



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 538

Pretoria, 16 April 2010

No. 33124

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Independent Communications Authority of South Africa

General Notice

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GENERAL NOTICE

NOTICE 317 OF 2010



Independent Communications Authority of South Africa
Pinmill Farm, 164 Katherine Street, Sandton
Private Bag X10002, Sandton, 2146

**INDEPENDENT COMMUNICATIONS AUTHORITY
OF SOUTH AFRICA**

**GENERAL NOTICE – REASONS DOCUMENT ON MOBILE TELEVISION
REGULATIONS, 2010**

INTRODUCTION

1. The Independent Communications Authority of South Africa ("the Authority") is the regulatory body tasked with controlling, planning, administering and managing the use and licensing of the radio frequency spectrum in the Republic, in accordance with the applicable standards and requirements of the International Telecommunications Union ("ITU"), as agreed to and adopted by the Republic.
2. In making provision for the licensing of spectrum for the mobile broadcasting process, the Authority has acted in terms of its powers in terms of the Electronic Communications Act 36 of 2005 ("the ECA"), the Broadcasting Act 4 of 1999 and the Independent Communications Authority of South Africa Act 13 of 2000 ("the ICASA Act") and has sought to promote relevant regulatory objectives, as provided for in that legislation.
3. The Authority has now finalised and published the Mobile Television Regulations, 2010 ("the Regulations"). The Regulations seek primarily to provide for a regulatory framework for the licensing of radio frequency spectrum within the designated range for the provision of mobile television broadcasting services; and to provide for procedures and criteria for the awarding of radio frequency spectrum licences for the provision of mobile television broadcasting services within the designated range.
4. The Authority has finalized the Regulations mindful of a related process to develop regulations in terms of section 33 (3) of the ECA which is currently underway. The Authority's decision to separate the two processes is informed by the nature of broadcasting services, which have their own peculiarities which do not apply to other services. As an example, digital broadcasting services are licensed through the introduction of multiplexing, which is not the same as the licensing of electronic communications services.
5. The Authority also took cognizance of interests expressed by various non-licensed entities who indicated their willingness to participate in the mobile TV market. While the Authority is fully mindful of the demands for new service licences, it has decided to deal with the issue separately as it does not constitute the scope of this process.
6. In this Reasons Document the Authority has outlined the basis for certain determinations in relation to the Regulations in the context of the representations and submissions it has received from various interested parties and the Broadcasting Digital Migration Policy for South Africa ("the Ministerial Policy") published by the Minister of Communications ("the Minister") in Government Gazette 31408 of 8 September 2008.

7. The Authority has considered each and every one of the submissions made by interested parties on the spectrum licensing process and the draft regulations which were published for public comment.
8. The Authority has adopted and published this Reasons Document also with the intention of giving clarity to participants in the communications sector, particularly with regard to the steps which the Authority intends to take in relation to matters which have not been dealt with in the Regulations.
9. In taking account of some of the submissions received from interested parties, where the Authority considered those submissions to have merit, the Authority has amended the previous draft Regulations, which interested parties were invited to comment on.

INTERNATIONAL POLICY ENVIRONMENT

1. The ITU of which the Republic of South Africa is a member held a Regional Radio communication Conference for Region 1 (comprising Europe, Africa and the Middle East), as well as, Islamic Republic of Iran in Geneva from 15 May – 16 June 2006. The conference is herein referred to as the GE 06 (Geneva 2006). The Conference was held for the purposes of discussing the migration of existing terrestrial analogue television services to digital broadcasting. A binding agreement, GE 06 Agreement, was entered into by all participating countries, including South Africa.
2. The frequency planning for mobile TV services formed part of the GE 06 which set aside two **metropolitan** multiplexes for the provision of mobile television broadcasting services.
3. Article 3 of the GE 06 Agreement set aside the frequencies to be used for Digital Terrestrial Television and Mobile TV. To prevent potential interference, especially with the GSM services, the two mobile TV multiplexes are situated below channel 50. The Authority complied with the decisions of the GE 06 when finalizing the Terrestrial Broadcasting Frequency Plan, 2008, consistent with section 30 (2) (a) of the ECA which states that:

"(2) in controlling, planning, administering, managing and licensing the use of the radio frequency spectrum, the Authority must-

(a) Comply with the applicable standards and requirements of the ITU and its radio regulations, as agreed to or adopted by the Republic".

MINISTERIAL POLICIES AND POLICY DIRECTIONS

4. In accordance with the powers in terms of section 3(1) of the ECA, to make policies, the then Minister of Communications, Dr Ivy Matsepe-Casaburri published the Ministerial Policies and Policy Directions in Government Gazette 30308 of 17 September 2007.
5. The Minister's policy determinations in relation to the mobile broadcasting in South Africa, directed the Authority in terms of section 3(2)(c) read with section 2(g) and 2(m) of the ECA, to consider allocating spectrum for a single network with possibility for national coverage for the provision of Mobile Television Broadcasting Services.
6. Consistent with the GE 06 Agreement, the Broadcasting Digital Migration Policy provides for the establishment of two (2) metropolitan frequency networks designated for the provisioning of mobile broadcasting services. The Ministerial Policy highlighted the need for mobile broadcasting services to address the social and economic needs of South Africans. The Ministerial policy noted that the introduction of digital broadcasting on both the terrestrial and mobile platforms is integral to building national identity and social cohesion. Accordingly the policy indicated that the "must carry" arrangements, which require broadcasting services to carry public broadcasting services, should continue in the new digital environment thereby fulfilling the important aspect of providing public broadcasting to all citizens.
7. In terms of section 3(4) of the ECA, the Authority is required, when exercising its powers and performing its duties, to "consider policies made by the Minister".

PROCEDURE FOLLOWED

8. On 5 December 2008, in Government Gazette 31686 the Authority published an Invitation to Apply ("ITA") inviting individual broadcasting services, electronic communications services and electronic communications network service licensees to apply for the two available radio frequency spectrum licences for the purposes of providing mobile digital broadcasting services.

9. On 24 February 2009, in Government Gazette 31950 the ITA was withdrawn pending the finalisation of the Terrestrial Broadcasting Frequency Plan, 2008. The Authority noted that it was preferable to finalise the Terrestrial Broadcasting Frequency Plan to create certainty and predictability in the licensing of Mobile TV services. Pursuant to the withdrawal of the ITA, the Authority published the Terrestrial Broadcasting Frequency Plan on 18 November 2009 in Government Gazette 32728. The finalisation of the Terrestrial Broadcasting Frequency Plan informed the commencement of the process to develop the mobile broadcasting regulations.
10. In terms of 31(3) of the ECA the Authority may prescribe procedures and criteria for awarding radio frequency spectrum licence for competing applications or instances of where there is insufficient spectrum available to accommodate demand. Given that the Ministerial directive and the Terrestrial Broadcasting Frequency Plan make provision for only two multiplexes for the purposes of mobile broadcasting the Authority is of the opinion that this warranted a section 31(3) process.
11. On 17 November 2009, in Government Gazette 32725 the Authority published the draft mobile broadcasting regulations and invited comments from stakeholders. It should be noted that whilst the Authority was mindful that the Digital migration regulations were not finalised at that time the Authority felt that it should commence with the consultation process on the Mobile Broadcasting Regulations as the Terrestrial Broadcasting Frequency Plan distinguished frequencies for DTT and Mobile Broadcasting services. The Authority reasoned that the finalisation of the Mobile Television Regulations was not conditional on the conclusion of the DTT regulatory process as these operate in different frequencies in terms of the Terrestrial Broadcasting Frequency Plan.
12. The Regulations dealt with the issues raised in the Ministerial Policy and Policy Directions as follows:
 - 12.1 The Authority took into consideration the provision of the Broadcasting Terrestrial Frequency Plan, regarding the Single Frequency Networks (SFNs). The Terrestrial Broadcasting Frequency Plan provides for the introduction of SFNs for mobile TV, while multi-frequency networks (MFNs) will be used for fixed DTT until after switch-over.

The Authority has decided that all ECNS providing services to the Mobile Broadcasting multiplexes should comply with section 62 of the ECA to ensure transparency and non-discrimination. Further provisions related to open networks and non-discrimination will be addressed in the Chapter 8 and 10 processes to be undertaken during the financial year 2010/2011.

13. The Authority received Eight (8) representations from the following stakeholders in response to a request for comments:
- (a) Hi Tech Audio
 - (b) MultiChoice (Pty) Ltd
 - (c) Kagiso Media
 - (d) e-tv
 - (e) Mobile TV Consortium
 - (f) Neotel
 - (g) Telkom
 - (h) SABC
14. The Authority decided not to hold public hearings by exercising its discretion in terms of 4 (6) of the ECA. The Authority decided to exercise its discretion not to have public hearings as an attempt to conclude this process ahead of the 2010 FIFA World Cup. This will allow interested parties to commence the rollout of the network ahead of the 2010 FIFA World Cup.

SUBMISSIONS AND DECISIONS

Definitions

15. There were several objections to the use of the words "designated range" and submitters postulated that radio frequency is apportioned in three distinct manners viz allotted, allocated and assigned.
16. In terms of the ITU, allotment refers to the entry of a designated frequency channel in an agreed plan. Allocation refers to entry in the table of frequency allocations of given frequency band for the purposes of its use by one or more terrestrial or space radio communication services or the radio astronomy service under specified conditions. The term is also relevant to the frequency band. Assignment of the radio frequency refers to a situation where authorisation is granted by an administration for a radio station to use a radio frequency or radio channel under specified conditions.
17. Since the Regulations are concerned primarily with the assignment of the frequency range and not the planning thereof submitters felt that the current definition is unsuitable. Accordingly submitters proposed that "designated range" should mean the unassigned portion of the radio frequency spectrum allocated for mobile services and broadcasting services.

18. Various alternatives were suggested to the definitions proposed by the Authority including the view held by Telkom that the definition employed in Government Gazette 32437 of 22 July 2009 which deals with designated ranges be retained for consistency.
19. The Authority concurred with the ITU definition and opted to incorporate the above comments into the definition.
20. The definition of a multiplex has proved a contentious issue and has been extensively canvassed during the Digital migration process in particular. There has been seldom consensus on a definition and the Authority has received inputs relating to the function of multiplexing as well as a multiplex as a structure. SABC and the Mobile TV Consortium have both suggested that a multiplex be defined as "a collection of television programmes, radio and data services that are broadcast together in a digital signal that occupies no more spectrum than just one analogue television service". Notwithstanding these recommendations, the Authority has decided to use the same approach as used in the Digital Migration Regulations published on 15 February 2010 in Government Gazette 32956.

Objectives of the Regulations

21. Telkom, in particular, contested the validity as well as the necessity of these regulations. Telkom is of the opinion that in terms of the section 31(3) (ECA) process the Authority may only intervene where there are either competing applications or where there is an inelastic availability of the radio frequency spectrum relative to demand. Telkom is of the view that prior to the drafting of the regulations the Authority needed to justify which of the two conditions is relevant in this instance.
22. Notwithstanding the issues raised by Telkom, the Authority has decided to continue with the publication of these regulations considering that only two multiplexes are available for the purposes of providing Mobile TV services. Additional spectrum for mobile TV services will only be available at the end of Digital Switch-Over which will be concluded over a period of time. A number of non-licensed entities have indicated in their submissions to the Authority that they are willing to enter the market, highlighting the demand for the radio frequency spectrum to provide mobile TV services.
23. As stated, the Authority has also decided to introduce these regulations notwithstanding a similar process being undertaken by the Authority to ensure that this process also addresses specific issues related to broadcasting. Given the related nature of the two processes, and for the purposes of avoiding confusion, the Authority will consider

whether mobile broadcasting services should not be exempted from the other 31 (3) (ECA) regulations.

24. In order to maximise the value of the radio frequency spectrum, the Authority will also allow successful applicants to use part of their licensed capacity to provide sound broadcasting services, provided those services are already being provided by the existing sound broadcasting licensees. This is to ensure that this process is not used to introduce new sound broadcasting service licensees. Sound broadcasting services will be provided subject to a commercial agreement to be entered between the holder of the radio frequency spectrum and a duly licensed sound broadcasting service.

Regulation 3 (c) of the draft regulations

25. There were objections from submitters to the unduly burdensome provision of sub-regulation 3C regarding the provision of services without a return path. Stakeholders argue that this regulation imposes restriction of the radio frequency spectrum on the basis on non technical criteria and considerations. Telkom believes that this to be unduly burdensome and requests that the Authority either remove the restriction or objectively justify the restriction.
26. Telkom further believes that the inclusion of bi-directional data services on mobile devices can be dealt with via the type approval process should it compromise safety standards and electromagnetic compatibility. The SABC and Hi tech raised similar concerns around the restriction on bi-directional data and would like clarity on data services where no return is necessary. The sub regulation is accordingly unclear as to whether the limitation refers to all data services or data services with a return path only.
27. The Authority has since decided to remove any restriction on services within return path with the understanding that the definition of broadcasting and electronic communications services in the ECA suffices to clarify services that can be provided by either licensees.

Regulation 3(d) of the draft regulations

28. The Mobile TV Consortium objects to the stipulation that there be one ECNS licensee providing signal distribution per multiplex. The Consortium feels that this amounts to regulations which are *ultra vires* as this process is subject to a commercial arrangement.

29. In light of the submission from Mobile TV Consortium, the Authority has decided that it is not necessary to make a pronouncement on such a technical matter. The Authority however, maintains that where there are two broadcasters in each multiplex, the two will be expected to enter into a commercial agreement on which ECNS licensee should provide signal distribution services.
30. The period of the commercial agreement entered into between the broadcasters and the ECNS providers will depend on the concerned parties, who may also choose to self provide their signal distribution services in terms of section 63 of the ECA.
31. With regard to tariff issues, the Authority maintains its commitment first articulated in the Digital Migration regulations to undertake a study on wholesale transmission services before imposing pro-competitive remedies. During the Digital Migration regulation making process the Authority has attempted to delve into pricing issues, the Authority's approach to this process will not include that. This is particularly important considering that digital migration takes place under a limited time period, which is sanctioned by an international agreement. In another words the international agreement governs both the commencement and the analogue switch off date. Digital Mobile Broadcasting on the other hand does not have an end date and is accordingly not bound by the time pressures of the Digital Migration process. Accordingly pricing for the Digital migration process was necessarily dealt with in a different manner from the mobile process.
32. The Authority however, prefers that ECNS providers should be required to implement transparent, non-discriminatory pricing approaches taking into consideration the provisions of section 62 of the ECA.

Regulation 3(e) of the draft regulation

Stakeholders agreed that the six month period for the commencement of the provision of services to be public as contained in the draft regulations is insufficient to ensure the effective utilisation of the spectrum. They argued that the procurement process for infrastructure acquisition is likely to exceed six months and accordingly there were requests to have the period extended. Stakeholders further noted that this process also has financial implications as potential investment may be jeopardised by the possibility of a withdrawal of a licence.

33. The Authority has accepted the submission from stakeholders and has accordingly decided to extend the time frame to twelve months. The Authority believes that a twelve months period is sufficient to strike a balance between protecting investments and at the same time ensuring that the radio frequency spectrum is used efficiently.

Regulation 4 of the draft regulations

34. The issue of eligibility to apply for the radio frequency spectrum for the provision of Mobile broadcasting services was contentious and almost every respondent commented on the issue.
35. Telkom contended that in terms of the ECA the eligibility of applications for radio frequency spectrum licences are those persons who possess the requisite licences contemplated in the chapter 3 of the ECA. In addition there is a contradiction between regulation 4(b) and 4(c) of the draft regulations and regulation 3(g) of the draft regulations. Stakeholders argued that the Authority has expanded the scope of potential licensees beyond the statutory limitation of the ECA. Telkom propose that the scope of potential licensees be confined to the limitations imposed by the ECA.
36. e-tv and Multichoice concur with the opinion of Telkom regarding eligibility. e-tv argues that in order to provide a mobile broadcasting service a person must already be in possession of a broadcasting service licence and a radio frequency licence. Further e-tv requires clarity as to whether the Authority requires simulcast or new content.
37. In the technologically neutral licence environment it is possible to simulcast on various platforms but new content would require a new broadcast service licence. e-tv is also a single channel environment and feels that this places it at a disadvantage when compared with the multi channel environment enjoyed by other operators. E-tv therefore requires clarity regarding whether the Authority is contemplating simulcast or new content on the mobile platform.
- Neotel is of the opinion that the mobile broadcasting is intended to cover the whole country and accordingly the ECNS licensee should be able to provide signal distribution for the broadcasting service on a national scale and this should be included in the regulations.
38. Mobile TV Consortium is of the opinion that the process of licensing the radio frequency spectrum licence without granting new broadcasting licences amounts to prejudice to new entrants. Accordingly, it is deemed imperative that television broadcasting licences be granted as well.
39. Kagiso Media feels that the drafting of this regulation would lead one to believe that the Authority wishes to appoint broadcasting service licensee as well as award spectrum and suggests a drafting enhancement.

40. Hi Tech required clarity as to whether the requirement to provide proof of a commercial agreement with an ECNS licensee is for the duration of the licence or only at inception. Hi Tech also believes that self provision should be permitted. Hi Tech is also of the opinion that the process should not just apply to incumbent broadcasters but should be broadened.
41. The Authority however has decided that these regulations are solely for the purpose of licensing spectrum and will only deal with this. The issue of whether or not additional broadcasting licences can and will be awarded by the Authority will be dealt with by processes beyond these regulations. The Authority also wishes to re-iterate its commitment to mobile broadcasting at a time when the digital dividend will be realised.
42. The Authority has decided that the licensing of the radio frequency spectrum will be confined those issued with a broadcasting service licence. As stated, the licensing of new broadcasting services will be dealt with in a separate process. This means that while the Authority has introduced these regulations to encourage innovations and the attainment of national objectives, it does not mean that the Authority views the Mobile broadcasting service as a standalone licence in terms of chapter 3 of the ECA.

With regard to simulcasting, the Authority takes a view that any broadcasting licensee providing television services has a right to simulcast on any platform without applying for a separate licence or additional radio frequency spectrum. This differs from a situation where a licensed broadcaster requires additional frequencies to provide mobile broadcasting services based on new content that is currently not provided to the public. The Authority has clarified this issue with the addition of Regulation 7 in the Final Mobile Television Regulations. In keeping with the Ministerial directive that mobile broadcasting should benefit the South African public, licensees will have to apply to the Authority for approval of all new channels.

43. The Authority concurs with Neotel that the licences should be issued on a national scope, which means that an individual broadcasting service licence is required to provide these services.
44. As stated, this process does not deal with the licensing of new broadcasting services licence in terms of chapter 3 of the ECA. The issuing of new service licences can best be addressed in a separate process initiated for that purpose.

Regulation 5 of the draft regulations

45. Neotel is concerned about the language employed in regulation 5. Neotel is of the opinion that the procedures and criteria would only be applicable where there are

competing bids and not in a situation where there is a single applicant per multiplex. Neotel however believes that the process should apply regardless of whether there is more than one applicant or not. The Authority is in agreement with this and had always conceived of this scenario. The Regulations however have been amended to capture this sentiment more explicitly.

46. The Authority agrees with Neotel that where there is no competition for the radio frequency spectrum licence, it will not be necessary to exhaust the process as outlined in the regulations provided the only applicant meets the basic requirements set out in the regulations and the ITA.

Regulation 6 of the draft regulations

47. The issue of the "must carry obligations" received wide comment. They were included as a result of the Ministerial directive which indicated that must carry obligations should be carried forward into the digital arena.

Telkom avers that given that the point of the regulations is to provide a framework for the licensing of radio frequency spectrum within the designated range the decision to include must carry obligations are spurious. Telkom believes that it would be imprudent for the Authority to prescribe such a requirement without demonstrating the desirability of such a requirement. e-tv concurs with this and believes that the "must carry" requirement amounts to an inefficient use of spectrum.

48. SABC by contrast welcome the must carry stipulation but is unclear of how this would operate should the SABC be granted a full multiplex. The SABC also favoured a situation where the inclusion of public broadcasting services be subject to a commercial agreement between parties.

49. The Mobile TV Consortium is not in principle opposed to the must carry obligations but preferred it if the SABC paid for the associated cost of accommodating 20% capacity on the multiplex. Further they are of the view that mobile services are premium services and should not be reserved for public broadcasting at the expense of the commercial broadcasters.

50. MultiChoice is also not opposed to the must carry regulations but would like a drafting change that compels the public broadcaster to commence with the broadcasting on a specific date. This will effectively reduce the chances of having unused spectrum.

51. The Authority has decided to eliminate the must carry obligations from the Regulations.

The Regulations do make explicit the notion that broadcasters awarded capacity on the DTT multiplexes do not need to apply for capacity on the mobile multiplexes to simulcast. Accordingly this makes the issue of "must carry" on the mobile multiplexes somewhat superfluous.

52. The Authority has taken note of all submissions related to the imposition of must carry rule in the mobile broadcasting platform. In order to create a stable, predictable environment, the Authority has decided that the issue of the applicability of must carry rules on the mobile broadcasting platform should be dealt with in the Must Carry regulations themselves.

Regulation 7 of the draft regulations

53. Telkom believes that the duration of the licence as proposed in draft regulation is vague and unclear. Telkom proposes that a clear and unambiguous stipulation of the licence duration be included in the terms and conditions of the licence. The licence should also detail the processes and procedures to be followed for the surrender, transfer, cession or cancellation of the licence prior to the expiration of its initial term of validity.
54. Submitters also argued for the synchronisation of the spectrum and the broadcasting licences saying that it would be illogical for the duration of the spectrum licence not to be aligned with the duration of the television broadcasting service. In a bid to avoid the termination of the television broadcast service when the validity period of the spectrum licence expires, the regulations should make provision for the frequency spectrum licence to be renewable in the event that it expires prior to the expiry of the mobile television licence.
55. Proposals extending the duration of the licence to twenty years in a bid to increase investment were also received. In addition there were requests to include the issue of renewals of the licence in the regulation. Kagiso Media however recommended that any existing licence should be valid for a minimum period of no less than 5 years to ensure eligibility to avoid the costs associated with renewal.
56. Having taken into consideration the submissions from stakeholders, the Authority has decided that the radio frequency spectrum licence for the purposes of providing Mobile Broadcasting services should be linked to the service licence. This is to ensure that at any given time, the holder of a radio frequency spectrum has a requisite service licence. This therefore places an obligation on holders of the radio frequency spectrum licence to ensure that their service licences are always up to date as the law provides for licence

renewal.

Regulation 9 of the draft regulations

57. Some submitters felt strongly that this regulation failed to adequately deal with the issue of dispute resolution. Section 33 of the ECA makes provision for the prescription of specific regulations which deal with issues of co-ordination and consequently interference but the Authority has not yet completed this process and accordingly there are no specific regulations which deal with this. It is incumbent on the Authority therefore to prescribe the dispute resolution process within the regulations themselves.
58. The Authority however is currently developing regulations to deal with spectrum co-ordination which will also deal with dispute resolution mechanism. As an interim measure the Authority will deal with disputes on an ad hoc basis until after the finalisation of the section 33 (ECA) regulations at which time the process envisioned in the final section 33 regulations will come into effect.

Clause 7 of the Schedule

59. The Authority has decided not to use a comparative evaluation methodology to determine the successful applicant, but to use a pre-qualification criterion, business undertakings and auction. The Authority has reasoned that the use of comparative evaluation methodology might lead to subjectivity in the licensing process. In this regard, the Regulations provide for a pre-qualification criterion which is a minimum of 30% equity ownership by persons from historically disadvantaged groups. Further, the Regulations provides for the applicants to submit detailed information on their proposed approach to the provision of mobile TV services. Whereas the Authority will not use the content of the business undertakings for the purposes of evaluating the applications, the undertakings made by applicants will form part of their licence conditions once they are successful.
60. With regard to the empowerment issues, the Authority has decided to use HDI equity ownership instead of the initial provision on BBBEE. This is to ensure that the Regulations are in line with the provisions of the ECA on equity ownership.

Clause 3 of the Schedule

61. Telkom avers that in terms of the section 31(3) of the ECA the Authority is required to *prescribe procedures* and criteria for awarding radio frequency licences, accordingly the

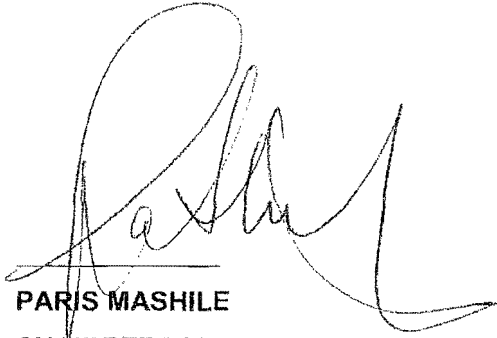
regulations should provide clarity on the ITA. It is currently unclear as to whether the ITA will be gazetted or released merely as a statement of intent.

62. The Authority will indeed gazette the ITA. The Authority has decided to issue an ITA inviting applications for one multiplex, with the provision that the other multiplex will be licensed once the Authority has completed the second phase of the liberalisation of the subscription television market. The Authority will only open the free to air market to competition after digital switch-over.
63. In the interest of competition, the Authority has decided that no applicant will apply for capacity exceeding sixty percent (60%) in a multiplex. This provision will form part of the ITA to be issued in terms of the Regulations. In the event that there is remaining capacity in a multiplex after applications pursuant to the ITA, the Authority may issue another ITA to licence the remaining capacity in that multiplex.

Clause 7 of the Schedule

64. Telkom would like greater clarity on the methodology of granting radio frequency spectrum licences. Telkom considers it desirable for the Authority to define and interpret the various criteria in order to ensure that all licensees have a common understanding.
65. Neotel seeks clarity as to whether the frequency spectrum (defined as channels) for the two multiplexes will all be free and available for assignment when the regulation is promulgated, such that mobile television broadcasting services can start at the same time. Failing this it would be prejudicial and unfair to issue an ITA.

66. Pursuant to the finalisation of these regulations, the Authority will set aside the minimum standards to be met by the applicants in the ITA, in addition to those set out in these regulations. Before the ITA is issued, the Authority will ensure that all the designated bands in terms of the frequency plan are available at the time of the conclusion of the licensing process.



PARIS MASHILE
CHAIRPERSON

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

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