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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**NOTICE 1041 OF 2022****ELECTRONIC COMMUNICATIONS ACT, 2005**

APPLICATIONS FOR THE TRANSFER OF OWNERSHIP OF INDIVIDUAL ELECTRONIC COMMUNICATIONS SERVICE ("I-ECS") AND INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE ("I-ECNS") LICENCES FROM DARK FIBRE AFRICA PROPRIETARY LIMITED ("DFA") TO BUSINESS VENTURE INVESTMENTS NO 2213 PROPRIETARY LIMITED ("NEWCO")

1 Applications

1.1 On 6 April 2022, the Authority received applications from Dark Fibre Africa Proprietary Limited ("DFA") which seeks to:

- 1.1.1 Transfer ownership of its Individual Electronic Communications Service ("I-ECS") and Individual Electronic Communications Network Service ("I-ECNS") licences to Business Venture Investments No 2213 Proprietary Limited (Newco) ("the Transferee") and;
- 1.1.2 Transfer of Control of Radio Frequency Spectrum licence to Vodacom (Pty) Ltd ("Vodacom")

- 1.2 The Applications for transfer of ownership service licences and control of RFS licence are made in terms sections 13 (1) and 31 (2A) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended ("ECA") read together with:
- 1.2.1 Regulation 11 Processes and Procedures Regulations for Individual Licences, 2010 as amended by the Amendment Regulations published on 30 March 2016 in Government Gazette 39871 ("Processes and Procedure Regulations"); and
- 1.2.2 Regulation 15 of the Radio Frequency Spectrum Amendment Regulations, 2015 published on 30 April 2015 in Government Gazette No. 38754 as amended ("RFSR 2015")
- 1.3 Section 13 (1) of the ECA provides that: *"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"*.
- 1.4 Section 31 (2A) of the ECA provides that: *"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"*.
- 1.5 The Authority will also consider whether the proposed transaction would promote competition as contemplated in section 2(f) of the ECA.
- 1.6 The application for the transfer of ownership submitted to the Authority is as follows:
- 1.6.1 the transfer of I-ECS licence number 0400/IECS/AUG/2009 to Business Venture Investments No 2213 Proprietary Limited (Newco);

- 1.6.2 the transfer of I-ECNS licence number 0400/IECNS/AUG/2009 to Business Venture Investments No 2213 Proprietary Limited (Newco);
- 1.7 The Applicant asserts that the Transferee meets the legislative requirement of 44.78% of equity being held by Historically Disadvantaged Persons (HDPs) as required in terms of section 9 (2) (b).
- 1.8 In terms of the application for the transfer of control of the radio frequency spectrum licence number 00-552-940-9 (26 GHz) to Vodacom, the Applicant submits that:
- 1.8.1 DFA will be wholly-owned by NewCo. The shareholders in Newco are:
- 1.8.1.1 Community Investments Ventures Holdings Pty Ltd (CIVH) which will hold a minimum of 60% and a maximum of 70% of the shares in Newco post transaction; and
- 1.8.1.2 Vodacom will hold a minimum of 30% and a maximum of 40% of the shares in Newco post transaction.
- 1.9 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*”.
- 1.10 The Authority hereby calls upon any interested person, to submit written representations to the application by Dark Fibre for the transfer of its I-ECS and I-ECNS licences and transfer of control of its radio frequency spectrum licence within fourteen (14) days from the date of publication of this notice in the Gazette.

- 1.11 The non-confidential application and relevant schedule will be made available and open for inspection by interested parties on the Authority's website and library, during office hours.
 - 1.12 Any representations received pursuant thereto (the application) will also be made available and open for inspection by interested parties on the Authority's website and library during office hours, unless the Authority has granted confidentiality.
 - 1.13 Applications for confidentiality must be made in terms of Section 4D of the ICASA Act.
 - 1.14 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.
- 2 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,
Licensing and Compliance Division Block B, 350 Witch-Hazel Avenue, Eco Point Office Park, Eco Park, Centurion OR Private Bag X10, Highveld Park, 0169, By fax to no: 012 568 3658 OR by e-mail to: PMailula@icasa.org.za and Licensing@icasa.org.za

- 3 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:

Dark Fibre Africa

FOR ATTENTION: Ms Sandy Neves/Mr Andries Delpont

96 Koranna Avenue, Doringkloof, Centurion, Gauteng, 0157 **OR** send by email to Sandy.Neves@dfafrica.co.za/Andries.Delpont@dfafrica.co.za

- 4 DFA has a right to respond in writing to any written representations submitted on the Application. DFA 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. DFA 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



DR. KEABETSWE MODIMOENG
CHAIRPERSON
DATE: 16/05/2022

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