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GENERAL NOTICE

NOTICE 881 OF 2014



ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)

OWNERSHIP BY HISTORICALLY DISADVANTAGED GROUPS IN RELATION TO INDIVIDUAL ELECTRONIC COMMUNICATIONS SERVICE (I-ECS) AND INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE (I-ECNS) LICENCE TRANSFER APPLICATIONS

1. Section 2(h) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) (ECA) stipulates that one of its objectives is to promote broad-based black economic empowerment.
2. Section 9 (2) (b) of the ECA requires the Authority in inviting applications for individual licences, to include the percentage of equity ownership to be held by persons from historically disadvantaged groups (HDGs), which must not be less than 30%, or to impose of such other conditions or higher percentage as may be prescribed under section 4(3)(k) of the Independent Communications Authority of South Africa Act No.13 of 2000 (ICASA Act), as amended.
3. Regulation 12(c) of the Licensing Processes and Procedures Regulations, 2010¹ ("the Regulations"), which was intended to be an amendment to the 2008 Processes and Procedures Regulations², gives the Authority a discretion to approve transfer of an individual licence where the transferee's ownership and control by HDGs is less than 30%.

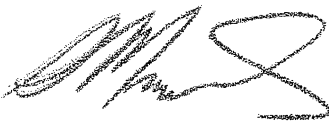
¹ Government Gazette No. 33293 of 2010.

² Regulations on Processes and Procedures in respect of Applications, Amendments, Renewals, Surrender and Transfer of Individual licences and applications for the Amendment, Renewal and Transfer of licences and applications for Special Temporary Authorisations in terms of the Electronic Communications Act, 2005 ("the 2008 Regulations").

4. Taking into account the provisions of sections 2(h) and 9(2)(b) of the ECA, read with regulation 12(c) of the Regulations, it is the Authority's view that the obligation contained in the individual licence requiring equity ownership by HDGs to be no less than 30% must continue to exist even during and or after the transfer of the individual licence and that the Authority does not have a discretion to approve an application for the transfer of an individual licence where the transferee has less than 30% ownership held by HDGs.

5. The Authority hereby gives notice that all I-ECS and I-ECNS licence transfer applications submitted to the Authority from the date of the publication of this notice in the Government Gazette, which do not have 30% equity ownership by HDGs, will not be approved.

6. The Authority will in the 2014/2015 financial year, prescribe regulations on empowerment requirements to promote broad-based black economic empowerment (B-BBEE) in line with section 4 (3) (k) of the ICASA Act, read with section 13 of the ECA.



DR STEPHEN MNCUBE
CHAIRPERSON

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