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CONTENTS • INHOUD

No.	Page No.	Gazette No.
GOVERNMENT NOTICE		
Communications, Department of Government Notice		
791 Telecommunications Act (103/1996): Policy directions.....	2	22603

GOVERNMENT NOTICE

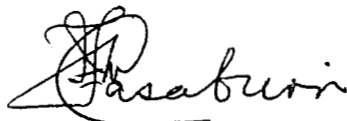
DEPARTMENT OF COMMUNICATIONS

No. 791

21 August 2001

POLICY DIRECTIONS ISSUED BY MINISTER OF COMMUNICATIONS

I, Ivy Matsepe – Casaburri, Minister of Communications, pursuant to section 5 (4) (a) read in conjunction with section 2 of the Telecommunications Act, 1996 (Act No. 103 of 1996) (“the Act”) hereby issue revised Policy Directions in the Annexure hereto.



Ivy Matsepe – Casaburri MP

In furtherance of and consistent with the objects as set out in Section 2 read with section 5(4)(a) of the Telecommunications Act, 1996 (Act No. 103 of 1996) (the "Act") I, Ivy Matsepe-Casaburri, hereby direct:

OBJECTIVE

This Policy Direction contemplates the promotion of a managed liberalisation of telecommunications matters in the public interest, pursuant to section 2 of the Act.

1. Application of this Policy Direction

1.1 This Policy Direction shall be applicable to the telecommunications industry in the following matters:

- 1.1.1 the provision of telecommunications services;
- 1.1.2 the provision of universal access and universal service;
- 1.1.3 the provision of telecommunications services to public schools;
- 1.1.4 the advancement of economic empowerment of persons from historically disadvantaged groups;
- 1.1.5 the advancement of consumer protection;
- 1.1.6 the provision for the administration of numbering, number portability and carrier pre-selection;
- 1.1.7 the provision of public emergency communications services; and
- 1.1.8 the provision of directories and directory inquiry services.
- 1.1.9 the provision of maritime services
- 1.1.10 the establishment of a telecommunications museum

1.2 In this Policy Direction, unless the context indicates otherwise, all terms shall have the meanings assigned in terms of the Act and, where appropriate, the South African Schools Act, 1996 (Act No.84 of 1996), the Interception and Monitoring Prohibition Act, 1992 (Act No.127 of 1992), the National Heritage Resources Act, 1999 (Act No.25 of 1999), the Sentech Act, 1996 (Act No.63 of 1996).

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

2. Interpretation of the Policy Direction

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

- 2.1.1 "Directories" means the compilation of customer information of designated licencees 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, and the public emergency number;
- 2.1.3 "Directory enquiry service" means the provision of information contained in directories;
- 2.1.4 "Fixed-mobile service" means a connection to the public switched telephone network that will be provided by the holder of a PSTS licence by means of a wireless connection between such licensee's end office and the end user's premises, provided that nothing in this definition shall exempt the provider of a fixed mobile service from holding a licence under section 30 or section 37;
- 2.1.5 "major licence" means a telecommunications service licence as contemplated in terms of section 34 (2)(a) of the Act;
- 2.1.6 "Public school" means any primary or secondary ordinary school, a public school for learners with special education needs that is funded by the state and public further education and training institutions (FETIs) in terms of section 34 of the South African Schools Act, No 84 of 1996;
- 2.1.7 "Public switched telecommunications networks or PSTN" means the telecommunications systems which are installed or otherwise provided, maintained and operated by a licensee for the purpose of providing the public switched telecommunications services and fixed – mobile services as defined;
- 2.1.8 "Second National Operator (SNO)" means the holder of the second public switched telecommunications services (PSTS) licence;

MARKET STRUCTURE FOR TELECOMMUNICATIONS SERVICES

1. Second National Operator ("SNO")

- 1.1 An Invitation to Apply ("the ITA") for the SNO for a PSTS licence shall be issued in 2001 by the Minister.
- 1.2 The SNO shall be permitted to use Telkom's telecommunications facilities until 7 May 2004, in accordance with an agreement between the parties, to be concluded within 60 days of the issuing of the PSTS licence. Provided that where the parties fail to agree, ICASA shall, within 30 days, determine such terms and conditions.
- 1.3 The SNO shall develop their own facilities and infrastructures by 7 May 2004. Defined targets of infrastructure roll-outs, universal service obligations, universal access targets and time frames and, penalties associated with failure to achieve the infrastructure roll-out shall be specified in the ITA and in the licence.
- 1.4 The make up of the SNO is to be determined.
- 1.5 Pursuant to section 2(l) of the Act, the licencees of the SNO, and any new major licensee shall include a shareholding of up to thirty percent (30%) for economic empowerment of persons from historically disadvantaged groups.

2 Telkom SA Limited

Telkom's current licence shall be amended to allow for the provision of PSTS in the form of fixed-mobile services.

3. Sentech (Pty) Ltd

- 3.1 The Act shall be amended to license Sentech (Pty) Ltd. to provide international telecommunication gateway services enabling it to operate as a carrier of carriers and multimedia services with effect from 7 May 2002. Accordingly, the Sentech Act, 1996 (No.63 of 1996) shall be amended.
- 3.2 Sentech licence shall exclude the termination of international telecommunication services directly to end users in the Republic.

4. Additional licences(s)

- 4.1 The Minister shall direct ICASA to conduct a market assessment to be completed by 31 December 2004 into the economic feasibility of the provision of additional PSTS licences and shall make known its findings by notice in the Gazette.
- 4.2 The Minister shall issue an ITA for at least one or more services-based licensee(s) to commence with the provision of services in 2005.

5. Under-serviced areas

- 5.1 Small, micro and medium enterprises (SMMEs) shall be permitted to provide telecommunications services including Voice over Internet Protocol (VoIP) for the specific purpose of advancing universal access in geographical areas with a tele-density of up to five percent (5%) from 7 May 2002.
- 5.2 SMMEs shall be permitted to provide such services using their own or leased infrastructure.
- 5.3 A standard interconnection regime applicable to all SMMEs shall be developed by ICASA for implementation as from 7 May 2002.

6 Value Added Network Services (VANS)

- 6.1 The prohibition to carry VoIP and voice in terms of section 40(3) of the Act, is subject to the following:
 - (a) the exception as specified in clause 5 above;
 - (b) Telkom's existing privilege under the PSTS licence; and
 - (c) the SNO's privileges, as contemplated in this Policy Direction.
- 6.2 VANS operators shall have the privilege to provide end-to-end electronic commerce services.
- 6.3 VANS shall have the right to operate Virtual Private Networks to provide telecommunications services except voice.
- 6.4 The Minister shall after a period of two years conduct a policy review in order to determine the feasibility of extending VoIP to other operators in the telecommunications industry.

7. Assignment of 1800 MHz Radio Frequency Spectrum

- 7.1 Within six months of publication of this policy direction ICASA shall:
 - 7.1.1 assign the 1800MHz radio frequency spectrum to Cell-C, MTN, the SNO, Telkom and Vodacom; and
 - 7.1.2 make regulations for new conditions of access and a new interconnection regime.
- 7.2 Access fees in respect of 1800 MHz shall be determined by the Minister.
- 7.3 In computing the access fees for 1800MHz radio frequencies the Minister shall have regard to, 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.

7.4 Sale, alienation or disposition of assigned spectrum by any operator(s) and/or persons shall be prohibited.

8. Third Generation (3G)

8.1 ICASA shall on application and payment of the fee determined by the Minister, issue the third generation service licences to Cell-C, MTN, the SNO, Telkom and Vodacom.

8.2 In computing the licence fee for the 3G licence the Minister shall have regard to, 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

8.3 ICASA shall make regulations to provide for conditions of the licence and interconnection guidelines.

UNIVERSAL ACCESS AND UNIVERSAL SERVICE: BRIDGING THE DIGITAL DIVIDE

1 Universal access and universal service objectives

- 1.1 Pursuant to the objects as set out in section 2 (a), (c) and (h) of the Act, the targets for universal access shall include accelerated access for differently abled persons to services such as text and speech relay services, emergency speed dialling and specialised operator assistance.

2. Restructuring of the Universal Service Agency (USA)

- 2.1 The USA shall encourage, facilitate and offer guidance in the evaluation, monitoring and implementation of universal access and service schemes. Institutional capacity to support effective evaluation and monitoring of attainment of universal access and service schemes shall be a priority.
- 2.2 The Minister shall appoint a board comprising seven persons, one of whom shall be a chairperson, to oversee the schemes.
- 2.3 The Board shall report to the Minister from time to time and/or as required by the Minister.

3. Contribution to the Universal Service Fund (Fund)

- 3.1 All telecommunications licencees, including Value Added Network - Service licencees, 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%.
- 3.2 The PTN's and under-serviced area licencees shall be exempt from the provisions of this section.
- 3.3 The extent of the contributions shall be reviewed by the Minister from time to time.

EDUCATION RATE (E - RATE) AND EDUCATION NETWORK (EDU - NET)**1. E-rate**

- 1.1 Public schools shall be entitled to a fifty percent (50%) discount on all calls to an internet service provider and any connection or similar fees or charges levied by an internet service provider for accessing the internet and/or transmitting and receiving any signals via the internet.

2 Edu-Net

- 2.1 The Minister, in consultation with the Minister of Education, shall establish an entity to operate an educational network (EDU-NET).
- 2.2 Edu-Net shall be deemed to be the holder of the PTN licence, as defined in the Act, to link all public schools as well as other educational and training institutions determined by the Minister of Education.

ECONOMIC EMPOWERMENT OF PERSONS FROM HISTORICALLY DISADVANTAGED GROUPS

1. Economic Empowerment of persons from historically disadvantaged groups

Pursuant to the objects set out in section 2(l) and (q) of the Act it shall be a condition of all new major telecommunications licences issued, that an aggregate amounting up to thirty percent (30%) of the shareholding of an applicant company and/or entity shall be set aside for the above mentioned groups. In this regard ICASA shall; -

- 1.1 ensure incorporation of this condition in all new major telecommunications licences;
- 1.2 when considering any applications for other telecommunications licences, it shall give due regard to applications from persons from historically disadvantaged groups including women; and
- 1.3 will be required to develop the necessary criteria that will give priority to persons from historically disadvantaged groups including women.

2.1 ICASA shall:

- 2.1.1 make regulations for all operators, service providers, equipment suppliers and vendors regarding their contributions to the economic empowerment of persons from historically disadvantaged groups including women;
- 2.1.2 formulate licence conditions for all operators and service providers regarding their respective contribution towards the economic empowerment of persons from historically disadvantaged groups including women;
- 2.1.3 ensure that such regulations and licence conditions will provide that no reduction in the level of the shareholding of persons from historically disadvantaged groups including women in all major telecommunications licences shall be permitted without prior consent of the Minister; and
- 2.1.4 from time to time report or at the instance of the Minister report on the overall status of the economic empowerment of persons from historically disadvantaged groups including women in the telecommunications industry.

CONSUMER PROTECTION

1 Furtherance and Ensuring Consumer Protection

Pursuant to the objects set out in section 2(f) and (m) of the Act, ICASA shall:

- 1.1 make regulations to promote the development and the protection of the interests of telecommunications users and consumers;
- 1.2 from time to time report or at the instance of the Minister report on the overall status of consumer protection in the telecommunications industry.

NUMBERING

1. Numbering

1.1 Number portability shall be introduced from April 2005;

1.2 ICASA shall:

- (a) allocate numbers, maintain, manage and update the central database system on an impartial and non-discriminatory basis, by no later than May 2002;
- (b) on a monthly basis require all operators to submit data on new numbers allocated, including numbers of pre-paid subscribers to be included in the central database;
- (c) develop a cost allocation model regulation, for the apportionment of costs for the maintenance of the database and the routing system;
- (d) develop a cost allocation model regulation, for the apportionment of costs for, number allocation, number portability and carrier pre-selection;
- (e) prescribe a fee on all operators for the costs and maintenance contemplated under paragraph (c) above.

1.3 Mechanisms, including carrier pre-select, shall be introduced to ensure effective competition among service providers from 7 May 2005.

PUBLIC EMERGENCY COMMUNICATIONS

1. 112 Emergency Centre(s)

Public Emergency Communications Centre(s) (PECCs) designated as 112 Emergency Centre(s) shall be established to promote the health, safety and security of all persons and to provide efficient support and co-ordination of public emergency communications.

2. Public Emergency number

- 2.1 112 shall be the exclusive national public emergency number;
- 2.2 the 112 Emergency Centre(s) shall have voice, data and global positioning systems (GPS) capability; and
- 2.3 calls to the 112 Emergency Centre(s) shall be free and override any other calls.

2. Standards and operating procedures

The 112 Emergency Centre(s) shall develop and apply common technical standards and standard operating procedures which shall be published by notice in the Gazette with the approval of the Minister.

3. Public safety radio communications service (PSRCS)

- 3.1 There shall be a common and interoperable digital public safety radio communications service.
- 3.2 Any of the existing public and future radio communications infrastructure in the Republic shall be utilised only for a public safety radio service.

DIRECTORIES AND DIRECTORY ENQUIRY SERVICE

1. Subscriber privacy

- 1.1 Specific procedures must be implemented by licensed operators to prohibit unauthorised disclosure and use of subscriber information.
- 1.2 Subscribers shall have the right to elect not to have their personal details/particulars published in a directory or made available from directory enquiries.
- 1.3 No subscriber information may be used for any purpose other than the purposes listed below:
 - 1.3.1 providing directory or directory enquiry information;
 - 1.3.2 billing for any service or equipment ordered by the customer;
 - 1.3.3 fraud prevention;
 - 1.3.4 facilitating roaming and interoperability between operators;
 - 1.3.5 providing assistance to law enforcement agencies subject to the Interception and Monitoring Prohibition Act of No 127 of 1992 and the Promotion of Access to Information Act No. 2 of 2000; and
 - 1.3.6 providing assistance to a public emergency communications centre(s).

2. Directories and directory information

- 2.1 There shall be a single consolidated database for all telecommunications directory information and it shall be made accessible, free of charge, to each subscriber to a telephone line service within the Republic of South Africa.
- 2.2 A national directory information database shall be established by May 2002 and maintained by an entity designated by the Independent Communications Authority of South Africa (ICASA) for that purpose.
- 2.3 All operators shall submit to the database existing and future telephone numbers, within a period as prescribed by ICASA.
- 2.4 The allocation of pre-paid telephone numbers to any person shall be made upon receipt of identification and contact particulars of the applicant, which shall be recorded and submitted to the database.
- 2.5 All 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.

3 Directory enquiry services

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

MARITIME SERVICES

1 Maritime

1.1 The Minister of Communications in consultation with the Minister of Transport shall establish an entity to construct and operate a private telecommunications network to fulfil South Africa's obligations in terms of the International Convention for the Safety of Life at Sea (SOLAS) 1974/78, Annexure 12 to the Convention on International Civil Aviation, to be referred to as Maritime and Aeronautical Radio Services (MARS).

1.2 MARS shall be deemed to be a holder of a PTN licence as defined in the Act.

MUSEUM FOR COMMUNICATIONS IN SOUTH AFRICA

1 Museum

- 1.1 A Museum depicting the evolution and the history of the Communications sector shall be established in the Republic in terms of the National Heritage Resources Act, 1999 (No. 25 of 1999) in consultation with the Minister of Arts, Culture, Science and Technology.