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Contents

Gazette *Page*
No. No.

GENERAL NOTICES • ALGEMENE KENNISGEWINGS**Independent Communications Authority of South Africa / Onafhanklike Kommunikasie-owerheid van Suid-Afrika**

572	Electronic Communications Act (36/2005): Application by Metro Fibre Networkx (Pty) Ltd for the transfer of control of its Individual Electronic Communications Service (I-ECS) Licence and Individual Electronic Communication Network Service (I-ECNS) Licence and two (2) Radio Frequency Spectrum (RFS) Licences to Digital Infrastructure Investment Holdings (Pty) Ltd.....	45196	3
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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**NOTICE 572 OF 2021****ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)**

The Independent Communications Authority of South Africa hereby publishes the application by Metro Fibre Networx (Pty) Ltd for the Transfer of Control of its Individual Electronic Communications Service (I-ECS) licence and Individual Electronic Communications Network Service (I-ECNS) Licence and two (2) Radio Frequency Spectrum (RFS) licences to Digital Infrastructure Investment Holdings (Pty) Ltd.

DR. KEABETSWE MODIMOENG
CHAIRPERSON

DATE: 17 / 09 /2021

APPLICATION BY METRO FIBRE NETWORKX (PTY) LTD FOR THE TRANSFER OF CONTROL OF ITS INDIVIDUAL ELECTRONIC COMMUNICATIONS SERVICE ("I-ECS") LICENCE, INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE ("I-ECNS") LICENCE AND TWO (2) RADIO FREQUENCY SPECTRUM (RFS) LICENCES TO DIGITAL INFRASTRUCTURE INVESTMENT HOLDINGS (PTY) LTD

1. The Independent Communications Authority of South Africa (**"the Authority"**) was established in terms of section 192 of the Constitution of the Republic of South Africa of 1996 (**"the Constitution"**) and section 3 of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), as amended (**"ICASA Act"**).

2. Application

2.1. On 01 July 2021, the Authority received an application from Metro Fibre Networkx (Pty) Ltd for the transfer of control of its I-ECS, I-ECNS and two (2) Radio Frequency Spectrum licences to Digital Infrastructure Investment Holdings (Pty) Ltd.

2.2. The Application for transfer of control is made in terms of sections 13 (1) and 31 (2A) of the Electronic Communications Act, 2005, as amended (**"ECA"**) read together with:

2.2.1. Regulation 11 Processes and Procedures Regulations for Individual Licences, 2010 as amended by the Amendment Regulations published on 30 March 2016 in *Government Gazette* No. 39871 (**"Processes and Procedures Regulations"**).

- 2.2.2. Regulation 15 of the Radio Frequency Spectrum Amendment Regulations, 2015 published on 30 April 2015 in *Government Gazette* No. 38754 as amended by Government Gazette No. 40436 of 2016 ("**RFSR 2015**").
- 2.3. Section 13 (1) of the ECA provides as follows: "*An individual licence may not be let, sub-let, assigned, ceded or in any way transferred, and the control of an individual licence may not be assigned, ceded or in any way transferred, to any other person without the prior written permission of the Authority*".
- 2.4. Section 31 (2A) of the ECA provides as follows "*A radio frequency spectrum licence may not be assigned, ceded or in any way transferred, and the control of a radio frequency licence may not be assigned, ceded or in way transferred, to any person without the prior written permission of the Authority*".
- 2.5. The Authority will also consider whether the proposed transaction would promote competition as contemplated by section 2(f) of the ECA.
- 2.6. The application for the transfer of control submitted to the Authority is as follows:
- 2.6.1. the transfer of control of I-ECS licence number 0179/IECNS/JAN/2009 to Digital Infrastructure Investment Holdings (Pty) Ltd;
- 2.6.2. the transfer of control of I-ECNS licence number 0179/IECNS/JAN/2009 to Digital Infrastructure Investment Holdings (Pty) Ltd;
- 2.6.3. the transfer of control of radio frequency spectrum licence number: 00-551-125-9 for radio frequency spectrum assigned in the 13 GHz band to Digital Infrastructure Investment Holdings (Pty) Ltd; and

- 2.6.4. the transfer of control of radio frequency spectrum licence number: 00-552-225-9 for radio frequency spectrum assigned in the 26 GHz band to Digital Infrastructure Investment Holdings (Pty) Ltd.
- 2.7. The applicant asserts that Digital Infrastructure Investment Holdings (Pty) Ltd meets the legislative requirement of 30.16% of equity being held by Historically Disadvantaged Persons (HDPs) as required in terms of section 9 (2) (b) has been met.
- 2.8. Section 9 (2) (a) of the ECA states that the Authority “*must give notice of the application in the gazette and invite interested persons to apply and submit written representations in relation to the application within the period mentioned in the notice*”.
- 2.9. The Authority hereby calls upon any interested person, to submit written representations to the application by Metro Fibre Networx (Pty) Ltd for the transfer of control of its I-ECS, I-ECNS, and two (2) radio frequency spectrum licences within fourteen (14) days from date of publication of this notice in the Gazette.
- 2.10. The non-confidential application and relevant schedule will be made available and open for inspection by interested parties on the Authority’s website.
- 2.11. Any representations received pursuant thereto (the application) will also be made available and open for inspection by interested parties on the Authority’s website, unless the Authority has granted confidentiality.
- 2.12. Applications for confidentiality must be made in terms of Section 4D of the ICASA Act.
- 2.13. Any person who submits written submissions must indicate whether they require an opportunity to make oral representations in the event that the Authority opts to hold public hearings.

3. Any written representations, response and related correspondence in terms hereof, must be directed to:

The Independent Communications Authority of South Africa

FOR ATTENTION: Mr. Peter Mailula

Manager Licensing: ECS, ECNS and Postal Services

By fax to no: 012 568 3658

Or by e-mail to: PMailula@icasa.org.za and Licensing@icasa.org.za

4. Any person who submits written representations in terms hereof must at the time of submission, furnish proof to the satisfaction of the Authority that a copy of the written representations has been delivered as follows:

Metro Fibre Networx (Pty) Ltd

FOR ATTENTION:

Mr Aveshree Padayachee

By e-mail to aveshreep@metrofibre.co.za

5. Metro Fibre Networx (Pty) Ltd has a right to respond in writing to any written representations submitted on the Application. Metro Fibre Networx (Pty) Ltd is required to submit the written response to the Authority within twenty-one (21) working days of the date of publication of this notice in the Gazette. Metro Fibre Networx (Pty) Ltd must, at the time of submission of the written response, furnish proof to the Authority's satisfaction that it has delivered a copy of the response by hand, or has sent a copy of the response by registered mail or by facsimile or by e-mail to the relevant person having made the written representations.

PROCESS	TIMEFRAMES
Publication of application for public comment	14 days
Applicants' responses to written submissions	7 days

Public hearings	If necessary, based on written comments.
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