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GOVERNMENT NOTICE

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**No. 1070****14 December 2012****Independent Communications Authority of South Africa**

Pinmill Farm, 164 Katherine Street, Sandton
Private Bag X10002, Sandton, 2146

DIGITAL MIGRATION REGULATIONS

I, Dr Stephen Mncube, Chairperson of the Independent Communications Authority of South Africa ("the Authority") hereby approve and publish the Digital Migration Regulations set out in the Schedule and made by the Authority in terms of sections 30(2)(c) and (d) read with sections 4(1) (a) (b) and (d) of the Electronic Communications Act, 2005 (Act No. 36 of 2005). The Broadcasting Digital Migration Policy for South Africa which was issued by the Minister of Communications in terms of section 3(1) of the Act and published under Government Notice 958 in *Government Gazette* 31408 of 8 September 2008 (as amended and published under Government Notice 124 in *Government Gazette* 35051 of 17 February 2012) has been considered by the Authority.

DR STEPHEN MNCUBE**CHAIRPERSON OF COUNCIL****INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

SCHEDULE

1. DEFINITIONS

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned and –

“**the Act**” means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

“**analogue broadcasting**” means terrestrial broadcasting where the broadcast signal is in analogue format and “**analogue broadcast**” shall be construed accordingly;

“**Astronomy Geographic Advantage Act**” means the Astronomy Geographic Advantage Act, 2007 (Act No. 21 of 2007);

“**broadcast frequency plan**” means the radio frequency plan prepared by the Authority in relation to the broadcasting service radio frequency bands, which forms part of the national radio frequency plan referred to in section 34 of the Act;

“**CCC**” means the Complaints and Compliance Committee;

“**Charter**” means the Charter of the SABC, as outlined in Chapter IV of the Broadcasting Act;

“**commercial service division**” means the commercial service operational division of the SABC, as provided for in section 9(1)(b) of the Broadcasting Act;

“**digital broadcasting**” means terrestrial broadcasting where the broadcast signal is in a digital format and “**digital broadcast**” shall be construed accordingly;

“**digital incentive channel**” means a new channel authorised in terms of these Regulations to be provided by a terrestrial television broadcasting service licensee as a digital broadcast in addition to the existing television channel or channels broadcast by that licensee as an incentive for digital migration and to encourage consumers to take the steps necessary for successful digital migration;

“**digital migration**” means the transition from analogue broadcasting to digital broadcasting;

“Digital Terrestrial Television” or **“DTT”** means digital broadcasting of television broadcasting services over a terrestrial electronic communications network which employs radio frequency spectrum in the transmission of the broadcast signal, and does not include television broadcasting services transmitted over a cable electronic communications network;

“dual illumination” means the simultaneous analogue broadcasting and digital broadcasting of an existing television channel on a simulcast basis;

“dual illumination period” means the period commencing on the date of Digital Terrestrial Television switch-on, as determined and published by the Minister and ending on the date or dates of analogue television switch-off as determined and published by the Minister;

“e.tv” means e.tv Proprietary Limited;

“e.tv channel” means the existing television channel broadcast by e.tv at the commencement of these Regulations in terms of the individual licence held by e.tv to provide a commercial free-to-air broadcasting service;

“existing television channel” means a television channel provided by a terrestrial television broadcasting service licensee as an analogue broadcast at the commencement of these Regulations;

“High Definition Television (HDTV)” means DTT transmissions with a resolution of at least 1280x720 pixels, progressive format;

“M-Net” means Electronic Media Network Limited;

“M-Net channels” means the existing television channels broadcast by M-Net at the commencement of these Regulations in terms of the individual licence held by M-Net to provide a commercial subscription broadcasting service;

“Multiplex 1” means the frequencies designated as “DTT1” in the broadcast frequency plan;

“Multiplex 2” means the frequencies designated as “DTT2” in the broadcast frequency plan;

“public service channel” means a television channel broadcast by the SABC which is broadcast as part of the SABC’s public service as provided for in section 10 of the Broadcasting Act;

“public service division” means the public service operational division of the SABC, as provided for in section 9(1)(a) of the Broadcasting Act;

“public value assessment” is an assessment on the basis of the criteria specified in regulation 7(1);

“Process and Procedures Regulations” means the Class Licensing Processes and Procedures Regulations, 2010 published under Government Notice R526 in *Government Gazette* 33297 of 14 June 2010, as amended or replaced from time to time and the Individual Licensing Processes and Procedures Regulations, 2010 published under Government Notice R522 in *Government Gazette* 33293 of 14 June 2010, as amended or replaced from time to time;

“SABC” means the South African Broadcasting Corporation SOC Limited;

“SABC channels” means the existing television channels, SABC 1, SABC 2 and SABC 3, broadcast by the SABC at the commencement of these Regulations in terms of the individual licences held by the SABC to provide public free-to-air television broadcasting services;

“SABC commercial service channel” means a television channel broadcast by the SABC as part of its commercial service as provided for in section 11 of the Broadcasting Act;

“Standard Definition Television (SDTV)” means DTT transmissions with a resolution of at most 720 x 576 pixels, either interlaced/interfaced or progressive scanned formats;

“Subscription Broadcasting Regulations” means the Subscription Broadcasting Services Regulations, 2006 published under General Notice 152 in *Government Gazette* 28452 of 31 January 2006, as amended or replaced from time to time;

“terrestrial television broadcasting service licensee” means any of the television broadcasting service licensees licensed in terms of the Act to provide the existing television channels.

2. PURPOSE OF THE REGULATIONS

The purpose of these Regulations is to: -

- (a) regulate the digital migration of the existing television channels;
- (b) prescribe the conditions for the assignment of channel capacity in Multiplex 1 and Multiplex 2 for the purposes of digital migration and the creation of a platform for DTT;
- (c) prescribe the procedure for the authorisation of digital incentive channels; and
- (d) set the time frames within which the terrestrial television broadcasting service licensees must provide for dual illumination.

3. FRAMEWORK FOR DIGITAL MIGRATION

- (1) The date for the commencement of the dual illumination period as well as the date for the final switch-off of the analogue signal will be published by the Minister in the *Gazette*.
- (2) Digital broadcasting must be in accordance with the Second Generation Digital Video Broadcast Transmission (DVB-T2) standard and fourth generation Moving Picture Experts Group (MPEG-4) compression standard and future versions of those standards.
- (3) There must be progressive dual illumination of the SABC channels, e.tv channel, and M-Net channels during the dual illumination period to achieve the phased digital migration of those channels in the whole of the Republic.
- (4) During the dual illumination period, the digital broadcast of terrestrial television broadcasting services may be in Standard Definition Television (SDTV) mode or High Definition Television (HDTV) mode, or both.
- (5) Terrestrial television broadcasting service licensees which provide community broadcasting services are not required to provide for dual illumination of those services but must ensure that they have completed digital migration to DTT by the end of the dual illumination period.

- (6) Each terrestrial television broadcasting service licensee shall ensure that the analogue broadcast signal of its existing television channel or channels is switched off by the last day of the dual illumination period.
- (7) During the dual illumination period, only the existing television channels and authorised digital incentive channels shall be broadcast in Multiplex 1 or Multiplex 2, in accordance with the allocations set out in regulations 4 and 5.
- (8) Where any capacity in Multiplex 1 and Multiplex 2 which is allocated in terms of these Regulations to be used by a terrestrial television broadcasting service licensee, is not being utilised for content provision by that licensee on the date 36 months after the commencement of the dual illumination period, the unutilised capacity shall be forfeited.
- (9) Where any digital incentive channel in Multiplex 1 and Multiplex 2 which is authorised in terms of these Regulations to be broadcast by a terrestrial television broadcasting service licensee, is not being broadcast by that licensee on the date 18 months after the authorisation of the channel, the capacity related to that channel shall be forfeited.
- (10) Terrestrial television broadcasting licensees must exercise their rights in terms of these Regulations in accordance with any requirements imposed in terms of the Astronomy Geographic Advantage Act or regulations or notices published under that Act and for this purpose designated transmitters in the Northern Cape Province must switch off the analogue broadcast signal by 31 December 2015 to facilitate radio astronomy activities in that Province.

4. MULTIPLEX ALLOCATION - MULTIPLEX 1

- (1) The SABC may use up to eighty-five percent (85%) of the available capacity in Multiplex 1 for the digital broadcasting or provision of -
 - (a) the SABC channels;
 - (b) any digital incentive channels, which the SABC is authorised to provide, in accordance with the procedures set out in these Regulations;
 - (c) subject to regulation 11(2), radio channels and data services.

- (2) The SABC shall commence the digital migration of its existing television channels at the start of the dual illumination period.
- (3) Terrestrial television broadcasting service licensees which provide community broadcasting services may collectively utilise up to fifteen percent (15%) of the available capacity in Multiplex 1 to broadcast their existing television channels.

5. MULTIPLEX ALLOCATION - MULTIPLEX 2

- (1) e.tv may use up to fifty percent (50%) of the available capacity in Multiplex 2 for the digital broadcasting of -
 - (a) the e.tv channel;
 - (b) any digital incentive channels, which e.tv is authorised to provide, in accordance with the procedures set out in these Regulations; and
 - (c) subject to regulation 11(2), radio channels and data services.
- (2) e.tv shall commence the digital migration of the e.tv channel at the start of the dual illumination period.
- (3) M-Net may use up to forty percent (40%) of the available capacity in Multiplex 2 for the digital broadcasting of -
 - (a) the M-Net channels;
 - (b) any digital incentive channels, which M-Net is authorised to provide, in accordance with the procedures set out in these Regulations; and
 - (c) subject to regulation 11(2), radio channels and data services.
- (4) M-Net shall commence the digital migration of the M-Net channels at the start of the dual illumination period.

- (5) Up to ten percent (10%) of the available capacity on Multiplex 2 shall be utilised by existing holders of temporary licences issued by the Authority to provide services on a test or trial basis on the frequencies included in Multiplex 2 at the commencement of these Regulations.
- (6) Upon the expiry of the temporary licences referred to in sub-regulation (5), the relevant capacity in Multiplex 2 shall be shared in equal proportion between e.tv and M-Net.

6. DIGITAL INCENTIVE CHANNEL AUTHORISATION PROCEDURE

- (1) A terrestrial television broadcasting service licensee, other than a terrestrial television broadcasting service licensee which provides a community broadcasting service, may make application, in writing, to the Authority for authorisation to broadcast a digital incentive channel(s).
- (2) An application in terms of sub-regulation (1) may be submitted to the Authority prior to the commencement of the dual illumination period or during the dual illumination period.
- (3) The Authority may invite public comments and conduct a public hearing in relation to an application to authorise a digital incentive channel where it considers it necessary in the interests of public fairness to do so.
- (4) A terrestrial television broadcasting service licensee may not broadcast a digital incentive channel except where the Authority has given its prior written authorisation for the channel.
- (5) Within sixty (60) days of receipt of an application made in terms of sub-regulation (1), the Authority shall issue a certificate authorising or refusing to authorise the channel, unless the Authority has elected to hold a public hearing in terms of sub-regulation 6(3).
- (6) If on the expiry of the sixty (60) day period contemplated in sub-regulation (5), the Authority has not issued such a certificate or indicated its intention to hold a public hearing, the digital incentive channel shall be regarded as having been authorised.

- (7) If the Authority refuses to authorise a digital incentive channel, the Authority shall give written reasons to the applicant in respect of its refusal within thirty (30) days of the issuing of the certificate.

7. AUTHORISATION FOR THE SABC TO BROADCAST A DIGITAL INCENTIVE CHANNEL IN MULTIPLEX 1

- (1) An application by the SABC for authorisation to broadcast a digital incentive channel shall be subject to an assessment by the Authority on the extent to which it meets the following criteria: -
- (a) supporting citizenship, consumer protection and civil society;
 - (b) providing fair and impartial news and current affairs coverage;
 - (c) promoting education and learning;
 - (d) stimulating creativity and cultural excellence;
 - (e) representing the Republic in all its diversity; and
 - (f) satisfying the requirements of section 10 of the Broadcasting Act.
- (2) An application by the SABC for authorisation to broadcast a digital incentive channel that is a public service channel and that will fall under the public service division, must include –
- (a) the name of the proposed channel;
 - (b) the primary language(s) of the proposed channel;
 - (c) a programming plan, including details of local content to be broadcast;
 - (d) information on the extent to which the addition of the proposed digital incentive channel to the SABC's broadcasting service will contribute to the achievement of the public service requirements to be met by the SABC in terms of the Charter; and
 - (e) relevant information for the purposes of the public value assessment.
- (3) Any application by the SABC for authorisation to broadcast a digital incentive channel that is a commercial service channel and that will fall under the commercial service division must include the information stipulated in regulation 8(1).

- (4) An application submitted in terms of this regulation 7 that does not contain the information required to be included in terms of these Regulations will not be considered by the Authority.
- (5) In evaluating an application in terms of this regulation 7, the Authority will consider –
 - (a) whether the public value assessment is met; and
 - (b) in the case of an application to broadcast a digital incentive channel that is a commercial service channel, the extent to which the commercial service requirements to be met by the SABC in terms of the Charter will be met and the objects set out in section 2 of the Act will be achieved, if the application is granted.

8. AUTHORISATION TO BROADCAST A DIGITAL INCENTIVE CHANNEL IN MULTIPLEX 2

- (1) An application by e.tv for authorisation to broadcast a digital incentive channel must include –
 - (a) the name of the proposed channel;
 - (b) the primary language(s) of the channel;
 - (c) a programming plan, including local content;
 - (d) the country where the channel was packaged;
 - (e) the full name of the channel supplier; and
 - (f) any other related information as may be required by the Authority.
- (2) An application in terms of sub-regulation (1) that does not contain the information that is required to be included in terms of these Regulations will not be considered.
- (3) An application by M-Net for authorisation to broadcast a digital incentive channel must include the information stipulated in the Subscription Broadcasting Regulations for channel approval applications.

9. SIGNAL DISTRIBUTION OF THE DTT SERVICES BROADCAST IN MULTIPLEX 1 AND MULTIPLEX 2

- (1) Signal distribution services shall be provided to each of the terrestrial television broadcasting service licensees for digital broadcasting in Multiplex 1 and Multiplex 2, as the case may be, by an electronic communications network service licensee or licensees appointed in terms of this regulation 9.

-
- (2) Each terrestrial television broadcasting service licensee must seek to conclude a commercial agreement with an electronic communications network service licensee to provide signal distribution services for digital broadcasting.
- (3) The agreement referred to in sub-regulation (2) shall be submitted to the Authority within three (3) months of the Minister's publication of the date for the commencement of the dual illumination period, together with -
- (a) a roll-out plan in line with the coverage targets stated in regulation 10;
 - (b) a technical plan consistent with the broadcast frequency plan; and
 - (c) the tariff structure for the signal distribution services.
- (4) Where a terrestrial television broadcasting service licensee fails to comply with sub-regulation (3) or if the Authority is not satisfied that the electronic communications network service licensee selected by the terrestrial television broadcasting service licensee will achieve the roll-out targets provided for in regulation 10 the Authority shall issue an invitation to interested persons who hold individual licences to provide electronic communications network services to apply to provide signal distribution services to the terrestrial television broadcasting service licensee.
- (5) An application submitted in response to an invitation to apply referred to in sub-regulation (4) must include details of: -
- (a) the tariff framework to be applied;
 - (b) a roll-out plan in line with the coverage targets stated in regulation 10;
 - (c) a technical plan consistent with the broadcast frequency plan; and
 - (d) the electronic communications network service licensee's compliance with section 62 of the Act.
- (6) Where the Authority believes that it is necessary as a matter of procedural fairness, the Authority may take any or all of the following steps –
- (a) invite interested persons to submit written representations in relation to application(s) received from electronic communications network service licensees to provide signal distribution services to the terrestrial television broadcasting service licensee within the period specified by the Authority;

- (b) allow the applicant(s) an opportunity to submit written responses to representations received in relation to the application within the period specified by the Authority; and/or
 - (c) conduct a public hearing in relation to the application.
- (7) The Authority may, after considering the application(s) submitted in response to an invitation to apply in terms of sub-regulation (4) and any written representations made in relation to an application, appoint an electronic communications network service licensee to provide signal distribution services to the terrestrial television broadcasting service licensee in question and shall stipulate the terms and conditions on which the electronic communications network service licensee is appointed, taking into account the requirements of section 62 of the Act.
- (8) Where an electronic communications network service licensee appointed in terms of this regulation 9 to provide signal distribution services receives any government subsidy intended to subsidise the signal distribution costs incurred by any terrestrial television broadcasting service licensee or licensees for digital broadcasting during the dual illumination period, that electronic communications network service licensee must reduce the tariffs charged to the terrestrial television broadcasting service licensee or licensees by the amount of the subsidy and must, in appropriate circumstances, provide such signal distribution services free of charge.
- (9) Where, pursuant to section 67 of the Act, the tariffs charged by an electronic communications network service licensee appointed in terms of this regulation 9 to provide signal distribution services are subject to regulation by the Authority, the tariffs charged by the electronic communications network service licensee shall be in accordance with such regulation and any agreement between the electronic communications network service licensee and the terrestrial television broadcasting service licensee shall be modified accordingly.
- (10) Where an existing broadcasting service licensee is granted a licence to provide electronic communications network services in order to self provide signal distribution services in terms of section 63 of the Act, that licensee –
 - (a) may elect to self-provide signal distribution services for the digital broadcasting of its authorized channels and services; and

(b) has the right to terminate the appointment of the electronic communications network service licensee where that licensee was appointed in terms of sub-regulation (7) upon 6 (six) months notice to the electronic communications network service licensee and the Authority.

10. ROLL-OUT TARGETS

- (1) An electronic communications network service licensee appointed to provide signal distribution services to the SABC must ensure that the digital broadcast signal for the SABC's DTT services reaches:-
 - (a) seventy-four per cent (74%) of the population of the Republic, within six (6) months after the commencement of the dual illumination period; and
 - (b) ninety-five per cent (95%) of the population of the Republic by the end of the dual illumination period.
- (2) The coverage requirements for DTT in Multiplex 2 will be based on the terrestrial television broadcasting service licensee's licence conditions.
- (3) An electronic communications network service licensee appointed in terms of regulation 9 must submit quarterly reports to the Authority on quality of service, including progress in meeting required technical standards and measures undertaken or to be undertaken to manage and prevent frequency interference within the Republic and in the Southern African region, to be submitted to the Authority within one (1) month of the electronic communications network service licensee's first financial year end following the commencement of the signal distribution services and every six (6) months thereafter.
- (4) An electronic communications network service licensee appointed in terms of regulation 9 must keep records of all incidences of harmful frequency interference and include these in the reports to be submitted to the Authority in terms of sub-regulation (3).

11. GENERAL OBLIGATIONS

- (1) A terrestrial television broadcasting service licensee must ensure that an Electronic Programme Guide, being a schedule of forthcoming available programmes broadcast

by the licensee at defined intervals, and Electronic Programme Information, being information in relation to the nature and content of programming, are made available to end-users in relation to the programming broadcast on a particular digital channel.

- (2) A terrestrial television broadcasting service licensee may provide data services and, subject to agreement with the relevant channel provider, radio channels using the capacity allocated to it in Multiplex 1 or Multiplex 2, as the case may be, for the purpose of enhancing service to end-users: provided that any data services and radio channels may not utilise more than fifteen percent (15%) collectively of the capacity allocated to the licensee.

12. TRANSITIONAL PROVISIONS

- (1) The Authority will amend, in accordance with section 10(1)(d) of the Act and the procedures contained in the Process and Procedures Regulations each of the broadcasting service licences (collectively referred to as "terrestrial television broadcasting service licences" for the purposes of this regulation 12) held by the terrestrial television broadcasting service licensees as at the commencement of these Regulations to reflect the fact that multi-channel services will be made available by those licensees using DTT.
- (2) Until such time as the terrestrial television broadcasting service licences have been amended as contemplated in sub-regulation (1), each of the terrestrial television broadcasting service licensees is considered to be authorised to provide a multi-channel broadcasting service as provided for in these Regulations and the terrestrial television broadcasting service licences are deemed to confer such authorisation.
- (3) The Authority will amend, in accordance with section 31(4)(c) of the Act, each of the radio frequency spectrum licences (collectively referred to as "existing radio frequency spectrum licences" for the purposes of this regulation 12) held by the terrestrial television broadcasting service licensees as at the commencement of these Regulations to reflect the radio frequency spectrum which they are authorised to use for the purposes of DTT in accordance with these Regulations.
- (4) Until such time as the existing radio frequency spectrum licences have been amended as contemplated in sub-regulation (3), each of the terrestrial television broadcasting service licensees is considered to be authorised to utilise the radio frequencies

included in Multiplex 1 or Multiplex 2, as the case may be, in accordance with these Regulations, and the existing radio frequency spectrum licences are deemed to confer such authorisation.

- (5) For the purpose of these Regulations it is deemed that an electronic communications network service licensee which is appointed by a terrestrial television broadcasting service licensee in terms of regulation 9 to provide signal distribution services provides those services as an agent of the terrestrial television broadcasting service licensee and therefore will be deemed to be in compliance with section 31 of the Act.
- (6) At the end of the dual illumination period, the broadcasting service licences and radio frequency spectrum licences held by each of the terrestrial television broadcasting service licensees at that time, will be amended in terms of the relevant provisions of the Act and the Process and Procedures Regulations to reflect the fact that those terrestrial television broadcasting service licensees have ceased analogue broadcasting and are no longer authorised to utilise the radio frequency spectrum which was previously assigned to them for analogue broadcasting purposes.
- (7) Each of the terrestrial television broadcasting service licensees must comply with the ICASA South African Television Content Regulations published under General Notice 154 in *Government Gazette* 28454 of 31 January 2006, until such time as those Regulations are amended or repealed, for each channel it broadcasts: provided that those channels which by the nature of the programming provided, including channels which consist exclusively of sport or education programming, cannot comply with the ICASA South African Television Content Regulations, may be exempted by the Authority from this requirement, upon written application by the terrestrial television broadcasting service licensee.

13. JOINT SPECTRUM ADVISORY GROUP

- (1) In order to promote the efficient co-ordination of frequency spectrum and interference resolution during the dual illumination period the Authority will establish a Joint Spectrum Advisory Group (JSAG), as a consultative forum, with the terrestrial television broadcasting service licensees and the electronic communications network service licensees appointed in terms of regulation 9 to perform signal distribution services, to co-ordinate usage of radio frequencies during digital migration.

- (2) The JSAG will advise the Authority and make recommendations on the most efficient processes to be adopted in resolving matters related to spectrum management to minimise or prevent harmful interference during digital migration.
- (3) The JSAG shall comprise -
 - (a) two (2) representatives from each terrestrial television broadcasting service licensee and electronic communications network service licensee appointed in terms of regulation 9;
 - (b) two (2) officials from the Authority; and
 - (c) a person designated as a Chairperson by the Authority: provided that participation in JSAG is voluntary and the terrestrial television broadcasting service licensees and electronic communications network service licensees appointed in terms of regulation 9 are not obliged to join the JSAG.
- (4) The JSAG shall be dissolved within six (6) months of the end of the dual illumination period.
- (5) Decisions of the JSAG regarding the recommendations to be made to the Authority are to be reached by consensus.
- (6) Where the members of the JSAG are unable to reach consensus on the recommendation to be made to the Authority, each terrestrial television broadcasting service licensee and electronic communications network service licensee referred to in sub-regulation (1) may make a separate recommendation to the Authority.
- (7) A quorum of a meeting of the JSAG is a majority of the members of the JSAG, including the person designated as Chairperson of the JSAG.
- (8) The existence of the JSAG does not affect the rights of any licensee to file complaints, or the Authority's powers to enforce compliance in terms of the law.

14. DIGITAL TELEVISION CONTENT ADVISORY GROUP

- (1) In order to promote the availability of digital television content during the dual illumination period the Authority will establish a Digital Television Content Advisory Group (DTCAG) as a consultative forum, with the terrestrial television broadcasting

service licensees and representatives of the independent television production industry and civil society.

- (2) The DTCAG will advise the Authority on the most effective way to ensure the supply of digital television content to encourage end-users to acquire set-top boxes in order to begin viewing digital television services as well as monitoring and compliance with content obligations.
- (3) The DTCAG shall comprise -
 - (a) one (1) representative from each terrestrial television broadcasting service licensee, representative organisations of the independent television production industry, consumer protection organisations and civil society organisations with a demonstrated interest in digital television content;
 - (b) two (2) officials from the Authority; and
 - (c) a person designated as a Chairperson by the Authority,provided that participation in the Committee is voluntary.
- (4) The DTCAG shall be dissolved within six (6) months of the end of the dual illumination period.
- (5) The DTCAG shall make recommendations to the Authority in relation to the matters referred to in sub-regulation (2).
- (6) Decisions of the DTCAG regarding the recommendations to be made to the Authority are to be reached by consensus.
- (7) Where the members of the DTCAG are unable to reach consensus on the recommendation to be made to the Authority, each terrestrial television broadcasting service licensee, representative organisations of the independent television production industry and civil society organisations referred to in sub-regulation (1) may make a separate recommendation to the Authority.
- (8) A quorum of a meeting of the DTCAG is a majority of the members of the Group, including the person designated as Chairperson of the DTCAG.

- (9) The existence of the DTCAG does not affect the rights of any licensee or organisation to file complaints, or the Authority's powers to enforce compliance in terms of the law.

15. PENALTIES

- (1) Where the CCC finds, in terms of the ICASA Act, that there has been a failure by a terrestrial television broadcasting service licensee or electronic communications network service licensee, as the case may be, to comply with regulations:

- (a) 3(2), (6), (7), or (10);
- (b) 4(1) to (3);
- (c) 5;
- (d) 9(8);
- (e) 10(1); or
- (f) 11(1)

the Authority may impose a fine not exceeding five hundred thousand rands (R500 000) for each day that the terrestrial television broadcasting service licensee was in contravention of that regulation.

- (2) The Authority may impose a fine not exceeding two hundred thousand rands (R200 000) where an electronic communications network service licensee is found to be in contravention of regulation 10(3) or (4).

16. REPEAL OF REGULATIONS

These regulations hereby repeal the Digital Migration Regulations, 2010 published under Government Notice R97 in *Government Gazette* 32956 of 15 February 2010.

17. SHORT TITLE AND COMMENCEMENT

These Regulations shall be called the Digital Migration Regulations, 2012, and will come into effect upon publication in the *Gazette*.

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