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## GOVERNMENT NOTICE

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### DEPARTMENT OF COMMUNICATIONS

No. 469

25 May 2007

#### **NOTICE INVITING COMMENT ON PROPOSED POLICIES AND POLICY DIRECTIONS DRAFTED IN TERMS OF SECTIONS 3(1) AND (2) OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)**

The Minister of Communications, intend to make the policies and policy directions in the Schedule in terms of sections 3(1) and (2) of the Electronic Communications Act, 2005 (Act No. 36 of 2005).

Interested persons are hereby invited to furnish comments on the proposed policies and policy directions, within 30 days of the date of publication of this notice at any of the following addresses:

For attention: Project Manager  
Telecommunications Policy  
Department of Communications;

post to: Private Bag X860  
Pretoria  
0001;

or deliver to: First Floor, Block A3  
iParioli Office Park  
399 Duncan Street  
Hatfield;

or fax to: 0124278059

or e-mail to: [policydirections@doc.gov.za](mailto:policydirections@doc.gov.za)

Please note that comments received after the closing date may be disregarded.

Ms. Matlala can be reached at tel. (012)427 8081 for any enquiries.

## SCHEDULE

### **POLICY DECISIONS AND DIRECTIONS**

#### **INTERNATIONAL TERRESTRIAL AND SUBMARINE CABLE**

**I HAVE TAKEN THE POLICY DECISION**, in terms of section 43(11) of the ECA to consult with relevant governments of the SAT-3 consortium members indicating 1<sup>st</sup> November 2007 as the date from when the exclusivity provisions contained in the SAT-3 agreements or arrangements entered into shall be declared *null and void* in South Africa.

**I HAVE TAKEN THE POLICY DECISION**, in terms of section 3(2) (b) of the ECA, to prioritise access to educational and health institutions, the Post Office, government offices and the Thusong Centres-previously known as Multi-Purpose Community Centres- in the roll-out of Sentech's electronic communications networks and services for the provision of wireless broadband communication.

**I HAVE ALSO TAKEN THE POLICY DECISION**, in furtherance of section 2(c) and 3(1) (b) of the ECA, that, SAPO post offices will be transformed into Thusong Post Offices, providing access to a variety of government and other services, especially faster, secure and easier access to enabling documents and social grants.

#### **MOBILE BROADCASTING SERVICES**

South Africa is amongst the few countries that are in an advanced test phase of providing Mobile Broadcasting Services using the Digital Video Broadcasting-Handheld (DVB-H) standard. In order to facilitate its commercialization and take the appreciation by the public of the FIFA

2010 World Cup to greater heights it is important to create an enabling environment for its development.

**I HAVE TAKEN THE POLICY DECISION**, in terms of section 3(1)(a) and 3(1)(d) of the ECA, that Mobile Broadcasting Services will be provided on a single network with national coverage, using the DVB-H standard.

**I HAVE FURTHER TAKEN THE POLICY DECISION**, in terms of section 2(g) and 2(m) and 3(1)(a) of the ECA, that the network, which will form an integral part of the national ICT backbone infrastructure, accordingly be operated on the basis of open and non-discriminatory access principles.

### **POLICY DIRECTIONS**

#### **ROBUST, RELIABLE AND AFFORDABLE INTERNATIONAL CONNECTIVITY**

International connectivity is critical to support our investment objectives, the expansion of the Internet and bandwidth for voice, data and image transmission. It is Government policy that the cost of access to international connectivity is affordable and that all arrangements regarding access or use of international cables and/or facilities do not unfairly exclude others from use of or access to the cables.

**I THEREFORE DIRECT ICASA**, in terms of section 2(c),(f) and (g) and 3(2)(c) of the ECA, to prioritise and urgently prescribe a list of essential facilities envisaged in section 43(8)(b) of the ECA, ensuring that the electronic communications facilities connected to the SAT-3/WASC/SAFE submarine cable can be accessed soon. Taking into account the balance of forces in international submarine connectivity and the objectives of this Act, the Authority should pay particular

attention to section 43(5)(b). Prices for access to the cables should be regulated accordingly.

### **INCREASING COMPETITION THROUGH CONVERSION OF VANS LICENSES**

Under section 93(4)(a) ICASA must convert existing licenses that authorises the holder of such licence to both provide services and operate electronic communications facilities or networks into licences relating to electronic communications services or broadcasting services, radio frequency spectrum licences and electronic communications network service licences.

**I THEREFORE DIRECT ICASA**, in terms of Section 2(b), (c) and (d) and section 3(2)(c), to urgently consider whether none, or only certain, of the existing VANS licencees can be authorised to provide services as well as to provide and operate electronic communications facilities or networks to ensure that such licensees are issued electronic communications network service licences in addition to other licences specified in the relevant section of the ECA, if applicable.

For the purposes of immediate implementation ICASA should prescribe and ensure that:

1. those who already have electronic communications networks of provincial and national scope, whose facilities have been duly obtained in terms of the provisions of the Telecommunications Act 103 of 1996 and the applicable regulations promulgated thereunder pertaining to the licensing of VANS;
2. those who have intent to roll out electronic communications networks of provincial and national scope;
3. those who, in terms of section 5(3)(e) of the ECA, show good cause that if issued with a licence to provide Electronic Communications

Network Services, would be able to bring about a significant impact on socio-economic development in the Country, providing details for the manner of such impact. This should include the provision of strategies to target the high costs of communication services, the digital divide, achievement of goals in terms of broad based Black economic empowerment, etc.

4. those who are able to satisfy the requirements of the fixed licence fee that would be applicable, as determined by the Authority, for VANS licensees that will be converted into this category (Individual ECNS Licence), taking into account any proposed Universal Service Obligations that the VANS licensee is able to provide, by virtue of being converted into this category (Individual ECNS) of licensing.

#### **ACCESS TO EMERGENCY COMMUNICATIONS:**

Many of the citizens of South Africa are disconnected from their telephone service for nonpayment. As part of our universal service agenda, the Government aims to minimize disconnections due to non-payment by reducing the cost of communications. The government further aims to ensure continued access to emergency services during the period of disconnection.

Therefore, it is intended that should a Subscriber or end-user as contemplated in the Act, that uses the services of a licensee referred to in Chapter 3, default in paying for the service, such licensee may not disconnect the end-user or subscriber but should ensure that the end-user or subscriber can continue accessing electronic communications for emergency purposes.

**I THEREFORE DIRECT ICASA**, for immediate implementation, and, in terms of Section 2(c) and (o) and Section 3(2)(a), to prescribe a list of

emergency numbers to which the public would have continued access even during a period of disconnection.

### **FREQUENCY SPECTRUM**

**I DIRECT ICASA**, in terms of Section 2(c) and (o), and Section 3(2)(a) to take into consideration the decisions that will be taken at the World Radio Conference, 2007 in preparation of the national radio frequency plan or appropriate modification to any existing radio frequency plan.

**I ALSO DIRECT ICASA**, in terms of section 2(g) and 2(m) and 3(1) (a) of the ECA, to allocate spectrum for a single network with possibility for national coverage for the provision of Mobile Broadcasting Services.

It is imperative that holders of radio frequency spectrum licenses should co-ordinate their respective frequency usage with other licensees as envisaged in section 33(1) and (3) of the ECA.

**I THEREFORE DIRECT ICASA**, in terms of sections 33(1) and 33 (3) to urgently prescribe regulations governing the co-ordination between such licensees.

### **PROCEDURES AND CRITERIA FOR AWARDING RADIO FREQUENCY SPECTRUM LICENSES**

**I DIRECT ICASA**, in terms of section 31(3) of the ECA, to urgently, prescribe procedures and criteria for awarding radio frequency spectrum licenses for competing applications or instances where there is insufficient spectrum available to accommodate the demand in order to ensure fair and equitable usage of frequency spectrum.

**UNDER SERVICED AREA LICENCES( USAL'S)**

For USAL's to be functional, effective and attract investment to roll out their networks and provide electronic communications services in the designated areas and not be dependent only on subsidies.

**I THEREFORE DIRECT ICASA**, that (a) where there is more than one licence in a province, the Authority should merge these and issue one Provincial Under-Serviced Area Network Operator (PUSANO) licence. Each PUSANO would be licenced for individual electronic communications networks and services.

(b) ensure that the percentage of equity ownership and control to be held by persons from historically disadvantaged groups residing in the designated licence area, must not be less than 51%, or such higher percentage as may be authorised by the Minister;

(c) further ensure that ownership and control by persons or companies interested in investing in the licensed entity, shall be restricted to 49% or less.

**LOCAL LOOP UNBUNDLING (LLU) PROCESS:**

**I HAVE ALSO TAKEN THE POLICY DECISION** that, given the complexity of local loop unbundling process on the one hand and the urgency for South Africa to enable all operators appropriately licensed to have access to the local loop on the other hand, the unbundling process in South Africa should be urgently implemented and completed by 2011. In addition, the Authority should, as appropriate, take advantage of the report of the Local loop unbundling committee and its recommendations on the proposed unbundling models.

**WORLD SPACE**

**I HAVE TAKEN THE POLICY DECISION** that, in recognition of the innovative and unique service provided by this African initiated project that has an important socio-economic impact in many African countries, it is in the interest of our country and continent that the services of **WORLDSPACE**, provided from South African soil should not be discontinued. Accordingly, ICASA is requested to consider the continuation of this service under the current arrangement until a long-term solution has been found.

**I THEREFORE DIRECT ICASA IN TERMS OF SECTION 3(2)(a):** to urgently conduct an inquiry on how this entity's services can be continued in the country.

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