



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

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Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Independent Communications Authority of South Africa and Others v Open Heaven Community Radio (1133/2023) [2025] ZASCA 117 (12 August 2025)

Today the Supreme Court of Appeal (SCA) handed down judgment dismissing an appeal and upholding a cross-appeal, with costs, against an order of the Gauteng Division of the High Court, Pretoria (the high court).

Open Heaven Community Radio (Open Heaven), a licensed community broadcaster, failed to submit its license renewal application within the prescribed six-month period, and subsequently submitted its application 14 days late with the Independent Communications Authority of South Africa (ICASA). Open Heaven then applied to ICASA for the condonation of its late application for the renewal of its license, however ICASA refused to process the late application, on the basis that it lacked authority to condone such delays under the Electronic Communications Act 36 of 2005. ICASA amended its regulations in 2021 to extend license validity periods from five to seven years. In a cross-appeal, Open Heaven contended that its licence, originally valid for five years, was automatically extended to seven years due to the amended ICASA regulations in 2021. ICASA opposed this, arguing that the extension only applied retrospectively to new licences issued after the amendment. The high court found that ICASA had the authority to condone late renewals but dismissed the argument that the extension of the validity of the licenses was applicable to it, retrospectively. The appeals were with leave of the high court.

The issues before the SCA was thus whether ICASA had the authority to condone the late filing of a license renewal application and whether the regulations issued by ICASA in 2021 applied retrospectively.

The SCA upheld the high court's ruling on condonation and confirmed that ICASA has the authority to consider late renewal applications where there is substantial compliance with the law. The SCA found further that ICASA's refusal to process Open Heaven's application, which was only 14 days late, was unreasonable. On the issue of the licence validity, the SCA overturned the high court's decision, ruling that the 2021 regulations extended the licence period to seven years applied retrospectively to existing licences. The SCA therefore rejected ICASA's restrictive interpretation, underscoring that the regulations contained no language limiting the extension to new licences only. Additionally, the SCA set aside the high court's costs order against Open Heaven, directing ICASA to pay the costs of the appeal and the cross-appeal.

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