

Icasa's IMT spectrum timetable remains despite Telkom litigation

Despite the filing of an urgent application in the High Court, Pretoria by Telkom SA SOC Limited (Telkom) on Tuesday, 4 January 2022 to interdict the Independent Communications Authority of South Africa's (Icasa) from auctioning the International Mobile Telecommunications (IMT) spectrum, Icasa's Invitation To Apply (ITA) process timetable will remain intact.



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Icasa says it is not surprised by Telkom's relentless resort to litigation, the conduct stretching back seven years or more ago. "Telkom appears hellbent on stalling the Authority's every effort to licence the high demand spectrum that the sector, country, and our economy so badly needs," says Icasa.

It says that the public interest demands that the licensing of high-demand spectrum cannot be delayed any longer.

"Narrow and selfish commercial interests should give way to the overriding public good of cheaper data, universal access to efficient and reliable connectivity, and high-speed broadband transmission," states Icasa.

All of this will, in turn, boost the post Covid-19 economic recovery which the country desperately needs.

Telkom and Vodacom letters

At the end of December 2021 Telkom addressed a letter to the Authority followed by Vodacom on confidential basis on 1 January 2022.

Both letters raised varying concerns regarding the ITA process and requested the Authority to consider them.

Telkom requested the Icasa to respond by no later than Tuesday, 4 January 2022, failing which it would approach the court on an urgent basis for relief. The Authority responded on Monday, 3 January 2022 - the first working day of the year, and indeed the first working day since receipt of those letters - to both Telkom and Vodacom.

In brief, the Authority indicated its intention to respond comprehensively by Friday, 7 January 2022, and undertook to consider the various concerns raised.

Notwithstanding the Authority's undertaking to respond comprehensively by this date, on 4 January 2021 - the date on which Telkom had requested a response from the Authority - Telkom launched what can only be seen as a pre-emptive strike by filing an urgent application with the High Court to stall the ITA process and the auction intended for March 2022.

This is highly regrettable, given the Authority's commitment to expediting the auction and to delivering much-needed high-demand spectrum to the people of South Africa in March 2022 or as soon as it is practicably possible.

Icasa no longer able to respond

Telkom's urgent application is supported by a 123-page affidavit, with a total of almost 700 pages of annexures.

In the light of the voluminous court papers served on the Authority late yesterday, 4 January 2022 by Telkom, Icasa is no longer able to respond to the respective parties' correspondence by Friday, 7 January 2022.

It is almost both necessary and reasonable for the Authority to study the court papers, consult with its lawyers, and take an informed and carefully considered decision before responding to Telkom and Vodacom's correspondence.

The Authority will, given the prevailing circumstances, respond to the correspondence in due course.

The Authority's lawyers will deal with the litigation instituted by Telkom and advise on the way forward. The Authority will henceforth refrain from debating in the interim the merits or demerits of the case in the media.

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