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IMPORTANT NOTICE

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GENERAL NOTICE

Independent Communications Authority of South Africa

General Notice

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GENERAL NOTICE

NOTICE 316 OF 2010



**INVITATION TO APPLY
FOR A
RADIO FREQUENCY SPECTRUM LICENCE
FOR THE PURPOSES OF PROVIDING
A MOBILE TELEVISION BROADCASTING SERVICE**

The Independent Communications Authority of South Africa ("the Authority") hereby, in terms of Schedule 1 of the Mobile Television Regulations, 2010 Regulations, invites individual broadcasting service licensees to apply for radio frequency spectrum licences within the designated range, namely, the MDTT1 multiplex for the purposes of providing mobile television broadcasting services in accordance with the particulars contained in the Schedules below.

Two mobile television multiplexes, the MDTT1 and the MDTT2 multiplexes, have been allocated for the purposes of providing mobile television broadcasting services as prescribed by the Terrestrial Broadcasting Frequency Plan, 2008.

All applications will be assessed based on this Invitation To Apply ("ITA"), Electronic Communications Act No 36 of 2005 ("the Act"), Mobile Television Regulations, 2010 and any other applicable regulations promulgated by the Authority.



**PARIS MASHILE
CHAIRPERSON**

BEFORE COMPLETING THE APPLICATION FORM, APPLICANTS MUST CAREFULLY READ THE NOTES UNDER SCHEDULE A AND ALSO REFER TO THE MOBILE TELEVISION REGULATIONS 2010, RELEVANT PROVISIONS OF THE ACT, AND ANY OTHER APPLICABLE REGULATIONS MADE BY THE AUTHORITY

Schedule A

1. Applications must be made in writing.
2. Applications submitted must be in the format as provided in Schedule B. Applications must answer all questions set out in this application form fully. If any question is considered not applicable, please mark N/A with further explanation if necessary.
3. The applicant must provide the original plus all twenty-five (25) copies of the completed application form by the deadline.
4. All applications submitted to the Authority pursuant to this ITA will be made available for inspection by interested persons at the Authority's library situated at Block D, Pinmill Farm, 164 Katherine Street, SANDTON, Johannesburg.
5. Each application must be permanently bound (using either heat binding or spiral binding).
6. Each application must have a cover page with the name of the applicant, the licence being applied for and year of application on it.
7. The pages immediately following the cover must be the content pages which detail each section of the application and its page number.

8. The application **must** be properly bound and paginated.

9. 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. 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 content pages and sequentially numbered as noted.

10. In terms of section 4D of the Independent Communications Authority of South Africa Act, Act 13 of 2000 ("ICASA Act"), Applicants may request that any part of the application be treated as confidential. The Authority may determine that an application or portions thereof are confidential and the Authority will inform applicants of the outcome within fourteen (14) days of receiving a request for confidentiality. If the request for confidentiality is refused, the Applicant making the request will be allowed to withdraw such applicable portions or waive the confidentiality as appropriate.

11. Applicants must apply for the capacity they require on the MDTT1 for the purpose of providing mobile television broadcasting service which must not be less than twenty (20%) but not exceed sixty percent (60%).

12. Every application must be accompanied by a proof of payment of non-refundable application fee of R 70 000.00 (Seventy Thousand Rands only). The payment shall be in the form of an electronic transfer or via a direct deposit into following ICASA bank account:

BANK: First National Bank

BRANCH: Weirda Valley

BRANCH CODE: 260950

ACCOUNT NO: 61037058222

REFERENCE: Name of your station

13. Applications must be submitted not later than 7 May 2010 at exactly 16h00 (Central African Time).

13.1 Applications must be addressed for the attention of the Chairperson and submitted to the General Manager: Licensing and Compliance at Block B, Pinmill Farm, 164 Katherine Street, Sandton, Johannesburg.

14. When receiving applications, the Authority shall affix on each container the time of receipt and shall provide each applicant with an acknowledgement. Applications received after the deadline will be rejected and returned to the applicant by the Authority.

15. Failure to comply with any of these requirements and or requirements of clause 6 of Schedule 1 of the Mobile Television Regulations, 2010 will render the application liable to disqualification .

16. PROPOSED LICENCE TERMS AND CONDITIONS

Amongst others, the radio frequency spectrum licence for the provision of mobile television broadcasting service will be subject to the following proposed licence terms and conditions:

(a) Utilization of the available capacity in the multiplex

The licensee must utilize all the capacity available in the multiplex assigned to it within a period of twelve (12) months from the date of issue of the licence. Notwithstanding the foregoing, the Authority may, upon application and on good cause shown, grant an extension for such further period as the Authority may deem appropriate in the circumstances.

Authority may withdraw such unused radio frequency spectrum granted to such licensee in the event the Authority is of the view that a licensee has failed to utilize fully the radio frequency spectrum assigned to it, in terms of the provisions of the Act read with the Mobile Television Regulations, 2010.

The licensee must not to sell or let the radio frequency spectrum allocated to it.

(b) Authorisation of channels

The licensee must follow the authorization procedure laid down in the Mobile Television Regulations, 2010 to add new mobile television channel.

(c) Duration of a licence

This licence is valid for a period concurrent to the duration of the broadcasting service licence of the licensee.

(d) Transfer and Cession

The licensee must not transfer or cede the licence without prior approval of the Authority.

(e) Surrender of the licence

The licensee may at any time by written notice under the licence to the Authority.

17. AUCTIONS

Authority will invite all applicants who complied with regulations 7(1) and 7(2) of Schedule 1 of the Mobile Television Regulations, 2010 to participate in an auction based on the following terms and conditions:

- (a) The reserve price for the auction will be R750 000.00 (Seven Hundred and Fifty Thousand Rand) per 20% of MDTT1.
- (b) The auction will be conducted in the following manner and procedure:
 - (i) An open ascending price auction will be utilised. Participants will bid openly against one another, with each subsequent bid higher than the previous bid. An auctioneer/Authority will announce prices, bidders may call out their bids themselves (or have a proxy call out a bid on their behalf).

- (ii) The auction will end when no participant is willing to bid further, at which point the highest bidder pays their bid.
- (c) It is the responsibility of the participants to arrange their own finance.
- (d) Payment must be made within ten (10) working after successful bid.

SCHEDULE B

1. PARTICULARS OF THE APPLICANT	
Full name of applicant:	
Designated contact person:	
Applicant's street address:	
Applicant's principal place of business (if different from street address):	
Applicant's postal address:	
Applicant's phone number/s:	
Applicant's fax number/s:	
E-mail address of designated contact person:	
2. LEGAL FORM OF APPLICANT	
Indicate if the Applicant is :	
Partnership	
juristic person	
other (specify)	
If the registrant is a juristic person:	
Indicate the legal form of the Applicant(e.g. private company incorporated in terms of the Companies Act, 1973):	
Registration number of the Applicant:	
Attach certified copies of the Applicant's certificate of incorporation and memorandum and articles of association or other constitutive documents of the Applicant (e.g. memorandum and articles of association, association agreement, constitution) indicating the applicant's compliance with the requirements of section 5(8) (b) of the Act, including shareholders' agreement and/or partnership agreements.	
<u>ATTACH AS APPENDIX 2.1</u>	
Provide a written undertaking that the registrant will comply with section 5(8) (b) of the Act.	
<u>ATTACH AS APPENDIX 2.2</u>	
Indicate when and how the registrant will comply with section 5(8) (b) of the Act.	
Provide a resolution authorizing the signatory to this application to sign this application and/or to represent the applicant in respect of this application.	

ATTACH AS APPENDIX 2.3**3. SERVICE DETAILS**

Proposed service name:

Nature of proposed service:

Free-to-air
OR
Subscription**4. FINANCIAL MATTERS**

Business plan

The Applicants are required to provide a business plan as required in terms of regulation 2 of Schedule 1 of the Mobile Television Regulations, 2010.

ATTACH AS APPENDIX 4.1**5. CHANNEL AUTHORISATION**

Where possible provide details of all channels that would need to be authorised by the Authority from start-up in terms of regulation 7 of the of the Mobile Television Regulations, 2010.

ATTACH AS APPENDIX 5.1**6. TECHNICAL****Broadcasting signal distribution**

The applicant who is not a holder of an ECNS to provide broadcasting signal distribution must provide the name, address and contact person of the ECNS licensee it intends to enter into a commercial arrangement to provide broadcasting signal distribution for purposes of providing mobile television broadcasting service.

ATTACH AS APPENDIX 6.1

The Applicants must indicate the capacity they require in the MDTT1 multiplex, which must not be less than twenty (20%) but not exceed sixty percent (60%):

The Applicants must provide a technical plan as required in terms of regulation 3 of Schedule 1 of the Mobile Television Regulations, 2010

ATTACH AS APPENDIX 6.2

7. HDI

The Applicant must provide proof to the satisfaction of the Authority that it has minimum 30% equity ownership by persons from Historically Disadvantaged Groups.

ATTACH AS APPENDIX 7.1

WARRANTY UNDERTAKING

I..... (duly authorised person)

Have prepared and/ or compiled, or directly supervised those who have prepared all or parts of this application and/or information constituting this application.

To the best of my knowledge, the application information contained herein, and any attachment thereto, is accurate and not misleading.

I further understand that should any information included herein be found to be false, misleading and/or inaccurate the entire application will be disqualified and the applicant precluded from further consideration within the application process.

Name and title of the person authorised to sign this undertaking:

Authorised Signature: _____

Date: ____/____/ 2010

I certify that this declaration was signed and sworn to before me at
..... on the day of 2010, 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:

Capacity: