access to services.

5. Technical characteristics

5.1. The quality, availability, security, etc. of the services provided.

5.2. Service level and penalties.

6. Schedule of Charges for Signal Distribution Services

6.1. General financial matters.

6.2. Billing procedures, payment terms and conditions.

6.3. Wholesale rates or charges, including surcharges (if applicable), and any escalation.

6.4. Mechanisms for the review of charges.

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7. Dispute resolution

Disputes arising from the agreement between a broadcaster and Sentech that are not capable of being amicably resolved may be referred for resolution to ICASA or the High Court.

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REASONS AND POSITIONS DOCUMENT ON THE SIGNAL DISTRIBUTION REGULATIONS, 2026

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1. INTRODUCTION

1.1. On 17 September 2021, the Authority published a Notice indicating its intention to conduct an Inquiry ("the Inquiry") into signal distribution services in terms of section 4B(1)(a) of the Independent Communications Authority South Africa Act, 2000 (Act No. 13 of 2000) read with section 67(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005).

1.2. The Inquiry was conducted in four phases namely, Phase I – Commencement of the Market Inquiry, Phase II – Publication of the Discussion Document, Phase III – Public Hearings on the Discussion Document, and Phase IV – Publication of the Findings Document.

1.3. Following the conclusion of the Inquiry (i.e., Publication of the Findings Document), the Authority published the draft Signal Distribution Services Regulations, 2025 in the Government *Gazette*[1] ("**the first draft Regulations**") for public comment.

1.4. In the first draft Regulations, the Authority identified and defined the following relevant markets:

1.4.1. Terrestrial signal distribution for the television broadcasting services market.
1.4.2. Terrestrial signal distribution for the FM sound broadcasting services market.
1.4.3. Terrestrial signal distribution for AM sound broadcasting services market.

1.5. The Authority determined the market failures exist in relation to natural monopoly and a lack of tariff transparency.

1.6. The Authority declared that Sentech has significant market power in all the relevant markets.

1.7. After due consideration of Sentech's role as a common carrier and its universal service obligations, the Authority proposed the following pro-competitive terms and conditions:

1.7.1. Tariffs for terrestrial signal distribution services should be reasonably derived from costs of provision.
1.7.2. Sentech to submit a Reference Offer for approval by the Authority before publication on its website within fourteen (14) days after approval.

[1] Government *Gazette* No. 52622 (Notice No. 3185).

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1.8. In addition, the Authority proposed that Sentech must, upon request by the Authority, submit detailed information regarding its tariffs for monitoring and investigation purposes.

1.9. Following a review of all written submissions[2] and oral representations from stakeholders during the public hearings,[3] the Authority made significant changes to the draft Regulations and determined that further public consultation was necessary prior to the publication of the final Regulations.

1.10. The abovementioned Authority's decision was informed by significant changes made to the following provisions:

1.10.1. Regulation 8(a)

The Authority revised regulation 8(a), removing sub-regulations (i) to (iv), as those provisions will be addressed in the cost modelling phase, which occurs after the publication of the final Regulations.

1.10.2. Regulation 8(b)

The Authority made two key changes: first, it included specific processes and timelines for the submission of the ROs by Sentech; and second, the Authority replaced sub-regulations (i) to (viii) with a list of minimum required information for the ROs, which is detailed in Annexure A, attached to the second draft Regulations.

1.10.3. Regulation 8(c)

The Authority included a provision for public consultation in relation to the review of the draft ROs to be submitted by Sentech to the Authority for approval, when the Authority deems it necessary. This measure is expected to ensure a transparent and efficient review process.

1.10.4. Regulation 8(d)

Regulation 8 (d) seeks to promote a transparent and efficient process for resolving disputes, that might otherwise hinder negotiations between Sentech and broadcasters.

[2] The Authority received written representations from Primedia, Radio Pulpit, eMedia, Sentech and the SABC.
[3] On 19 August 2025, the Authority held hybrid (online and in-person) public hearings on the written submissions on the draft Regulations.

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1.10.5. Regulation 9

The Authority revised regulation 9 by removing sub-regulations (a) to (e), as those provisions will be addressed in the cost modelling phase after the publication of the final Regulations.

1.10.6. Regulation 10

The Authority revised regulation 10 by extending the review period from three (3) to five (5) years given that signal distribution services' markets do not change rapidly. However, this does not prevent the Authority from conducting a review of the Regulations earlier than five (5) years should significant market developments occur.

1.11. On 16 January 2026, the Authority published the Draft Signal Distribution Services Regulations, 2026 (GG No. 53966) ("**the second draft Regulations**") to afford stakeholders an opportunity to make written representations on the revised provisions.

1.12. The Authority received the following written representations on the second draft Regulations from the following stakeholders:

1.12.1. Mossel Bay Municipality on 22 January 2026.
1.12.2. SABC on 16 February 2026.
1.12.3. Sentech on 23[4] and 27[5] February 2026.
1.12.4. Western Cape Government on 25 February 2026.
1.12.5. Radio Pulpit on 27 February 2026.
1.12.6. MDDA on 27 February 2026.
1.12.7. Primedia on 27 February 2026.
1.12.8. eMedia on 27 February 2026.
1.12.9. Consumer Advisory Panel on 27 February 2026.

2. LEGISLATIVE FRAMEWORK

2.1. The Inquiry was initiated in terms of section 4B of the ICASA Act read with section 67(4) of the ECA.

2.2. Section 4B (1) of the ICASA Act states that:
"(1) The Authority may conduct an inquiry into any matter with regard to-

[4] Letter requesting with ICASA to discuss cost modelling phase of the project.
[5] Submission on the second draft Regulations.

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(a) the achievement of the objects of this Act or the underlying statutes;
(b) regulations and guidelines made in terms of this Act and the underlying statutes;
(c) compliance by applicable persons with this Act or the underlying statutes;
(d) compliance with the terms and conditions of any licence by the holder of such licence issued pursuant to the underlying statutes; and
(e) the exercise and performance of its powers, functions and duties in terms of this Act or the underlying statutes."

2.3. Section 4C (6) of the ICASA Act states that "the Authority must, within 90 days from the date of conclusion of the inquiry-
(a) make a finding on the subject matter of the inquiry; and
(b) publish in the Gazette –
(i) a summary of its findings…"

2.4. Section 67(4) of the ECA provides as follows:
"(4) The Authority must, following an inquiry, prescribe regulations defining the relevant markets and market segments and impose appropriate and sufficient pro-competitive licence conditions on licensees where there is ineffective competition, and if any licensee has significant market power in such markets or market segments.
The regulations must, among other things-
(a) define relevant wholesale and retail markets or market segments;
(b) determine whether there is effective competition in those relevant markets and market segments;
(c) determine which, if any, licensees have significant market power in those markets and market segments where there is ineffective competition;
(d) impose appropriate pro-competitive licence conditions on those licensees having significant market power to remedy the market failure;
(e) set out a schedule in terms of which the Authority will undertake periodic review of the markets and market segments, taking into account subsection (9) and the determination in respect of the effectiveness of competition and application of pro-competitive measures in those markets; and
(f) provide for monitoring and investigation of anti-competitive behaviour in the relevant market and market segments."

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3. SUBMISSIONS AND THE AUTHORITY'S RESPONSE

The second draft Regulations invited public comments on the Authority's preliminary views regarding amendments to regulations 8(a) – (d), 9 and 10. Stakeholders' comments, categorised as general and specific, are summarised below, followed by the reasons and positions from Authority. The focus is on highlighting the key points raised that are related to this process. The detailed submissions are available on the Authority's website.

3.1. **General comments**

3.1.1. Submissions received

3.1.1.1. Sentech

In its undated letter sent to the Authority on 23 February 2026, Sentech requested an initial meeting on 13 March 2026 to commence the consultation on the cost modelling phase of the project. Further, Sentech indicated that the purpose of the meeting was to discuss the cost modelling methodology to be used by the Authority.

Sentech requested the Authority to clarify whether the Regulations are intended to apply to wholesale terrestrial signal distribution services provided to broadcasters and or multiplex operators.

3.1.1.2. Media Development and Diversity Agency

MDDA raised a concern that the Regulations do not establish enforceable mechanisms to ensure that signal distribution services provided by Sentech are affordable for community and small broadcasters. Further, MDDA proposed tiered pricing, social tariffs, or affordability tests to ensure financial sustainability of community broadcasters.

3.1.2. The Authority's Position

The Authority intends to initiate an exercise to determine Sentech's pricing following the publication of the Regulations. Accordingly, any consultation meetings with Sentech will take place after the publication of the final Regulations. The Authority can confirm that the Regulations are intended to apply to terrestrial signal distribution services provided to broadcasters.

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The Authority will consider the MDDA's submission regarding the affordability of signal distribution services during the consultation exercise to determine Sentech's pricing.

3.2. **Specific comments**

3.2.1. **Regulation 1 - Definitions**

3.2.1.1. Submissions received

3.2.1.1.1. Radio Pulpit NPC

Radio Pulpit proposed that the "Terrestrial signal distribution AM sound broadcasting services", "Terrestrial signal distribution FM sound broadcasting services", and "Terrestrial signal distribution television broadcasting services", definitions be amended to emphasise Sentech's common carrier obligations:

"Terrestrial signal distribution AM sound broadcasting services" means a wholesale terrestrial signal distribution AM sound broadcasting service required to be provided by Sentech to a broadcasting service licensee in the Republic upon request";

"Terrestrial signal distribution FM sound broadcasting services" means a wholesale terrestrial signal distribution FM sound broadcasting service required to be provided by Sentech to a broadcasting service licensee in the Republic upon request";

"Terrestrial signal distribution television broadcasting services" means a wholesale terrestrial signal distribution television broadcasting service required to be provided by Sentech to a broadcasting service licensee in the Republic upon request".

3.2.1.1.2. eMedia

eMedia proposed the following definition of reference offer:

"Reference Offer or 'RO' means a document setting out all the terms and conditions for the provision by Sentech to a broadcaster wishing to utilise its terrestrial signal distribution broadcasting services, which reference offer shall be binding on both the broadcaster and the broadcasting licensee utilising the aforesaid services from the date the RO is published on Sentech's website".

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3.2.1.1.3. Sentech

Sentech indicated that the Authority should confirm whether terrestrial signal distribution for television broadcasting services market definition includes analogue, digital, or both.

Sentech sought clarity on the type of services to be included in the cost model, as it is of the view that including analogue services that are being phased out would be unduly burdensome.

3.2.2. The Authority's Decision and Reasons

The Authority is agreeable to the proposal by Radio Pulpit to amend the Terrestrial signal distribution AM sound broadcasting services, Terrestrial signal distribution FM sound broadcasting services, and Terrestrial signal distribution television broadcasting services definitions by insertion of the words "required to be" and "upon request".

The Authority does not agree with the proposal by eMedia to amend the definition of RO, as the Regulations impose on Sentech the RO obligation for the provision of services it provides within the defined markets. Furthermore, it should be noted that an RO becomes legally binding on Sentech and broadcasters only after it has been agreed to and concluded between the parties. Therefore, the Authority's approval of the RO template, which will contain minimum requirements, should not be misconstrued as the final RO to be concluded between Sentech and the broadcaster.

For the purposes of providing clarity or to avoid confusion, it is worth highlighting that the RO process should follow the following steps:

The Authority has revised the market definition to make it clear that terrestrial signal distribution for television broadcasting services includes analogue and digital signal.

The Authority's Position

The Authority will discuss the type of services to be included in the cost model during the consultation process on the determination of Sentech's tariffs.

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3.2.3. **Regulation 3 - Market definition**

3.2.3.1. Submissions received

3.2.3.1.1. Western Cape Government

The Western Cape Government submitted that the scope of regulation 3 and market definitions can be expanded to take into account future technological needs such as IP/cloud/fibre/satellite-over-IP and hybrid broadcast distribution.

3.2.4. The Authority's Decision and Position

The Authority has noted the proposal by the Western Cape Government and will consider IP/cloud/fibre/satellite-over-IP and hybrid broadcast distribution and other relevant technologies during the next round of market review.

3.2.5. **Regulation 8 - Pro-competitive terms and conditions**

3.2.5.1. Submissions received

3.2.5.1.1. SABC

The SABC recommended that the Authority make provision for the inclusion of confidential or commercially sensitive tariff information within the RO, which is to be published and submitted to the Authority.

3.2.5.1.2. Primedia

Primedia proposed that regulation 8(b)(i) be amended as follows to avoid potential confusion:
"(i) Sentech must submit ROs in respect of each of the defined wholesale markets for approval by the Authority within forty-five (45) days **[after effective date]** of the coming into force of these Regulations in terms of regulation 12"

Primedia proposed that regulation 8(c)(i) be amended as follows to create regulatory certainty:
"(i) The Authority **[may publish]** must gazette the ROs for public comment."

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3.2.5.1.3. Radio Pulpit NPC

Radio Pulpit proposed that the word “may” in regulation 8(c)(i) should be replaced with the word “must” to make such notice and comment publication a peremptory obligation upon the Authority in the interests of transparency and good governance of the signal distribution sector.

3.2.5.1.4. eMedia

eMedia raised a concern about the removal of regulation 8(a)(i)–(iv) in the second draft Regulations.

eMedia raised a concern that the Regulations do not provide any timeframes to approve or reject an RO or a structured process for public comment on an RO.

eMedia proposed the following amendments to regulation 8(c)::

“(c) Publication of ROs :

(i) within ten (10) days of Sentech submitting an RO pursuant to regulation 8(b)(i), the Authority must publish the ROs for public comment in the Gazette;

(ii) the public comment procedure shall be conducted on an expedited basis as follows:

(1) any party wishing to comment on the RO shall do so in writing within three weeks of the publication of the RO;

(2) should the Authority decide to conduct a public hearing in respect of the RO, such public hearing shall take place within four weeks of the closure of the public comment procedure; and

(3) the Authority shall make a decision in relation to the RO, containing any amendments thereto which the Authority decides are necessary pursuant to the procedure outlined above within 45 days of the conclusion of the hearings and will publish the RO together with reasons for its decision in the Gazette;

(iii) Sentech must publish the approved ROs on its website within fourteen (14) days the RO will become effective upon approval by the Authority and publication on Sentech's website".

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Further, eMedia raised a concern about uncertainty about lack of clarity whether the Reference Offer is intended to be the single, comprehensive, and binding set of terms (including pricing) for all Sentech's customers. It argued that the RO in respect of the markets defined should contain all the terms and conditions and/or pricing should apply to all broadcasters and there should be no separate agreements between Sentech and broadcasters.

eMedia proposed that regulation 8(d) should be broadened to include the procedure to be followed where any dispute cannot be resolved by the parties or by mediation under the auspices of the Authority.

3.2.5.1.5. Sentech

Sentech indicated that the Authority should confirm whether the ROs constitute a baseline set of standardised terms and prices or a mandatory uniform contract applicable to all Sentech customers.

Furthermore, Sentech indicated that the Authority should clarify how existing contracts between Sentech and broadcasters will be treated when the Regulations come into force. Specifically, the Authority should address whether:

(a) the Regulations apply only to new contracts;
(b) existing customers may elect to terminate or vary their current agreements in order to adopt the RO;
(c) customers may renegotiate existing agreements without formally adopting the RO; and
(d) a customer must demonstrate non-compliance with sub-regulation 8(a) (e.g., cost-orientation) before seeking a revision of existing terms.

Sentech proposed that the approved ROs should be implemented in the 2027/28 financial year given the cost modelling consultation process that the Authority should undertake in order to determine the tariffs to be included in the ROs. In addition, Sentech indicated that it will not be able to submit the draft ROs within 45 days after the implementation of the Regulations as it believes that provision for the cost modelling process has to be accounted for.

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Sentech is of the view that the dispute resolution arising from the approved RO should be confined to the matters of interpretation, implementation and compliance. Further, Sentech is of the view that disputes regarding the substantive content of an approved RO should not be allowed.

3.2.5.2. The Authority's Decision and Reasons

Regarding the proposal by SABC to include confidentiality considerations, the Authority determined that this was unnecessary. The approved RO to be published by Sentech on its website will serve as a general guide for the actual RO between Sentech and broadcasters and, therefore, should not contain specific broadcaster information.

The Authority is agreeable to the proposal that a proposed RO must always be published for public comment and has decided to replace the word "may" with "will".

After consideration of submissions by stakeholders, the Authority has decided to revise regulation 8(b)(i) by deleting the deadline for submission of the ROs for approval by the Authority. The removal is due to the fact that the Authority has to undertake an exercise to determine the tariffs to be included in the final ROs, duration of which cannot be adequately anticipated and thus nullifies the 45 days obligation. The submission of the RO templates will be done immediately after the completion of the exercise to determine the tariffs.

The Authority notes eMedia's concern regarding the removal of regulation 8(a)(i)–(iv) in the second draft Regulations. These provisions of the regulations have been removed as they will now form part of the cost modelling exercise.

The Authority does not deem it necessary to include the RO approval timeframes and structure of engagement at this point in time as these will be included in the notice of intent to consult on the RO.

It should be noted that the RO template to be approved by the Authority after consultation with stakeholders will include minimum requirements or will serve as a general guide for the actual RO between Sentech and broadcasters. However, Sentech and the broadcasters may include additional terms and conditions in the final RO to be agreed by both parties depending on their service needs.

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The Authority does not agree with eMedia's proposal to broaden the dispute resolution given that the Authority's determination on the dispute is final and biding on the relevant parties, unless if set aside by the High Court. In this regard eMedia is referred to regulation 8(d)(e).

The Authority has noted Sentech's submission concerning whether the RO should apply to existing contracts. The Authority can confirm that the approved ROs will apply to new and existing contracts. In this regard, the Authority has suspended the effective date to give Sentech and broadcasters six (6) months to align the existing contracts with the Regulations.

The Authority agrees with Sentech that the implementation of the approved RO be deferred to the 2027/28 financial year given the exercise to be undertaken by the Authority to determine the RO pricing. In this regard, the Authority has amended regulation 8(b) accordingly.

The Authority agrees with Sentech's submission that the dispute resolution arising from the approved RO should be confined to the matters of interpretation, implementation and compliance. However, this does not preclude disputes between Sentech and broadcaster in relation to the disagreement around the additional new terms and conditions. Such disputes should follow the dispute resolution process outlined in regulation 8(d) of the Regulations.

3.2.6. **Appendix A - Minimum Requirements of a Reference Offer**

3.2.6.1. Submissions received

3.2.6.1.1. Primedia

Primedia proposed the insertion of the following clause under section of Appendix A: "The service level guarantees and financial penalties for non-compliance therewith."

3.2.6.1.2. Radio Pulpit NPC

Radio Pulpit proposed that paragraph 5 of Appendix A be amended to refer to both service level guarantees and penalties for non-compliance.

3.2.6.1.3. eMedia

While eMedia acknowledges that the minimum information requirements in respect of the terms and conditions to be included in the ROs, it raised a concern about lack of transparency with regard to how Sentech's pricing will be calculated.

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3.2.6.2. The Authority's Decision and Reasons

The Authority is agreeable to the proposal by Primedia and Radio Pulpit to include a provision on service level agreement and penalties for non-compliance under paragraph 5 of Appendix A. However, as indicated herein and also in the Regulations, Appendix A contains minimum requirements of an RO, which may be expanded depending on the discussion between Sentech and the broadcaster.

The Authority's Position

The Authority notes eMedia's concerns regarding the methodology for determining Sentech's pricing. The exercise to establish Sentech's pricing will be conducted after the publication of the final Regulations and prior to the approval of the ROs.

3.2.7. **Regulation 9 - Monitoring and investigation**

3.2.7.1. Submissions received

3.2.7.1.1. SABC

The SABC requested the Authority to specify timelines for the monitoring and investigation process to avoid delays in finalising contracts and agreements between Sentech and broadcasters.

3.2.7.1.2. eMedia

eMedia raised a concern about the removal of explicit monitoring and pricing-remedy provisions from regulation 9 in the second draft Regulations. eMedia was of the view that the abovementioned removal would dilute the already modest remedial provisions in the first draft Regulations.

eMedia stated that any information provided by Sentech to the Authority in terms of regulation 9, should be made available to other stakeholders for transparency.

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3.2.7.2. The Authority's Decision and Reasons

The Authority does not agree with the SABC regarding the proposal to include timelines for the monitoring and investigation process to avoid delays in finalising RO agreements between Sentech and broadcasters. The monitoring and investigation happens after the finalisation of the RO agreements and therefore, has no being on the finalisation of RO agreements.
The Authority does not agree with eMedia's proposal to include sub-regulations 9(a)-(e) due to the reasons stated in the Explanatory Note attached to the second draft Regulations. The Authority removed sub-regulations 9(a) to (e), as these provisions will be addressed during the cost modelling phase of the consultation on RO after the publication of the final Regulations.

The Authority will consider eMedia's submission that any information provided by Sentech to the Authority in terms of regulation 9, subject to section 4D of the ICASA Act. .

The Authority's Position:

The Authority will confirm the timelines in terms of information and assumptions used by Sentech to support its terrestrial signal distribution tariffs in the notice to be published by the Authority after the publication of the final Regulations.

3.2.8. **Regulation 10 - Schedule for review of markets**

3.2.8.1. Submissions received

3.2.8.1.1. eMedia

In addition to the schedule for review of markets, eMedia proposed the amendment of regulation 10 to include the review of the ROs and prices to be charged by Sentech.

eMedia proposed the inclusion of the following sub-regulation:
"The existing ROs as approved by the Authority and published on Sentech's website shall continue to be binding on Sentech and all broadcasting licensees utilising Sentech's signal distribution services until the Authority has approved a new or amended RO and this has been published on Sentech's website."

eMedia is of the view that the proposal to extend the market review period three (3) to five (5) years is inconsistent with the urgency to correct SMP.

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3.2.8.1.2. Consumer Advisory Panel

CAP proposed that the Authority retains the review period of three (3) years, as opposed to the proposed period of five (5) years, in line with the rapid changes in technology.

3.2.8.2. The Authority's Decision and Reasons

The Authority does not agree with eMedia's proposal to include the review of ROs and prices to be charged by Sentech in the regulations. Inclusion of such review would imply that the Authority has prejudged that the outcome of the review of the markets will culminate in the review of the RO and pricing charged by Sentech, whereas the review of the RO and pricing charged by Sentech is a product of the review of the markets. The Authority will thus make such a call if necessary, when reviewing the market in the future.

The Authority does not agree with eMedia's proposal to include a new proposal about the validity of the existing ROs as it is common cause that the ROs will remain valid until amended or reviewed by the Authority.

Although the Authority has noted eMedia and CAP's concerns about the extended review period, the extension does not prevent the Authority from undertaking the review earlier if deemed necessary.

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