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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**


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**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**
**NOTICE 76 OF 2018**

**Independent Communications Authority of South Africa**

Pinmill Farm, 164 Katherine Street, Sandton

Private Bag X10002, Sandton, 2146

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**TELKOM SUBMISSION IN RELATION TO THE REVIEW OF ITS UNIVERSAL SERVICE AND ACCESS OBLIGATIONS (USAOs)**


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1. The Independent Communications Authority of South Africa ("the Authority") hereby gives notice that it has received a request from Telkom SA SOC Limited ("Telkom") to amend its Universal Service and Access Obligations ("USAOs").
2. On 07 May 1997 Telkom was issued and granted a Public Switched Telecommunications Services ("PSTS") license (Government Gazette No.17984 of 1997 as amended). The Authority imposed the following USAOs on Telkom:
  - (a) the provision of a basic telephone service;
  - (b) to roll out 120 000 public pay-telephone service nationally;
  - (c) emergency services which included, amongst others, maritime emergency services;
  - (d) services for users with special needs; and
  - (e) a directory information service.
3. Section 10(1) (f) and (g) of the Electronic Communications Act of 2005 ("ECA"), amongst others, provides that:

*"10 (1) The Authority may amend an individual licence after consultation with the licensee-...*

*(f) where the Authority is satisfied that the amendment is necessary to ensure the achievement of the objectives of this Act;*

*(g) if the amendment relates to universal access or universal service and is necessary, in the opinion of the Authority, as a result of –*

*(i) changed circumstances in the market; or*

*(ii) lack of electronic communications network services, broadcasting services, or electronic communications services in specifically identified areas of the Republic."*

(ii) *lack of electronic communications network services, broadcasting services, or electronic communications services in specifically identified areas of the Republic."*

4. In 2008/2009 the Authority commenced with the review of USAOs of licensees with the intention of amending the obligations taking into account the changed circumstances in the market.
5. On 16 November 2017, Telkom made a submission to the Authority in relation to the review of its USAOs to request that all its USAOs be reviewed.
6. The Authority hereby invites interested parties to submit written comments within 21 working days of publication of this notice by post, hand delivery or electronically for attention:

**Moyeni Nkosinkulu: USAO Project Leader**

**Enquiries:**

**Tel: 011 566 3976**

**Email: [usoproject2016@icasa.org.za](mailto:usoproject2016@icasa.org.za)**

**Hand delivery : Attention:**

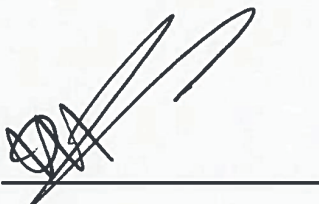
**USO Project 2016**

**Block D, Pinmill Farm**

**164 Katherine Street**

**Sandton.**

7. Telkom shall be entitled to respond in writing to written representations made by interested persons in response to Telkom's aforementioned submission. Such written response(s) must be lodged with the Authority within 30 working days of the date of publication of this notice in the Government Gazette. Telkom must, at the time of submitting to the Authority such written response(s), furnish proof that it has delivered a copy of such response by hand, or has sent a copy of such response by registered mail or by facsimile or by email to the relevant person who made such written representation.

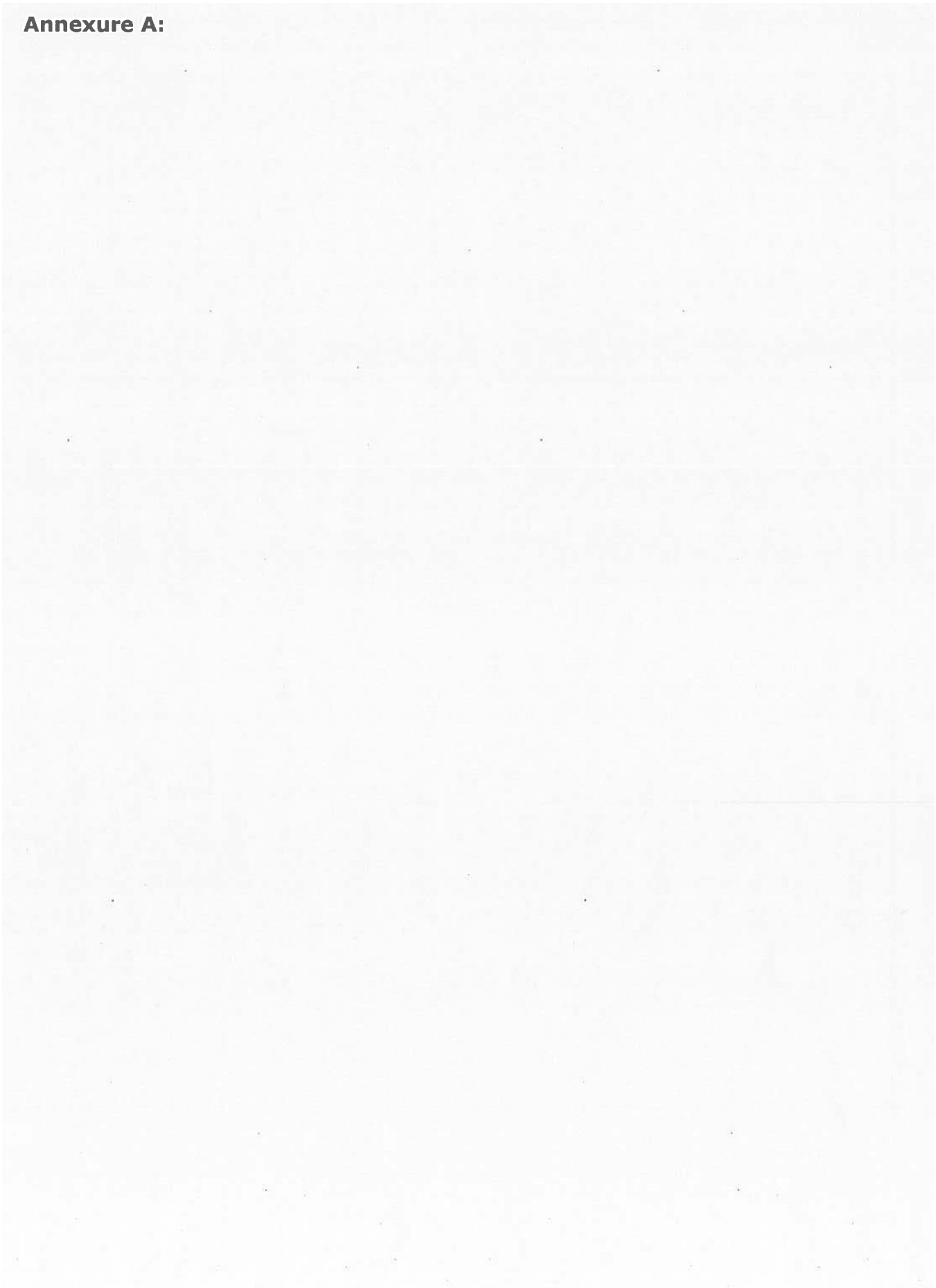


**Rubben Mohlaloga**

**Chairperson**

2018/13  
02/13

**Annexure A:**



Telkom

## Submission to ICASA on the proposed Amendment of Telkom's Universal Service Obligations (USOs)

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## 1 INTRODUCTION

- 1.1 In 2014 the Independent Authority of South Africa (“the Authority”) amended the Universal Service and Access Licence Obligations (USOs) in respect of Vodacom, MTN and Cell C but excluded Telkom SA SOC Limited (“Telkom”) from the review process.
- 1.2 On 07 May 1997 Telkom was issued and granted a public telecommunications services (PSTS) license (Government Gazette No.17984 as amended) and the Authority imposed the following USOs on Telkom:
- a) The provision of a basic telephone service;
  - b) to roll out 120 000 public pay-telephone service nationally;
  - c) emergency services which included, amongst others, maritime emergency services;
  - d) services for users with special needs; and
  - e) a directory information service.
- 1.3 After the 2009 conversion of Telkom’s PSTS license, Telkom has the obligation to maintain the abovementioned previously implemented USOs. Notably, Condition 4 of the I-ECNS licence expressly provides that *“The Licensee shall continue to maintain previously implemented USOs until reviewed by the Authority in terms of sections 82, 88, 89, and 90 of the EC Act.”*
- 1.5 The maintenance of historic USOs set out in paragraphs 1.2 and 1.3 above continues to impose an operational and cost burden on Telkom which is not carried by any other electronic communications service (ECS) or electronic communications network service (ECNS) licensee.
- 1.6 Telkom therefore requests that the Authority include in the amendment of Telkom’s USOs, the repeal of Telkom’s other historic USOs (as set out in its 1997 PSTS licence) and repeal and replace them with the proposed USOs discussed in paragraph 2.1 below. We set out below why Telkom’s historic USOs should be repealed.

### Provision of Public Payphones

- 1.7 Telkom has argued since 2014 that its onerous public payphone USOs be amended in light of the fact that public payphones are no longer meeting the object and purpose

of USOs and have become obsolete due to high mobile penetration and fixed-mobile substitution.

- 1.8 Furthermore, the Electronic Communications Act (ECA) ushered in a new regime which does not contemplate services such as public payphones which were designed for a public switched telecommunications network (PSTN), and causes interoperability problems with newer technologies. The costs of updating outdated public payphone software and technology far outweighs the revenue and Telkom submits that these monies could be better deployed towards the provision of internet connectivity to public health institutions as set out in paragraph 2.1 below.

### **Maintenance of Basic Voice Telephony**

- 1.9 Telkom requests that the Authority repeals Telkom's obligation to "*maintain a basic voice telephony service once installed*" in view of technological developments and in line with the emphasis on broadband provisioning by SA Connect and the National Integrated ICT Policy White Paper ("ICT Policy"), as opposed to basic voice telephony.
- 1.10 The maintenance of basic voice telephony is leading to inefficiencies. It hampers the decommissioning of unprofitable Telkom exchanges and network upgrades necessary for the provision of improved service delivery to customers and to assist in decreasing cable theft. Furthermore, the provision of basic copper telephony is not supported by new technologies such as fibre and wireless services.
- 1.11 Accordingly, Telkom is of the view that its obligation to maintain previously implemented USOs listed in its erstwhile PSTS licence should be reviewed and that the provision of these USOs should be at Telkom's discretion depending on need, as well as technical and economic feasibility.

## **2 PROPOSED AMENDMENTS**

### **2.1 PROVISION OF INTERNET CONNECTIVITY TO PUBLIC HEALTH INSTITUTIONS**

- 2.1.1 Telkom supports the provision of USOs such as internet access to health institutions which meets the object and purpose of the ICT Policy, which advocates broadband for all.

- 2.1.2 Telkom proposes that the provision of internet access should align to that stated in the ICT Policy namely 10GB of data per month (at the speed of no less than 1 Mbps). Telkom assumes that the 10GB data per month will be capped and provided on a once-off basis to the allocated public health institutions.
- 2.1.3 The Authority together with the Department of Health must allocate Telkom a list of public health institutions to be connected as well as declare to Telkom the effective date from which the amended USOs must be implemented.
- 2.1.4 Telkom will only connect the public health institutions allocated to it by the Authority where Telkom has existing network infrastructure.

## **2.2 CONCERNS REGARDING PROVISION OF INTERNET CONNECTIVITY TO PUBLIC HEALTH INSTITUTIONS**

- 2.2.1 It is unclear how the Authority will manage the allocation of public health institutions to be connected and what dependencies it will consider when planning the allocation. Telkom is concerned that the Authority may allocate public health institutions which are not in Telkom's footprint resulting in an obligation imposed on Telkom to provide network infrastructure at a great cost.
- 2.2.2 Where the allocation is outside of Telkom's footprint, we propose that the Authority should exclude public health institutions from its allocation. Telkom should be permitted to apply for funding from the Universal Service Fund ("USAF") in terms of section 88(1)(a) to (d) of the ECA to build the required network infrastructure. Alternatively, the Authority must allow Telkom to align the provision of services to public health institutions to its network development plans and to advise the Authority accordingly.
- 2.2.3 Furthermore, it would be helpful for the Authority to provide Telkom with its allocation plan which Telkom can use to plan and cost this proposed USO. The allocation plan has a direct bearing on the completion date for the internet connectivity to the public health institutions allocated.
- 2.2.4 Telkom proposes that the completion date for internet connectivity to the public health institutions should be within a period of five (5) years from the effective date of the amendment of Telkom's USOs - a period like that prescribed to other main operators.
- 2.2.5 Another important consideration is the fact that Telkom will be providing connectivity to the public health institutions on a shared electronic communications network and

not on a dedicated electronic communications network. Thus it will be impossible to apply the discount across the entire connectivity which includes the electronic communications facilities used for or in association with access and backhaul to provide connectivity to the Internet.

- 2.2.6 Telkom further urges the Authority to carefully consider the limitations of section 73 of the ECA in terms of the applicability of the E-Rate regulations to provide discounted internet services to public health institutions. Discounts can only be provided on the access layer and not on backhaul (i.e. wholesale) cost of the data.

### 2.3 PROVISION OF PUBLIC PAYPHONES

- 2.3.1 Previous engagements with the Authority on the possible review of Telkom's obligation to maintain public payphones have indicated that the Authority would still prefer Telkom to continue to provide public payphones in strategic social areas.

- 2.3.2 Whilst Telkom has seen and reported a decline in the usage of its public payphones over the years, we acknowledge and recognise the Authority's concerns regarding the availability of public payphone services. The table below illustrates the decline in payphone usage and a reduction of payphones from 2008 to present.

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
<b>Payphone</b>	135 111	121 451	116 466	104 997	94 232	78 763	60 435	38 135
<b>Minutes (mn)</b>	338 mn	310 mn	217 mn	159 mn	90 mn	32 mn	16 mn	8 mn

- 2.3.3 Telkom submits that the provision of any public payphones in public areas should not be imposed on Telkom as a USO, but should be discretionary; and that there should be an absolute need for the service and the technology used shall be at Telkom's discretion.

- 2.3.4 Furthermore, the provision of the services contemplated in paragraph 2.3.3. above will be on following conditions:

- 2.3.4.1 there is a request for the public payphone;
- 2.3.4.2 there is availability of Telkom's infrastructure; and
- 2.3.4.3 it is technically and economically feasible to provide the service.



- 2.3.5 Telkom wishes to also propose amendments to the removal process of any public payphone previously installed as prescribed in Condition 4.2.5 of Telkom's PSTS licence (which prescribes conditions under which payphones can be withdrawn from service).
- 2.3.6 The prescribed removal process is burdensome and involves operational costs which can be better used to meet Telkom's amended USOs. Various public payphones are unused or vandalised, yet Telkom is obligated to follow a removal process of many months to remove such payphones. This further negatively impacts on instances where Telkom needs to decommission exchanges due to technology upgrades and payphones are connected to those exchanges.
- 2.3.7 The requirement that objections be made to Telkom's office address does not take into account technological advancements which allow for representations by sms or e-mail and causes unnecessary time delays and expenses involved in posting objections.
- 2.3.8 Telkom is further unclear as to why the Authority prescribes the following specific provisions in the public payphones removal process:

*Condition 4.2.5 (a) (i)*

- (bb) the Licensee has sent to the Local Authority for the area in which such Public Pay-telephone is located by registered post or by hand a copy of that notice;
- (cc) the Licensee has sent to the Authority by registered post or by hand a copy of that notice together with copies of any representations and objections that the Licensee has received with respect to the proposal and its comments and conclusions thereon; and

*Condition 4.2.5*

- (c) where the Licensee intends to withdraw from service a Public Pay-telephone in accordance with condition 4.2.5(a)(i) to (v), it shall give the Authority three (3) months prior notice, or such shorter period as may be consented to by the Authority, in writing of its intention to do so.

Telkom suggests that the notification to the Authority should be on one month's notice. Furthermore, it is unclear why the local authority should be notified as the sticker placed on the relevant public payphone caters for a public consultation process, which provides everyone with an interest to object to the removal if required.

## **2.4 Specific USOs in Telkom's Previous PSTS Licence**

### **2.4.1 Condition 4:1: Basic Telephone Service**

- a) This obligation was imposed in an era of fixed telecommunications where Telkom was the only provider of basic voice telephony. In the current era, there are numerous providers of voice telephony, including the mobile cellular operators.
- b) In addition to the above, there has been high mobile penetration and fixed-mobile substitution in South Africa, and it is unequitable to place the obligation to provide a basic telephone service on only Telkom and no other similarly licensed operator.

### **2.4.2 Condition 4.3: Public emergency call services**

- a) Telkom submits that this obligation, which is not imposed on any other similarly licenced operator, similarly stems from the previous regulatory regime which did not contemplate the high penetration of mobile telephony. Accordingly, it should not be imposed on Telkom only as a USO. The regulatory regime caters for the provision of public emergency call services to all licensees.

### **2.4.3 Condition 4.3.4: Maritime Emergency Services**

- a) This obligation is on the Department of Transport to provide these services and on Telkom to enter into an agreement with the Department of Transport upon request. This too is unequitable - numerous ECS and ECS licensees are able to provide the relevant services to the DOT.

### **2.4.4 Condition 4.4 Services for Users with Special Needs**

- a) This obligation should not be imposed on Telkom as a USO. There are regulations dealing with People with Disabilities which apply to all similarly licensed operators.

### **2.4.5 Condition 5: Directory service obligations**

- a) This obligation is similarly not imposed on any other similarly licensed operator as a USO.
- b) Telkom submits that the provision of directory services by Telkom should be at Telkom's discretion.

## 2.5 CONCLUSIONS

- 2.5.1 Telkom welcomes the introduction of new USOs in the form of the provision of internet connectivity to public health institutions. Telkom is of the view, however, that its legacy USOs, including the maintenance of basic voice and public payphones, should be repealed. Telkom should not be obligated to maintain certain payphones, an obsolete technology, while the Authority at the same time imposes new USOs on Telkom and that the provision of public payphones in public areas should be at Telkom's discretion as set out in paragraph 2.3 above.
- 2.5.2 The ECA ushered in a new regime which does not contemplate services such as public payphones which were designed for a PSTN, and causes interoperability issues with newer technologies. The costs of updating outdated public payphone software and technology far outweighs the revenue and Telkom submits that these monies could be better deployed towards the provision of internet connectivity to health institutions.
- 2.5.3 The repeal of Telkom's legacy USOs will permit Telkom to decommission unprofitable exchanges and to effect technology upgrades which will ultimately benefit the consumer.