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## GENERAL NOTICE

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### NOTICE 574 OF 2013



#### INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA GENERAL NOTICE

#### NOTICE OF INTENTION TO IMPLEMENT A COST TO COMMUNICATE PROGRAMME.

The Independent Communications Authority of South Africa (The Authority) hereby gives notice of its intention to implement a Cost to Communicate Programme. This programme has the overall goal of:

- Achievement of fair and reasonable prices for products and services offered by licensees.

Enquires can be directed to:

Christian Mhlanga-Project Leader

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Approved:

A handwritten signature in black ink, appearing to be 'S. Mncube', written over a horizontal line.

Dr. Stephen Mncube

Chairperson

Date: 31/05/2013

**1. PREAMBLE**

- 1.1. Section 4(3) (h) of the ICASA ACT 13 of 2000 "(ICASA Act)" states that the Authority may "conduct research on all matters affecting the broadcasting, postal and communications sectors in order to exercise its powers and perform its duties".
- 1.2. The Authority may, in terms of Section 4B of the ICASA Act no 13 of 2000 ( the Act); conduct an inquiry into any matter with regard to *inter alia*:
  - 1.2.1. The achievement of the objectives of the ICASA Act or underlying statutes;
  - 1.2.2. Regulations and guidelines made in terms of the Act or underlying statutes, and;
  - 1.2.3. The exercise and performance of its powers, functions and duties in terms of the Act or underlying statutes.
- 1.3. All written representations submitted to the Authority pursuant to this notice will be made available for inspection by interested persons at the Authority's library and copies of such representations will be obtainable on payment of the prescribed fee.
- 1.4. At the request of any person who submits written representations pursuant to this notice, the Authority will determine whether such representations or any portion thereof is confidential in terms of section 4D of the ICASA Act.
- 1.5. If the request for confidentiality is refused, the licensee making the request will be allowed to withdraw such representations or portion thereof.
- 1.6. Persons interested in participating in subsequent public hearings must indicate such interest in their written submission.
- 1.7. Public hearings, where relevant, will be convened as per the attached timelines per project.

**2. BACKGROUND TO INTRODUCTION OF THE COST TO COMMUNICATE IN SOUTH AFRICA**

- 2.1. The Authority has, since 2006, been focussing on reducing the high cost to communicate in South Africa. This resulted in initiatives such as the Call Termination Glide path, local loop unbundling and the enquiry into Wholesale Transmission Services, among others.
- 2.2. In addition, some stakeholders in the South African electronic communications industry and consumers at large have raised concerns in different *fora* regarding the high cost to communicate in South Africa.
- 2.3. Various benchmark studies support the concerns.

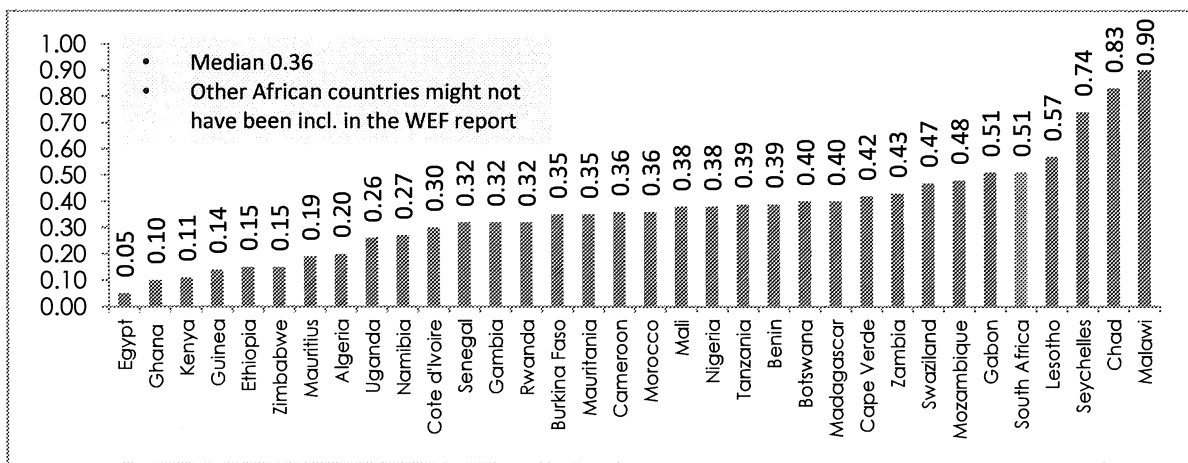
2.4. The World Economic Forum recently issued its Global IT report for 2013 which illustrates South Africa’s low ranking in terms of mobile tariff charges relative to other countries around the world.

**Mobile Cellular Tariffs (PPP\$)<sup>1</sup>**

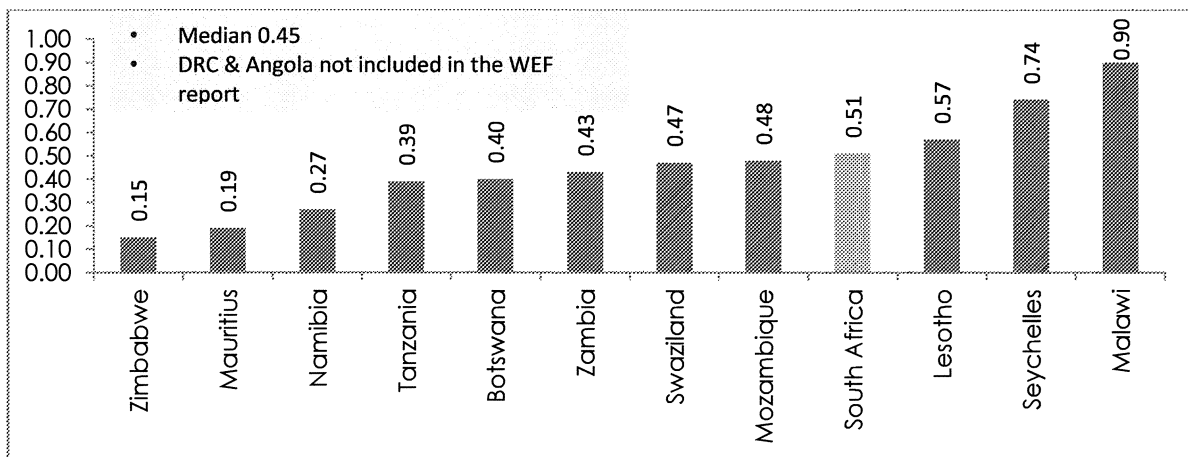
**Highlights:**

- SA ranked 117<sup>th</sup> out of 140 countries on a global scale
- SA ranked 28<sup>th</sup> out of 32 African countries
- SA ranked 9<sup>th</sup> out of 12 SADC countries

**Table 1: African Country Comparison**



**Table 2: SADC Comparison**



<sup>1</sup> World Economic Forum Global IT Report - 2013

- 2.4.1. The above is reinforced by a report prepared by Research ICT Africa which illustrated that South Africa has a high cost to communicate when benchmarked against peer countries.<sup>2</sup>

**Figure 1:** Snapshot of a benchmark study on the Cost to Communicate - October 2010<sup>3</sup>

**RESEARCH ICT AFRICA POLICY BRIEF NO. 1**

## Africa Prepaid Mobile Price Index 2012: South Africa

*Among 46 African countries studied, South Africa ranks poorly for prepaid mobile telephony affordability. Ranked 32nd out of 46 African states, South Africa is now far behind countries where the regulator, unlike in South Africa, has enabled competition by enforcing cost-based mobile termination rates. The resulting competition has in many cases driven down prices for consumers. Not long ago, South Africa and Namibia shared the same mobile termination rates and had similar end-user prices. Today, Namibia enjoys amongst the cheapest mobile prepaid prices in Africa, as a result of the slashing of its termination rates to close-to-cost, which pressured the incumbents into real pricing.*

**RIA Policy Brief No 1**

**March 2012**

- 2.4.2. Table 3 below is an extract from a study conducted by Strategy Analytics (UK) and Pygma Consulting. It illustrates the fact that South Africa's cost to communicate is relatively high compared to peer countries.

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<sup>2</sup> RIA Policy Brief No 1 – March 2012

<sup>3</sup> "Analysing the cost of mobile communications" by Strategy Analytics (UK) and Pygma Consulting (South Africa)- October 2012

**Table 3: Purchasing Power Parity (PPP) rates used in study (SA ranked midway in the study sample)**

Country	Currency	Exchange rate into US \$	Exchange rate into ZAR	PPP rate into ZAR
South Africa	ZAR	0.12760	1.0000	1.0000
Colombia	COP	0.00058	0.0045	0.0059
Mexico	MXN	0.07573	0.5935	0.5521
Peru	PEN	0.38430	3.0118	4.0588
Venezuela	VEF	0.23320	1.8276	2.0158
Algeria	DZD	0.01353	0.1060	0.1290
Egypt	EGP	0.16630	1.3033	2.8323
Morocco	MAD	0.11870	0.9303	1.0292
Saudi Arabia	SAR	0.26670	2.0901	1.9780
Poland	PLN	0.31050	2.4334	2.5268
Turkey	TRY	0.56680	4.4420	4.1971

### 3. THE AUTHORITY'S STATEMENT OF INTENT

- 3.1. The Authority has a mandate to regulate in various areas of public interest. One of the Authority's key areas of engagement is the high cost to communicate in South Africa. As a result, the Authority has embarked on an initiative called the "Cost to Communicate Programme."
- 3.2. The programme seeks to achieve the following goals:
- 3.2.1. Stimulate public debate around the cost to communicate in South Africa
- 3.2.2. Establish regulatory needs to address the cost to communicate in South Africa.
- 3.2.3. Stimulate enhanced competition in the telecommunications sector which should result in:
- 3.2.3.1. Increased consumer choice
- 3.2.3.2. Enhanced ability to switch suppliers
- 3.2.3.3. Increased transparency in product pricing offers (which currently are regarded as being generally opaque)
- 3.2.3.4. Fair and reasonable wholesale and retail prices

### 4. OUTLINE OF THE COST TO COMMUNICATE PROGRAMME

- 4.1. The Cost to Communicate programme currently consists of five projects that are expected to run until June 2015.

4.2. The Cost to Communicate programme is structured as follows.

**Fig 2: Components of the Cost to Communicate Programme**



## 5. SYNOPSIS OF PROJECTS UNDER REVIEW

### 5.1. BROADBAND VALUE CHAIN ANALYSIS

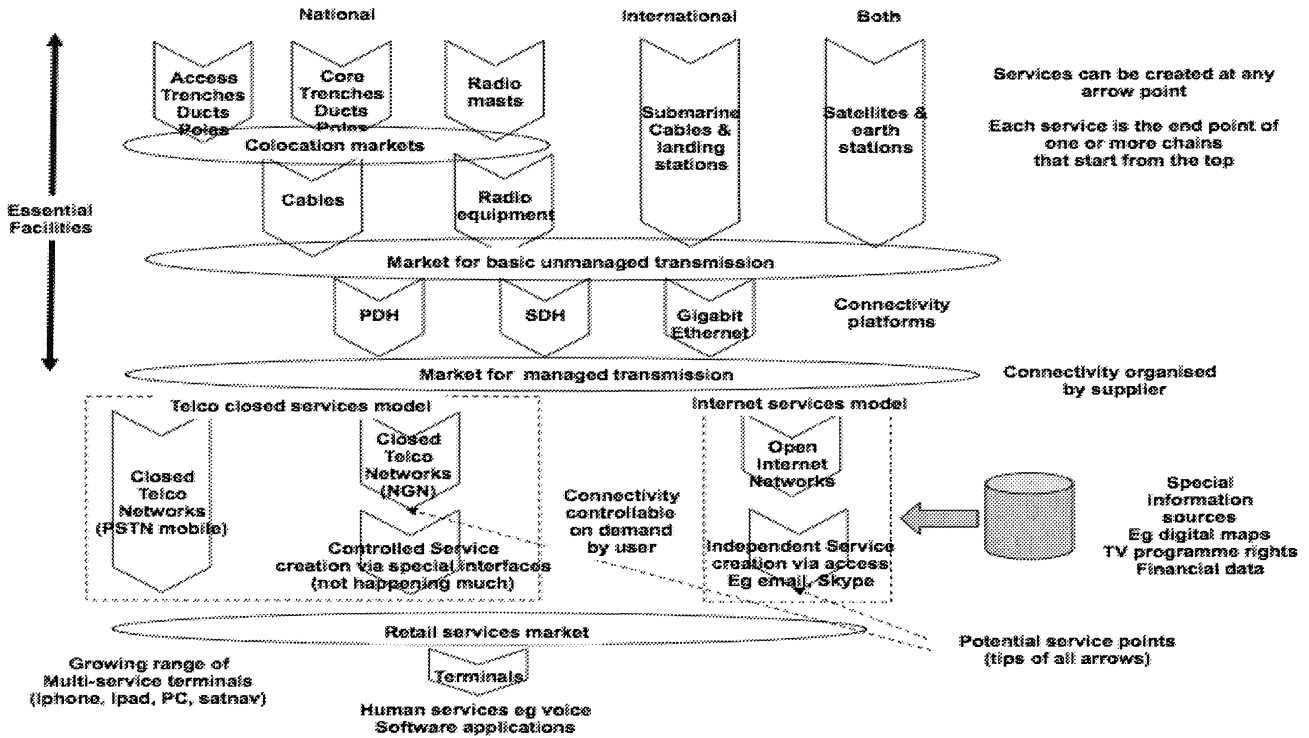
This is a formal Notice of Intention to carry out a value chain analysis of the electronic communications networks in South Africa.

#### 5.1.1. Background:

5.1.1.1. The Authority intends to conduct an electronic communications network and services value chain analysis of the South African telecommunications industry. The value chain framework which will guide this study is illustrated in Figure 4 below. The diagram shows a simplified value chain with each arrowhead representing a potential essential facility or potential service.

**Figure: 4 Possible services along the Value Chain Framework**

5.1.1.2. These services are based on the definitions of facilities as per the ECA



5.1.1.3. The value chain analysis aims to consider all possible facilities and services within the electronic communications network and services in the telecommunications industry. All potential facilities and wholesale services will be considered, since a market failure may prevent a service from being offered and require a remedy.

5.1.1.4. The main focus of the study will be to define the broadband value chain, identify where, along the value chain, there is ineffective competition, and if ineffective competition exists, determine potential remedies to address this ineffective competition.

**5.1.2. TIMEFRAMES**

5.1.2.1. The total duration of this enquiry process is expected to be 9 months with the expected timeframe being as follows:

Project Timelines	Implementation Period
Request For Information	14 June 2013 - 15 July 2013
Release Discussion Document public comment	19 August 2013
Public Hearings	5 September 2013
Publish Findings Document	1 November 2013
Release Draft Regulations for public comment	10 December 2013
Publish Final Regulations	14 April 2014

## 6. CALL TERMINATION MARKET REVIEW OF REGULATIONS

This is a formal Notice of the review of the Call Termination Regulations of October 2010.

### 6.1.1. Background

- 6.1.1.1. Voice call termination is the service that one network offers another to carry voice traffic to its end-users. It is the charge for this service that has been the subject of concern where it has been viewed as a constraint to effective competition as well as a driver of high retail prices of telecommunications in South Africa.
- 6.1.1.2. The debate around call termination fees started in 2007, with the Authority releasing a discussion document and subsequently a findings document on the definition of the market for call termination services.
- 6.1.1.3. The Authority subsequently carried out a Section 67 market review which resulted in the Call Termination Regulations of October 2010.<sup>4</sup>

### 6.1.2. THE AUTHORITY'S APPROACH TO THE REVIEW

- 6.1.2.1. In carrying out the review, the Authority will limit its scope to Section 67 (8) of the ECA.
- 6.1.2.2. The review will not consider revisions of either the market definitions or SMP determinations as these will not have changed.

<sup>4</sup> Government Gazette 33698 of 29 October 2010



**6.1.2.3. TIMEFRAMES**

6.1.2.3.1. The timelines for completion of the review of call termination regulations is as tabulated below:

PROJECT TIMELINES	IMPLEMENTATION PERIOD
Request for Information	10 June 2013
One-on-One engagement with Licensees	From 1 to 12 July 2013
Receipt of written responses from licensees	26 July 2013
Publication of discussion document	9 August 2013
Public Hearings	2-3 September 2013
Publication of final call termination regulations	25 October 2013

## **7 LOCAL LOOP UNBUNDLING**

### **7.2.1 What is the “Local Loop”?**

7.2.1.1 The Local Loop is the “piece of string” that connects the home/building to the local exchange of the fixed line network. This typically includes a number of network components, including the distribution panel, the street distribution cabinet up to the main distribution frame in a local exchange building and the copper twisted pairs connecting these.

### **7.2.2 The Authority’s Position on the Local Loop**

7.2.2.1 The Authority is currently awaiting the conclusion of the review of the CCC ruling of 24 August 2012.

7.2.2.2 In the interim, the Authority will publish draft regulations governing the manner in which copper local loops shall be unbundled in South Africa and these draft regulations are designed to obtain an industry view. However, the regulations shall not take effect until after the completion of the CCC ruling review process.

7.2.2.3 Further, the regulations will require licensees to provide information to the Authority in order to establish the efficacy of bitstream and shared/full loop unbundling over time.

## **7.3 ICT INDICATORS**

### **7.3.1 Background**

- 7.3.1.1 One of the Authority's mandates is the monitoring and evaluation of the state of ICT in South Africa. This enables effective planning for policy and regulation-making purposes as well as benchmarking South Africa against peer countries.
- 7.3.1.2 To achieve this, the Authority requires licensees to submit indicator data in a specified format at specific periods during the year.
- 7.3.1.3 The collection and collation of data is also done in fulfilment of ICASA's regulatory obligations as a member of the International Telecommunication Union (ITU).
- 7.3.1.4 The ITU collects data for indicators from member countries through the country's telecommunication regulatory authority or relevant Government Ministry, by means of questionnaires sent bi-annually. These questionnaires are in a form of a short and a long questionnaire and are sent in March and June, respectively.
- 7.3.1.5 The data collected is used to update the World Telecommunication/ICT Indicators database, which is the basis of the ITU's statistical publications, including the Yearbook of Statistics and the World Telecommunication/ICT Development Report. The data is also used by the UN System, the World Bank and other international and regional organisations.
- 7.3.1.6 The Authority will also request any other information relevant to identified initiatives. The Authority will clearly communicate the information required and the purpose of such information as and when required.

### **7.3.2 Legal Provisions for data requests**

- 7.3.2.1 The Authority has the legal right to request information, as per the provisions of Section 4 (2) (g) of the ICASA Act No. 13 of 2000. These provisions should be read with the regulations regarding standard terms and conditions for individual licenses under Chapter 3 of the Electronic Communications Act no. 36 of 2005 as prescribed by the Authority in terms of Section 8, read with Section 4 of the ECA and 17E(2) of the ICASA Act, 13 of 2000.

### **7.3.3 Confidentiality**

- 7.3.3.1 The information gathered which is sensitive will be kept confidential should an operator specify that such information is confidential as provided for in the confidentiality clause provided for in Section 4D of the ICASA Act No. 13 of 2000.

#### **7.3.4 How Information is collected**

7.3.4.1 The Authority will collect information using an online questionnaire that can be downloaded or filled in *in situ*.

7.3.4.2 The Authority may also conduct information gap-filling interviews with licensees on a one-to-one basis.

7.3.4.3 The questionnaire will, at a minimum, cover:

- Subscriber information
- Tariff information
- Traffic information
- Employment information
- Revenue, expenses and investment
- Faults, billing and complaints
- Infrastructure

7.3.4.4 The questionnaire may take either of two formats

7.3.4.4.1 Standard ITU questionnaire which will be disseminated to licensees without amendment and whose responses will be forwarded to the ITU.

7.3.4.4.2 An ICASA-generated questionnaire based on specific requirements at any particular period.

7.3.4.5 Licensees will be advised of the manner in which the collected information is to be used at the time the information request is published.

#### **7.3.5 How data will be used by the Authority**

7.3.5.1 The Authority has developed an online ICT Indicators portal which is designed to be the official ICT information landing page for anyone requiring information on the ICT sector in South Africa.

7.3.5.2 This portal will rely on information submitted by licensees and accredited research bodies as well as affiliated government bodies.

7.3.5.3 The Authority will release certain components of the portal for public consumption, generally as consolidated figures.

7.3.5.4 Such data will be accessible via the ICASA website. ([www.icasa.org.za](http://www.icasa.org.za))

#### **7.3.6 Current Project Status**

7.3.6.1 The Authority launched the online ICT portal in March 2013.

7.3.6.2 Licensees submitted initial data based on a questionnaire and the portal has been populated.

7.3.6.3 Information gaps still exist where incomplete data was submitted by licensees or data was not submitted at all.

### **7.3.7 Timelines**

7.3.7.1 This is an on-going project and licensees should expect periodic information requests linked to this component of the Cost to Communicate Programme

## **8 Digital Terrestrial Television (DTT) Rate Card – Broadcasting Wholesale Transmission Services**

### **8.2.1 Background to the Wholesale Transmission Services Project**

8.2.1.1 The Authority initiated an inquiry into the provision of wholesale broadcasting transmission services under Section 4B of the Independent Communications of South Africa Act (the “ICASA” Act, no 13 of 2000) in response to complaints by a free-to-air television broadcaster and a number of community radio broadcasters regarding alleged excessive pricing and low quality of service standards by Sentech Limited (“Sentech”).

### **8.2.2 Current Project Status**

8.2.2.1 The Authority has concluded the market inquiry into the Wholesale Transmission Services and thus notifies all stakeholders that it intends initiating a regulation-making process under Section 67(4) of the ECA to ensure that pro-competitive conditions are imposed upon licensees having SMP.

## **9 CONCLUSION**

9.2.1 Licensees are to expect a significant number of requests for information from the Authority in the coming months. This is necessary to overcome the information asymmetry that exists between the Authority and stakeholders. These information requests will consist of both quantitative and qualitative questions.

9.2.2 The Authority will keep all stakeholders up to date as and when identified milestones are achieved.

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