

# DRAFT POLICY DIRECTION ON GLOBAL MOBILE PERSONAL COMMUNICATIONS BY SATELLITE IN THE REPUBLIC

ISSUED BY THE MINISTER OF POST, TELECOMMUNICATIONS  
AND BROADCASTING IN TERMS OF SECTION 5 OF  
THE TELECOMMUNICATIONS ACT 103 OF 1996

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## 1 DEFINITIONS

In this Policy Direction, unless the context requires otherwise,

All words and expressions shall have the same meanings ascribed to them in the Telecommunications Act 103 of 1996 and the Telkom Licence;

Words and expressions not defined in this policy direction or the Telecommunications Act shall be as defined in the International Telecommunications Union, Memorandum of Understanding (Geneva, 14 February 1997) and, the relevant ITU Recommendations on GMPCS, to the extent that such definitions are not inconsistent with the terms of the Republic's telecommunication law and regulation;

"GMPCS" means Global Mobile Personal Communications by Satellite;

"GMPCS system" means any satellite system, whether fixed or mobile, broadband or narrowband, global or regional, geostationary or non-geostationary, existing or planned, providing telecommunication services directly to end users from a satellite, or network or constellation of

satellites other than and excluding Public Switched Telecommunication Network (PSTN) satellite telecommunication services which include, but are not limited to V-SAT and Intelsat services;

**"GMPCS service"** means a telecommunication service, new and distinct from existing telecommunication services as defined in the Telecommunications Act 103 of 1996, which is provided directly to end users by means of a GMPCS system;

**"GMPCS system operator"** means the person authorised by the ITU to use particular space segments and radio frequencies and responsible for the management, administration and operation of a GMPCS system;

**"GMPCS country operator"** means a person which is authorised by a GMPCS system operator, or an authorised subsidiary or agent of a GMPCS system operator, as an entity with responsibility for the management and administration of a GMPCS service provided in the Republic;

**"User terminal equipment"** means an ITU registered GMPCS terminal, and includes GMPCS hand-held and other portable terminals, vehicle-mounted terminals, vessel or platform mounted terminals at sea or in the atmosphere (platforms being inclusive of aeronautical or maritime buoys), fixed private terminals, fixed or mobile public pay telephone terminals and any other type of GMPCS terminal which may be used by an end user to send and/or receive telecommunication traffic directly to and/or from a satellite or system of satellites;

**"The Act"** means the Telecommunications Act 103 of 1996;

**"GMPCS earth gateway station"** means a land based facility used to establish, maintain, validate and control communication between the space segment of a GMPCS system utilising feeder links and interconnected to one or more telecommunication system(s);

**"GMPCS service licence"** means a telecommunications service licence and an associated frequency spectrum licence issued to a GMPCS country operator in terms of this policy direction and the Act, and entitling the holder to provide a GMPCS service in the Republic;

**"GMPCS gateway operator"** means a person which is authorised by a GMPCS system operator, or an authorised subsidiary or agent of a GMPCS system operator, as the entity with responsibility for the management and administration of a GMPCS earth gateway station situated in the Republic;

**"GMPCS gateway service"** means the service provided by a GMPCS earth gateway station in establishing, maintaining, validating and controlling communication between the space segment of a GMPCS system utilising feeder links and interconnected to one or more telecommunication systems;

**"GMPCS gateway licence"** means a frequency spectrum and station licence and an associated telecommunication service licence, issued to a GMPCS gateway operator in terms of the Act, entitling the holder to operate a GMPCS earth gateway station in the Republic. Should the GMPCS earth gateway station provide telemetry, tracking, and command functions, such licence may also entitle the holder to provide such telemetry, tracking, and command functions;

**"The Telkom Licence"** means the Licence issued to Telkom SA Ltd on 7 May 1997 to provide telecommunication services in terms of section 36 of the Act.

## **2 INTRODUCTION**

2.1 The introduction and provision of GMPCS services in the Republic has inter alia the following potential benefits for the Republic and its citizens:

2.1.1 The provision of telecommunication services in under-served areas;

2.1.2 The promotion of universal access and universal service;

- 2.1.3 The development of the Republic's telecommunications infrastructure;
- 2.1.4 Ensuring that the Republic's telecommunications infrastructure remains abreast of and integrated with the world telecommunications infrastructure;
- 2.1.5 Broadening the range of telecommunication services in the Republic;
- 2.1.6 The integration of the Republic's economy into the global economy;
- 2.1.7 The promotion of investment in the Republic;
- 2.1.8 The provision of opportunities for local businesses to participate in global business; and
- 2.1.9 The promotion of small, medium and micro enterprises;
- 2.2 It is expected that the implementation of GMPCS systems and services will contribute to the achievement of the objectives listed in Section 2 of the Act;
- 2.3 GMPCS has received ITU support, and the ITU has and will allocate appropriate radio frequency spectrum to GMPCS system operators globally;
- 2.4 The Republic wishes to comply with its obligations to the ITU and other international telecommunication authorities and structures;
- 2.5 It is in the interests of the Republic's citizens that telecommunication services of an international standard be provided in the Republic;
- 2.6 This policy direction accordingly seeks to facilitate the early implementation of GMPCS services within the Republic in such a manner that the benefit of such services for the public is maximised;
- 2.7 This policy direction is drafted in accordance with the Republic's international obligations, and in particular with those applicable to or impacting upon GMPCS.

### **3 OBJECTIVES**

The objectives of this policy direction are:

- 3.1 to allow for the early introduction of GMPCS into the Republic as and when GMPCS services become available;
- 3.2 to ensure that GMPCS services are provided in a manner consistent with the broad public interest;
- 3.3 to ensure that the needs of users of GMPCS services are satisfied on a fair and non-discriminatory basis;
- 3.4 to enhance telecommunications between people and organisations within the Republic and those in the Republic and other countries;
- 3.5 to contribute to making progress towards the goals of universal access and universal service, especially in remote and rural areas;
- 3.6 to promote the economic development of the Republic and other countries in the Southern African region;
- 3.7 to contribute to the range of services available to the public, so that the different needs of consumers are served;

3.8 to provide for competition between different GMPCS systems and services and associated user terminal manufacturers, distributors, dealers and service providers, as a means of ensuring a range of services of good quality and affordable prices;

3.9 to, where possible, facilitate participation in the enterprise of GMPCS by local groups, companies and individuals;

3.10 to ensure the efficient use of the radio frequency spectrum;

3.11 to ensure that no aspect of GMPCS will violate the sovereign rights of the Republic or any other country;

3.12 to promote the empowerment of historically disadvantaged people;

3.13 to retain control over national telecommunication policy objectives, assure the integrity of the legal and regulatory framework and assist governments in the Southern African region to do the same;

3.14 To ensure that the interests of countries in the Southern African region are respected through appropriate regulation of GMPCS services and GMPCS earth gateway services;

#### **4 PROHIBITION ON THE PROVISION OF GMPCS SERVICES AND GMPCS GATEWAY SERVICES WITHOUT A LICENCE**

4.1 No person may provide a GMPCS service in the Republic other than under and in accordance with a GMPCS service licence issued to the GMPCS country operator by the Authority in terms of this policy direction and the Act.

4.2 No person may provide a GMPCS gateway service in the Republic other than under and in accordance with a GMPCS gateway licence issued to a GMPCS gateway operator by the Authority in terms of this policy direction and the Act.

4.3 The Authority may issue a GMPCS service licence or a GMPCS gateway licence in accordance with this policy direction and the requirements of the Act.

4.4 A GMPCS service licence and a GMPCS gateway licence shall comprise of both a frequency spectrum or station licence contemplated in chapter IV of the Act, and a telecommunications service licence contemplated in chapter V of the Act.

4.5 A GMPCS service licence and a GMPCS gateway licence shall specify the services, which the licensee is entitled to provide in terms of the licence.

4.6 A single entity may hold more than one licence in terms of the Act and this policy direction, and in particular, a single entity may hold both a GMPCS service license and a GMPCS gateway licence simultaneously.

#### **5 COMPETITION BETWEEN GMPCS SYSTEMS AND SERVICES**

5.1 The Authority shall promote competition between GMPCS systems and services and shall seek to create an environment in which all GMPCS service providers can compete fairly.

5.2 Appropriate frequency assignments shall be made to licensees to facilitate and promote fair competition.

5.3 There shall be no limitation on the number of GMPCS service licences or GMPCS gateway licences which may be issued by the Authority, provided that appropriate radio frequency spectrum is available.

## **6 PROMOTION OF THE SOCIAL OBJECTIVES SET OUT IN THE ACT**

6.1 An applicant for a GMPCS service licence or a GMPCS gateway licence will be required to submit a plan to the Authority setting out the way in which it intends to contribute to the achievement of the social objectives set out in the Act.

6.2 The Authority shall not grant a GMPCS service licence or a GMPCS gateway licence until it is satisfied that the applicant's plan will contribute in a satisfactory manner to the achievement of the said social objectives, taking into account applicable commercial considerations.

6.3 An applicant for a GMPCS service licence or a GMPCS gateway licence may consult the Authority regarding the development of an appropriate plan for the achievement of the social objectives contained in the Act.

6.4 The plan agreed to between the Authority and the applicant shall form part of the GMPCS service licence or GMPCS gateway licence issued, and the terms of the plan shall be considered to be terms of the licence.

6.5 The Authority shall seek to ensure that no particular licensee is unduly prejudiced through its incurring disproportionately more onerous social obligations than other licensees.

## **7 REQUIREMENTS FOR ISSUING A GMPCS SERVICE LICENCE OR A GMPCS GATEWAY LICENCE**

Before issuing a GMPCS service licence or a GMPCS gateway licence, the Authority shall satisfy itself that:

7.1 in the case of a GMPCS service or Gateway licence, the system to be utilized by the applicant has been demonstrated to be economically and technically feasible;

7.2 in the case of a GMPCS service or Gateway licence, the applicant is able to demonstrate a sustainable business plan for its proposed operations;

7.3 the applicant complies with all applicable ITU recommendations and ITU Radio Regulations;

7.4 the GMPCS system operator has been assigned appropriate frequencies by the ITU;

7.5 the applicant has complied with all other requirements set out in the Act.

## **8 LICENCE SPECIFICATIONS**

A GMPCS service licence and a GMPCS gateway licence issued by the Authority shall specify inter alia:

8.1 the date on which the service may commence;

8.2 the latest date by which the service shall be required to commence;

8.3 the duration of the licence;

8.4 any fee payable by the licensee in respect of the licence;

8.5 the nature of the services to be provided in terms of the licence;

8.6 the frequency spectrum assigned for the use of the licensee in terms of the licence;

8.7 considerations of a technical or any other nature which may apply to the licence;

8.8 any other terms and conditions applicable to the service to be provided.

## **9 NETWORK INTERCONNECTION**

9.1 GMPCS earth gateway stations situated in the Republic shall interconnect with the PSTN.

9.2 Subject to the provisions of the Act and any other applicable law, GMPCS earth gateway stations may also interconnect with other telecommunication systems situated in the Republic.

## **10 NUMBERING ARRANGEMENTS AND ROUTING**

10.1 The Authority shall assist all licensed GMPCS country operators, and GMPCS gateway operators, as well as operators anticipated to be licensed, with numbering arrangements in accordance with the provisions and guidelines of the Standardization Sector of the ITU, and the Act.

10.2 The Authority's obligation shall include facilitating arrangements for number recognition of GMPCS user terminals by domestic telecommunication systems, as well as the proper routing of traffic to end user terminals.

## **11 TARIFFS FOR SERVICES**

11.1 The Authority shall strive to ensure that the tariffs for GMPCS services are market related, except for mandated social service obligations.

## **12 RADIO FREQUENCY SPECTRUM UTILISATION**

12.1 The Authority shall allocate appropriate frequencies for use by GMPCS country operators and GMPCS gateway operators in accordance with the terms of the Act and this policy direction.

## **13 REQUIREMENTS FOR USER TERMINAL LICENCES**

13.1 The Authority shall give effect to the Republic's international obligations in terms of any Memorandum of Understanding or other applicable agreement with respect to GMPCS user terminal equipment.

## **14 EXCLUSIVITY AND BYPASS**

14.1 This policy directive is drafted in accordance with the provisions of the Act and all regulations that are to be promulgated in accordance with this policy direction shall not derogate from and shall be made in accordance with and subject to the Act.

14.2 For the period in which Telkom has the exclusive right in terms of the Telkom Licence to provide international telecommunication services in terms of the Act no person other than Telkom shall operate and manage a GMPCS earth gateway station or provide GMPCS gateway services in the Republic.

14.3 In this period the provision of GMPCS Gateway Services to and from the Republic of South Africa from outside of the Republic of South Africa shall constitute bypass of the PSTN. The GMPCS Country Operator, in conjunction with whom such Gateway Services are provided, shall compensate Telkom for bypass of the PSTN in accordance with a formula to be determined by the Authority.

14.4 The GMPCS country operators shall provide the Authority with comprehensive traffic data, which shall be sufficient for the purpose of monitoring and regulating GMPCS services, and for determining a compensation formula for losses incurred by Telkom from the bypass of the PSTN.