

ENSafrica telecoms and media in brief

issue 8 | a snapshot of the latest telecommunications and broadcasting developments in South Africa.

broadcasting and telecommunications

Broadcasting

GG42808 – 2019 GEN NN 585: Amendment of the Radio Frequency Spectrum Regulations, 2015

On 30 October 2019, ICASA published the *Amendment of the Radio Frequency Spectrum Regulations, 2015*. The amendment supplemented regulation 7 of the *Radio Frequency Spectrum Regulations, 2015* (as amended) which deals with an applicant's disqualification from the application process in respect of applying for spectrum. The supplemented provision states that an applicant will be disqualified, *inter alia*, to the extent that the applicant "has less than 30% (thirty percent) equity ownership by Historically Disadvantaged Persons or is below a level 4 contributor (B-BBEE status) in terms of the Codes of Good Practice published in terms of section 9(1) of the B-BBEE Act".

GG42835 – 2019 GEN NN606: Invitation to Pre-Register for Community Sound Broadcasting Service and Radio Frequency Spectrum Licences

On 12 November 2019, ICASA published its notice inviting applications for Community Sound Broadcasting Service and Radio Frequency Spectrum Licences.

All applications will be considered based on the requirements set out in ICASA's notice of Invitation to Pre-Register, including all applicable regulations and the Electronic Communications Act, 2005.

The notice is accessible and can be downloaded [here](#).

Telecommunications

GG42825 – 2019 GEN NN598: Request for Submissions with respect to the International Telecommunications Regulations Review

On 1 November 2019, ICASA published a notice requesting submissions from stakeholders with respect to the review of the International Telecommunications Regulations, 2012 (“ITRs”). The ITRs are intended to facilitate “global interconnection and interoperability” of telecommunications traffic across national borders. The submissions/input sought by ICASA are with respect to the first meeting of the Expert Group on the ITRs. From this meeting member states were tasked with providing a provision-by-provision analysis of the preamble and articles 1-2 of the 2012 ITRs. At a later stage (a date for the deadline of these submissions will be published in the *Government Gazette*), submissions will also be sought to assist with the second meeting of the Expert Group on the ITRs scheduled to take place from 12-13 February 2020. The submissions will assist the Department of Telecommunications and Postal Services, and ICASA to formulate informed contributions which take into account the commercial and regulatory ICT landscape of South Africa at the next meeting of the Expert Group on the ITRs.

Submissions must be made by populating an examination table with an analysis of each provision of the ITR. This will be made available on the ICASA website (<https://www.icasa.org.za>).

The deadline for submissions is 13 December 2019 at 16h00. The requested information must be submitted to the following email address: bmakola@icasa.org.za

GG42829 – 2019 GEN NN600: Notice Regarding the Final International Mobile Telecommunications Roadmap 2019

On 8 November 2019, ICASA published the *Final International Mobile Telecommunications Roadmap 2019*. The *Final International Mobile Telecommunications Roadmap* is available on the ICASA website (<https://www.icasa.org.za>). ICASA will publish its reasons with regard to the *Final International Mobile Telecommunication Roadmap* once it is finalised.

ICASA Publishes Information Memorandum on High-Demand Spectrum

On 1 November 2019, ICASA published the much-anticipated Information Memorandum for the high-demand spectrum licensing process for comment (the Information Memorandum can be accessed [here](#)). The Information Memorandum follows on the publication of the *Policy on High Demand Spectrum and Policy Direction on the Licensing of a Wireless Open Access Network*, which mandated ICASA to develop an approach to licensing the 4G and 5G spectrum.

The Information Memorandum invites comments on ICASA’s views on the licensing of spectrum in the 700MHz, 800MHz, 2.3GHz, 2.6GHz, and 3.5GHz radio frequency bands. ICASA has said that “the licensing of high demand spectrum is one of the critical components to facilitate deployment of digital infrastructure to ensure that all consumers and the business environment participate meaningfully in future Information and Communications Technology (ICT) opportunities towards the digital economy”. The Information Memorandum further provides guidance to stakeholders and prospective applicants on the process and criteria to be applied by the Authority in the licensing of the spectrum.

ICASA's proposal is for there to be an auction to award the spectrum to the highest bidder. The proposed spectrum for award includes five options. All options include one Lot to the wireless open access network and three to four other Lots in 700, 800 and 2600MHz. The following auction criteria is proposed.

- The Applicant must have (i) an ECNS licence; (ii) 30% equity ownership by Historically Disadvantaged Persons; and (iii) a level 4 B-BBEE status (Level 3 B-BBEE within 36 months of license award); and
- The Applicant cannot (i) submit more than one application; and (ii) have an ownership or financial interest in another applicant.

Interested persons are invited to make written submissions on the views expressed in the Information Memorandum by no later than 16h00 on Friday 31 January 2020 as outlined in terms of the published *Government Gazette*. Given that the Information Memorandum is the initial step, and in light of the past delays in the assignment of spectrum, the Authority urges stakeholders to make their submissions within the stipulated deadline for submission of representations on the Information Memorandum.

ICASA has requested that comments and representation be received on the following:

- the factors and/or principles that the Authority should consider in determining the reserve price applicable to each Lot;
- the factors and considerations that can inform the Authority's formulation of RFS caps;
- comments on the packages (relating to options 1-5);
- the criteria to be used for identification of underserved areas to be prioritised in roll-out;
- the legal basis, nature and extent of wireless open access conditions to be imposed on ECNS licensees; and
- the type, scope, nature, criteria of social obligations that can be imposed on licensees.

in the news

Network-locked handsets are making a comeback

Mobile carriers have once again started to market network-locked handsets, particularly smartphones. The practice was brought back to life by First National Bank almost two years ago when FNB Connect became the first market player after almost a decade to start selling

network-locked smartphones.

Vodacom, MTN and Cell C, South Africa's three largest mobile network operators have now all started to release network-locked smartphones. Rather than seeing this as anti-consumer behaviour, Vodacom has advised that the practice is aimed at reducing the cost of purchasing a smartphone – a move to make smartphones more accessible to the average consumer.

The smartphones will apparently not be locked in perpetuity, but only for 12-month periods. Further, it is likely that all consumers will have the choice to unlock their cell phone by paying a "small fee". Consumers will, at least in the case of Vodacom, have the option to choose between a smartphone which is or is not network-locked; the network-locked smartphone will carry a smaller price tag.

Network-locking cell phones was abandoned by network operators some time ago as a result of consumer complaints and threats by ICASA to ban the practice. However, contrary to popular belief, there is currently no regulation or ban on the practice of network-locking cell phones.

While at first glance consumers may be unhappy, the ability to aggressively price and subsidise a handset may be in favour of the consumer. At present it appears that network-locked handsets may allow consumers to access smartphones that they may not otherwise have been able to afford.

Cape Town: Changes to by-laws relating to cell towers

The City of Cape Town has approved new by-laws that allow for the installation of smaller, free-standing cell masts on properties that will be used for community needs, including agricultural and transport. This is to include buildings such as clinics, schools, churches and hospitals. These buildings will now be permitted to install minor free-standing cell masts (less than 12 metres high) or minor rooftop masts (less than 1.5 metres high) without prior land-use approval from the city or the adjacent landowners.

Residential-use buildings may also have a minor cell mast (less than 1.5 metres high), but this will require planning permission.

Marian Nieuwoudt for the City of Cape Town has stated that, "One of the main purposes of these provisions is to ensure the infrastructure is less unsightly and to minimise the impact on the local character of an area where the infrastructure is installed", and said further, "I want to add that the city is not mandated to regulate health-related matters where telecommunication is concerned. However, all network providers must comply with the requirements of the National Department of Health and the ICNIRP standards on non-ionising radiation protection with respect to safety standards".

Rain 5G launched in South Africa

Rain has officially launched its 5G service to the public, offering unlimited data speeds of up to 700Mbps. Rain first launched its products in September, but these were only available to

a select group of existing customers.

Rain has now opened its network to anyone who has 5G coverage. Consumers can check if they fall into a coverage area by visiting their website. It is anticipated that the coverage will be expanded to include other major metropolitan areas such as Cape Town and Durban in the coming year.

Zulu King Goodwill Zwelithini has launched his own cellphone network: Bayede Mobile

Bayede Mobile was launched early this November. The new network promises to bring affordable cellular services to South African consumers. At present the sim cards are only available in Kwa-Zulu Natal, with plans to extend distribution to Gauteng next year. The cellular network leverages off existing mobile infrastructure to provide services and coverage nationwide.

ICASA notes media reports relating to various purported transactions pertaining to Cell C

ICASA issued a media statement on 13 November, noting that it is aware of various media reports about Cell C's current financial difficulties and the purported acquisition of Cell C by Telkom.

ICASA stated that it "appreciates and welcomes the efforts and measures being taken to ensure the continued existence of Cell C". Notwithstanding the various media reports, however, ICASA has noted that it has not yet been notified of a transaction by any of its licensees and cautioned all parties to ensure that the necessary regulatory compliance requirements pertaining to the purported transaction be fulfilled.

Despite the continued media reports regarding the possible acquisition of Cell C by Telkom, just this week Cell C agreed to an extended roaming deal with the MTN Group. It remains to be seen what this move may mean for any possible sale.

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