



## GENERAL NOTICE No 10/2020

### **DECISION IN TERMS OF SECTION 44(1) OF THE ESWATINI COMMUNICATIONS COMMISSION ACT, 2013 REVOKING THE SENIOR EMPLOYEE ENGAGEMENT DIRECTIVE No. 3 of 2020.**

#### **1. BACKGROUND**

The Commission, pursuant to its mandate to carry out functions entrusted to it under the ESCCOM Act [Section 6(i) and 7(i)] of the Act to *promote efficient management and human resource development within the communications industry and establish the minimum qualifications to be possessed by any person who is engaged or employed in any activity regulated by the Commission*, issued the **Senior Employment Engagement Directive No. 3 of 2020** which came into effect on 10 February 2021. It was issued following consideration of submissions made by mobile network operators who were going to be affected by the Directive once implemented. The Commission received only one submission from MTN Eswatini who pointed out that their business would be gravely affected since they are part of a Group, who, from time to time, assigned expatriates with certain skills to MTN Eswatini to share them with Emaswati in different fields of the business.

Following consideration of the submission by MTN Eswatini, the Commission went on to confirm the Decision as it stood on the basis that the Directive would not have affected the manner in which operators appointed senior staff members. The intention of the Directive only sought to introduce a process of vetting senior employees of the operators prior to their engagement.

## 2. APPLICATION IN TERMS OF SECTION 44

2.1 On 10 March 2021, the Commission received an application from MTN Eswatini, requesting the review of the Directive on the ground that the provisions of Section 7(i) of the Eswatini Communications Commission Act, 2013 (the Act hereinafter) required the Commission to establish the minimum qualifications to be possessed by any person who is engaged or employed in any activity regulated by the Commission, and this requirement had not been satisfied when the Directive was issued. The Commission considered the submission and observed that the basis for MTN Eswatini's request for the Commission to first introduce the minimum qualifications had substance and therefore submission is accepted.

2.2 MTN Eswatini further submitted that the Commission apportioned itself more powers in the Directive than was contemplated in section 7(i). The Commission maintains that it has the right to make decisions and issue guidelines for the administrative operations of the Commission as provided for in Section 38 (o).

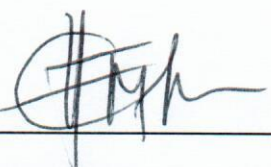
## 3. DECISION OF THE COMMISSION

Pursuant to the application aforementioned, together with considerations made by the Commission on the matter, the Commission hereby reviews and revokes its Decision introducing the "**Senior Employee Engagement Directive No. 3 of 2020**" on the basis that the Commission ought to have first issued the minimum qualifications to be held by persons employed in the sector before introducing the Directive.

### EFFECTIVE DATE

The revocation of the Directive shall come into effect on 6 April, 2021.

This Decision will be published on the Commission website [www.esccom.org.sz](http://www.esccom.org.sz)



**Chief Executive**

