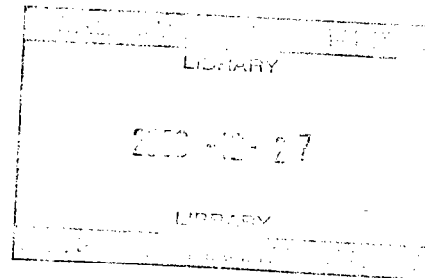




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GENERAL NOTICE

NOTICE 4609 OF 2000

DEPARTMENT OF COMMUNICATIONS

Notice in terms of Section 5(4)(b)(ii) of the Telecommunications Act, (Act No. 103 of 1996).

1, Ivy Matsepe-Casaburri, Minister for Communications, hereby give notice that I intend amending Government policy on Global Mobile Personal Communications by Satellite (GMPCS), published on 4 December 1998 in Government Gazette No. 1609. The amendments are necessitated by recent jurisprudence. Interested persons are invited in terms of Section 5(4)(b)(ii) of the Telecommunications Act (Act No 103 of 1996) to lodge written representation on the revised policy contained in the schedule, within 30 days of publication hereof at: The Department of Communications,

(for attention Mr Izak Marais)
 Telephone: (012) 4278036
 Fax: (012) 4278086
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DR. IVY MATSEPE-CASABURRI
 MINISTER

SCHEDULENEW POLICY DIRECTION ON GLOBAL MOBILE PERSONAL
COMMUNICATIONS BY SATELLITE [N THE
REPUBLIC OF SOUTH AFRICA.ISSUED BY THE MINISTER FOR POSTS, TELECOMMUNICATIONS
AND BROADCASTING IN **TERMS** OF SECTION 5 OF
THE TELECOMMUNICATIONS ACT **103** OF 1996.

In this Policy Direction, unless the context requires otherwise,

- (i) All words and expressions shall have the same meanings ascribed to them in the Telecommunications Act 103 of 1996 and the Telkom Licence;
- (ii) 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 regulations;

1 DEFINITIONS

- (a) "GMPCS" means Global Mobile Personal Communications by Satellite;
- (b) "GMPCS system" means any satellite system, whether fixed or mobile, broadband and/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 those elements of the Public Switched Telecommunication Network (PSTN) by means of which, inter alia, satellite telecommunication services are provided. Such elements include, but are not limited to V-Sat and satellite news gathering network infrastructure and Intelsat;
- (c) "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;
- (d) "GMPCS system operator" means the person authorised by the ITU to use particular space segments and radio frequencies and who is responsible for the management, administration and operation of a GMPCS system;
- (e) "GMPCS country operator" means any person authorised by a GMPCS system operator and includes an authorised agent, charged with the responsibility for the management and administration of a GM PCS service provided in the Republic;

- (f) **“GMPCS earth gateway station”** means a land based facility used to establish, maintain, validate and control communication with the space segment of a GMPCS system utilising feeder links and which is interconnected to one or more telecommunication system(s);
- (g) **“GMPCS service licence”** means a telecommunications service 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;
- (h) **“GMPCS earth gateway operator”** means a person which is authorised by a GMPCS system operator, or an authorised 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;
- (i) **“GMPCS earth gateway service”** means the service provided by a GMPCS earth gateway station in establishing, maintaining, validating and controlling communication with the space segment of a GMPCS system utilising feeder links and which is interconnected to one or more telecommunication systems;
- (j) **“GMPCS earth gateway licence”** means a telecommunication service licence, issued to a GMPCS earth 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;
- (k) **“Republic”** means the Republic of South Africa;
- (l) **“The Act”** means the Telecommunications Act 103 of 1996;
- (m) **“The Authority”** means the Independent Communications Authority of South Africa (ICASA), established in terms of section 3 of the Independent Communications Authority of South Africa Act, Act No 13 of 2000.
- (n) **“The Telkom Licence”** means the public switched telecommunications service Licence issued to Telkom SA Ltd on 7 May 1997 to provide telecommunication services in terms of section 36 of the Act.
- (o) **“User terminal equipment”** means a GPCS terminal, registered with the ITU, by the GMPCS system operator, 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;

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-serviced areas;
 - 2.1.2 making progress towards the provision 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 businesses; and
 - 2.1.9 the promotion of small, medium and micro enterprises (SMMEs).
- 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 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 equipment manufacturers, distributors, dealers and service providers, as a means of ensuring a range of services of good quality and affordable prices,
- 3.9 to facilitate, where possible, 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 endeavour to ensure that no aspect of GMPCS violates 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.
- 3.14 To endeavour 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 PROVISION OF GMPCS SERVICES AND GMPCS GATEWAY SERVICES

- 4.1 Subject to the Act, a single entity may hold more than one licence, and in particular, a single entity may hold both a GMPCS service licence and a GMPCS gateway licence **simultaneously**.

5 COMPETITION BETWEEN GMPCS SYSTEMS AND SERVICES

- 5.1 The Authority shall endeavour to 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 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 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 may consult the Authority regarding the development of an appropriate plan for the achievement of the social objectives contained in the Act.

7 TARIFFS FOR SERVICES

- 7.1 The Authority shall ensure that the tariffs for GMPCS services are market related.

8 RADIO FREQUENCY SPECTRUM UTILISATION

- 8.1 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.
- 8.2 GMPCS earth gateway operators, GMPCS system operators and GMPCS country operators shall comply with the requirements of the SA national frequency band plans (SABRE) as promulgated from time to time.

9 REQUIREMENTS FOR USER TERMINAL LICENCES

- 9.1 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.
- 9.2 **The Authority shall ensure that user terminals** comply with, and are registered in terms of the requirements of the GMPCS-MOU.

10 EXCLUSIVITY AND BYPASS

- 10.1 For the period referred to in Sec. 36(3) of the Act and paragraph 3.1 of the Telkom licence, any international telecommunications service which is provided to and from the Republic of South Africa by a party other than Telkom via an earth gateway station situated inside or outside the Republic shall constitute bypass of the PSTN. All, earth gateway stations used for the provision of GMPCS earth gateway service in the Republic shall be interconnected to the PSTN. In the event of bypass the GMPCS country operator shall compensate Telkom in terms of an agreement to be entered into between the GMPCS country operator and Telkom, and approved by the Authority. The procedures as set out in section 43 of the Act shall apply. The GMPCS country operators shall provide Telkom with sufficient data/information to enable Telkom to establish the extent of the bypass of the PSTN. Telkom shall be responsible for the operation of all GMPCS earth gateway stations and the provision of all GMPCS earth gateway station services in the Republic, unless it indicates in writing that it is unable or unwilling to do so.
- 10.2 The provisions of 10.1 above shall not apply in respect of the INMARSAT system that was in operation before 1 April 1998.

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