



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 453 Pretoria 31 March 2003 **No. 24681**



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GENERAL NOTICE

NOTICE 964 OF 2003

I, Dr.Ivy Matsepe-Casaburri, Minister of Communications, acting in terms of section 35A (1)(a) read with sections 2 and 5(4) (c) of the Telecommunications Act 103 of 1996, ("the Act"), hereby further amend Notice 755 of 2002 as published in Government Gazette number 23427 of 15 May 2002 as amended by Notice 422 of 2003 published in Government Gazette number 24361 of February 2003, more particularly in the following manner:

Notice No 422 of 2003 is hereby amended by deleting the whole of clause 3 of the said Notice and substituting in place thereof, the contents of the attached Schedule.

IVY MATSEPE-CASABURRI

MINISTER OF COMMUNICATIONS

SCHEDULE A**3. PROCESS RELATING TO THE ALLOCATION OF THE 51% EQUITY FOR LOCAL AND /OR INTERNATIONAL INVESTORS.**

The Minister hereby sets out the process for the allocation of the fifty one percent (51%) equity interest to local and or international investors in the Second National Operator in furtherance of the objects set out in section 2 of the Act.

3.1 ESTABLISHMENT OF A SECOND NATIONAL OPERATOR WORKING COMMITTEE

3.1.1 A Second National Operator Working Committee (SNO Working Committee) shall be established by the Minister;

3.1.2 This SNO Working Committee will be chaired by the Deputy Director-General: Telecommunications;

3.1.3 The SNO Working Committee will manage the expression of interest, the pre-qualification process and the competitive negotiation and/or the one-on-one negotiation.

3.1.4 The Minister may appoint advisers to assist her and/ or the SNO Working Committee.

3.2 INVITATION TO EXPRESS INTEREST TO PRE-QUALIFY AND CONDUCT COMPETITIVE NEGOTIATIONS.

3.2.1 The Minister shall issue by notice in the Government Gazette an Invitation to Express Interest (EOI) in the SNO process. The invitation to express interest shall include operational criteria, competitive negotiation and ICASA's role in the licensing process.

3.2.3 Applicants, who responded to the Invitation to Apply for the Provision of Public Switched Telecommunication Services contained in Notice 786 of 2002, shall not be precluded from submitting applications pursuant to the EOI mentioned in 3.2.1.

3.2.4 All negotiations conducted as part of the competitive and/or one-on-one negotiations shall be confidential and without prejudice.

3.3 SUBMISSION OF THE EXPRESSION OF INTEREST (EOI)

- 3.3.1 The EOI shall be deemed valid if it fulfils all the requirements stipulated in the invitation to express interest.
- 3.3.2 The SNO Working Committee shall after having considered the EOIs, compile a short list of suitable applicants and forward it to the Minister for approval;
- 3.3.3 The SNO Working Committee will then proceed to enter into negotiations with the applicants on the short list enabling them to merge where necessary and request additional information where necessary.
- 3.3.4 After the negotiation process the short-listed applicant(s) shall submit their best offers to the SNO Working Committee, which shall make appropriate recommendations on these to the Minister.

3.4 APPLICATIONS TO ICASA

- 3.4.1 The Minister shall consider these best and final offers and invite the applicant/s with whose best and final offer she is satisfied to submit these to the Authority for evaluation
- 3.4.2 The form and criteria against which the applications shall be evaluated shall be set out in the invitation to express Interest.

3.5 LICENSING PROCESS

- 3.5.1 Upon receipt of the applications, ICASA shall allow for a period of public inspection of the applications.
- 3.5.2 The public shall be afforded a period of no more than five days to submit written comments and the applicants shall be given three days to reply in writing to such comments.
- 3.5.3 Upon receipt of the responses, ICASA shall evaluate the applications against a given criteria to be set out in the invitation to express interest and make a recommendation to the Minister.
- 3.5.4 The Minister may in respect of the recommendation by the Authority contemplated in 3.5.3:

- 3.5.1.1 accept it;
- 3.5.1.2 request further information from ICASA and/or the SNO Committee;
- 3.5.1.3 refer the matter back to ICASA and/or the SNO Committee for further consideration; or
- 3.5.1.4 reject it

ICASA shall inform the applicants of the Minister's final decision.

IVY MASEPE-CASABURRI

MINISTER OF COMMUNICATIONS
