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## **MTN AND VODACOM VS ICASA; COURT GIVES TEMPORARY RELIEF ON THE COST TO COMMUNICATE**

The Freedom of Expression Institute applauds the courts exercise of discretion in the judgment of MTN and Vodacom v ICASA. The court declared ICASA's 2014 regulations invalid and unlawful, pointing out the determination of such to be among other things, irrational and unreasonable. The declaration is suspended for a period of six months from the 1<sup>st</sup> of April 2014 tasking the regulator to adequately review the regulations.

The role played by telecoms in our daily lives is no doubt of significant importance, originally for purposes of communication, telecoms and social media has increasingly become an integral tool in the access and imparting of information and ideas. These ideals are espoused by the right to freedom of expression. In developing economies such as the South African economy it is key that such services be made accessible, and in recent times the cost attached to mobile telecoms has proven a barrier to this accessibility. It is for this reason that the FXI is most welcoming of the judgment by Judge Mayat this Monday, in which the court exercised its discretion to promote the purposes of the Electronic Communications Act, premised upon the interest of the public.

What is important to take cognisance of in this regard is the six month suspension hereto allows ICASA to rectify their concession of a failure to employ due procedures at arriving at the rates concerned, but allows the end user, the public to benefit from the rates being regulated, which it must be noted are much lower than previous times. Although the case has highlighted several inadequacies within ICASA and the need for improvement and proper implementation of such regulations, it is important to highlight the spirit behind the introduction of such regulations. It was in the interest of the public and there is hoped to be a significant decrease in the cost to communicate, receive and impart information.

Apart from highlighting the deficiencies within ICASA, this case has further highlighted the ridiculously high profit margins of the bigger players within mobile telecoms. There is a need for pro-competitive regulations which ultimately benefits the consumer and the facilitation of freedom of expression. There is further a great need for the strengthening of this Chapter 9 Institution to allow it to carry out its work effectively as underfunding and lack of capacity for this institution among others like it, not only undermines the institution itself but also our democracy.

The FXI calls on ICASA to do right by the public in using the proper channels to achieve the goal of lowering the cost of communication for all. We remain committed to ensuring that the right to freedom of expression is advanced through the consolidation of efforts allowing easy access and dissemination of information and ideas by all.

**Executive Committee:** Anton (chairperson), Raymond Louw, Nobuntu Mbelle, Indra de Lanerolle, William Gumede, Oupa Lebogo, Sam Radebe, Franz Kruger. **Executive Director:** Tusi Fokane