

ENSafrica telecoms and media in brief

Below, please find issue 12 of ENSafrica's telecoms and media in brief, a snapshot of the latest telecommunications and broadcasting developments in South Africa.

broadcasting and telecommunications

- **GG43207 – 2020 GEN NN 238: General Notice – Information and Communications Technology COVID-19 National Disaster Regulations**
 - On 6 April 2020, the Independent Communications Authority of South Africa (“**ICASA**”) published the Information and Communications Technology (“**ICT**”) COVID-19 National Disaster Regulations. To read more about these Regulations, see our article published [here](#).

telecommunications

- **GG43229 – 2020 GEN NN 244: General Notice – Harmonisation of Short Code “111” for COVID-19 National Emergency Services**
 - On 15 April 2020, ICASA published a notice to harmonise and mandate the short code “111” in terms of regulation 4(3) read with Schedule 1 of the Numbering Plan Regulations (“**Regulations**”) for COVID-19 national emergency services.
 - COVID-19 national emergency services accessed either by call or short messaging services, through the service code “111”, will incur no charges to the caller or sender and will be subject to the toll-free framework in line with schedule 2 of the Regulations.
 - The “111” service code is mandated for COVID-19 national emergency services during the national state of disaster. The service code “111” will cease to be harmonised and mandated within three months after the termination of the national state of disaster.
- **GG43230– 2020 GEN NN 245: General Notice – Numbering Plan Amendment Regulations**
 - On 15 April 2020, ICASA published amendments to the Numbering Plan Regulations, 2016 (“**Regulations**”) in terms of section 4 read with section 68 of the Electronic Communications Act, 2015.

- The Numbering Plan Amendment Regulation amends regulation 17 of the Regulations in order to implement the short code “116” for the provision of child helpline services. This will replace the previous 10-digit number which has been in existence for the past 16 years. Over 14 countries in Africa have now harmonised the use of the short code “116” for child helpline services.

broadcasting

- **GG43204 – 2020 GEN NN 237: General Notice – Notice Regarding the Renewal of Radio Frequency Spectrum Licences**
 - On 3 April 2020, ICASA published a notice regarding the renewal of radio frequency spectrum licences in terms of which Licensees are granted an extension to:
 - submit Radio Frequency Spectrum Licence renewal applications from 1 April 2020 to 30 June 2020, during which time the existing licences will remain valid; and
 - pay renewal fees for Radio Frequency Spectrum Licences from 31 March 2020 to 30 June 2020.
 - This extension is only applicable to the 2020/2021 licence period.

in the news

- **ICASA issues temporary radio frequency spectrum to qualifying applicants in an effort to deal with COVID-19 communication challenges**
 - On 17 April 2020, ICASA announced that it has completed the analysis of applications that were received in response to the invitation to apply for the temporary radio frequency spectrum assignments in terms of Information and Communications Technology COVID-19 National Disaster Regulations ("**Regulations**").
 - ICASA considered applications for temporary radio frequency spectrum assignments in the 700MHz, 800MHz, 2300MHz, 2600MHz and 3500MHz bands, including the use of Television Whitespaces ("**TVWS**") in an effort to ensure connectivity for all during the national state of disaster period.
 - Of all applications received, only 17 were found to be in line with the criteria and conditions outlined in Annexure A of the Regulations. Below, we outline which applicants were successful.
 - The following applicants were assigned the radio frequency spectrum in the 700/800MHz bands:
 - Telkom has been temporarily assigned 40MHz
 - MTN has been temporarily assigned 40MHz
 - Vodacom has been temporarily assigned 40MHz
 - The following applicants were assigned the radio frequency spectrum in the 2300MHz band:

- Telkom has been temporarily assigned 20MHz in addition to the 60MHz it already has in this band.
 - Vodacom has been temporarily assigned 20MHz
 - The following applicants were assigned the radio frequency spectrum in the 2600MHz band:
 - Telkom has been temporarily assigned 40MHz
 - Vodacom has been temporarily assigned 50MHz
 - MTN has been temporarily assigned 50MHz
 - RAIN Networks has been temporarily assigned 30MHz in addition to the 20MHz it already has in this band.
 - The following applicants were assigned the radio frequency spectrum in the 3500MHz band:
 - Telkom has been temporarily assigned 12MHz out of the 32MHz applied for. It is important to note that Telkom is currently assigned 28MHz in the 3500MHz band and was assigned 12MHz to afford it adequate capacity spectrum to meet the demand occasioned by the pandemic during this period.
 - Vodacom has been temporarily assigned 50MHz, as applied for.
 - MTN has been temporarily assigned 50MHz out of the 70MHz applied for.
 - Liquid Telecoms has been temporarily assigned 4MHz; which adds to the 56MHz it already has in this band.
 - The following applicants were granted authorisation to use TVWS during the national state of disaster:
 - Mthinte Communications, Levin Global and Morai Solutions for the use of TVWS in the 470 – 694 MHz band, subject to certain conditions being imposed.
 - Conditions associated with the temporary spectrum assignment:
 - All successful licensees for temporary IMT radio frequency spectrum assignments must ensure that they support and create virtual teaching and classrooms as determined by the Department of Basic Education and the Department of Communications and Digital Technologies in various districts during the national state of disaster. Furthermore, all radio frequency spectrum licensees must zero-rate all COVID-19 sites as identified from time to time by the Department of Health and published in the *Government Gazette*.
- **Cell phone cancellation charges must be reasonable**
 - The Consumer Goods and Services Ombudsman ("CGSO") recently dealt with a complaint by a South African who claimed that their mobile provider charged an unreasonable cancellation penalty.
 - The mobile provider stated in response that said that the handset subsidy pricing model is dependent on consumers remaining in contract for the fixed term to enable a return on investment. A premature cancellation would, therefore, result in a loss of return of investment.
 - The CGSO said that based on the reading of section 14 of the Consumer Protection Act ("CPA") and the relevant regulations, it is of the view that the provider's cancellation charge negates the right of the customer to cancel

the contract, as provided for in the CPA and went on to state that “It is our view that whatever method is used to calculate the cancellation charge, it must give a reasonable result that is demonstrably proportional to the actual loss suffered, and that complies with the CPA,”

- While the CGSO said it is not in a position to prescribe what a reasonable cancellation calculation should be for the provider’s customers, it said that the company should revise its cancellation policy to ensure that there is full and upfront disclosure in the subscriber agreement of the handset cost.

- **Break in WACS Cable sees South African facing slow internet**
 - The West African Cable System ("WACS") cable, which connects South Africa to the UK, suffered a breakage off the coast of England inconveniencing South Africans with slow and unreliable internet. This could not have come at a worse time as South Africans at that stage were only just entering the first lockdown period.
 - Thankfully, the WACS was completely repaired by early April, restoring proper internet connectivity.

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