

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE 157 OF 2020

**DRAFT AMENDMENT REGULATIONS REGARDING STANDARD TERMS AND CONDITIONS FOR CLASS LICENCES UNDER CHAPTER 3 OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (NO. 36 OF 2005)**

The Independent Communications Authority of South Africa ("the Authority") hereby declares its intention, in terms of section under section 8 read with section 4 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) and section 17E (2)(b) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), to amend the Regulations Regarding Standard Terms and Conditions for Class Licences under Chapter 3 of the Electronic Communications Act, 2005 (No. 36 of 2005) (Notice No. R525 of 14 June 2010) as amended by General Notice 155 of 30 March 2016 and General Notice 439 of 22 March 2019, and invites interested persons to submit written representations on these Draft Amendment Regulations to the extent reflected in the Schedules.

A copy of the Draft Amendment Regulations will also be made available on the Authority's website at <http://www.icasa.org.za> and in the Authority's library at situated at Eco Point Office Park, 350 Witch-Hazel Avenue, Centurion between 09h00 and 16h00, Monday to Friday.

Written representations must be submitted to the Authority by no later than 16h00 on **17 April 2020** by post, hand delivery or electronically and marked specifically for attention:

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When a person makes submissions to the Authority, such person may request that specific information be treated as confidential information in terms of section 4D of the Independent Communications Authority of South Africa Act No 13 of 2000 ("ICASA Act"). The request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential in terms of section 4D(4)(a) to (e) of the ICASA Act. The Authority may determine that such representations or any portion thereof is to be treated as confidential. Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portion(s) thereof. Persons requesting confidentiality are thus urged to acquaint themselves with the ICASA Guidelines for Confidentiality Request published in Government Gazette No. 41839 (Notice No. 849) of 17 August 2018.

Persons submitting written representations are further invited to indicate, as part of their submissions, whether they require an opportunity to make oral presentations to the Authority



DR. KEABETSWE MODIMOENG
ACTING CHAIRPERSON
DATE: 03/03/2020

SCHEDULE 1

CLASS BROADCASTING SERVICES

1. Definitions

In these regulations "the Regulations" means the regulations published by General Notice No. R525 of 2010 as amended by General Notices 155 of 30 March 2016

2. Amendment of regulation 1 of the Regulations

2.1 Regulation 1 of the Regulations is hereby amended by insertion of the following definition:

"Commercial Low Power Sound Broadcasting Service" means a commercial low power sound broadcasting service whose coverage area is, for instance, shopping malls/centres, sports grounds, show grounds and drive-in movie theatres, or any other like service the Authority may deem appropriate;"

2.2 Regulation 1 of the Regulations is hereby amended by insertion of the following definition:

"Community Low Power Sound Broadcasting Service" means a community low power sound broadcasting service operating from and broadcasting to, for instance, old age homes, and links between old age homes and places of worship, or between places of worship, or any other like service the Authority may deem appropriate;"

2.3 Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Effective Date" with the following definition:

"Effective Date" means is the date specified in the licence which may be a past, present or future date from the date of signature;"

2.4 Regulation 1 of the Regulations is hereby amended by insertion of the following definition:

“Low Power Sound Broadcasting Service” means a community, private or public sound broadcasting service which radiates power not exceeding one watt;”

2.5 Regulation 1 of the Regulations is hereby amended by insertion of the following definition:

“News” means programming that is not current affairs by a broadcaster in which it reports on events of immediate social, political or economic relevance and on matters of international, national and local significance;”

2.6 Regulation 1 of the Regulations is hereby amended by the substitution for the definition of “Public Service Announcement” with the following definition:

“Public Service Announcement” means an announcement broadcast by a broadcasting service licensee aimed at providing information concerning a disaster or immediate grave danger to the public or in the interests of public welfare;”

2.7 Regulation 1 of the Regulations is hereby amended by insertion of the following definition:

“Special Event” means an event of a cultural, religious, political, sporting, commercial or of a similar nature taking place within the applicant’s community or coverage area, which must take place irrespective of whether a licence has been granted or refused.”

3. Amendment of regulation 2 of the Regulations

The following regulation is hereby substituted for regulation 2 of the Regulations:

“A Licensee must submit a Notice of change of information in respect of the licence to the Authority within fourteen (14) days of the occurrence of the following changes:

- (a) the name of the Licensee;
- (b) contact details including the contact persons (e.g. telephone, fax, cell number and email);
- (c) Board of Directors or Trustees;
- (d) Principal place of business; and
- (e) Postal address."

4. Amendment of regulation 3 of the Regulations

4.1 Regulation 3 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

"(1) The Licence area for a Community Sound Broadcasting Service is the maximum possible area in terms of the Radio Frequency Spectrum licence, which may not exceed a District Municipality as defined in the Local Government Municipal Structures Act, No. 117 of 1998."

4.2 Regulation 3 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(2) The Licence area for a community Television Broadcasting Service is the maximum possible area in terms of the Radio Frequency Spectrum licence, which may not exceed a Province as defined in the Constitution of the Republic of South Africa, Act 108 of 1996."

5. Amendment of regulation 4 of the Regulations

The following regulation is hereby substituted for regulation 4 of the Regulations:

"4. Duration of the licence

(1) The following Licences are valid for seven (7) years from the effective date:

- (a) Community Sound Broadcasting Service;
- (b) Community Television Broadcasting Service
- (c) Community Low Power Sound Broadcasting Service; and
- (d) Commercial Low Power Sound Broadcasting Service.

(2) Special Event Community Sound Broadcasting Service licences are valid for a maximum period not exceeding forty-five (45) days for Community Sound Broadcasting and Low Power Services.

(3) Temporary Community Television Broadcasting Service licences are valid for a maximum period not exceeding twelve (12) months.”

6. Amendment of regulation 5 of the Regulations

The following regulation is hereby substituted for regulation 5 of the Regulations:

“5. Commencement of operations

- (1) A Licensee must commence operation of the service specified in the Licence, within Twelve (12) months from the effective date unless, the Authority grants, on good cause shown, an extended commencement period.
- (2) Subject to subregulation (1), a request for an extension of the commencement period must be brought to the Authority six (6) months prior to the expiry of the twelve months.
- (3) An extension for the commencement period must only be granted once, for a period not exceeding the period granted by the Authority in terms of subregulation (1).
- (4) Subject to sub-regulations (1) and (2), failure to commence operations shall result in the Authority revoking the service licence and the radio frequency spectrum licence associated with the service licence”

7. Amendment of regulation 6 of the Regulations

7.1 Regulation 6 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(2) Where a Licensee cannot provide the licensed service due to circumstances beyond its control, for a continuous period of six (6) hours or longer, the Licensee must notify the Authority in writing of such circumstances within twenty-four (24) hours.”

7.2 Regulation 6 of the Regulations is hereby amended by the insertion after sub-regulation (2) of the following sub-regulation:

“(3) Wherein the Licensee cannot provide licensed services for a continuous period of more than seven (7) days, a request for exemptions to comply with the licence terms and condition and applicable regulations should be submitted to the Authority within forty-eight (48) hours of being aware of such an occurrence.”

8. Amendment of regulation 7 of the Regulations

Regulation 7 of the Regulations is hereby amended by the substitution for paragraph (f) of the following regulation:

“(f) Temporary Television BS.”

9. Amendment of regulation 10A of the Regulations

9.1 Regulation 10A of the Regulations is hereby amended by the substitution for subregulation (3) of the following subregulation:

“(3) A station must clearly identify itself at intervals of not more than fifteen (15) minutes.”

9.2 Regulation 10A of the Regulations is hereby amended by the substitution for subregulation (10) of the following subregulation:

“(10) The broadcast of pre-recorded material must not exceed 20% of the Licensee’s live programming.”

9.3 Regulation 10A of the Regulations is hereby amended by the insertion, after subregulation (13), of the following subregulations:

“(14) The Board of Directors/Trustees and Station Management must not occupy a dual role with regard to being members of the Board, Trustees, Managers and simultaneously being presenters at the radio station.

(15) No person may occupy the role of Management, Director or Trustee in more than one station unless the person concerned is from the same Licensee.”

10. Insertion of regulation 10B in the Regulations

“10B. Provisions for Low Power Sound Broadcasting Service

Programming

- (1) A Low Power Sound Broadcasting Service licensee must not provide news and current affairs programming.
- (2) A Low Power Sound Broadcasting Service licensee must provide programmes intended for the specific coverage area, for example, shopping malls, sports grounds, show grounds, drive-in movie theatres, old age homes, places of worship, or any other like service.

Ownership and Control

- (3) No foreign person or entity must directly or indirectly exercise control over a Low Power Sound Broadcasting Service licensee in any way whatsoever.
- (4) No person or entity that has an interest in an existing broadcasting licensee must directly or indirectly exercise control or have an attributable interest in a Low Power Sound Broadcasting Service licensee.

Advertising and Sponsorship

- (5) A Low Power Sound Broadcasting Service Licensee must source advertising and sponsorship from within the coverage area.
- (6) Advertising must be limited to a minimum of eight (8) minutes and a maximum of fourteen minutes (14) per hour.
- (7) The provisions of 5 and 6 must not apply to specific services related to the delivery of audio attached to a specific presentation, performance or event, for instance, at drive-in movie theatres or any other like service the Authority may deem appropriate.

(8) All broadcasters must adhere to the Advertising Standards Authority's Code as specified in section 55 of the Electronic Communication Act as amended.

(9) All broadcasters must adhere to the Authority's Advertising, Infomercials and Programme Sponsorship Regulations, 1999, or any amendment or replacement thereto.

Technical Standards and Specifications

(10) A Low Power Sound Broadcasting Service licensee must adhere to the Authority's regulations relating to the technical standards and specifications applicable to sound broadcasting services.

(11) A Low Power Sound Broadcasting Services licensee must ensure that the antenna height is ten (10) metres above average surrounding terrain."

11. Insertion of regulation 10C in the Regulations

"10C. Provisions for Special Event Licences

At least 60% of the programming of a Special Event Community Sound Broadcasting Service licensee should relate to the Special Event."

12. Amendment of regulation 11 of the Regulations

The following regulation is hereby substituted for regulation 11 of the Regulations:

"Any person that contravenes these regulations, except regulations 4, 5, 10B (10) is liable to a fine not exceeding 10% of its annual turnover."

12.1 Regulation 11 of the regulations is hereby amended by the deletion of subregulation (2).

13. Short Title and Commencement

These regulations are called the Draft Amendment Standard Terms and Conditions for Class Licences, 2020 and will come into operation by publication in the Government Gazette.

Repealed Regulations

Regulations	Extent of Repeal
Standard Terms and Conditions for Low Power Sound Broadcasting Regulations, 2003	Entirety
Regulations relating to application for Special Events community sound broadcasting licence or temporary television broadcasting licences, 2005	Entirety

SCHEDULE 2**CLASS ELECTRONIC COMMUNICATIONS NETWORK SERVICES****1. Definitions**

In these regulations "the Regulations" means the regulations published by General Notice No. R525 of 2010 as amended by General Notices 155 of 30 March 2016.

2. Amendment of regulation 1 of the Regulations

Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Effective Date" with the following definition:

"Effective date" means is the date specified in the licence which may be a past, present or future date from the date of signature;"

3. Amendment of regulation 2 of the Regulations

The following regulation is hereby substituted for regulation 2 of the Regulations:

"2. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION

- (1) A Licensee must submit written notice to the Authority within fourteen (14) days of the occurrence of the following changes:
 - (a) the name of the Licensee;
 - (b) contact details including the contact person (e.g. telephone, fax, cell number and email);
 - (c) principal place of business; and
 - (d) postal address.
- (2) Any change or transfers of shares undertaken must comply with Licensing Processes and Procedures Regulations (as amended) 2010, and the ECA."

4. Amendment of regulation 5 of the Regulations

4.1 The following regulation is hereby substituted for regulation 5 of the Regulations:

- “(1) A Licensee must commence operation of the network services specified in the Licence within twenty-four (24) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application.
- (2) A request for an extension of the commencement period, in terms of subregulation (1), must be brought to the Authority twelve (12) months prior to the expiry of the commencement of operations.
- (3) An extension for the commencement of operations may only be granted once, for a period not exceeding the period granted by the Authority in terms of subregulation (1).
- (4) Where a licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it did not generate any revenue from the licensed service.
- (5) Where a Licensee is not legally required to have audited financial statements (“AFS”), it must submit a letter from an Independent Accounting Officer and must submit a clearance certificate from South African Revenue Services (“SARS”) as proof that it did not generate any revenue from the licensed service.”

5. Amendment of regulation 6 of the Regulations

Regulation 6 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulations:

- “(1) A licensee must provide electronic communication network services for twenty-four (24) hours per day.”

6. Amendment of regulation 11 of the Regulations

The following Regulation is hereby substituted for Regulation 11 of the Regulations

"11 METERING AND BILLING ARRANGEMENT

- (1) A Licensee must install and operate metering and billing systems which accurately record the extent of the service(s) provided to any end-user.
- (2) A Licensee must provide an accurate invoice with a detailed statement of services rendered to any end-user at no charge, except where the end-user obtains services exclusively on a prepaid basis and the prices and terms of such prepaid service have been disclosed at the time of purchase.
- (3) The invoice must include information for the entire period covered by such invoice as follows:
 - (a) details of services rendered to the end-use; and
 - (b) breakdown of charges associated with such services.
- (4) Upon request by an end-user, the Licensee must provide an itemised bill, which contains a sufficient level of detail to allow verification of charges incurred in using the services provided by the Licensee.
 - (a) Each detailed itemised bill shall contain at least the following information in relation to each individual transaction (voice or data call) charge incurred by the subscriber during the relevant billing period:
 - (1) destination,
 - (2) dialled number,
 - (3) date,
 - (4) time,
 - (5) duration, and
 - (6) charge for each individual transaction.
 - (b) The detailed itemised bill must be provided:
 - (i) via post or in an electronic format; and

(ii) at such a price that takes into account the difference in the mode of delivery.”

7. Amendment of regulation 12 of the Regulations

The following regulation is hereby substituted for Regulation 12 of the Regulations:

“12. CONTRAVENTIONS AND PENALTIES

Any person that contravenes these Regulations, except Regulation 4 and 5 is liable to a fine not exceeding 10% of its annual turnover.”

8. Short Title and Commencement

These regulations are called the Draft Amendment Standard Terms and Conditions for Class Licences, 2020 and will come into operation by publication in the Government Gazette.

SCHEDULE 3

CLASS ELECTRONIC COMMUNICATIONS SERVICE LICENCES

1. Definitions

In these regulations "the Regulations" means the regulations published by General Notice No. R525 of 2010 as amended by General Notices 155 of 30 March 2016.

2. Amendment of regulation 1 of the Regulations

Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Effective Date" with the following definition:

"**Effective date**" means is the date specified in the licence which may be a past, present or future date from the date of signature;"

3. Amendment of regulation 2 of the Regulations

The following regulation is hereby substituted for regulation 2 of the Regulations:

"2. NOTIFICATION OF CHANGE IN LICENSEE DETAILS AND INFORMATION

(1) A Licensee must submit written notice to the Authority within fourteen (14) days of the occurrence of the following changes:

- a) the name of the Licensee;
- b) contact details including the contact person; (e.g. telephone, fax, cell number and email)
- c) Principal place of business; and
- d) Postal address.

(2) Any change or transfers of shares undertaken must comply with Licensing Processes and Procedures Regulations (as amended) 2010, and the ECA."

4. Amendment of regulation 5 of the Regulations

The following regulation is hereby substituted for regulation 5 of the Regulations:

"5. COMMENCEMENT OF OPERATIONS

- (1) A Licensee must commence operation of the service specified in the Licence within twelve (12) months from the effective date, unless the Authority grants, on good cause shown, an extended commencement period on written application.
- (2) A request for an extension of the commencement period, in terms of subregulation (1), must be brought to the Authority six (6) months prior to the expiry of the commencement of operations as prescribed by sub-regulation (1).
- (3) An extension for the commencement of operations must only be granted once, for a period not exceeding the period granted by the Authority in terms of subregulation (1).
- (4) Where a licensee has not commenced operations, it must provide the Authority with a letter from external auditors confirming that it did not generate any revenue from the licensed service.
- (5) Where a Licensee is not legally required to have audited financial statements ("AFS"), it must submit a letter from an Independent Accounting Officer and must submit a clearance certificate from South African Revenue Services ("SARS") as proof that it did not generate any revenue from the licensed service".

5. Amendment of regulation 6 of the Regulations

Regulation 6 of the regulations is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

- "(1) A licensee must provide electronic communication services for twenty-four (24) hours per day."

6. Amendment of regulation 12 of the Regulations

The following regulation is hereby substituted for regulation 12 of the Regulations:

“Any person that contravenes these regulations, except regulation 4 and 5, is liable to a fine not exceeding 10% of its annual turnover.”

7. Short Title and Commencement

These regulations are called the Draft Amendment Standard Terms and Conditions for Class Licences, 2020 and will come into operation by publication in the Government Gazette.



Independent Communications Authority of South Africa

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EXPLANATORY MEMORANDUM ON THE AMENDMENT OF THE "STANDARD TERMS AND CONDITIONS REGULATIONS, 2010 AS AMENDED"

1. BACKGROUND AND CURRENT REGULATORY FRAMEWORK

- 1.1 The Independent Communications Authority of South Africa ("the Authority") has, under section 8 read with section 4 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), and section 17E(2)(b) of the ICASA Act, 2000 (Act No. 13 of 2000) decided to amend the Regulations Regarding Standard Terms and Conditions for Class Licences under Chapter 3 of the Electronic Communications Act, 2005 (No. 36 of 2005) ("the 2010 Regulations").
- 1.2 The Authority is proposing the amendment to the Regulations to align the current regulations with the class licence regulatory framework in terms of the Licensing process for class broadcasting service and provide clarity on the Standard Terms and Conditions applicable to Class Licensees.
- 1.3 Furthermore, the proposed amendment is to consolidate the standard terms and conditions for Low Power Sound Broadcasting Regulations, 2003 and Regulations relating to application for Special Events Community Sound Broadcasting Licence or Temporary Television Broadcasting Licences, 2005 with class broadcasting services.

SUMMARY OF THE DRAFT AMENDMENT REGULATIONS

2. SCHEDULE 1: CLASS BROADCASTING LICENCES

2.1 Amendment of Regulation 1: Definitions

The Authority amends the definitions contained in the 2010 Regulations as follows:

2.1.1. The definition of "**Effective Date**" is amended to mean the date specified in the licence which may be a past, present or future date from the date of signature. The rationale behind is to create a distinction between the effective date and the date of issue in that the effective date can and may be independent of the date of issue.

2.1.2. The definition of "**News**" is included to mean programming that is not current affairs by a broadcaster in which it reports on events of immediate social, political or economic relevance and on matters of international, national and local significance;". The reason for the inclusion is because the definition of news is provided for in the Low Power Sound Broadcasting Regulations, 2003 which will be repealed by the current Regulations.

2.1.3. The definition of "**Public Service Announcement**" is amended by the deletion of the words "imparting knowledge or...". This is largely due to various interpretations of what "imparting knowledge" may mean. Imparting of knowledge was a displaced phrase to use in this context, as the intention of the Authority was to limit the meaning of Public Service Announcement to the communication of information concerning disaster in case there is a disaster or grave danger.

2.1.4. The definition of "**Special Event**" means an event of a cultural, religious, political, sporting, commercial or of a similar nature taking place within the applicant's community or coverage area, which must take place irrespective of whether a licence has been granted or refused." The reason for the inclusion is because the definition of Special Event is provided for in the Regulations relating to application for Special Event Community

Sound Broadcasting Licence or Temporary Television Broadcasting Licence, 2005 which will be repealed by the current Regulations

2.2 Amendment of Regulation 2: Notification of change in Licensee details and information

The Authority amends regulation 2 as follows:

2.2.1. Increasing the number of days in which Licensees should notify the Authority from seven to fourteen days in terms of sub-regulation (1), due to most Licensees failing to meet the seven days submission requirement, and often request condonation for late submission. The Authority is of the view that one hundred percent increase is reasonable to ensure compliance.

2.2.2. Removing shareholding, as it does not apply to class broadcasting services. This has instead been replaced with "Board of Directors or Trustees".

2.2.3. Substituting physical address with "principal place of business". The reason for the substitution is because mostly the physical address provided by stakeholders is not necessarily the principal place of business. The term "principal place of business" is in accordance with section 5(8)(b) of the ECA and essential for compliance monitoring.

2.2.4. Insertion of "postal address" to ensure adequate contact details for the Licensee.

2.2.5. Deletion of "financial year end". The financial year end can always be requested through Regulation 9 of the current Regulations.

2.3 Amendment of Regulation 4: Duration of the licence

The Authority amends regulation 4 as follows:

2.3.1. The duration of the licence is amended from five (5) to seven (7) years. The Authority's intention is to standardise the duration of class sound broadcasting service licences and community television broadcasting service licences.

2.3.2. Deletion of paragraph (d) of sub regulation (1), "any other low power service". There is no "other low power service" and therefore this sub-regulation is not relevant.

2.3.3. Insertion of subregulation (3), "Temporary Community Television Broadcasting Service" Licence. The rationale behind this proposed amendment is to align the Standard Terms and Conditions for Class Broadcasting Services Regulations with the Licensing Processes and Procedures Regulations for Class Licences. Further, the reason for the inclusion is attributed to the fact that Regulations relating to application for Special Events Community Sound Broadcasting Licence or Temporary Television Broadcasting Licences, 2005 will be repealed by the Draft Regulations.

2.4 Amendment of regulation 5: Commencement of operations

The Authority amends regulation 5 as follows:

2.4.1. Insertion of subregulations (1), (2), and (3) indicating the extension of the commencement period, and conditions under which the extension will be granted.

2.4.2. The current regulations do not limit the number of requests for extension, and therefore are subject to misuse, where licensees apply for extensions indefinitely.

2.4.3. Further, the Authority has also extended the commencement of operations period to a 24-month period, to align this period with the Frequency Spectrum Regulations, which provide that a frequency spectrum licence must be used within 24 months of the effective date.

2.5 Amendment of regulation 6: Hours of operations

The Authority amends regulation 6 as follows:

2.5.1 Decreasing the hours of non-operations from twelve hours (12) or longer to a minimum of six hours (6). The proposed amendment will ensure that

Licensees notify the Authority prior to losing fifty percent of broadcasting hours during the performance period.

2.5.2 Insertion of sub regulation (3) to read: Wherein the Licensee cannot provide licensed services for a continuous period of more than seven (7) days, a request for exemption to comply with the licence terms and condition and applicable regulations should be submitted to the Authority within forty-eight (48) hours of being aware of such an occurrence.

2.6 Amendment of regulation 7: Services to be provided by the licensee

The Authority amends regulation 7 as follows:

Substituting paragraph (f) of regulation 7 with "Temporary Television BS".

Regulation 10A: General obligations of licensees

The Authority amends regulation 10A as follows:

2.6.1 Decreasing the number of minutes in which a Licensee should identify itself from thirty (30) to fifteen (15) minutes in terms of subregulation (3). The current interval for the Licensee or station to announce/identify itself is too long and it does not allow new audiences to identify the station they have tuned in to.

2.6.2 The inclusion of an exact figure to the quota on Licensee's pre-recorded material of a maximum of 20% with regards to subregulation (10). The quota of 20% stems from regulation 10(2) of the Community Broadcasting Services Regulations, 2019.

2.6.3 The insertion of sub-regulation (15) limiting the number of licensees in which persons assuming the office of Management, Directorship or Trusteeship may be involved in. The reason for the insertion of the subregulation is in line with Regulation 13(1) and (2) of the Community Broadcasting Services Regulations, 2019 to ensure that ownership of community broadcasting licensees remains with the community served and avoid conflict of interest and promote diversity.

2.7 Insertion of Regulation 10B: Provisions for Low Power Sound Broadcasting Service

2.7.1 Inclusion of "10B Conditions for Low Power Sound Broadcasting Service".

2.8 Insertion of Regulation 10C: provisions for Special Event Licences

2.8.1 Inclusion of "10C Special Conditions for Special Event Licences and Temporary Television".

2.9 Amendment of Regulations 11: Contraventions and penalties

The Authority amends regulation 11 as follows:

2.9.1 The insertion substitutes the current fine of a minimum of R2 500.00 and a maximum of R100 000.00 with a fine not exceeding 10% of the Licensee's annual turnover. The introduction of the 10% penalty takes into consideration the different amounts of turnover that different licensees generate.

2.9.2 The deletion of subregulation (2) is due to the contravention of Regulation 4 being subjected to enforcement.

2. Schedule 2: CLASS ELECTRONIC COMMUNICATIONS NETWORK SERVICES

2.1. Amendment of regulation 1: Definitions

The Authority amends regulation 1 as follows:

2.1.1. The definition of "**Effective Date**" is amended to mean the date specified in the licence which may be a past, present or future date from the date of signature. The rationale is to create a distinction between the effective date and the date of issue in that the effective date can and may be independent of the date of issue.

2.2. Amendment of regulation 2: Notification of change in Licensee details and information

The Authority amends regulation 2 as follows:

2.2.1. Substitution of regulation 2, which excludes “shareholding” in paragraph (c) of subregulation (1). This is due to the observation made by the Authority in which licensees utilised the notification process to conceal the actual transfer and or control of licence which has occurred without proper process being followed. The Authority has amended the wording of subregulation (2) due to the exclusion of shareholding in the Draft Regulations.

2.2.2. Further, “Physical address” has been substituted with principal place of business. The reason for the substitution is because mostly the physical address provided by stakeholders is not necessarily the principal place of business. The term principal place of business is in accordance with section 5(8)(b) of the ECA and essential for compliance monitoring.

2.2.3. “Postal Address” has been inserted to ensure adequate contact details for the Licensee.

2.2.4. Deletion of “financial year end”. The financial year end can be requested through regulation 9 of the current Regulations.

2.3. Amendment of regulation 5: Commencement of Operations

The Authority amends regulation 5 as follows:

2.3.1. The insertion of subregulation (1), (2), (3), (4), and (5).

The current regulations do not limit the number of requests for extension, and therefore are subject to misuse, where licensees apply for extensions indefinitely.

Requesting letters (confirmation from auditors) and/or tax clearance in terms of the proposed sub-regulations (4) and (5) will assist the Authority to confirm whether the licensee is operational because they are liable to pay for USAF and Licence Fees.

2.4. Amendment of regulation 6: Hours of operation

The Authority amends regulation 6 as follows:

The deletion of "unless the Authority has been notified of a shorter schedule of daily broadcast operations" in sub-regulation (1), because regulation 16 of the End-User and Subscriber Service Charter Regulations 2016 already provides for reporting.

2.5. Substitution of regulation 11: Metering and billing arrangements

Regulation 11 (Metering and Billing) to be reinstated as it was erroneously repealed by the current Regulations.

2.6. Substitution of regulation 12: Contraventions and penalties

The Authority substitutes regulation 12 as follows:

"Any person that contravenes these Regulations, except Regulation 4 and 5 is liable to a fine not exceeding 10% of its annual turnover."

The introduction of the 10% penalty takes into consideration the different amounts of turnover that different licensees make.

Short Title

The short titles have been amended for ease of reference for the stakeholder. They will now be generic (not referring to specific schedule, but just general standard terms and conditions

3. Schedule 3 - CLASS ELECTRONIC COMMUNICATIONS SERVICE LICENCES

3.1. Amendment of regulation 1: Definitions

The Authority amends regulation 11 as follows:

3.1.1. The definition of "**Effective Date**" is amended to mean the date specified in the licence which may be a past, present or future date from the date of signature. The rationale is to create a distinction between the effective date and the date of issue in that the effective date can and may be independent of the date of issue.

3.2. Amendment of regulation 2: Notification of change in Licensee details and information:

The Authority amends regulation 2 as follows:

- 3.2.1. Substitution of regulation 2, by the exclusion of "shareholding" in paragraph (c) of subregulation (1). This is due the observation made by the Authority in which licensees utilised the notification process to conceal the actual transfer and or control of licence which has occurred without proper process being followed. The Authority has amended the wording of subregulation (2) due to the exclusion of shareholding.
- 3.2.2. Further, "Physical address" has been substituted with "principal place of business". The reason for the substitution is because mostly the physical address provided by stakeholders is not necessarily "principal place of business". The term "principal place of business" is in accordance with section 5(8)(b) of the ECA and essential for compliance monitoring.
- 3.2.3. "Postal Address" has been inserted to ensure is adequate contact details for the Licensee.
- 3.2.4. Deletion of "financial year end". The financial year end can be requested through Regulation 9 of current regulations.

3.3. Amendment of regulation 5: Commencement of Operations

The Authority amends regulation 5 as follows:

- 3.3.1. The insertion of subregulation (1), (2), (3), (4), and (5).
- 3.3.2. The current regulations do not limit the number of requests for extension, and therefore are subject to misuse, where licensees apply for extensions indefinitely.
- 3.3.3. Requesting letters (confirmation from auditors) and/or tax clearance in terms of the proposed sub-regulations (4) and (5) will assist the Authority to confirm whether the licensee is operational because they are liable to pay for USAF and Licence Fees.

3.4. Amendment of Regulation 6: Hours of operation

The Authority amends regulation 6 as follows:

3.4.1. The deletion of “unless the Authority has been notified of a shorter schedule of daily broadcast operations” in subregulation (1), because regulation 16 of the End-User and Subscriber Service Charter Regulations, 2016 already provide for reporting.

3.5. Amendment of regulation 12: Contraventions and penalties

The Authority amends regulation 12 as follows:

The insertion substitutes the current fine of a minimum of R2 500.00 and a maximum of R100 000.00 with a fine not exceeding 10% of the Licensee’s annual turnover. The introduction of the 10% penalty takes into consideration the different amounts of turnover that different licensees make.