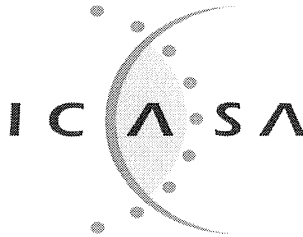# GENERAL NOTICE

NOTICE 1107 OF 2014

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

I C A S A

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

PURSUANT TO SECTION 4 (1) OF THE ELECTRONIC COMMUNICATIONS ACT 2005, (THE ACT")

HEREBY ISSUES A NOTICE ON THE DRAFT AMMENDMENT

1. The Independent Communications Authority of South Africa ("the Authority') hereby gives notice of the draft amendments to the Radio Frequency Spectrum Fee Regulation, published on the 27th of August 2010 in Government Number 33495 (Notice of 754 of 2010) for public comments.

2. Interested persons are hereby invited to submit written representations, including an electronic version of the representation in Microsoft Word, of their views on the **Draft Amendments to the Radio Frequency Spectrum Fees Regulations** by no later than 16h00 on 13th February 2015.

3. Written representations or enquiries may be directed to:

   The Independent Communications Authority of South Africa (ICASA)

   Pinmill Farm Block A

   164 *Katherine Street*

   South Africa

   or

   Private Bag XI0002
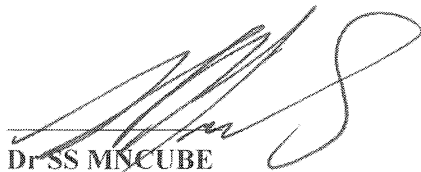
Sandton

2146

Attention:

Mr Elias Mogwase Letlape

e-mail: ELetlape@icasa.org.za

5. All written representations submitted to the Authority pursuant to this notice shall be made available for inspection by interested persons from 17th of February 2014 at the ICASA Library or website and copies of such representations and documents will be obtainable on payment of a fee.

Where persons making representations require that their representation, or part thereof, be treated confidentially, then an applications in terms of section 4D of the ICASA Act, 2000 (Act No. 13 of 2000) must be lodged with the Authority. Such an application must be submitted simultaneously with the representation on the draft regulations and plan. Respondents are requested to separate any confidential material into a clearly marked confidential annexure. If, however, the request for confidentiality is refused, the person making the request will be allowed to withdraw the representation or document in question.

Dr SS MNCUBE
CHAIRPERSON

AMENDMENT OF REGULATIONS ON RADIO FREQUENCY SPECTRUM FEES IN TERMS OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)

The Independent Communications Authority of South Africa has, under sections 4(1) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), made the regulations in the schedule.

SCHEDULE

1. **Definitions**

   In these regulations "the Regulations" means the regulations published by Government Notice No. 33495 of 2010.

2. **Amendment of regulation 1 of the Regulations**

   2.1 Regulation 1 of the Regulations is hereby amended by the addition, after the definition "*HOPMINI*", of the following definition:

   ""**ICASA Act**" means the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000)".

   2.2 Regulation 1 of the Regulations is hereby amended by the addition, after the definition "*Minimum Hop Factor*", of the following definition:

   ""**kHz**" means a radio frequency value designated in kilohertz".

   2.3 Regulation 1 of the Regulations is hereby amended by the addition, after the definition "*KHz*", of the following definition:

   ""**MHz**" means a radio frequency value designated in megahertz".

2.4 Regulation 1 of the Regulations is hereby amended by the addition, after the definition "SHR", of the following definition:

""**SEC**" means Security Factor."

2.5 Regulation 1 of the Regulations is hereby amended by the addition, after the definition "SEC", of the following definition:

""**Security Factor**" means the factor that is applied to reflect the assignments made to the security services as defined in the Electronic Communications Act of 2005."

3. Amendment of regulation 2 of the Regulations

3.1 Regulation 2 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(2) Establish a transparent, fair, competitive and non-discriminatory radio frequency spectrum pricing regime based on administrative incentive pricing and which does not preclude the use of auctions and other internationally accepted methods of determining Radio Frequency Spectrum Price;"

3.2 Regulation 2 of the Regulations is hereby amended by the substitution in subregulation (5) for the word "process" of the word "regime".

4. Substitution of regulation 5 of the Regulations

The following regulation is hereby substituted for regulation 5 of the Regulations:

"**5. Formulae**

The following formulae are applicable in determining the radio frequency spectrum licence fees:

(a) Point-to-area formula:

Applied to all point to area services except for Amateur, aeronautical and maritime with exclusive band allocations.

Fee = (UNIT * FREQ * BW * CG * GEO * SHR * ASTER * UNIBI * SEC)

The fee is the multiplication of the unit price (UNIT) by the frequency factor (FREQ), the bandwidth in MHz, the congestion factor (CG), the geographic factor (GEO) the sharing factor (SHR), the area sterilized factor (ASTER), the unidirectional factor (UNIBI) where this is applicable for point to area and the security factor (SEC).

(b) Point-to-point formula for Links up to 50 GHz:

Applied to all fixed links whether below or above 1GHz. The formula is as follows:

Fee = (UNIT * FREQ * BW * CG * GEO *SHR * HOPMINI * UNIBI * SEC)

The fee is the multiplication of the unit price (UNIT) by the frequency factor (FREQ), the bandwidth (BW) in MHz, the congestion factor (CG), the geographic factor (GEO), the sharing factor (SHR), the minimum hop length (HOPMINI), the unidirectional factor (UNIBI) and the security factor (SEC).

(c) The fee for links above 50 GHz will be the minimum fee as prescribed in Annexure A of this regulation.

(d) Satellite Hub Ground Station Formula:

The fee for a principle hub station for uplink is determined by the following fee:

Hub ground station Fee = Max (R_{UL}; UNIT * BW)

The fee is the multiplication of the unit price (UNIT) by the bandwidth (BW) in MHz, and R_{UL} is the minimum fee for satellite uplink connections.

(e) Satellite VSAT subordinate ground station Formula:

The fee for subordinate Very Small Aperture Terminal (VSAT) Station for uplink is determined by the following formula:

VSAT Fee = (UNIT * BW)

The fee is the multiplication of the unit price (UNIT) by the bandwidth (BW) in MHz."

5. Amendment of regulation 6 of the Regulations

5.1 Regulation 6 of the Regulations is hereby amended by the substitution for subregulation (3) of the following subregulation:

"(3) Frequency factor (FREQ)

The following are the ranges and the value of the relevant frequency band factor:

Frequency Ranges		FREQ Factor
From	To	
1 kHz	174 MHz	1
174 MHz	880 MHz	0.75
880 MHz	1.8 GHz	0.5
1.8 GHz	5 GHz	0.4
5 GHz	10 GHz	0.3
10 GHz	17 GHz	0.2
17 GHz	23 GHz	0.15
23 GHz	30 GHz	0.1
30 GHz	50GHz	0.05

5.2 Regulation 6 of the Regulations is hereby amended by the substitution for paragraph (b) of subregulation (5) of the following paragraph:

"(b) Congested' applies where there is a high demand of radio frequency spectrum and/or for which there is a waiting list for the frequency spectrum that is the subject of the licence, while 'Not Congested' applies when there is no high demand for the radio frequency spectrum and/or for which there is no waiting list."

5.3 Regulation 6 of the Regulations is hereby amended by the substitution for paragraph (a) of subregulation (8) of the following paragraph:

"(a) The following is a table of minimum path lengths by frequency. Frequencies that are not appearing specifically in this table shall be rounded to the next highest minimum path length in the table:

Frequency Band (MHz)	Min Path Length (km)
400	100
800	60
1.4/1.6/2	30
4 and 5	16
7.5	14
10 and 11	10
13/14/15	9
17/18	4
22/23	3
25/26	3
28	2
31 and 32	1.5
38	1
Higher	0

(end of substitution – ")

5.4 Regulation 6 of the Regulations is hereby amended by the substitution for paragraph (c) of subregulation (8) of the following paragraph:

"(c) Where the actual path length is equal to or greater than the minimum path length for frequency spectrum or the length is not known, the value of HOPMINI in the formula will be 1."

5.5 Regulation 6 of the Regulations is hereby amended by the addition of the following subregulation:

"(10) Security Factor (SEC)

The following is the table of the type of licensees with values for the security factor:

SEC	Value of security factor
Security Services	0.2
All other licensees	1

(end of substitution – ")

6. Amendment of regulation 9 of the Regulations

6.1 Regulation 9 of the Regulations is hereby amended by the substitution for items 3.11, 3.12 (iii) and 6 in the table of the following items:

3.11 Radio Link Station	
(iii) Radio link between 1000 MHz and 50 000 MHz is calculated on the assigned bandwidth per frequency channel (per control and/or interconnect point)	Point to Point Formula
(iv) Radio link above 50 000 MHz	Minimum Fee
6.2 Uplink broadcasting signal distribution fixed satellite earth station	Hub Satellite Formula
6.3 Mobile or fixed satellite news gathering station	Hub Satellite Formula
6.4 VSAT	VSAT Satellite Formula

7. Insertion of regulation 9A in the Regulations

The following regulation is hereby inserted in the Regulations, after regulation 9:

"9A. Radio Spectrum Fee Increase

The Authority shall annually implement an automatic increase in the radio spectrum fee by the CPIX."

8. Short Title and Commencement

These Regulations are called the Radio Frequency Spectrum Licence Fee Amendment Regulations, 2014 and will come into force upon publication in the Government Gazette.