

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 467

28 May 2021



NOTICE OF INTENTION TO REVIEW THE PRO-COMPETITIVE CONDITIONS IMPOSED ON RELEVANT LICENSEES IN TERMS OF THE CALL TERMINATION REGULATIONS, 2014 (AS AMENDED) PUBLISHED IN GOVERNMENT GAZETTE NO 38042 ("THE REGULATIONS")

1. Introduction

1.1. The Independent Communications Authority of South Africa ("the Authority") hereby gives notice of its intention to review the pro-competitive conditions imposed on relevant licensees, and the markets for wholesale voice call termination, in terms of section 67(8) of the Electronic Communications Act, 2005 (Act No 36 of 2005) ("the ECA") and regulation 8 of the Regulations.

2. Legal basis for the review

2.1. The legal basis of the review is in terms of section 67(8)(a) of the ECA which states that: "*(a) Where the Authority undertakes a review of the pro-competitive conditions imposed upon one or more licensees under this subsection, the Authority must-*

- (i) review the market determinations made on the basis of earlier analysis;*
- (ii) decide whether to modify the pro-competitive conditions set by reference to a market determination."*

- 2.2. In addition, regulation 8 of the Regulations states that *“The Authority will review the markets for wholesale voice call termination services... not earlier than three (3) years from the date of the publication of these Regulations”*.

3. The purpose of the review

- 3.1. The purpose of this review is to review the pro-competitive conditions imposed on the relevant licensees in terms of the Regulations.

4. The review process

- 4.1. The Authority will commence and conduct the review in a series of phases as follows:

4.2. Phase 1 (Commencement of the Review and Request for Information)

4.2.1. Publication of this Notice in terms of section 4B of the ICASA Act¹ read with section 67(8) of the ECA:

4.2.1.1 Immediately following the publication of this Notice the Authority will publish on its website a questionnaire or request for information from market participants and stakeholders.

4.2.1.2 The questionnaire or request for information is published in terms of Section 67(4B) of the ECA which provides that, subject to section 4D of the Independent Communications Authority of South Africa Act 13 of 2000, as amended (“ICASA Act”), licensees are required to provide to the Authority any information specified by the Authority in order to enable it to carry out its duties in terms of section 67 of the ECA.

4.2.2. Holding of a workshop:

4.2.2.1. The purpose of the workshop will be to discuss with stakeholders the process for this review, and questions of clarity on the questionnaire or request for information. Further, the Authority will confirm the details of the workshop on its website on date of the publication of the questionnaire or request for information.

¹ Independent Communications Authority Act of South Africa, 2000 (Act No. 13 of 2000)

4.2.2.2. Stakeholders will be given five (5) working days, from the date of the workshop, to send any questions of clarity for the attention of the Chairperson (Call Termination Review) at CTR2021@icasa.org.za.

4.2.2.3. The Authority will respond to all questions of clarity by publishing a briefing note on the Authority's website within five (5) working days of the final date for submission of clarification questions.

4.2.2.4. Stakeholders will be invited to submit written responses to the questionnaire or request for information within forty-five (45) working days from the date of publication of the above-mentioned briefing note.

4.2.2.5. The Authority may request one-on-one meetings in relation to information submitted by a stakeholder, where necessary to clarify information that is submitted.

4.3. Phase 2 (Discussion Document)

4.3.1. Publication of a Discussion Document in the Government Gazette:

4.3.1.1. The Discussion Document will be informed by the information submitted by stakeholders in Phase 1, and also by research or benchmarking exercises conducted by the Authority.

4.3.1.2. The Discussion Document will be published for public comment for a period of forty-five (45) working days.

4.3.1.3. Stakeholders may submit written representations on the Discussion Document by the said deadline, and must indicate whether they require an opportunity to make oral or virtual representations, should the Authority hold public hearings.

4.4. Phase 3 (Public hearings on the Discussion Document)

4.4.1. Holding of the Public Hearings:

The Authority will, if it deems it necessary to hold public hearings, confirm the details of the hearings in a notice to be published on the Authority's website.

4.5. Phase 4 (Findings Document)

4.5.1. Publication of the Findings Document in the Government Gazette:

The Authority will publish a summary of its findings in the Government Gazette and on the Authority's website.

5. Confidentiality

- 5.1. Stakeholders may request confidentiality, in terms of section 4D of the ICASA Act, on any information submitted to the Authority during this review process.
- 5.2. Such request for confidentiality must be accompanied by a confidential and non-confidential version of the stakeholder's submission.
- 5.3. The Authority hereby refers stakeholders to the Guideline for Confidentiality, published on 17 August 2018 in Gazette No. 41839, in order to assist stakeholders when applying for confidentiality.

All communication relating to this process must be directed to the Chairperson (Call Termination Review) at CTR2021@icasa.org.za.



Dr Keabetswe Modimoeng
Chairperson