
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA NOTICE 606 OF 2019



INVITATION TO PRE-REGISTER FOR COMMUNITY SOUND BROADCASTING SERVICE AND RADIO FREQUENCY SPECTRUM LICENCES

The Independent Communications Authority of South Africa ("the Authority"), hereby invites applications for Community Sound Broadcasting Service and Radio Frequency Spectrum Licences in terms of the provisions of section 17 of the Electronic Communications Act, No. 36 of 2005, as amended ("the EC Act"), read with regulation 4(5) of the Community Broadcasting Services Regulations.

All applications will be considered based on the requirements of this Invitation to Pre-Register ("ITP-R"), all applicable regulations developed by the Authority and the EC Act.

This ITP-R applies to both the service and spectrum licence applications.

DR. KEABETSWE MODIMOENG
ACTING CHAIRPERSON

BEFORE COMPLETING THE APPLICATION, APPLICANTS ARE REQUIRED TO READ AND TAKE INTO ACCOUNT THE FOLLOWING:

- a. The guidelines in schedule A;
- b. The sections of the Independent Communications Authority of South Africa Act, No. 13 of 2000 ("the ICASA Act") referred to in this ITP-R;
- c. Chapter 3, Section 63 and other sections of the Electronic Communications Act, 36 of 2005 ("the EC Act") referred to in this ITP-R;
- d. The sections of the Broadcasting Act, No. 4 of 1999 ("Broadcasting Act") referred to in this ITP-R;
- e. The following Regulations and Guidelines are applicable to this ITP-R:
 - i. The Class Licensing Processes and Procedures Regulations, 2010 as amended ("Processes and Procedures Regulations");
 - ii. The Community Broadcasting Services Regulations, 2019;
 - iii. Standard Terms and Conditions for Class Broadcasting Services Regulations, 2010, as amended;
 - iv. Local Content Regulations, 2015; and
 - v. Guidelines for Confidentiality Request in Terms of Section 4D of the ICASA Act published in Government Gazette No 41839 dated 17 August 2018.

NON-COMPLIANCE WITH THE PROVISIONS OF THE EC ACT, THIS ITP-R AND/OR ANY APPLICABLE REGULATIONS WILL RESULT IN THE REJECTION BY THE AUTHORITY OF SUCH NON-COMPLIANT APPLICATION

SCHEDULE A

APPLICATION GUIDELINES

1. Applications must be made in writing.
2. Applicants must answer all questions set out in this application form in full. If any question is considered not applicable, mark it as "N/A" and provide further explanation as to why it is not applicable.
3. Applicants must submit one original application – clearly marked as such, together with five (5) hard copies, and one (1) soft copy of the application, all of which must be received by the Authority by the closing date indicated in paragraph 18 below.
4. In terms of section 4D of the ICASA Act, Applicants may request that any part of the application be treated as confidential. Confidential documents must be clearly marked as such and submitted together with the original application, comprising the original thereof, five (5) hard copies and one (1) soft copy.
5. Requests for Confidentiality must be submitted in line with the Guidelines for Confidentiality Request in Terms of Section 4D of the ICASA Act published in Government Gazette No 41839 dated 17 August 2018 and attached herewith as Annexure A.
6. Where an Applicant has requested confidentiality on sections of its application, the Applicant is required to also submit two (2) hard copies and one (1) soft copy of the non-confidential version of the application which will be published for public comment if the request for confidentiality is granted.
7. Requests for confidentiality will be considered within fourteen (14) working days of receiving the request. The Authority will communicate its decision to the respective Applicant.
8. In the event that the request for confidentiality is refused, the Applicant may choose to withdraw the information on which confidentiality is requested.

9. All applications, save for information on which the Authority has granted confidentiality, made pursuant to this ITP-R 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 as may be determined by the Authority from time to time.
10. Each application must be permanently bound (using either heat or spiral binding).
11. Each application must have a cover page indicating the title of the ITP-R, name of the Applicant, the proposed name of the broadcasting service and year of application.
12. The page(s) immediately following the cover must be the contents page(s), which shall detail each section of the application and corresponding page numbers.
13. The entire application, including the appendices and schedules, must be sequentially numbered starting with the page immediately following the contents page(s) as page 1 and ending with the very last page of the application.
14. 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 bearing all the details set out in paragraph 11 above. 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 contents pages and be sequentially numbered as indicated above.
15. Applicants must apply for the assignment of radio frequency spectrum as contained in this ITP-R.
16. Every application must be accompanied by proof of payment of the non-refundable application fee of Three thousand, eight hundred and twenty-nine rand (R3829.00). The payment must be made by an electronic funds transfer or via a direct deposit into the following bank account of the Authority prior to the submission closing date and time indicated in paragraph 18 below:

BANK: NEDBANK LIMITED

BRANCH: NEDBANK CORPORATE INVESTMENT BANKING

BRANCH CODE: 198765

ACCOUNT NO: 1080249044

SWIFT CODE: NEDSZAJJ

REFERENCE: Name of the proposed service or Applicant

17. Applications must be addressed for the attention of the General Manager: Licensing and must be deposited into the box designated for that purpose at Block B, Eco Point Park, 350 Witch-Hazel Avenue, Eco Point Office Park, Centurion, Pretoria.
18. The closing date for the submission of applications shall be 11:00 AM, South African time (GMT +2), on 31 March 2020.
19. **Applications received after the closing date and time will not be accepted or considered by the Authority.**
20. The licensing process will be undertaken in two phases:
 - 20.1. **Phase 1:** Consideration of the applications for pre-registration of a Community Sound Broadcasting Service licence in line with the provisions of the Community Service Broadcasting Regulations. This process will be concluded within 90 working days of the closing for receipt of the applications. The Authority may hold public hearings in respect of received applications during this phase; and
 - 20.2. **Phase 2:** registration of a Community Sound Broadcasting Service licence to be submitted 30 days after the decision on pre-registration. The registration phase will be completed within 30 working days of receipt of the application.
21. The Authority reserves its right not to consider an application should Applicants not meet the requirements as set out in this ITP-R or applicable legislations and regulations.

22. All applicants shall carry their own costs in responding to the Invitation to Pre-register.

Pre-Registration requirements in terms of regulation 4 (1) of the Community Broadcasting Services Regulations, 2019.

23. The Applicant must submit proof that it is a Non-Profit Organization that has been in operation for a period of two (2) years or more.
24. An Applicant must demonstrate community development and empowerment with respect to the community located within the coverage area it would like to render community broadcasting services.

Pre-Registration requirements in terms of regulation 4 (3) of the Community Broadcasting Services Regulations, 2019.

25. An Applicant must submit a pre-registration notice as per the requirements set out in Form B of the Processes and Procedure Regulations, which must be accompanied by the following documents:
- (a) Curriculum Vitae of Board Members and Management;
 - (b) Disclosure of Interests of Board Members and Management;
 - (c) Tax Clearance certificate;
 - (d) Demand, Need, Support including profiled community broadcasters in the coverage area and programming format;
 - (e) Projects reporting on management, governance and finances; and
 - (f) Corporate governance and operational policies including, but not limited to:
 - (i) Technical Operations;
 - (ii) Human Resource; and
 - (iii) Financial;
 - (iv) Programming Policy;
 - (v) Editorial Policy;
 - (vi) Social Media Policy; and
 - (vii) Political branding at the station and affiliation Policy.

SCHEDULE B:**EVALUATION CRITERIA**

Criteria	Description	Weight
Need, Demand and Support	<ul style="list-style-type: none"> - Is the Applicant's proposed service informed by appropriate audience and market? Has the applicant been able to demonstrate that there is need, demand and support for the proposed service? (an appropriate declaration that, as regards the provision of the proposed broadcasting service, the applicant has the support of each signatory; - the signatures of members of the community; or provide results of a survey which shows whether, as regards the provision of the proposed broadcasting service, the Applicant has the support of the community or of those associated with or promoting the needs and interests of the community. The survey shows the extent to which the proposed broadcasting service will be listened to. 	30%
Programming	<ul style="list-style-type: none"> - Is the Applicant's proposed service informed by appropriate audience and market? Has the applicant been able to demonstrate that there is sufficient programming variety for the proposed service? - Is the Applicant's proposed programming schedule and format adding to the diversity in broadcasting taking into account existing similar licensees? 	20%
Business Plan and Funding	<ul style="list-style-type: none"> - Are the proposed financial projections realistic and credible? - Is there any commitment of funding? 	20%
Community participation and development	<ul style="list-style-type: none"> - How does the Applicant intend to encourage and facilitate community participation and development. 	10%
Technical Viability	Is the Applicant's proposed coverage footprint covering the targeted community?	20%

SCHEDULE C

AMENDMENTS TO THE APPLICATION

26. Amendments to applications received in terms of this Invitation to Pre-register will be considered in terms of the provisions of Form B of the Processes and Procedures Regulations as amended, attached herewith as Annexure A.
27. In instances where the information included in an application changes at any time after submission of the application, but before the Authority makes a decision, the Applicant must apply to the Authority in writing for such changes to be considered within fourteen (14) days of such change occurring.
28. The Authority will, after considering the changes, determine whether the changes;
 - 28.1. unfairly prejudice other interested parties;
 - 28.2. impede the expeditious and proper consideration of the application; or
 - 28.3. materially change the application as to constitute a new application.
29. The Authority will then notify the Applicant of its decision to either grant or refuse the request for the amendment. In the event that the request for amendment is granted, the Authority may publish a notice in the *Government Gazette* inviting interested parties to submit written representations in relation to the amendment within the period stipulated in the notice.

RADIO FREQUENCY SPECTRUM

RADIO FREQUENCY SPECTRUM APPLICATIONS

1. Applications submitted must be in the format as provided in Form P attached as Annexure B and applicants are required to respond to all questions in full.
2. An Applicant must apply for the assignment of broadcasting frequencies as specified in Annexure C.
3. The Applicant should select the frequency(ies) in the geographic area in which the service is to be provided.
4. The Applicant should conduct a technical study to indicate how the frequency(ies) selected from Annexure C would cover the geographical area of interest. The technical report should be provided to that effect.
5. The Applicants wishing to self-provide their broadcasting signal distribution must attach a copy of its electronic communications network service licence.
6. The Applicants appointing a licensed signal distributor must attach a copy of the agreement with that licensed signal distributor.
7. Failure to comply with any of these requirements and provisions of the Radio Frequency Spectrum Regulations 2015, as amended will render the application null and void.
8. The Authority reserves the right not to consider an application should the Applicant not meet the requirements as set out in this ITP-R or Radio Frequency Spectrum Regulations 2015.

The person signing the registration on behalf of the registrant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence issued pursuant to this registration set aside should any material statement made herein, at any time, be found to be false.

Signed
(REGISTRANT)

I certify that this declaration was signed and sworn to before me at
on the day of 20..., by the deponent who acknowledged that
he/she:

1. knows and understands the contents hereof;
2. has no objection to taking the prescribed oath or affirmation; and
3. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

ANNEXURE A

FORM B

**REGISTRATION FOR A CLASS LICENCE TO PROVIDE A COMMUNITY
BROADCASTING SERVICE
(Regulation 7 (2))**

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Note:

- (a) Registrants must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under that Act with regard to the requirements to be fulfilled by registrants. Registrants are referred, in particular, to the Community Sound Broadcasting Regulations, 2006 (published under GN755 in Government Gazette 28919 of 6 June 2006) and the Community Sound Broadcasting Licence: Criteria to Measure Community Support Regulations, 1997 (published under GN R1388 in Government Gazette 18380 of 17 October 1997).*
- (b) Information required in terms of this Form which does not fit into the space provided may be included in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information is not applicable.*

1. PARTICULARS OF REGISTRANT	
1.1 Full name of registrant:	
1.2 Designated contact person:	
1.3 Registrant's street address:	
1.4 Registrant's principal place of business (if different from street address):	
1.5 Registrant's postal address:	
1.6 Registrant's telephone number/s:	
1.7 Registrant's telefax number/s:	
1.8 Registrant's mobile number/s:	
1.9 E-mail address of designated contact person:	
2. LEGAL FORM OF REGISTRANT	
2.1 If the registrant is a juristic person:	
2.1.1 Indicate the legal form of the registrant (e.g. Non-Profit entity incorporated in terms of the Companies Act, 1973):	

2.1.2 Registration number of the registrant:	
2.1.3 Attach certified copies of the registrant's certificate of registration and memorandum and articles of association together with constitutive documents of the registrant (e.g. memorandum of incorporation, association agreement, constitution) marked clearly as Appendix 2.1.3 of FORM B , indicating the Applicant's compliance with the requirements of section 5(8) (b) of the Act.	
2.2 If the registrant is not a juristic person but intends to operate as one if the licence that is the subject of this registration is granted:	
2.2.1 Provide a written undertaking that the registrant will comply with section 5(8) (b) of the Act marked clearly as Appendix 2.2.1 of FORM B .	
2.2.2 Indicate when and how the registrant will comply with section 5(8) (b) of the Act.	

3. NON-PROFIT STATUS OF REGISTRANT

Provide details of the registrant's non-profit status. The following documents must be submitted with the registration: the certificate of registration accompanied by either an approved memorandum of incorporation, a constitution etc. from the relevant department/s. The founding documents must have provision for the following, 51% quorum for the annual general meeting, provision for membership and an appeals mechanism in case of rejection upon application and clear separation of powers between management and board of directors. Should the registrant fail to submit these documents, the registration will not be considered.

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4. COMMUNITY	
4.1 Indicate whether the community to be served by the proposed broadcasting service is:	
4.1.1 geographically founded community; or	
4.1.2 group of persons or sector of the public with a specific, ascertainable common interest.	
4.2 Where the community to be served by the registrant is a geographically founded community, provide details of the community to be served, including: <div style="margin-left: 40px;"> (i) whether the community is urban, peri-urban or rural (ii) the number of people in the community (iii) gender, language, income and demographic statistics in relation to the community. (Attach as Appendix 4.2) </div>	
4.3 Where the community to be served by the registrant is a community of common interest, provide details of the community to be served, including: <div style="margin-left: 40px;"> (i) the nature of the common interest; (ii) the size of the community in the geographic area in which the service is proposed to be provided; and (iii) gender, language, income and demographic statistics in relation to the community. (Attach as Appendix 4.3) </div>	

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5. NATURE OF SERVICES TO BE LICENSED
5.1 Provide a description of the service to be provided: Attach as Appendix 5.1
5.2 Indicate the geographic area in which the service is to be provided:
5.3 Provide details of the languages in which the broadcasting service is to be provided. Where it is proposed that the service will be provided in more than one language, provide a breakdown of the number of hours of programming which will be broadcast in each language.
5.4 Provide the registrant's proposed programming schedule. Further provide the proposed programming format and content to be provided, and also indicate when your peak time will be, the extent to which output would be locally originated and extent to which it will be externally sourced. Further indicate the proposed minutes of news to be broadcast on a daily basis and provide a percentage split in terms of local, national and international news content. Indicate the duration and scheduling of current affairs programme/s and provide the percentage split in terms of local, national and international content and indicate source as well. The Authority's South African music regulations on local content require class community sound

broadcast licenses to broadcast the prescribed percentage of local music. Indicate your proposed percentage of local music to be broadcast. **Attach as Appendix 5.4 of FORM B.**

6. SERVING THE COMMUNITY'S INTERESTS

6.1 Provide proof of how the registrant proposes to serve the community's interests:

6.2 Provide proof of how the registrant proposes to encourage members of the community it serves, or persons associated with the promotion of the community's interests, to participate in the selection and production of programming to be provided by the registrant:

7. SUPPORT

Provide proof of support by members of the registrant's community or of persons associated with the registrant's community or of persons who promote the interests of the registrant's community. Kindly submit letters of support from NGO, business and so forth and signatures of support from members of the community/prospective listeners etc. **Attach as Appendix 7**

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8. FINANCES

8.1 Submit commitment of funding, which includes the amount from financial institutions or any other entity for start-up costs and provide details of the manner in which the proposed service is to be funded (e.g. sponsorship, donations etc.) **Attach as Appendix 8.1**

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8.2 Provide details of the registrant's anticipated:

- i. capital expenditure necessary for the commencement of the provision of services; and
- ii. operating expenditure during the registrant's first year of operation.

Attach as Appendix 8.2

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8.3 Provide details of the registrant's business plan: **Attach as Appendix 8.3**

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9. CONTROL AND MANAGEMENT
<p>9.1 Provide details (including name, nationality, identification or passport number, position and address) of each member of the registrant. Confirm if the individuals below reside within the proposed coverage area Attach as Appendix 9.1</p> <ul style="list-style-type: none"> i. board of directors or similar body ii. senior management iii. Attach the proposed organogram
<p>9.2 Provide details of all ownership interests in the registrant: Attach as Appendix 9.2</p> <p>9.2.1 Provide details of any persons in a position of control of the registrant who is a foreign citizen, or an entity registered or incorporated in any country other than South Africa:</p>
<p>9.3 Indicate whether there is anyone in the position of control of the registrant who is in the position of control in another licensee issued in terms of the Act.</p>
<p>9.4 Provide details of how the registrant complies with the 30% requirement of ownership interest held by historically disadvantaged persons or groups. Attach as Appendix 9.4</p>

10. RADIO FREQUENCY SPECTRUM	
10.1	Indicate if the registrant has submitted or intends to submit an application for a radio frequency spectrum licence for the provision of the services to which this registration relates. The registrant must indicate, from the frequencies provided by the Authority, which frequency band it seeks to utilise to provide the service.

11. GENERAL	
11.1	Indicate whether the registrant is a member of the Advertising Standards Authority or intends to become a member:
11.2	Indicate whether the registrant is a member of a body contemplated in section 54(3) of the Act or intends to become a member:
11.3	Where the registrant proposes to provide a subscription community broadcasting service, indicate the percentage of its annual revenue which is proposed to be drawn from:
11.3.1 Advertising	
11.3.2 Sponsorships	
11.3.3 Subscriptions	
11.3.4 Donations	
11.3.5 Grants	
11.3.6 membership fees	
11.4	Indicate whether the registrant is a party, movement, organisation, body or alliance which is of a party-

political nature.	
11.5 Indicate whether the registrant has ever been convicted of an offence in terms of the Act or the related legislation, as defined in the Act. If so, provide details of such conviction.	
11.6 Provide details of other matters or undertakings which, in the registrant's view, the Authority should be consider:	
11.7 Attach a resolution authorising the person (s) not more than two signing this registration and liaising with the Authority during the registration process. The resolution must be marked clearly as Appendix 11.9 of FORM B.	

ANNEXURE B**"FORM P"****BROADCASTING SPECTRUM LICENCE APPLICATION****(Regulation 15)****INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

Note:

- (a) *Application must refer to the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the Act") and any regulations published under that Act with regard to the requirements to be fulfilled by the applicant. Applications are referred, in particular, to the Community Sound Broadcasting Regulations, 2006 (published under GN755 in Government Gazette 28919 of 6 June 2006) and the Community Sound Broadcasting Licence: Criteria to Measure Community Support Regulations, 1997 (published under GN R1388 in Government Gazette 18380 of 17 October 1997).*
- (b) *Information required in terms of this Form which does not fit into the space provided may be included in an appendix attached to the Form. Each appendix must be numbered with reference to the relevant part of the Form.*
- (c) *Where any information in this Form does not apply to the registrant, the registrant must indicate that the relevant information is not applicable.*

1. PARTICULARS OF APPLICANT	
1.1 Application/Radio Station Name:	
1.2 Designated contact person:	
1.3 Applicant's street address:	

1.4 Applicant's principal place of business (if different from street address):	
1.5 Applicant's postal address:	
1.6 Applicant's telephone number/s:	
1.7 Applicant's telefax number/s:	
1.8 E-mail address of designated contact person:	
1.9 Applicant's Service Licence No:	

2. TECHNICAL INFORMATION		
2.1 Transmitter Site		
2.2 Signal Distributor		
2.3 Frequency Applied For		MHz
2.4 Geographic Co-Ordinates		
2.5 Physical Address		
2.6 Site Height		m above sea level
2.7 Mid-Antenna Height		m above site
2.8 Maximum Effective Antenna Height		m above terrain
2.9 Designation of Emission		

2.10 Frequency Stability		kHz
2.11 Spurious Emission Level		dB/1mW
2.12 Maximum Deviation		kHz
2.13 Maximum Effective Radiated Power (ERP)		kW
2.14 Antenna Horizontal Radiated Pattern		
2.15 Antenna Polarisation		
2.16 Programme Source		
2.17 RDS Service		
2.18 SST Service		
2.19 Period		

The person signing the registration on behalf of the registrant must acknowledge as follows:

I acknowledge that the Authority reserves the right to have any licence issued pursuant to this registration set aside should any material statement made herein, at any time, be found to be false.

Signed
(REGISTRANT)

I certify that this declaration was signed and sworn to before me at
on the day of 20..., by the deponent who acknowledged that he/she:

4. knows and understands the contents hereof;
5. has no objection to taking the prescribed oath or affirmation; and
6. considers this oath or affirmation to be truthful and binding on his/her conscience.

COMMISSIONER OF OATHS

Name:

Address:

(...end of substitution)"

ANNEXURE C**SPARE COMMUNITY BROADCASTING FM FREQUENCIES**

PROVINCE	TRANSMITTER NAME	FREQUENCY	MAXIMUM	POLARIZATION
		MHz	ERP/KW	
NC	DEBEERSRUS	95.7	10	V
NC	DELPORTSHOOP	98	5	V
NC	DOUGLAS	89.8	10	V
MP	DULLSTROOM	90.1	0.5	V
MP	DULLSTROOM	97.3	0.5	V
EC	ELLIOT	94.6	0.5	V
NC	FAANS GROVE	93	5	H
FS	FICKSBURG TOWN	101.4	5	V
NC	GAMOEP	89.3	1	V
NW	GANYESA	105	2	H
WC	GEORGE	103.2	1	V
MP	GREYLINGSTAD	100.6	0.25	V
NW	GROOT MARICO	92.3	1	V
NW	GROOT MARICO	98.8	1	V
NW	GROOT MARICO	104	0.25	V
EC	HANKEY	87.9	0.01	V
EC	HANKEY	98.5	0.2	V
GP	HEIDELBERG	97.8	0.25	V
GP	HEIDELBERG	103	0.05	V
GP	HEIDELBERG 1	89.8	0.025	V
WC	HEXRIVIER	89.9	0.2	V
NW	ITSOENG	101.8	5	H
FS	JAGERSFONTEIN	107.5	0.5	V
L	KIESEL	106.4	10	V
EC	KING WILLIAMS TOWN 1	100.6	0.25	V

PROVINCE	TRANSMITTER NAME	FREQUENCY	MAXIMUM	POLARIZATION
		MHz	ERP/KW	
NC	KLIPRAND	93.1	5	V
NW	KURUMAN	105.5	10	H
NW	JOUBERTINA	92	0.02	V
NC	KALAHARI	104.9	10	V
L	KUTAMA	103.9	1	V
EC	ALI WAL NORTH	107.2	0.5	V
EC	ANDRIESKRAAL	99.7	0.01	V
MP	BALFOUR	92.9	1.2	V
FS	BLOEMFONTEIN	98.7	0.2	V
MP	BOESMANSKOP	97.7	10	V
NW	BOTHITHONG	91.4	4	V
NC	CARNARVON	99.0	6	V
MP	CAROLINA	89.9	9	V
EC	CLARKSON	104.1	1	V
EC	COLESBERG	100.4	1	V
EC	CRADOCK	89.6	12	V
EC	WOLWEFONTEIN	89.4	1	V
WC	WORCESTER	92.6	0.1	V
KZN	ZULULAND	105.5	0.1	V
EC	BEDFORD	97.3	5	V
FS	BETHLEHEM	87.6	1	V
FS	LADYBRAND	92.1	10	V
KZN	LADYSMITH	103.9	1	V
NC	LOERIESFONTEIN	89.1	10	V
MP	LYDENBURG	93.4	0.5	V
MP	LYDENBURG	99.9	0.5	V
EC	MACLEAR	93.5	1	V
NC	MATJIESFONTEIN	92.8	10	V
NC	MERWEVILLE	90.4	1	V
EC	MIDDLETON	95.7	0.5	V
NW	MOROKWENG	103.7	3	V

PROVINCE	TRANSMITTER NAME	FREQUENCY	MAXIMUM	POLARIZATION
		MHz	ERP/KW	
NW	MOROKWENG	107.3	3	V
NW	MOTSWEDI	100	5	H
EC	MURRAYSBURG	107.3	2	V
MP	NELSPRUIT	107.3	0.2	V
NC	NOENIEPUT	98.8	1	V
KZN	NONGOMA	97	1	V
FS	NOUPOORT	88.3	10	V
L	NYLSTROOM	92.9	0.2	V
L	NYLSTROOM	97.1	1	V
EC	PAUL SAUER DAM	90.5	0.01	V
FS	PETRUS STEYN	91.6	10	V
FS	PETRUS STEYN	104.5	1	V
MP	PIET RETIEF	107.4	5	V
NW	PILANESBERG	93.3	1	H
EC	PLETTENBERG BAY	87.7	0.8	V
NC	POFADDER	99.3	5	H
NW	POMFRET	91.1	5	H
FS	POSTMASBURG	103.9	10	V
FS	PRIESKA	87.7	9	V
L	PUNDA MARIA	106	5	V
FS	RICHMOND	96.8	2	V
EC	RIETBRON	91.9	1	V
KZN	KOKSTAD	97.5	0.1	V
KZN	DONNYBROOK	89.6	10	V
MP	MIDDELBURG 1	89.7	0.5	V
L	TZANEEN 1	104.8	1	V
L	MOLEMA	96.2	5	V
MP	KANYAMAZANE	107.3	0.27	V
EC	BUTTERWORTH	106.1	0.2	V
EC	VERMAAKSKOP	103.8	1	V

PROVINCE	TRANSMITTER NAME	FREQUENCY	MAXIMUM	POLARIZATION
		MHz	ERP/KW	
EC	LOVEMORE HEIGHTS	107.5	0.5	V
FS	WITKOP	94.9	0.5	V
KZN	PIETERMARITZBURG	104	0.25	V
L	LEBOWAKGOMO	105.8	0.25	V
FS	PARYS	93	0.5	V
L	GA MABULA	87.8	5	V
NW	RUSTENBURG	107.9	4	V
NW	LETLHABILE	99.5	0.1	V
EC	CALA	100.3	1	V
EC	CATHCART	103.9	0.5	V
EC	COFIMVABA	107.3	0.5	V
EC	ENGCOBO	104	0.5	V
EC	MADEIRA	93.7	1	V
EC	TARKASTAD	89.6	0.5	V
GP	WELVERDIEND	106.5	0.2	V
FS	KROONSTAD	105.3	10	V
MP	DAVEL	97.6	1	V
FS	SENEKAL	103.9	0.6	V
KZN	NKANDLA	97.5	0.2	V
KZN	NQUTHU	90.2	1	V
L	PHALABORWA	105.1	0.5	V
WC	FISHHOEK	99	0.2	V
WC	GRABOUW	102.7	0.1	V
MP	SECUNDA	97.6	0.001	V
EC	ALIWAL NORTH	90	10	V
WC	KHAYELIYSHA	98.2	0.01	V
KZN	NDWEDWE	97.6	1	V
EC	GRAHAMSTOWN	106.1	10	V
WC	TALANA FARM	97.3	0.5	V

PROVINCE	TRANSMITTER NAME	FREQUENCY	MAXIMUM	POLARIZATION
		MHz	ERP/KW	
FS	THEUNISSEN	90.9	1	V
KZN	ULUNDI	97	1	V
WC	CAPE TOWN1	104.5	0.02	V
GP	VEREENIGING	90.6	0.5	V

ANNEXURE D

GUIDELINES FOR CONFIDENTIALITY REQUEST **IN TERMS OF SECTION 4D of the ICASA Act**

PREAMBLE

WHEREAS, the Independent Communications Authority of South Africa (ICASA/ Authority) is mandated in terms of section 192 of the Constitution to regulate broadcasting in the public interest;

WHEREAS, ICASA is further mandated in terms of section 2 of the ICASA Act (Act No. 13 of 2000), as amended, to regulate broadcasting, electronic communications services and postal matters in the public interest; and

WHEREAS, section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), as amended ("ICASA Act") empowers ICASA to make determinations relating to confidentiality on information provided to ICASA by stakeholders.

WHEREAS, section 9(4)(c) of the Electronic Communications Act 36 of 2005, as amended ("ECA") permits the Authority to grant confidentiality on information submitted by an applicant at the request of an applicant.

1. Introduction

1.1 The guidelines on requests for confidentiality, are intended to provide a practical application of section 4D of the ICASA Act and section 9(4)(c) and (d) of the ECA. The guidelines will further explain the process to be followed by ICASA when dealing with confidentiality of information a licensee may submit to the Authority. A template for requesting confidentiality from ICASA is further provided in these guidelines, in Appendices A and B.

1.2 This document provides guidance to ICASA staff and informs the public of ICASA's policies and procedures. These guidelines are not regulations. They are not legally enforceable and do not create any legal rights or impose any legally binding requirements or obligations on ICASA or the public.

1.3 Section 4D provides as follows:

"4D. Confidential information

(1)

- (a) When a person submits information to the Authority, such person may request that specific information be treated as confidential information.*
- (b) The request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential.*

- (2) Within 14 days of receiving a request for confidentiality, the Authority must make a determination whether or not confidentiality will be granted and provide the person contemplated in subsection (1) with written reasons for such determination.*

- (3) Should the Authority determine that a request for confidentiality cannot be acceded to, the party providing the information must be given an opportunity to withdraw the information that is the subject of the confidentiality request.*

- (4) When considering a request contemplated in subsection (1), the Authority must treat the following information, as confidential information, namely-*

- (a) trade secrets of such person;*
- (b) financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which is likely to cause harm to the commercial or financial interests of such person;*
- (c) information of which the disclosure could reasonably be expected-*
 - (i) to put the person at a disadvantage in contractual or other negotiations; or*
 - (ii) to prejudice the person in commercial competition;*
- (d) the names of prospective employees; and*
- (e) business plans of a licensee.*

- (5) A determination of confidentiality may not be made in respect of a document or information that is in the public domain or is required to be disclosed by operation of law or a court order".*

1.4 In addition, section 9(4) of the ECA further provides as follows:

"(4)

(a) *Applications, representations, responses and other documents relating to an application which are submitted to the Authority are, subject to this subsection, open to public inspection during the normal office hours of the Authority.*

(b) *The Authority must, at the request of any person and on payment of such fee as may be prescribed, furnish him or her with copies of documents requested by such person.*

(i) *The Authority may, at the request of an applicant or person who has submitted representations or responses, decide that*

–

(aa) *any document or information that is commercially sensitive;*

or

(bb) *any other matter reasonably justifying confidentiality, is not open to public inspection, if such document or information can be separated from the application, representations or other documents in question.*

(ii) *for the purposes of this subsection, commercially sensitive document, information or other matter reasonably justifying confidentiality, excludes documents or information that should, as a matter of law be generally available to the public.*

(c) *If the Authority refuses a request referred to in paragraph (c)(i), the applicant or person concerned may withdraw the document or information in question."*

2. Information required to accompany a request for confidentiality

2.1 The provision in the ICASA Act cited above expressly states that "(t)he request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential".

2.2 This requires more than just stating a category of confidentiality under section 4D (4) of the ICASA Act.

2.3 When requesting confidentiality, the applicant is therefore required to:

2.3.1 identify the confidential information; and

2.3.2 provide a written statement or explanation justifying why the Authority should treat the identified information as confidential.

3. Categories of information that the Authority is required to treat as confidential

3.1 Section 4D (4) of the ICASA Act identifies the following categories:

3.1.1 *Trade secrets of such person*

Any trade secret must be treated as confidential by the Authority if confidentiality is requested thereon. Unless if apparent to the Authority, the onus is on the applicant to prove that the document is a trade secret.

Trade secrets includes formula, practice, process, design, instrument, pattern, commercial method, or compilation of information not generally known or reasonably ascertainable by others by which a business can obtain an economic advantage over competitors or customers.

3.1.2 *Financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which is likely to cause harm to the commercial or financial interests of such person;*

In line with section 4D (1) (b) of the ICASA Act, this category requires the applicant, to substantiate and demonstrate that if certain financial, commercial, scientific or technical information were to be in the public domain, it is likely to suffer commercially or financially.

3.1.3 *Information of which the disclosure could reasonably be expected to put the person at a disadvantage in contractual or other negotiations; or to prejudice the person in commercial competition;*

This category is broad. In line with section 4D (1) (b) of the ICASA Act, this category requires the applicant to substantiate and demonstrate that the specific/concerned information will prejudice or disadvantage the applicant in commercial competition if it is not treated as confidential.

The information under this category may include the names of third parties with which the applicant has contracted, the value of such contractual agreements and selling prices.

3.1.4 ***The names of prospective employees***

This category refers to prospective employees of the applicant or licensee or any person who submits confidential information to the Authority. Names of prospective employees must be treated as confidential by the Authority if confidentiality is requested thereon.

Unless if apparent to the Authority, the onus is on the applicant to prove that the names, in relation to those confidentiality is requested, are those of prospective employees, not of those individuals already employed by the applicant.

3.1.5 ***Business plans of a licensee***

Any business plan must be treated as confidential by the Authority if confidentiality is requested thereon. Unless if apparent to the Authority, the onus is on the applicant to prove that the document is a business plan.

In each category above, the onus falls on the applicant to demonstrate and substantiate that such information would be fall within any of the above categories. The written statement that accompanies each information should provide such substantiation.

It is worth noting that all the categories mentioned above are subject to the information not being available in the public domain, the operation of law and an order of court.

It is also worth noting that an applicant can request confidentiality on any information not listed in section 4D (4) of the ICASA Act if the information is not in the public domain and the applicant provides reasons as to why specific information must be treated as confidential.

3.2 **Withdrawal of information by the applicant**

3.2.1 If the applicant's request for confidentiality is refused, the Authority is required to grant the applicant an opportunity to withdraw the information. Failure of the applicant to withdraw such information within

a stipulated time will result in the Authority not treating the information as confidential.

- 3.2.2 Should the applicant withdraw the information, the Authority may continue with whatever process the information was required for, without reference to or relying on the withdrawn information.

3.3 Reasons for refusal of confidentiality by the Authority

- 3.3.1 Section 4D (4) prohibits the Authority from making a determination of confidentiality over any document that is in the public domain or required to be disclosed by law or court order.

- 3.3.2 The Authority must provide the applicant with reasons for making a determination to refuse confidentiality as contemplated in section 4D (2).

3.4 Review of the Authority's decision on the request for confidentiality

- 3.4.1 The Authority's decision concerning the request for confidentiality is final and binding on the Applicant. An applicant may, in terms of section 3(5) of the ICASA Act, take the Authority's decision on a request for confidentiality on review, to a court with competent jurisdiction.

Authority's process for dealing with confidentiality claims

STAGE 1

1. The Applicant/party completes in full the confidentiality form.
2. The Applicant must submit the confidentiality form along with the documents which are the subject of the confidentiality request.

STAGE 2

1. The Authority assesses the confidentiality application on its merits, considering the reasons put forward by the applicant.
2. The Authority must communicate its decision to the applicant in writing on the issue of confidentiality within 14 business days. The Authority will advise the applicant of its determination and the reasons thereto.

What happens when the Authority agrees on confidential information?

3. The Authority will proceed to disclose all the information that is not confidential and protect information granted confidentiality by keeping it from the public domain.

What happens when the Authority is not satisfied with the reasons provided by the applicant to treat information as confidential?

4. Where the Authority is not convinced of the reasons given by the Applicant, it will inform the Applicant of this decision in writing and afford the applicant an opportunity to withdraw the information.

The copy of the GUIDELINES and the FORM to request for confidentiality, is available can be obtained together with the request for confidentiality in terms of section 4D of the ICASA Act, from the ICASA website or ICASA Library or Compliance and Consumer Affairs (CCA) Division of ICASA.

**N.B.: When making the request for confidentiality, submit the FORM ONLY.
Do NOT submit or attach the GUIDELINES.**

END.

FORM TO REQUEST FOR CONFIDENTIALITY
IN TERMS OF SECTION 4D of the ICASA Act

N.B.: When making the request for confidentiality, submit the FORM ONLY.
Do NOT submit or attach the GUIDELINES. Only read those carefully to complete the FORM.

Appendix A

REQUEST FOR CONFIDENTIALITY FORM

Any Applicant or other person submitting information to ICASA may request that such information be treated as confidential in terms of section 4D of the ICASA Act.

FORM INSTRUCTIONS: Please fill out all parts of this Form to the best of your knowledge and attach any relevant supporting documents.

ICASA will:

- 1. Decide whether the information is confidential.**
- 2. Take all reasonable steps to treat information as confidential.**
- 3. Notify the party when the information ceases to be confidential at any stage during the proceedings/processes for which the confidentiality was sought and granted.**

I. MATTER:

Application/ Regulatory process:

Applicant/ Licensee name:

II. DOCUMENT(S) CONTAINING CONFIDENTIAL INFORMATION:

Please fill out the items bellow for each document containing confidential information:

- 1. Name and other details of the document containing confidential information:**

- 2. Please list and mark "confidential" all pages, paragraphs and line numbers where confidential information appears (Page: Paragraph: Line):**

- 3. Reasons why specific information in the document is considered confidential:**

Vol./Page No./Par./line No.	Specific Information	Reasons for Requesting Confidentiality

Vol./Page No./Par./line No.	Specific Information	Reasons for Requesting Confidentiality

4. Relevant category in section 4D (4) of the ICASA Act (where applicable):

- 5. If the Applicant would like to list additional documents containing confidential information, the Applicant may attach extra sheets (see appendix B), to this form and identify all the pages, paragraphs and line numbers where confidential information appears, reasons why the**

document/information is confidential and the relevant category in section 4D (4).

III. CONFIDENTIALITY STATEMENT:

I, declare that the information supplied by me to ICASA in this Form is true and accurate to the best of my knowledge.

Print

Name:

Designation:

Company:

Signature:

Date:

**Office Use Only
Received By -**

Print Name: _____

Signature: _____

Date Received: _____

Reference Number: _____

Division / Department/Unit:

Appendix B

Vol./Page No./Par./line No.	Specific Information	Reasons for Requesting Confidentiality