

ENSafrica TMT ENSight

Welcome to the fifth issue of **ENSafrica's TMT ENSight**, focusing on topics, news and analysis of novel and interesting developments in the technology, media and telecommunications space. In this edition:

- Our **featured article** looks at the benefits and pitfalls of blockchain.
- **Back to basics**, on the importance of termination provisions in master agreements.
- **Telecommunications**, a roundup of recent developments in the telecoms sector.
- **In the news**, a curation of topical events in the technology and telecommunications industry.

featured article

- **Block by block: the ups and downs of blockchain**
 - Rakhee Dullabh and Priyanka Naidoo consider both the benefits and challenges of blockchain.
 - Read the article [here](#).

back to basics

- **Clear termination provisions are a must for master agreements**
 - Kayla Ferreira explains the importance of having clear termination provisions in contracts to avoid unnecessary disputes later on.
 - Read the article [here](#).

telecommunications

- **GG G46031: Proposed Amendment of Policy on High Demand Spectrum and Policy Direction on the Licensing of a Wireless Open Access Network**
 - On 11 March 2022, the Department of Communications and Digital Technologies announced that the minister intends to amend the Policy on High Demand Spectrum and Policy Direction on the Licensing of a Wireless Open Access Network ("**WOAN**") (GG42597 on 26 July 2019).
 - The minister noted that the available spectrum for licensing on the WOAN does not meet the viability threshold as determined in the study conducted by the Council for Scientific and Industrial Research on behalf of the Department of Communications and Digital Technologies.

- The minister stated that the policy objectives that were intended to be achieved by licensing the WOAN, will only be fully realised using the Next Generations Radio Frequency Spectrum policy that is currently being finalised for public consultations.
- The proposed amendments to the policy aim to clarify that the policy objectives also include promoting competition within the ICT sector.
- The minister recognises that there are over 400 players that hold electronic communications network service licences but cannot access spectrum due to its scarcity, and this has had an adverse effect on competition within the sector.
- The amendments will also open up high demand spectrum in the 700 MHz, 800 MHz and the 2600 MHz bands for assignment to electronic communications network service licensees.
- Written comments and representations on the proposed amendments of the Policy on High Demand Spectrum and Policy Direction on the Licensing of a WOAN, must be submitted to ICASA by **26 April 2022**. Representations must be addressed to the Director-General, Department of Communications and Digital Technologies. For the attention of Mr. T Ngobeni, Deputy Director-General: ICT Infrastructure Support, at mrathokolo@dtps.gov.za.
- **GG46050: Draft Regulations Regarding Standard terms and conditions for Individual Licences under Chapter 3 of the Act**
 - On 16 March 2022, the Independent Communications Authority of South Africa ("ICASA") published its Draft Regulations Regarding Standard terms and conditions for individual Licences ("**Draft Regulations**") under Chapter 3 of the Electronic Communications Act, 2005 ("ECA").
 - If implemented, the Draft Regulations will require licensees to seek prior approval from ICASA before any changes to the shareholding of an entity are made.
 - The process will be guided and subject to provisions in the Process and Procedure Regulations for Individual Licences. ICASA has published a draft amendment of the Process and Procedure Regulations.
 - The Draft Regulations will also extend the time period for notification of change in licensee details and information from seven to 14 days.
 - The failure to submit written notice within this period will result in the licensee having to pay a fee/fine. ICASA will determine and publish the fee in due course.
 - The Draft Regulations propose a limitation on any changes to the name and/or trading name of the Licensee. A name change will not be effected, it may conflict or be confused with the name and/or trading name of another licensee.
 - A licensee will be required to notify ICASA about the inability to provide services due to circumstances beyond the control of the licensee from 12 hours to six hours. Moreover, the licensee will be expected to request an exemption to comply with the licence terms and conditions and applicable regulations from ICASA within two days, where a licensee will not be able to provide services for seven days.
 - Regulation 9(5) provides more clarity regarding the failure to provide ICASA with requested information. The previous wording of "reasonable attempt" has been changed to "after 3 (three) attempts".

- Licensees will be required to commence operation of the licensed service within 24 months from the effective date and the failure to commence operations within the specified periods will constitute non-compliance. The failure to comply will be referred to the Complaints and Compliance Committee, which will make a recommendation to ICASA regarding the cancellation of the licence.
- Licensees will also be expected to provide end-users and ICASA the charge, fee or other compensation unless as well as the terms and conditions for the services, prior to effecting the pricing.
- Licensees will also have to notify ICASA five days prior to the provision of services (and, seemingly, prior to the amendment or termination of services) of:
 - the name of the new product/service, amendment, or termination being notified to ICASA;
 - the objective and reason(s) of launching a new product/service, amendment or termination of a product/service;
 - the effective date of the new product/service, amendment or termination of a product/service; and
 - the price(s), and all other fees applicable to the product/service.
- Written comments and representations on the Draft Regulations Regarding Standard Terms and Conditions for Individual Licences must be submitted to ICASA by no later than 16h00 on **5 May 2022** by post, hand delivery or electronically at Independent Communications Authority of South Africa, 350 Witch-Hazel Avenue, Eco Point Office Park, Eco Park, Centurion, Gauteng, 0169. Marked for the attention of Mr. Pascal Adams, whose email address is padams@icasa.org.za.
- **GG46084: Draft Amendment Regulations on the Processes and Procedures in respect of Applications, Amendments, Renewals, Surrender and Transfer of Individual Licences and applications for Special Temporary Authorisations in terms of the Electronic Communications Act, 2005**
 - On 24 March 2022, ICASA published the Draft Amendment Regulations on the Processes and Procedures in respect of Applications, Amendments, Renewals, Surrender and Transfer of Individual Licences and applications for Special Temporary Authorisations ("**Draft Amendment Regulations**") in terms of the ECA.
 - Some of the amendments include:
 - The Draft Amendment Regulations propose an amendment to the definition of "Historically Disadvantaged Persons" which shall mean "women, persons with disabilities and youth, who before the Constitution of the Republic of South Africa, 1996 came into operation, were disadvantaged by unfair discrimination on the basis of race, gender, disability, sexual orientation or religion". We note that ICASA omitted "Black People", as contained in previous definitions, from the new definition.
 - A licensee must submit to ICASA, prior to implementing any shareholder changes, a letter detailing the current shareholding and the proposed changes in shareholding as well as the past shareholding changes since the issuance of the licence.

- If ICASA determines that the submitted changes amount to changes in ownership/transfer of control, the licensee will be instructed to submit an application related to the ownership/transfer of control. The Draft Amendment Regulations do not stipulate any time period within which ICASA has to make its determinations.
 - The proposed amendments relating to shareholder changes will not only have a massive impact on merger and acquisition transactions in the industry, but also restructuring and funding transactions and even employee schemes.
 - Interested persons are invited to make written representations with regard to the Draft Amendment Regulations. The representations must be submitted to ICASA by no later than 16h00 on **15 May 2022** by post, hand delivery or electronically and marked for the attention of Mr Peter Mailula. Delivery address: Block B, 350 Witch-Hazel Avenue, Eco Point Office Park Eco Park, Centurion. Email: PMailula@icasa.org.za.
- **GG46080: Draft Amendment Numbering Plan Regulation, 2016**
 - On 23 March 2022, ICASA published the Draft Amendment Numbering Plan Regulation, 2016, ("**Draft Regulations**") in accordance with Chapter 11 of the ECA.
 - The Draft Regulations will apply to licensees that have been issued an Individual Electronic Communications Service licence (I-ECS) and/or an Individual Electronic Communications Network Service licence (I-ECNS) and/or a Ship Station Licence holder.
 - Regulation 4, relating to the harmonised and mandated numbers and regulation 14 which deals with international and national numbers, will be substituted in their entirety.
 - An application for mobile numbers must include:
 - a copy of the radio frequency spectrum licence issued in line with chapter 5 of the Act and of which the licence condition permits the rollout of mobile service; or
 - national mobile roaming agreement with a Licensee that has been issued a spectrum licence in line with chapter 5 of the Act and of which the licence condition permits the rollout of mobile service.
 - The Draft Regulation proposes an insertion of regulation 6A which will regulate the activation, deactivation, and re-assignment/recycling of numbers.
 - Churned numbers will need to be quarantined period of 90 days of withdrawing numbers from assigned subscribers, and the licensee must notify the subscriber of the intended withdrawal.
 - The subscriber will be given a grace period of 31 days to object to the withdrawal notice.
 - On activation of a mobile number on its network, a licensee must ensure that it collects and link the biometric data of the subscriber to the number, which will be used to authenticate the user assigned to the number.
 - The licensee will be obligated to ensure that at all times it has the current biometric data of an assigned mobile number.
 - Where the biometric data does not correspond with the biometric data associated with the mobile number, the SIM swap will be declined.

- The Draft Obligations require licensees to provide a facility that enables subscribers to opt to bar calls from specified numbers on their respective devices.
- Interested parties may make written representations on the Draft Regulations ICASA. The representations must be submitted by no later than **11 May 2022**.
- The representations can be submitted via e-mail to: ELetlape@icasa.org.za and TKhomo@icasa.org.za.
- **GG46088: Notice Regarding the National Radio Frequency Plan 2021**
 - On 25 March 2022, ICASA published the National Radio Frequency Plan 2021 ("NRFP-21").
 - The purpose of the NRFP-21 is to update the National Radio Frequency Plan when necessary, in order to keep the plan current with due regard given to the current and future usage of the radio frequency spectrum.
 - ICASA recognises that the pattern of radio use in South Africa is not static as it is continuously evolving to reflect the changes that are taking place in the radio environment.
 - As such, spectrum allocations must reflect these changes and the position set out in this plan is therefore subject to regular reviews.
 - The following updates and amendments have been implemented in NRFP-21:
 - national footnotes have been revised;
 - the resolutions and decisions taken by the WRC-19, as ratified by South Africa, have been reflected; and
 - references to the SADC Frequency Allocation Plan and SADC Harmonised Guidelines have been incorporated.
 - Further information on the South African Table of Frequency Allocations and its interpretation can be obtained by contacting: Independent Communications Authority of South Africa, 350 Witch-Hazel Ave, Eco-Park Estate Centurion, 0144. Phone: +27 12 568 3000 E-mail: info@icasa.org.za
- **GG4091: Amendment Regulations Governing Aspects of the Procedures of the CCC of ICASA and Reasons Document, 2022**
 - On 25 March 2022, ICASA published the amendments to the Regulations Governing Aspects of the Procedures of the Complaints Compliance Committee ("CCC") of ICASA ("**CCC Amendments Regulations**") and Reasons Document, 2022.
 - The CCC Amendment Regulations supplement the Regulations Governing Aspects of the Procedures of the Complaints and Compliance Committee of the Independent Communications Authority of South Africa, 2010 in accordance with the provisions of section 4 of the ECA read with section 4(3)(j) and 17C(5) of the Independent Communications Authority of South Africa Act, 2000 ("**ICASA Act**").
 - The following stakeholders made written submissions in relation to the Draft Regulations published on 26 November 2021:
 - 📁👤 Complaints and Compliance Committee (CCC);
 - 📄👤 ICASA Consumer Advisory Panel (CAP);
 - 📄👤 Internet Service Providers' Association;
 - 📄👤 MTN (Pty) Ltd;
 - 📄👤 Primedia (Pty) Ltd;
 - 🕒👤 South African Communications Forum; and



Vodacom (Pty) Ltd.

- The CCC Amendment Regulations aim to prescribe clear procedures that are current and practical in their application. The objective is that the new guidelines will facilitate and aid the CCC in executing its legislative mandate as a creature of statute.
- The CCC is an administrative tribunal that is empowered to investigate and hear, if appropriate, and make a finding on all matters referred to it by ICASA, complaints received by it and allegations of non-compliance with the ICASA Act or the underlying statutes received by it.
- The CCC Amendment Regulations provide the parties with 20 days' notice of the hearing, which ICASA believes is ample time for the parties and their legal representatives to determine their attendance at the hearing.
- Regulation 2 of the CCC Amendment Regulations, which deals with the filing of a complaint/referral of a dispute with the CCC, and regulation 4, which refers to the documents required in a complaint or dispute, have been substituted in their entirety.
- The CCC Amendment Regulations have introduced a new regulation 4A which records the process for the closing of pleadings, withdrawals, settlements and postponements.
- In terms of the CCC Amendment Regulations, the seat of the CCC is in Pretoria, Gauteng. However, if a party wishes for the hearing or pre-hearing to be held via teleconference or virtual hearing, such party must make an application with justifiable reasons with the co-ordinator, within five days upon receipt of the co-ordinator's notice in terms of regulation 5(1), for approval by the Chairperson of the CCC.
- The CCC Amendment Regulations state that the CCC does not have the jurisdiction to make an order regarding costs and/or delictual claims for damages.
- **GG46092: Sentech SOC Limited Universal Service and Access Licence Obligations ("USAOs")**
 - On 25 March 2022, ICASA published Sentech SOC Limited's Universal Service and Access Licence Obligations in terms of section 10(1)(f) and (g) of the ECA.
 - In terms of the USAOs, Sentech is obligated to implement LAN connections to multiple Community Learning Centres ("CLC") and Community Education Training ("CET") colleges.
 - Where Sentech enters into a Service Level Agreement with an access provider to provide these services, Sentech must file the agreement with ICASA within 60 days after the parties' obligations are published in a notice.
 - Sentech will provide a LAN managed services solution to the CLC and CET as specified under Annexure B per CLC/CET college site for the duration of the support period.
 - Sentech is obligated to resolve any hardware or software maintenance and repair issues with regard to the implemented solution for the duration of the support period.
 - Sentech is liable for all the costs of installing the LAN at each of the CLC/CET college sites, but such costs will exclude the costs of the end-user devices.

- **GG46107: Findings Document on the Review of the 2014 Pro-competitive Remedies imposed on Licensees in terms of the Call Termination Regulations, 2014**
 - On 28 March 2022, ICASA published a notice regarding the conclusion of the review of the pro-competitive conditions imposed on relevant licensees imposed on licensees in terms of the Call Termination Regulations, 2014.
 - ICASA found that neither retail nor wholesale constraints will be effective in preventing a wholesale voice call termination services provider (mobile or fixed) from setting termination rates above competitive levels in the absence of regulatory intervention.
 - ICASA maintains that fixed and mobile services should be separate markets, in order to promote competition.
 - ICASA does not believe that Over The Top voice calls are a sufficiently close substitute for traditional voice calls, based on the definition of product market provided.
 - It is reported that an individual licensee that offers wholesale voice call termination services in South Africa has a 100% share of the market in respect of voice calls terminating on its network and has significant market power.
 - As a result, economies of scale and scope are not relevant in the assessment of the effectiveness of competition for the termination of voice minutes on a network.
 - ICASA may, however, consider the economies of scale when considering appropriate and proportionate pro-competitive remedies.
 - Cost-based pricing (including asymmetry) and reference interconnection offer remedies that are necessary interventions in order to address market failures in the relevant markets.
 - However, indefinite asymmetry will not be in line with international best practices and could disincentivise smaller operators in being efficient.
 - As a result, ICASA has determined that mobile termination rates will move to symmetry within a transitional period of 12 months.
 - Notwithstanding the above, the ICASA maintains that new entrants should be eligible for asymmetry based on cost differences and for a limited transitional period of three years in line with the glide path period.
 - To promote competition, South African licensees must charge reciprocal international termination rates for voice calls originating outside of South Africa.
 - These international termination rates should not be less than the domestic regulated termination rate or higher than the international termination rate offered by an international operator.
- **GG46146: Equipment Authorisation Regulations**
- On 31 March 2022, ICASA published the Equipment Authorisations Regulations, 2022 which will come into effect at a date that is still to be determined by ICASA.
- The Regulations will replace the existing Type Approval and Labelling Regulations.
- All electronic communications equipment, electronic communications facilities and subscriber equipment (collectively "**Equipment**") that is used to provide electronic communications is subject to "Equipment Authorisation" by ICASA. Equipment that is excluded from the Regulations can be found in Appendix A of the Regulations.

- An application for Equipment Authorisation can only be submitted by a supplier that is registered with the Companies and Intellectual Property Commission (CIPC).
- The Regulations introduce new assessment procedures for Equipment Authorisation applications based on the classification of the Equipment:
- Classification 1 (Low Risk Equipment). Equipment that falls under this category does not need Equipment Authorisation, but the equipment must conform to applicable standards that are outlined in regulation 13. The list of equipment that is exempt from Equipment Authorisation is found in Appendix B of the Regulations.
- Classification 2 (Medium Risk Equipment). Equipment in this category must comply with a Statement of Conformity that has been issued by any impartial product certification body as well as comply with the applicable standards prescribed in regulation 13.
 - ♣ Classification 3 (High Risk Equipment). Equipment in this category must undergo a certification process before applying for Equipment Authorisation. The Equipment Authorisation application must include:
 - a technical documentation submission, which must be kept for at least five years, and
 - a submission of a representative sample, or additional supporting documents, if required.
- The applicable technical standards for Equipment referred to in regulation 13 can be found in the official list published by ICASA. Successful applications will result in the issuance of an Equipment Authorisation Certificate.
- Provisional Authorisation permits may be awarded for a period of up to eight months for Equipment that will be used for testing, trial, research and development or demonstration purposes, or Equipment that is not for sale. The term of the Provisional Authorisation permit may be extended, for good reasons, for a period that does not exceed six months.
- An Equipment Authorisation Certificate may be revoked by ICASA, and ICASA will notify the relevant supplier in writing of the revocation of the certificate and the reasons thereof. Equipment that is subject to a revoked certificate must be withdrawn from the market, at the supplier's own cost, within 90 working days from the date of notification by ICASA.
- ICASA will charge Equipment Authorisation Fees, as published from time-to-time in the appropriate notice, which are payable in advance and are non-refundable.
- In consideration of the new regime for Equipment Authorisation being adopted by ICASA, a sufficient transition period will be provided to allow all industries to prepare their operations and plan accordingly.
- ICASA has decided to hold in abeyance the date when the regulations will come into force and will publish a notice to announce the enforcement date.
- Read more [here](#).
- **GG46148: Must Carry Amendment Regulations, 2022**
 - On 31 March 2022, ICASA published the amendments to the Must Carry Amendment Regulations (published in GG31500 on 10 October 2008).
 - The amendment substituted the existing definition of "**Must Carry Channel**", which is now defined as "the television programmes comprising a channel of the PBS Licensee to be added to the SBS Licensee in accordance with Regulation 4".
 - The amendment also substituted the existing definition of "**Non-Must Carry Channels**" which is now defined as the television programmes comprising a

channel of the PBS Licensee which the SBS Licensee voluntarily adds to its subscription broadcasting services in the absence of an obligation imposed by these regulations”;

- Other amendments have been made to regulation 3, which deals with television programmes to be carried; regulation 4 which deals with the obligation to carry television programmes, and regulation 6 which covers the exemption to offer television programmes.
 - The amendments have inserted a new regulation 6A, which deals with the negotiation of commercially agreeable terms, and regulation 9A which deals with transitional arrangements between licensees.
 - Regulation 7, which covers transmission for television programmes; regulation 9, which deals with monitoring compliance with the Regulations; and regulation 10, which covers contravention of fines, have been substituted in their entirety.
 - The Subscription Broadcasting Services Licensees (“SBS”) must continue to transmit all the Must Carry channels that it has been carrying as per the arrangement between the licensees in terms of the 2008 Must Carry Regulations until the parties have agreed on Must Carry in line with the new Regulations, and the Public Broadcast Service Licensee has offered the Must Carry channels to the SBS. This is to ensure that the public have access to Must Carry channels whilst the parties are negotiating or resolving any deadlock that might result from negotiations on Must Carry.
 - There is currently no legislation empowering ICASA to include commercial broadcasting services in the Must Carry Channels, so ICASA will not include commercial broadcasting in the Regulations.
 - ICASA has given the parties three months to negotiate the contract, and further, the parties will be given another three months to implement the contract.
 - If the parties fail to reach an agreement after the processes of resolving the disputes such as arbitration, the parties must refer the dispute to ICASA in writing within five days of reaching a breakdown in negotiations.
 - The CCC will investigate the dispute to ascertain matters such as the reasonableness of the negotiations.
 - Should there be a contractual deadlock between parties, the 2008 Must Carry obligations are to continue nonetheless so as not to negatively impact consumers.
 - ICASA plans to publish more comprehensive digital regulations, which will be developed once the Ministry of Communications and Digital Technologies has published its process on Audio and Audio-Visual Content Services (AAVCS) Draft White Paper.
 - The Must Carry Amendment Regulations became enforceable on the day they are published in the *government gazette*.
- **GG46152: Discussion Document On The Optimization Of The Frequency Modulation Sound Broadcasting**
 - On 31 March 2022, ICASA gave notice of its intention to conduct an inquiry in terms of section 4B of the ICASA Act.
 - The purpose of the inquiry is to solicit stakeholders’ views and inputs on the frequencies identified through the GE84 Optimization process in the FM

band (87.5 -108 MHz) allocated for sound broadcasting in the National Radio Frequency Plan.

- Sections 30(1) and (2) of the Electronic Communications Act, 2005 mandate ICASA to control, plan, administer, manage, license and assign the use of radio frequency spectrum.
- In executing the aforementioned mandate, ICASA must ensure compliance with applicable standards and requirements of the International Telecommunications Union's (ITU) Radio Regulations, and the National Radio Frequency Plan.
- As part of this project, South Africa has submitted 32 iterations, and has taken the opportunity to add existing frequency assignments.
- The new frequency assignments identified will be categorised based on public broadcasting services, commercial broadcasting services, and community broadcasting services.
- Interested parties may make written representations regarding the Discussion Document in relation to the proposed categorisation of the newly identified FM frequency assignments and the updated Annexure A.
- Written representations must be an electronic submission in PDF format, and must be sent by no later than 16h00 on 08 June 2022 to Mr D. Kgosimolao Moshweunyane. Email: fmsoundbroadcasting@icasa.org.za.
- A copy of the Discussion Document will be made available at ICASA's Head Office library situated at: Block B, 350 Witch-Hazel Avenue, Eco Point Office Park, Eco Park, Centurion, and on its website at www.icasa.org.za.
- **GG 46153: Draft End-user and Subscriber Service Charter Amendment Regulations, 2022**
 - On 31 March 2022, ICASA declared its intention to amend the End-user and Subscriber Service Charter Regulations, 2016, (published in GG39898 (GN. 189) on 1 April 2016), and invites interested persons to make written representations on the Draft End-user Subscriber Service Charter Regulations ("Draft Regulations").
 - The Draft Regulations propose that unused voice and SMS services obtained through either prepaid or post-paid channels shall not expire before expiry of a period of six months, except for promotional packages.
 - A network operator will have to gauge voice, SMS, and/or data usage against the oldest of any unused voice, SMS, and/or data services, until such voice, SMS, and/or data services are depleted, and thereafter against the newly allocated voice, SMS and data services.
 - Where the end user is unable to utilise specific promotional voice/SMS products (such as promotional packages) due to a fault on the part of the licensee, the licensee will be expected to compensate the end user appropriately.
 - The transfer of data contemplated in the Draft Regulations must not be limited to specific products and/or payment types, with the exception of uncapped or free promotional bundled products, and the transfer of data applies to any SIM card or device on the same network, including SIM cards or devices owned by the same end-user, and exists without limit on the number of times that the end-user may transfer such data.
 - Regulation 8C(3) of the Draft Regulations authorises ICASA to order or direct Licensees to issue consumer alerts on specific issues which ICASA may deem

relevant and necessary for the protection of end-users. Such directives may include, but are not limited to, fraudulent SIM swaps, fraudulent number porting, billing, public health warnings and public safety notifications, State of Disaster/State of Emergency notifications, or any other issues which affect consumers, and which require immediate dissemination.

- Under the Draft Regulations, an ECNS Licensee will be obligated to monitor its electronic communications network 24 hours a day, seven days a week.
- ICASA will also monitor the quality of service performance provided by Licensees, at any given time, through data acquired from the network performance monitoring system and submitted by mobile network operators, and other methods that ICASA finds relevant to audit Licensees on.
- The quality of service audits will occur at the sole discretion of ICASA, and will not be advertised in advance.
- The Draft Regulations obligate Licensees to provide raw network performance data to ICASA, upon ICASA's request.
- Licensees are expected to notify affected end-users via SMS, social media platforms, and its own website, seven days before, and one day before any planned service interruptions due to service or system upgrades.
- Interested parties may submit written representations to ICASA on the Draft Regulations, by no later than 16 May 2022 at 16h00. Such submissions can be made by post or hand delivered to: Chairperson: End User Subscriber Service Committee Block C, Eco-Park Estate, 350 Witch-Hazel Avenue, Highveld, Centurion, 2146.
- Enquiries may be directed to Mr. Sandile Mthombeni, telephonically on 012-568-3670, or via email to eussc@icasa.org.za.
- The proposed amendments aim to strengthen the provision of quality of service for electronic communication services and to add new regulations on voice, SMS and data services, based on concerns raised by various stakeholders with regards to data expiry rules, high out-of-bundle rates and rules, and out-of-bundle voice and SMS rules currently applied by Licensees.
- In the current Regulations, ICASA only specified parameters for the rollover of unused data, but remains silent on how Licensees must implement the possible rolling over of unused voice and SMS services.
- This has created a regulatory gap on how unused voice and SMS services must be rolled over, and inconsistency on how rollover voice and SMS services are delivered.
- The regulatory gap has allowed Licensees to develop their own additional terms and conditions in dealing with rollover voice and SMS services.
- As a result, consumers are prejudiced because they lose their old voice and SMS services as Licensees deplete newly-allocated voice and SMS instead of older voice and SMS balances still remaining on the allocated bundled services of the end-use.
- ICASA has therefore amended the Regulations to address this issue and to provide that unused voice and or undepleted SMS services obtained through either prepaid or post-paid channels, shall not expire before a period of six months, except for promotional packages.
- The six-month period aligns with the current numbering plan practice, taking into account the 90-day minimum period during which a number is deemed

- to remain active, plus a further 90-day period applied by licensees before recycling the number assigned a SIM card.
- The proposed amendment also seeks to ensure that no restriction is placed on the number of times that end-users are allowed to transfer data, as some Licensees currently limit the number of times that consumers are allowed to transfer data.
 - The proposed amendments aim to strengthen the provision of quality of service for electronic communication services by setting out minimum standards to protect and promote the interests of customers.
- **GG 46155: Mobile Broadband Services Regulations, 2021.**
 - On 31 March 2022, ICASA published the Mobile Broadband Services Regulations ("Regulations") set out in the Schedule in terms of section 4 read with section 67(4) of the ECA.
 - ICASA has identified market failures where there is ineffective competition and where Licensees that have significant market power in a number of markets, and has proposed regulations that are proportionate to these market failures.
 - The Regulations have been published with the objective of regulating the market, and determining whether there is effective competition within the market and market segments.
 - Under the Regulations, the following have been defined as a market:
 - Retail market: mobile retail services provided in regional geographic areas (provincial, split by urban and rural);
 - Upstream market 1: wholesale site infrastructure access in local and metropolitan municipalities;
 - Upstream market 2: wholesale national roaming services for coverage purposes;
 - Upstream market 3a: wholesale national mobile virtual network operator (MVNO); and
 - Upstream market 3b: wholesale APN services (including resellers).
 - ICASA has determined that MTN and Vodacom are dominant players in the retail market, upstream market 1 and upstream market 2.
 - Under regulation 7, The operators with significant market power in the retail markets, wholesale site infrastructure access, and wholesale national roaming services must publish on their website and provide ICASA with the following accounts, records and other documents, on a quarterly basis.
 - A Licensee who fails to publish the records under regulation 7 will be subject to a fine not exceeding ZAR5-million.
 - **ICASA has published the draft Radio Frequency Spectrum Assignment Plans for IMT**
 - On 31 March 2022, ICASA published the following draft Radio Frequency Spectrum Assignment Plans for IMT:
 - GG46160, GN 1961: Draft Radio Frequency Spectrum Assignment Plan for International Mobile Telecommunication in the frequency band 450 - 470 MHz.
 - GG 46160, GN 1962: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 703 to 733 MHz and 758 to 788 MHz.

- GG 46160, GN 1963: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 733 MHz to 758 MHz.
- GG 46160, GN 1964: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 791 to 821 MHz and 832 to 862 MHz.
- GG 46160, GN 1965: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 825 MHz to 830 MHz and 870 MHz to 875 MHz.
- GG 46160, GN 1966: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 880 MHz to 915 MHz and 925 MHz to 960 MHz.
- GG 46160, GN 1967: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 1452 MHz to 1492 MHz.
- GG 46160, GN 1968: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 2300 MHz to 2400 MHz.
- GG 46160, GN 1969: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 3300 MHz to 3400 MHz.
- GG 46160, GN 1970: Draft Radio Frequency Spectrum Assignment Plan for IMT in the frequency band 3400 MHz to 3600 MHz.

in the news

- **Salesforce establishes its presence in South Africa**
 - The US based technology company, Salesforce, has begun with plans to establish itself in South Africa which include acquiring talent to join the South African team.
 - In February 2022, Salesforce appointed its first two South African leaders, Zuko Mdwaba, who is the head of sales, and Linda Saunders, who is the head of solution engineering.
 - The decision to create an entity in South Africa was so that Salesforce can be closer to customers and partners, as well as to help develop, recruit and retain top talent in the local market.
 - The company will require employees to work remotely, as Salesforce does not yet have an office in South Africa. However, the new employees will be local and be based in South Africa.
 - More news about Salesforce's presence in South Africa can be read [here](#).
- **Reserve Bank urges more engagement on digital currencies**
 - On 6 April 2022, the South African Reserve Bank's ("**SARB**") governor Lesetja Kganyago announced that the SARB's report on the second phase of Project Khokha was ready.
 - Project Khokha was initiated in 2018, to investigate the impact of distributed ledger technology, most commonly used to trade and store cryptocurrencies, on centralised banking.
 - The published report details how the SARB is exploring central digital currency and tokens within the South African market.
 - The current market and legislative reforms underway present an opportunity for the SARB to consider how to treat distributed ledger-based platforms and the use of tokenisation in financial markets.

- It pointed out that there needs to be more engagement on the issue of digital currencies and tokens because of potential risks and benefits, and as a result, the SARB has not been able to formulate a policy decision on a central bank digital currency.
- More information on the SARB's engagements on blockchain technologies can be read [here](#).

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