ICT Weekly Upda

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Legal, regulatory and policy developments in the ICT industry
Prepared by Lisa Thornton Inc for clients and colleagues

NEW FINDINGS, JUDGMENTS AND ANNOUNCEMENTS

President
• The President has assented to the Broadcasting Amendment Act, 2009 regarding the removal of SABC board members.

ICASA
• Icasa will conduct a workshop on End User and Subscriber Service Charter regulations on **25 March 2009**.

Competition Tribunal
• The Tribunal approved the merger between Vodafone Group and Vodacom Group.

Minister of Science and Technology
• The Minster will hold hearings on draft regulations in terms of the Astronomy Advantage Areas Act on **16-19 March 2009**.

Dept of Environmental Affairs and Tourism
• Corrections to the draft environmental impact assessment regulations have been published and the due date for comments extended to **14 April 2009**.

LTI
• Lisa Thornton will present a paper at the Broadband Summit on 25 March 2009, discussing an ideal regulatory framework.

• Lisa Thornton will present a paper at the SACCI seminar on "The Changing ICT Regulatory Landscape" on 26 March 2009.

NEW PROCEEDINGS

ICASA
• Icasa published draft spectrum licence fee regulations for comment, due **30 April 2009**.
• ICASA issued an ITA to InfraCo for iECNS and iECS licences. The application is due **20 April 2009** and if necessary, a hearing will be held **20 May 2009**.

PENDING PROCEEDINGS - REPRESENTATIONS DUE

Icasa
• Service licence fee regulations. Comment is due **20 March 2009**.
• Regulations setting out minimum standards for end-user and subscriber service charters. Comment is due **20 March 2009**.
• Broadcasting advertising regulations and a supplementary code of practice. Comment is due **27 March 2009**.
• Licence conversions. Service licences converted but not yet issued must submit licensee information to Icasa by **26 May 2009**.

Dept of Environmental Affairs and Tourism
• Environmental impact assessment regulations. Comment is due **14 April 2009**.

PENDING PROCEEDINGS - OUTCOME AWAITED

Parliament

* Films and Publications Amendment Bill

Minister of Communications

* Study on the trends of digital local content and uptake rates
* International peer benchmarking study on the costs to communicate
* Guidelines for the rapid deployment of electronic communications facilities (re undersea cables)
* ICT Charter regarding BEE

Department of Communications / Icasa

* Under-serviced area licences (second and third rounds)
* GMPCS licences

ICASA

[*Pending decisions about individual licenses and complaints have not been included in this list*]

- Code of conduct for broadcasters.
- Carrier pre-selection regulations
- Terrestrial broadcasting frequency band plan relating to digital migration
* Regulations relating to the commissioning of independently produce South African programming.
* Digital broadcasting migration regulations
* Radio frequency band plan
* Must carry obligations
* Schedule for periodic review of relevant markets
* Regulations for monitoring and investigating anti-competitive behavior
* Significant market power determinations
* Pro-competitive licence terms and conditions
* Methodology to determine effectiveness of competition
* Methodology to define and identify relevant markets
* Technical standards for power line communications
* Technical standards for electronic communications equipment
* Interconnection Regulations
* Facilities Leasing Regulations
* Essential Facilities Regulations
* Regulations with regard to functional specification for geographic number portability
* Findings in section 27 enquiry into a satellite licensing framework
* Findings in respect of the Discussion Paper on the Review of Community Sound Broadcasting Policy
* Radio regulations regarding new standards for telecommunications equipment
* Regulations with regard to telecommunications equipment approval
* Regulations in respect of standards for analogue terminal equipment
* Regulations regarding amateur radio
* Regulations regarding local television

USAASA

* Recommendations on definitions of universal service, universal access, under serviced areas, and needy persons.

South African Law Reform Commission

* Report on Privacy and Data Protection Bill

Minister of Science and Technology

- Regulations in terms of the Astronomy Advantage Areas Act.

Minister of Justice and Constitutional Development

* Ratification of Council of Europe's Convention on Cyber crime (dealing with computer-related fraud and forgery and infringement of copyright). An additional protocol regarding racist and xenophobic acts committed through computer systems has yet to be signed by South Africa.

.za Domain Name Authority

* Memorandum and Articles of Association
* .za Domain Policy and Procedure
* Deletion of certain dormant or unsustainable domains.

Website Use Policy

This policy, developed in line with South African law, is for sale. If you would like to purchase it, please send a request to info@thornton.co.za.

Communications Systems Use Policy

This policy for employee and consultants' use of employers' communications systems, has been developed in line with South African law. If you would like to purchase the policy, please email a request to info@thornton.co.za.

Q&A

Numbering Regulation

How are numbers and network identifying codes allocated and by whom?

ICASA must prescribe a numbering plan for the efficient use and allocation of numbers, to accommodate the various protocols used and services provided, and to transform the numbering plan to a non-geographic numbering system utilising electronic numbering allowing the interoperation between telephone numbers and the Internet domain name system.

ICASA has not prescribed numbering plan regulations in terms of the EC Act; however, there are numbering plan regulations that ICASA made in terms of the Telecommunications Act, which are still in force. In terms of those regulations, the use of numbers must be authorised by ICASA upon application submitted in terms of the regulations.

The Electronic Communications and Transactions Act established the .za Domain Name Authority to assume responsibility for the .za domain name space.

Are there any special rules which govern the use of numbers?

The specific rules that govern the use of numbers are located in the numbering plan regulations and in numbering allocations made by ICASA.

How are numbers made available for use by customers?

There are rules in the numbering plan regulations regarding the issuance of numbers to customers, including, inter alia, that the allocation must be controlled by the original applicant even though sub-allocations are allowed; the number must be used for the purpose stated in the original application and in accordance with any conditions imposed by ICASA; and licensees must configure their networks to ensure that the numbering plan allocations are complied with.

What are the rules applicable to number portability?

ICASA is required by the EC Act to prescribe regulations to ensure that number portability was introduced in 2005. To date, however, ICASA has not prescribed number portability regulations in terms of the EC Act. However, there are number portability regulations that ICASA made in terms of the Telecommunications Act, dealing with number portability between PSTS licensees on the one hand and MCTS licensees on the other.

The implementation of number portability is dependent on ordering system specifications to be negotiated between operators and published by ICASA for public comment. This process has not been completed in respect of geographic number portability. Mobile number portability, on the other hand, is currently being implemented. Portability between geographic services on the one hand and mobile services on the other, have not been required as yet.

LISA THORNTON INC PUBLICATIONS

International Comparative Legal Guide (IPLG)

The Global Legal Group has published the International Comparative Legal Guide to Telecommunications Law and Regulations 2009 (2nd edition). You may access the South African chapter at www.iclg.co.uk/index.php?area=4&country_results=1&kh_publications_id=86&chapters_id=2297.

Telecommunications Law in South Africa

If you would like to purchase Telecommunications Law in South Africa, edited by L Thornton, et al, please contact STE publishers at angela@ste.co.za. It is available online at www.idrc.ca/en/ev-87910-201-1-DO_TOPIC.html, and link.wits.ac.za/papers/tele-download.

Email Compliance

If you would like a copy of A Guide to Achieving Email Compliance - a South African perspective, please contact info@thornton.co.za.

Protecting Minors from Harmful Content via Mobile Phones

This report is available online at lhr.org.za/news/2007/protecting-minors-harmful-content-mobile-phones.

The State of Competition in the Telecommunications Sector in South Africa

This report is available online at internationalcompetitionnetwork.org/media/library/conference_5th_capetown_2006/AppendixIII.pdf.

World Communications Regulation Report

BNA International has published a series of articles by Lisa Thornton Inc on South African ICT issues
- Numbering Plans and Number Portability, March 2009.
- Court Rulings, Licence Conversion, and the Future of Electronic Communications in South Africa, Dec 2008
- Radio Frequency Spectrum, October 2008
- High Court Ruling Paves the Way for Competition, Sept 2008
- Recent Legal Challenges, May 2008
- Update on the Licence Conversion Process, April 2008
- A New Broadband Infrastructure Company, Feb 2008.
- Regulation of Submarine Communications Networks, November 2007.
- Interception of Electronic Communications, October 2007.
- The Minister's Policy and Policy Directions, September 2007.
- How the Communications Regulator exercises its Powers and Functions, July 2007.
- The Making of subordinate Legislation, May 2007.
- Rights of Way, April 2007.
- Competition Matters, March 2007.
- Universal Service, Feb 2007.
- The Regulation of Broadcasting Services, Dec 2006.
- Interconnection and Facilities Leasing , November 2006.
- The Powers of the Minister and of the Independent Regulator, October 2006.
- The Electronic Communications Act, Sept 2006.

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