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| **THE NAB WRITTEN SUBMISSION ON** **THE** **PROPOSED POLICY AND POLICY DIRECTIVE REGARDING THE LICENSING OF UNASSIGNED HIGH DEMAND FREQUENCY SPECTRUM** **8 NOVEMBER 2018** |

**THE PROPOSED POLICY AND POLICY DIRECTIVE REGARDING THE LICENSING OF UNASSIGNED HIGH DEMAND FREQUENCY SPECTRUM**

**Introduction**

1. The National Association of Broadcasters (NAB) is a leading representative of South Africa’s broadcasting industry, representing the interests of all three tiers of broadcasters (including the migrating television broadcasters ie SABC, e.tv, Mnet/Multichoice, Starsat). Our members include the radio and television services of the public broadcaster, commercial and community broadcasters, signal distributors (Sentech and Orbicom), as well as industry associates.
2. On 27 September 2018 the Department of Telecommunications and Postal Services (DTPS) published a notice inviting comments on the proposed policy and policy directive to the Independent Communications Authority of South Africa (ICASA) on the licensing of unassigned high demand frequency spectrum. Interested persons were given 30 working days.
3. The NAB notes that the proposed Policy directive seeks to implement the recommendations of the Integrated ICT White Paper which was approved by Cabinet on 28 September 2016 and published on 3 October 2016. The White Paper outlines the policy framework for the transformation of South Africa into an inclusive and innovative digital and knowledge society. Against this background, the proposed policy directive seeks to promote and enable wireless open access through the establishment of the Wholesale Open Access Network (WOAN).
4. The NAB further notes that the policy directive is guided by the study conducted by the Council for Scientific and Industrial Research which sought to determine the spectrum requirements for the WOAN to ensure its viability. It is the NAB’s understanding that the study focused on the capacity and quality of services determination with respect to the unassigned high demand frequency spectrum, the network coverage spectrum and the network capacity spectrum.

**Technical considerations**

1. Whilst the proposed policy directive identifies the 700 MHz, 800 MHz and 2600 MHz as the suitable spectrum bands to operationalise the WOAN, the NAB notes that the policy directive does not list the actual unassigned spectrum frequencies which are being considered in the aforementioned bands. The NAB submits that this detail is essential as broadcasters have a number of analogue and digital terrestrial television transmitters as well as Studio Links (STL) radio links operating in the 700 MHz and 800 MHz bands.
2. STL radio links currently operate in various cities and towns throughout South Africa. In the Johannesburg area they operate in the 800MHz band in spectrum not used in Johannesburg to provide analogue television transmissions and therefore may be considered unassigned spectrum. The NAB is aware that the STL radio links will have to be moved as part of the digital migration, however, this process is yet to be completed and suitable spectrum for STLs is yet to be properly considered.
3. The NAB notes with great concern that the spectrum currently being used for STL links does not appear to be protected from harmful interreference. In the past 3 months some services in Johannesburg have been so adversely affected which resulted in broadcasting services going off air. This has necessitated the STL links to operate on new frequencies in and around the same part of the 800MHz band, however, if this spectrum is considered unassigned this may only be a very short-term solution.
4. The NAB therefore recommends that the DTPS provide clarity on the actual frequencies which are considered to be unassigned in order to determine whether the STL links will have to be migrated to suitable assigned spectrum. The NAB further recommends that the digital divided spectrum should be brought to use only after analogue switch off and the successful implementation of the broadcast digital migration process even if the bands are licensed beforehand. This will mitigate against interreference and disruption of services in line with objects of the ECA.

**Parallel legislative review processes**

1. On 19 September 2018 the DTPS tabled the revised Electronic Communications Amendment Bill (Bill) following the legislative review process which was initiated in 2017. The Bill seeks to inter alia, provide a legislative framework for the licensing of the WOAN. Clause 29 of the Bill provides that all electronic communications network service licensees, *except* *electronic communications network service licensees that provide broadcasting signal distribution or multi-channel distribution services*, must provide wholesale open access, upon request (own emphasis). Regrettably this provision, which the NAB welcomes, as it provides much needed certainty, has not been included in the proposed policy directive.
2. The NAB respectfully requests that the policy directive be amended to include the same exception provision cited in the paragraph above. This will ensure legal certainty and consistency in the provisions of the Bill and the proposed policy directive, which both provide for the WOAN.

**Conclusion**

1. In conclusion the NAB thanks the DTPS for the opportunity to make input to the proposed policy directive. The NAB trusts that the DTPS will continue to engage with the broadcasting sector towards an enabling environment for the growth and development of the ICT sector.