

Telkom files interdict against Icasa

Telkom has confirmed that it has filed an application asking the Gauteng High Court to review and set aside the Invitations To Apply (ITAs) published by the Independent Communications Authority of South Africa (Icasa) on 10 December 2021. The application includes an urgent interdict to prevent Icasa from processing any applications until the review is heard.



A shopper walks past a Telkom shop at a mall in Johannesburg on 26 February 2016. Reuters/Siphwe Sibeko

Telkom said it has serious difficulties with Icasa's decision to again include sub 1 GHz spectrum in the intended auction. This band is currently the subject of a legal challenge brought by e-tv. The outcome of the legal proceedings, set to heard starting on 14 March 2022, will have a material impact on the availability of spectrum in this band.

According to Telkom's group executive: regulatory affairs and government relations, Dr Siyabonga Mahlangu, the timing of the ITA is ill-conceived as the auction process does not consider the timing and impact of the findings of the legal challenge.

"This is further compounded by the lack of clarity around the wholesale open-access network (Woan) as the ITA for the Woan has not been published," Mahlangu continues.

Icasa has indicated that it wishes to reconsider the timing of the licensing of the Woan. This has serious consequences for the ITA that was published in December 2021. Potential bidders like Telkom are not able to take a holistic view of the availability and conditions of access for total available spectrum before making their submissions for the auction.

“We would have hoped that the withdrawal of the previous ITA and referral of the matter back to Icasa for reconsideration in terms of the court order during September 2021 would have been followed by extensive consultation to understand the challenges the previous ITAs presented and avoid repetition of these in the current version,” says Mahlangu.

“Unfortunately, this did not happen and regrettably, we find ourselves in this position once again.”

“The issue of a competitive landscape is key for the entire sector and not only Telkom. The impacts of a further skewing of competition in this market, through ill-considered licensing of spectrum, will be long lasting and negatively affect the availability of services and prices to consumers,” he concludes.

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