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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**GENERAL NOTICE 2203 OF 2023****Independent Communications Authority of South Africa**

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**ILLEGAL PROVISION OF OR ACCESS TO SATELLITE INTERNET SERVICES
AND POSSESSION, DISTRIBUTION OR USE OF SATELLITE BROADBAND
TERMINALS AND EQUIPMENT IN SOUTH AFRICA****1. BACKGROUND**

- 1.1 The Independent Communications Authority of South Africa ("the Authority") has noted recent developments on the alleged provision of satellite internet services through Starlink terminals in South Africa, and of some entities distributing Starlink products in South Africa from within the country and from the neighbouring countries.
- 1.2 The Authority has indicated previously, through numerous media engagements, that Starlink does not hold any licence issued by the Authority to provide electronic communications, electronic communications network or broadcasting services in South Africa.

2. PREAMBLE

- 2.1 The Authority recognises the importance of the provision of broadband services in South Africa. Access to Broadband connectivity is of utmost importance and the Authority's mandate is to ensure that all South Africans have access to a

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- wide range of basic communication services at affordable prices. Access to these services is fundamental to drive, amongst others, the following: economic growth, education, rural development and job creation, especially for the under-serviced areas in South Africa.
- 2.2 The Authority encourages any interested person who wishes to provide broadband services, within the borders of South Africa, to adhere to and follow the licensing requirements as set out in the legislative and regulatory framework, to ensure that services are provided efficiently, fairly and in the best interest of stakeholders in the ICT sector, including consumers and licensees.
- 2.3 The Authority is thus available to provide any clarity regarding the relevant process to follow when applying for an individual electronic communications service or electronic communications network service licence.

3. LICENSING REQUIREMENTS FOR SATELLITE INTERNET SERVICES

Individual Electronic Communications Service and Individual Electronic Network Service Licences

- 3.1 Section 5 (6) of the Electronic Communications Act, 2005, as amended, (ECA) provides that *"The Authority may only accept and consider applications for individual electronic communications network services licences in terms of a policy direction issued by the Minister in terms of section 3."* Accordingly, the licensing process for the granting of an Individual Electronic Communications Network Services (I-ECNS) licence commences when the Authority publishes an invitation to apply in accordance with section 5 (6) of the ECA, read with regulation 8 (1) of the Licensing Processes and Procedures Regulations 2010 (for individual licences) ("the Regulations") which provides that *"An application for a [induvial] licence must be in the format as set out in the ITA."*
- 3.2 An Individual Electronic Communications Services (I-ECS) licence, on the other hand, can be applied for by any interested person subsequent to the Authority

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- publishing an ITA in the Government Gazette in terms of regulation 8 (1) of the Regulations.
- 3.2 The ITA will amongst other things outline the application process, including the application fee and the closing date for the submission of applications. The licensing process is usually competitive in nature, and the successful applicant(s) will be issued with an I-ECNS and/or I-ECS licence. The Authority would like to emphasise that currently there is no policy direction issued by the Minister and no ITA issued by the Authority that makes it possible for the Authority to consider applications for I-ECNS and/or I-ECS licences.
- 3.3 However, any entity wishing to obtain an I-ECNS and/or I-ECS licence, in the absence of a policy directive and/or ITA, may approach any current I-ECNS/I-ECS Licensee willing to transfer or part with its individual licence(s). The licensee/transferor must approach the Authority to apply for permission to transfer the licence in terms of section 13 of the ECA, read with regulations 11 and 12 of the Regulations. The fee for the transfer of the licence is a non-refundable amount as stipulated in the notice published by the Authority in a Government Gazette regarding administrative fees that are payable.
- 3.4 The decision to transfer or part with an individual licence is a commercial arrangement between the parties, subject to compliance with section 13 of the ECA.
- 3.5 If an applicant intends to operate its own network and provide Internet services, then such applicant must apply for both a service and network licence.

Class Electronic Communications Services and Electronic Communications Network Services Licences

3.6 Electronic communications services (ECS) and electronic communications network services (ECNS) that require a class licence are electronic communications networks and services of metropolitan municipality, district municipality or local municipal scope.

3.7 An application for Class ECS and ECNS licences may be lodged with the Authority using Form A of the Class Licensing Processes and Procedures Regulations, 2010 as amended. If an applicant intends to operate its own network and provide internet services, then such applicant must apply for both a service and network licence.

Type Approval Certificate

3.7 A Type Approval certificate verifies that the equipment conforms to the technical standards for electronic communications devices prescribed by the Authority.

3.8 The only approvals granted by the Authority with a Starlink description are the following which relate to the type approval of equipment for specific purposes:

Application	Description	Type	Holder	Applicant	Purpose
40120	Starlink Ka Band Gateway (Starlink Ka Band Gateway)	Type Approvals	Paratus Telecommunications Pty Ltd	Paratus Telecommunications Pty Ltd	Satellite Tracking Gateway Earth Station with TT&C Functionality
85452	Starlink Satellite Gateway Earth Station (Gateway V3)	Type Approvals	Magic Space Dust Pty Ltd	Magic Space Dust Pty Ltd	Starlink V3 Gateway Antenna
93421	Starlink Router (UTR-211)	Type Approvals	Data X Lab (Pty) Ltd	Data X Lab (Pty) Ltd	Starlink Router

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4. COMPLIANCE AND ENFORCEMENT


- 4.1 The Authority, as a creature of statute, has a responsibility to protect its licensees and consumers by ensuring that there is fair participation and competition in the market. Therefore, any provision of broadcasting and/or electronic communications services, including the use of the radio frequency spectrum, without the necessary service or radio frequency spectrum licence(s) is a direct contravention of the ECA.
- 4.2 Section 7 of the ECA provides that no person may provide a service (i.e. broadcasting, electronic communications and electronic communications network services) without a licence.
- 4.3 Section 17H (3)(b)(iii) of the Independent Communications Authority of South Africa Act, 2000, provides that any person who provides a service without a licence or without registering as required by this Act or the ECA is guilty of an offence and liable to a fine not exceeding the greater of R5 000 000 or 10 % of the person or licensee's annual turnover for every day or part thereof during which the offence continued.
- 4.4 Section 35 (1) of the ECA provides that no person may possess, use, supply, sell, offer for sale, lease or hire any type of electronic communications equipment or electronic communication facility, including radio apparatus unless such equipment or electronic communications has been type-approved.
- 4.5 Accordingly, the Authority would like to encourage the public to refrain from purchasing or operating any electronic communications equipment, facility or apparatus that seeks to access services that are provided by entities that are not licensed to operate in South Africa and equipment or terminal that has not been type-approved by the Authority. Non-type-approved equipment poses a risk of causing harmful interference to the radio frequency spectrum. It further causes a lack of dissonance among devices operating in the same environment

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resulting in equipment not being functional. Furthermore, equipment which is not type-approved could potentially explode or implode thus putting consumers in harm's way.

5. CONCLUSION

- 5.1 In conclusion, the Authority welcomes the advent of technologies that will contribute to ensuring universal service and access to all South Africans and assist in bridging the digital divide. However, this must be done within the country's regulatory framework as set out in the ECA.
- 5.2 The public and licensees are encouraged to report incidents of suspected non-compliance by contacting ICASA at complaints@icasa.org.za or any ICASA Regional Office.



YOLISA KEDAMA

ACTING CHAIRPERSON

DATE: 21 / 11 / 2023

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