



SUBMISSION ON TELECOMMUNICATIONS DIRECTIONS

2 MAY 2001

1. INTRODUCTION

1.1 On 3 March 2001, the Minister of Communications pursuant to section 5 of the Telecommunications Act, 1996, gave notice of her intention to issue telecommunications policy directions (“the directions”). The National Association of Broadcasters (“the NAB”) welcomes the opportunity to make these written representations.

1.2 The NAB is the leading representative of South Africa’s broadcasting industry representing:

1.2.1 All television broadcasters;

1.2.2 19 SABC radio stations, 14 commercial radio broadcasters and 39 community radio broadcasters;

1.2.3 Both the common carrier and the selective and preferential carrier licensed signal distributors.

1.3 As a result of convergence, NAB members are already, and will continue to be, profoundly affected by telecommunications policy. It is in this light that we make our submission.

2. SCOPE OF THE DIRECTIONS

2.1 The NAB welcomes the publication of the directions and recognises that these directions intend to create certainty in the communications industry and therefore are an important step forward in our changing communications environment.

2.2 The NAB submits, however, that in some instances the directions are not clearly formulated and / or do not comprehensively consider the breadth of issues at play in the telecommunications field.

2.3 As it is the function of such directions to provide clarity on government policy, the NAB submits that some amendments to the directions are required.

2.4 NAB members are particularly concerned that the directions fail to address certain critical issues, namely: frequency spectrum, convergence, the Internet and new communications technologies. The NAB submits that these issues demand attention and that the directions should be expanded to deal with these issues.

2.5 The NAB notes that the directions appear to grant and / or amend licences to certain operators, for instance, paragraphs 4 and 5. In this regard the NAB concurs with the submission made by the Independent Communications Authority of South Africa (ICASA) to the Portfolio Committee on Communications on 3 April 2001, that these statements appear to violate some provisions of the Telecommunications Act

2.6 We also note and echo ICASA's concern that, as they presently stand, the directions appear to undermine the independence of ICASA. The NAB submits that where this occurs, the paragraphs should be rephrased.

2.7 The NAB further submits that the directions should be amended to dispel any confusion between the policy function of government and the licensing function of ICASA.

3. DEFINITIONS

3.1 The NAB submits that clarification is needed on some of the terminology used in the directions, including:

3.1.1 Fixed-mobile Service;

Whilst recognising the attempt to take the convergence of broadcasting, computing and telecommunications services into account, and thereby defining a “Fixed-mobile service”, NAB submits that the development of new technologies is making the existing service definitions obsolete. Therefore, instead of attempting to define a new service unique to South Africa, 1.2.2 should be deleted in its entirety and 1.2.3 amended to read “Second National Operator (SNO) means the second national operator to be licensed to provide public switched telecommunication services (PSTS) using any appropriate technology.”

3.1.2 PSTS;

Neither the Telecommunications Act No 103 of 1996, nor the Policy Directions define PSTS. NAB submits that a definition of PSTS should be included in the final policy directions.

3.1.3 Multi-media services.

4. SECOND NATIONAL OPERATOR

4.1 The NAB submits that as a general principle Telkom and the SNO should operate on similar terms and conditions.

4.1.1 In this regard, the NAB submits that the due date for the introduction of number portability may, in practice, amount to an extension of Telkom’s exclusivity as the SNO may have difficulty in

attracting customers without number portability. The NAB is aware that number portability will take time to implement but submits that the direction should be amended to the extent that if it is technically possible before April 2003, it is allowed.

4.1.2 In this regard, the NAB also submits that Telkom's and the SNO's rights in relation to Voice of Internet Protocol (VoIP) need to be clarified.

5. SENTECH

5.1 The NAB wishes to state its full support for the provision of additional services in international linking. However, whilst supporting Government's commitment to maximizing the value of State assets, NAB again submits that the Policy Directions are not an appropriate instrument for issuing new licences. Any new licences for new telecommunication services should be awarded in conformity with the provisions of the Telecommunications Act.

5.2 In order that broadcasters may experience the full benefit of competition in the provision of international services, the NAB requests further clarity on what is meant by "direct to customers" in paragraph 5.1.

6 1800 MHZ AND 3G

6.1 The NAB notes that the 3G and 1800MHz issues are the only spectrum issues dealt with in the directions.

6.2 The NAB submits that policy on spectrum issues should not be developed on a piecemeal basis and that an overall policy framework is required. This is especially so for spectrum pricing.

6.3 The NAB submits that while the criteria laid out in the directions to determine spectrum fees seem adequate, an all-encompassing policy on spectrum pricing is needed.

7 UNIVERSAL SERVICE FUND

7.1 While the NAB is in support of the mandate of the Universal Service Agency and the Universal Service Fund, we submit that clarity is needed on how the contributions to the fund will be calculated.

8 E-RATE

8.1 The NAB wishes to give its full support to the E-Rate concept. In the interests of maximising benefit the NAB submits that the beneficiaries also include libraries and community centres in historically disadvantaged areas.

9 PUBLIC EMERGENCY COMMUNICATIONS

9.1 The NAB supports the directions laid out in this section and notes that the role of the broadcast media in providing communication during public emergencies should also be taken into account.

10 CONCLUSION

10.1 The NAB wishes to thank the Minister for this opportunity to comment on the directions.

10.2 In closing, we would like to again echo the concerns expressed by ICASA in relation to the legal status, the timeframes for making regulations and the finances required to implement the policy directions.

10.3 We would like to urge the Minister to take any necessary steps including the provision of an additional budget to ICASA and legislative amendments to ensure there is no delay in the completion of this process.