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GOVERNMENT NOTICE

DEPARTMENT OF COMMUNICATIONS

No. 274

23 March 2001

**PUBLIC INVITATION TO LODGE WRITTEN REPRESENTATIONS IN
RELATION TO INTENDED TELECOMMUNICATIONS POLICY
DIRECTIONS TO BE ISSUED BY THE MINISTER OF COMMUNICATIONS**

I, Ivy Matsepe-Casaburri, Minister of Communications, pursuant to section 5 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") hereby give notice of intention to issue the attached Policy Directions, which are consistent with the objects of section 2 of the Act.

Where necessary, enabling legislation to give effect to these Policy Directions shall be enacted by Parliament. The Independent Communications Authority of South Africa (ICASA) shall prescribe regulations accordingly.

Interested persons are invited to lodge written representations on the intended Policy Directions no later than 2nd May 2001, being 30 days from the date of this notice.

Written representations may be submitted in hard copy or electronic version for the attention of:

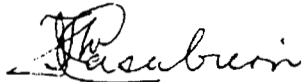
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Given under my hand at Pretoria on this 20th day of March 2001.



Ivy Matsepe-Casaburri MP

MINISTER OF COMMUNICATIONS

MARKET STRUCTURE FOR TELECOMMUNICATION SERVICES

[] March 2001

In furtherance of the objects set out in Section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") and in terms of Section 5 of the Act, I, Ivy Matsepe-Casaburri, hereby direct as follows:

1. Application of the Policy Direction

1.1 In this Policy Direction, unless the context indicates otherwise, all terms shall have the meanings as set out in the Act.

1.2 For the purposes of this Policy Direction, the following meanings shall apply:

1.2.1 "Commencement date" in relation to the SNO and Sentech (Pty) Ltd. means 7 May 2002.

1.2.2 "Fixed-mobile service" means a service that uses the same communication device in a static or mobile environment, using fixed or mobile infrastructure or a combination thereof, or any technology that enables such service to be provided.

1.2.3 "Second National Operator (SNO)" means the second national operator to be licensed to provide public switched telecommunication services (PSTS) in the form of fixed-mobile services.

1.3 This Policy Direction shall become effective on the date of its publication.

2. Introduction

This Policy Direction contemplates managed liberalisation of the telecommunication sector pursuant to section 2 of the Act.

3. Second National Operator (SNO)

- 3.1 An Invitation to Apply ("the ITA") for the SNO telecommunication licence, shall be issued in July 2001.
- 3.2 The ITA shall make provision for the SNO to provide PSTS in the form of fixed-mobile services and shall include international services, national long distance services, payphone, local access services and value-added networks services ("VANS").
- 3.3 The SNO shall be permitted to use Telkom's telecommunication facilities up to 7 May 2005, in accordance with a commercial agreement concluded between the two parties for the purposes of providing telecommunication services, such agreement to be concluded within 90 days of the issuing of the PSTS licence to the SNO; Provided that where the parties fail to agree ICASA shall within 30 DAYS determine such terms and conditions.
- 3.4 The SNO shall be required to have developed its own facilities and infrastructure for the purposes of providing services by 7 May 2005. Defined targets of infrastructure roll-out by the SNO, universal service obligations, universal access targets and a system of penalties for failure to achieve the infrastructure roll-out shall be specified in the ITA and formalised in the licence conditions.
- 3.5 The SNO shall include ESI-TEL (a subsidiary of Eskom Enterprises) and Transtel (a division of Transnet), in order to maximise use of their existing telecommunication infrastructure, facilities and resources, for the provision of telecommunication services.
- 3.6 Pursuant to section 2(l) of the Act and **Policy Direction No ... : Economic Empowerment of Historically Disadvantaged Persons**, the SNO and any new major licences shall include a shareholding of anything up to 30% for historically disadvantaged groups. A portion shall be allocated through retail

- 3.7 to ensure broader ownership participation by historically disadvantaged persons.
- 3.8 Domestic investors shall be the majority shareholders in the SNO. The domestic investment component shall include both ESI-TEL and Transtel, empowerment investors and any other domestic investors. The ITA shall specify the percentage of shareholding to be allocated to ESI-TEL and Transtel.
- 3.9 Foreign shareholding in the SNO and any new licences shall not exceed 49%.
- 4. Telkom SA Limited**
- Telkom's current licence shall be amended to allow for the provision of PSTS in the form of fixed-mobile services.
- 5. Sentech (Pty) Ltd**
- 5.1 The Act shall be amended to license Sentech (Pty) Ltd. to provide only international telecommunication services direct to customers from 7 May 2002.
- 5.2 Sentech shall also provide multi-media services.
- 6. Additional licence(s)**
- The Minister shall issue an ITA for at least one services-based licence to commence with the provision of services during the last quarter of 2005.
- 7. Market assessment**
- A market assessment to determine the feasibility of introducing additional operators must be completed by May 2005.
- 8. Under-serviced areas**
- 8.1 Small, medium and micro enterprises (SMMEs) and co-operatives shall be permitted to provide telecommunication services including Voice over Internet

Protocol (VoIP) for the specific purpose of advancing universal access in geographic areas with a teledensity of less than 1% from 7 May 2002.

- 8.2 SMMEs and co-operatives shall be permitted to provide such services using their own or leased infrastructure.
- 8.3 A standard interconnection regime applicable to all SMMEs and co-operatives shall be developed by the network operators and approved by ICASA for implementation as from 7 May 2002.

9. Value Added Network Services (VANS)

- 9.1 The prohibition to carry voice over the Internet and VANS in terms of section 40(3) of the Act, is hereby confirmed, subject also to:
- (a) the exception specified under clause 8 above;
 - (b) Telkom's existing rights under the PSTS licence; and
 - (c) the SNO's rights, in this regard, envisaged under this Policy Direction.
- 9.2 VANS operators shall have the right to provide the full spectrum of end-to-end electronic commerce services.
- 9.3 VANS shall have the right to operate Virtual Private Networks to offer telecommunication services except voice.
- 9.4 Any licensee who contravenes the prohibition to carry voice over its network shall forfeit its licence.

10. Assignment of 1800 MHz Radio Frequency Spectrum

- 10.1 ICASA shall develop regulations for assignment of 1800Mhz radio frequency spectrum to Cell-C, MTN, the SNO, Telkom and Vodacom.
- 10.2 The regulations must provide for new conditions of licence and a new interconnection regime and must take into account the needs of existing and

future licencees. ICASA shall complete the licensing process for 1800 MHz spectrum within 6 months of publication of this Policy Direction.

- 10.3 Licensees will pay an appropriate spectrum fee to be determined by the Minister.
- 10.4 It is envisaged that the formula for calculating the spectrum fees for 1800 MHz radio frequencies shall take into account, amongst others, the following considerations:

- (a) MHz pair per population per licence year;
- (b) provision of paired/unpaired spectrum; and
- (c) technical and administrative cost of spectrum management.

- 10.5 Sale of allocated spectrum by any operator shall be prohibited.

11. Third Generation (3G)

- 11.1 ICASA shall issue third generation service licences to Cell-C, MTN, the SNO, Telkom and Vodacom.

- 11.2 Licensees will pay an appropriate spectrum fee to be determined by the Minister.

- 11.3 It is envisaged that the formula for calculating the spectrum fees for 3G shall take into account, amongst others, the following considerations:

- (a) MHz pair per population per licence year;
- (b) provision of paired/unpaired spectrum; and
- (c) technical and administrative cost of spectrum management.

- 11.4 The regulations must provide for conditions of licence and interconnection regime that must also take into account the needs of existing and future licencees.

UNIVERSAL ACCESS AND UNIVERSAL SERVICE: BRIDGING THE DIGITAL DIVIDE

[] March 2001

In furtherance of the objects set out in Section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") and in terms of Section 5 of the Act, I Ivy Matsepe-Casaburri, hereby direct as follows:

1. Application of this Policy Direction

- 1.1 This Policy Direction shall be applicable to Universal Access and Universal Service: bridging the digital divide.
- 1.2 In this Policy Direction, unless the context indicates otherwise, all terms shall have the meanings assigned to such terms in the Act.
- 1.3 This Policy Direction shall become effective on the date of its publication.

2. Universal access and universal service objectives

- 2.1 In furtherance of the objective of universal service, improving access to telecommunication services is an important short-, medium- and long term priority. The targets for universal access have to be re-defined in terms of services for access to include advanced services such as Internet multimedia. In particular, account shall be taken of special needs of differently abled persons and the equitable geographical spread of services.
- 2.2 Targets for access shall provide for accelerated access for differently abled persons to services including text and speech relay services, emergency speed dialling and specialised operator assistance.

3. Restructuring of the Universal Service Agency (USA)

- 3.1 The role of USA shall be to evaluate and monitor implementation of universal access projects. Institutional capacity to support effective evaluation and monitoring of attainment of targets is a priority.

- 3.2 A seven member board, one of whom will be the chairperson, will be appointed by the Minister to provide oversight.
4. **Contributions to the Universal Service Fund (Fund)**
- 4.1 Policy Direction No.3: **Contributions to the Universal Service Fund** (issued under Notice 775 of 1997) is hereby repealed with effect from April 2003.
- 4.2 In order to increase the size of the Fund, all telecommunication licensees shall from April 2003 contribute to the Fund a percentage of their turnover as prescribed by the Independent Communications Authority of South Africa (ICASA): Provided that the prescribed percentage shall not exceed 0.5%.
- 4.3 The size of the Universal Service Fund shall be reviewed from time to time.
- 4.4 ICASA is hereby directed to amend the regulations issued under Government Notice R.730 of 1999 to give effect to this Policy Direction.

EDUCATION RATE (E-RATE)

[] March 2001

In furtherance of the objects set out in Section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") and in terms of Section 5 of the Act, I, Ivy Matsepe-Casaburri, hereby direct as follows:

1. Application of this Policy Direction

- 1.1 This Policy Direction shall be applicable to the provision of telecommunication services to public education institutions.
- 1.2 In this Policy Direction, unless the context indicates otherwise, all terms shall have the meanings assigned to such terms in the Act and, where appropriate, the South African Schools Act, 1996 (Act No. 84 of 1996).
- 1.3 For the purposes of this Policy Direction the following meaning shall apply: "Public school" means any primary or secondary ordinary school or a public school for learners with special education needs that is funded by the state in terms of section 34 of the South African Schools Act, 1996.
- 1.4 This Policy Direction shall become effective upon the date of its publication.

2. E-rate

- 2.1 Telecommunication operators shall be required as part of their licence obligations to give a 50% discount on all Internet access calls made by any public school.
- 2.2 Registration of domain names by public schools shall be free of charge.

ECONOMIC EMPOWERMENT OF HISTORICALLY DISADVANTAGED PERSONS

[] March 2001

In furtherance of the objects set out in Section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") and in terms of Section 5 of the Act, I Ivy Matsepe-Casaburri, hereby direct as follows:

1. Application of this Policy Direction

- 1.1 This Policy Direction shall be applicable to the licensing of telecommunication services.
- 1.2 In this Policy Direction, unless the context indicates otherwise, all terms shall have the meanings assigned to such terms in the Act.
- 1.3 This Policy Direction shall become effective upon the date of its publication.

2. Set aside for historically disadvantaged persons

Pursuant to section 2(1) of the Act to encourage ownership and control of telecommunication services by persons from historically disadvantaged groups, the Minister directs as follows:

- 2.1 Anything up to 30% of shareholding in all new major telecommunication licences shall be set aside for persons from historically disadvantaged groups.
- 2.2 The Independent Communications Authority of South Africa (ICASA) shall ensure incorporation of this condition in all new major telecommunication licences.
- 2.3 In considering applications for other telecommunication licences, ICASA shall give due regard to applications from historically disadvantaged

persons. Accordingly ICASA will be required to develop criteria that give priority to historically disadvantaged persons, SMME's, and cooperatives.

- 2.4 ICASA must investigate and develop regulations on social obligations for all operators, service providers, equipment suppliers and vendors on their contributions to the empowerment of historically disadvantaged persons in the Information and Communications Technology (ICT) sector. These shall be incorporated into licence conditions of the service providers.
- 2.5 ICASA shall report annually to the Minister on the overall status and improvement of the empowerment of historically disadvantaged persons in the ICT sector.
- 2.6 Regulations and licence conditions shall provide that no reduction in the level of shareholding of historically disadvantaged persons in all major telecommunication licences shall be permitted without ICASA's approval.

NUMBERING

[] March 2001

In furtherance of the objects set out in Section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") and in terms of Section 5 of the Act, I, Ivy Matsepe-Casaburri, hereby direct as follows:

1. Application of this Policy Direction

- 1.1 This Policy Direction shall be applicable to numbering.
- 1.2 In this Policy Direction, unless the context otherwise indicates, all terms shall have the meanings assigned to such terms in terms of the Act.
- 1.3 This Policy Direction shall become effective on the date of its publication.

2. Numbering

- 2.1 The system adopted for number allocation shall ensure neutrality.
- 2.2 The Independent Communications Authority of South Africa (ICASA) shall administer the functions for number allocation, including maintenance and management of the routing database systems.
- 2.3 ICASA shall develop and put into operation a central database by May 2002 to which all operators will be allowed equitable access. ICASA shall be responsible to maintain and periodically update such database.
- 2.4 All operators shall be required to submit data on numbers allocated to the central database.
- 2.5 ICASA shall develop by May 2002 a cost allocation model for the apportionment of costs for number allocation, maintenance of the database and routing data base system.

- 2.6 ICASA shall prescribe a fee on all operators for the costs contemplated under paragraph 2.5 above.
- 2.7 Mechanisms, including carrier pre-select, shall be introduced to ensure effective competition among service providers from 7 May 2002.
- 2.8 Number portability shall be introduced from April 2003.

PUBLIC EMERGENCY COMMUNICATIONS

[] March 2001

In furtherance of the objects set out in Section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") and in terms of Section 5 of the Act, I, Ivy Matsepe-Casaburri, hereby direct as follows:

1. Application of this Policy Direction

- 1.1 This Policy Direction shall be applicable to the provision of public emergency communications services.
- 1.2 In this Policy Direction, unless the context indicates otherwise, all terms shall have the meanings assigned to such terms in the Act.
- 1.4 This Policy Direction shall become effective on the date of its publication.

2. 112 Emergency Centres

In order to promote the health and safety of the citizens of South Africa and support better co-ordination of public emergency communications, Public Emergency Communications Centres (PECCs) generally known as **112 Emergency Centres** shall be established. *These centres shall be accountable to the Minister.*

3. Public Emergency number

- 3.1 There shall be a single public emergency number and the number shall be 112.
- 3.2 **112 Emergency Centres** shall have voice, data and global positioning systems (GPS) capability.
- 3.3 Calls to the **112 Emergency Centres** shall be free and shall override any other calls.

- 3.4 Telecommunication service operators and providers must ensure that 112 calls are directed to the appropriate **112 Emergency Centre**.

4. Standards and operating procedures

The **112 Emergency Centres** shall be empowered to develop and apply common technical standards and standard operating procedures.

5. Public safety radio communication service (PSRCS)

- 5.1 There shall be a common, efficient and interoperable digital public safety radio communications service.
- 5.2 Any of the existing and future radio communications infrastructure in the Republic will be used to ensure such public safety radio communications service.

DIRECTORIES AND DIRECTORY ENQUIRY SERVICE

[] March 2001

In furtherance of the objects set out in Section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") and in terms of Section 5 of the Act, I, Ivy Matsepe-Casaburri, hereby direct as follows:

1. Application of this Policy Direction

- 1.1 This Policy Direction shall be applicable to the publishing of directories and to the provision of directory enquiry services.
- 1.2 In this Policy Direction, unless the context otherwise indicates, all terms shall have the meanings assigned to such terms in the Act.
- 1.3 For the purposes of this Policy Direction, the following meaning shall apply:

1.3.1 "directories" means printed compilations of subscriber information which shall include, at a minimum, for each customer in the relevant area (other than those customers who have specifically asked not to be included): their names, addresses, and telephone numbers; a list of national and international dialling codes; and a listing of the numbers of national, provincial and local government authorities, institutions and offices.

1.3.2 "directory enquiry service" means the provision of information contained in directories obtained by dialling a specified number, in response to a specific enquiry."

- 1.5 This Policy Direction shall become effective on the date its publication.

2. Subscriber privacy

- 2.1 Specific procedures must be implemented by licensed operators to prohibit unauthorized disclosure and the use of subscriber information.

- 2.2 Regulations must permit subscribers to elect not to have *their personal details/* particulars published in a directory or made available for directory enquiries.
- 2.3 There is a presumption that no subscriber information may be used for a purpose other than the purposes listed below:
 - 2.3.1 providing directory or directory enquiry information;
 - 2.3.2 *billing for any service or equipment ordered by the customer;*
 - 2.3.3 preventing fraud;
 - 2.3.4 facilitating interconnection and interoperability between operators;
and
 - 2.3.5 providing assistance to law enforcement or other public safety officials.

3. Directories and directory information

- 3.1 There shall be a single consolidated directory for all telecommunication directory information and it must be made available, free of charge, to each subscriber to fixed line telephone service within the Republic of South Africa.
- 3.2 A national directory information database (database) shall be established by May 2002 and maintained by an operator designated by Independent Communications Authority of South Africa (ICASA) for this purpose.
- 3.3 All operators shall submit to the database all existing and future telephone numbers allocated after the date of publication of this Policy Direction.
- 3.4 After the date of publication of this Policy Direction, allocation of pre-paid numbers to any person shall only be made upon receipt of identification and contact particulars of the applicant, which shall be recorded and submitted to the database.
- 3.5 Operators shall ensure that all pre-paid numbers allocated prior to the date of publication of this Policy Direction shall be verified for confirmation of

identity and contact particulars of the subscribers for submission to the database. This verification shall be completed by no later than January 2003. Any numbers not verified by this date shall be re-allocated.

4. Directory enquiry services

- 4.1 Directory enquiry services must be available throughout the Republic of South Africa and must be provided free of charge from payphones.
- 4.2 Any network operators licensed to provide directory enquiry services may conclude a contract with any person whereby such person will provide such services: Provided that such person is subject to same conditions for providing such services as those provided for under the licence of the network operator.