

Submission in respect of ICASA’s Draft Radio Frequency Spectrum Licence Fees Regulation (“the Draft Regulation”) published as General Notice 305 of 2009 in GG 32029 on 16 March 2009 & the accompanying Draft Radio Frequency Spectrum Licence Fees Discussion Document (“the Discussion Document”) published therewith as General Notice 304 of 2009.

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## **INTRODUCTORY REMARKS**

1. ISPA welcomes the publication of the Draft Regulations and the accompanying Discussion Document and thanks the Authority for providing it with the opportunity to make written submissions in respect of the Draft Regulations and Discussion Document.
2. ISPA requests that a slot be reserved for it to make oral representations should the Authority decide to hold public hearings.
3. ISPA supports the review of the annual Radio Frequency (RF) Spectrum Licence Fees as being both overdue and necessitated by recent regulatory and industry events, not least of which is the replacement of the Telecommunications Act 103 of 1996 with the Electronic Communications Act 36 of 2005 and the (unanticipated) outcome of the licence conversion process.
4. Insofar as the proposed revised fee structure appears to
  - 4.1. focus primarily on the role of spectrum pricing in achieving spectrum efficiencies;
  - 4.2. address spectrum hoarding so as to enable competition; and
  - 4.3. facilitate greater consistency with regards to radio frequency spectrum tariffs;it is both welcome and necessary.

## GENERAL SUBMISSIONS

### The role of spectrum pricing as a regulatory tool

5. The primary policy objective in implementing a spectrum pricing scheme should be, as is noted by the Authority, to promote spectrum efficiency.
6. In this context ISPA welcomes the decision by the Authority to introduce Administered Incentive Pricing (AIP) and the reasons advanced for doing so.
7. ISPA has taken the opportunity to examine the implementation of AIP in the United Kingdom under the guidance of Ofcom and, notwithstanding the relative paucity of materials available on the success of this initiative, supports the view that AIP can make a positive contribution to spectrum efficiency.
8. ISPA notes, however, that AIP and spectrum pricing more generally should be seen within the context of other regulatory tools at the disposal of a regulator seeking to maximise spectrum efficiency.
  - 8.1. ISPA is unfortunately not aware of the intentions of the Authority with regard to two critical regulatory interventions that are strongly inter-related to spectrum pricing, namely spectrum trading and liberalisation.
  - 8.2. Given the realities of the South African market ISPA believes that it is urgent that ICASA address both of these issues so as to enable competition by new entrants to the ultimate benefit of the South African consumer.
  - 8.3. Spectrum trading – which ISPA notes appears to be happening on an “informal ” basis – is, ISPA submits, vital to allowing current holders of desirable assignments to maximise the spectrum efficiency of their holdings by freeing up excess spectrum for other users on a commercial basis.
  - 8.4. The conducting of a spectrum audit and the implementation of a “use-it-or-lose-it” policy is also long overdue and ISPA calls on the Authority to place the highest priority on reclaiming spectrum which is not being efficiently utilised. ISPA submits that South Africa, with the overriding policy objective of lowering the cost of communications, cannot afford the opportunity cost represented by spectrum currently inefficiently used.
  - 8.5. Other available tools include interference management and state funding (i.e. through the Universal Service and Access Fund with regard to under-served areas).
9. AIP is intended to provide an incremental path towards efficient pricing. Efficient spectrum pricing in turn is only one of the interventions available to a regulator in seeking to achieve the primary objective of spectrum efficiency.

10. While the Discussion Document refers to the objective of dealing with spectrum hoarding ISPA wishes to emphasise in the strongest terms that AIP cannot and will not deal with this issue, which lies at the heart of the current scarcity of supply of frequency suitable for Fixed Wireless Access (FWA) and other uses.
11. It is reasonable to assume that there is currently unprecedented pressure on the spectrum resources as a result of the entitlements to frequency accorded to former holders of VANS licences through the licence conversion process. A number of those intending to exercise their rights to roll-out and operate electronic communications networks are seeking assignments of licensed frequency. While specific information in this regard is not publicly available ISPA regards it as a reasonable assumption that demand exceeds supply in all suitably-allocated bands below 5GHz.
12. ISPA submits that the realities of demand and supply in South Africa and the imperative to reduce the cost of communicating to consumers within the context of broadening the consumer base and representivity within the industry make a compelling basis for spectrum liberalisation and the development of a regulatory framework for a secondary market in the trading of frequency rights.

#### **Efficiency and transparency in the management of the band plan & processing of applications**

13. It seems reasonable and equitable for industry to anticipate that increased fees will equate to the provision of a more efficient and transparent service from ICASA. ISPA submits further that efficiency and certainty in the management of the band plan is desirable in that a RF spectrum licence is a key production input for an ECNS licensee which is applying for it. Network deployment is inherently a high-cost, high-risk activity which, given the pace of technological change, is more often than not extremely time-sensitive.
14. It is ISPA's experience that current levels of service and transparency relating to dealing with applications for spectrum licences and enquiries to the relevant division of the Authority are, unfortunately, significantly lacking in this regard.
  - 14.1. By way of example: there is currently no means by which an ECNS licensee seeking to obtain licensed frequency can gain access to complete information as to what licensed frequency may be available. Correspondence addressed to the Authority enquiring as to the availability of licensed frequency is, in the experience of the majority of ISPA's members, more often than not left unanswered.
  - 14.2. There is no clear indication to ISPA that the Authority has taken proper cognisance of the radically altered dynamic within the industry and the fact that it is no longer faced with requests

for assignments of licensed frequency from a very small pool of operators who inevitably base the band targeted as being most suitable to a particular technology.

- 14.3. While the number of former VANS licence-holders that will seek to access licensed assignments of frequency for electronic communications provision is not clear it may well be as many as 100, most of which will seek to operate on a regional basis. The vast majority have not had dealings with the Authority regarding frequency as yet and there is a great deal of uncertainty amongst this sector which in no way promotes the introduction of competition or the empowerment of historically disadvantaged persons and SMMEs.
15. ISPA submits further that, given that at least a portion of the fees payable is apportioned to cost-recovery on the part of the Authority, industry has a legitimate expectation of the Authority providing an efficient and transparent service. This will obviously have the further benefits of cost savings which can be passed on to consumers and more efficient usage of spectrum once assigned.
16. It is also apparent that the complexities implied by the proposed model may cause greater delay in the processing of applications for spectrum licences.
  - 16.1. The provision of a non-binding guideline to the processing of applications would not be without precedent as same is already provided by ICASA's Engineering Division with regard to type approval applications as also by the Marketing & Competitions Division with regard to processing applications for numbers from the national numbering range.
  - 16.2. There is also a binding 12 week deadline for the processing of class licence registrations under the ECA.
  - 16.3. ISPA accordingly requests that reasonable time periods for the processing of applications be inserted into the Draft Regulation but would leave these within the discretion of the Authority.
17. ISPA has been informed that a database setting out information in respect of current assignments of frequency exists but notes that this is not generally publicly available.
  - 17.1. ISPA submits that the ability of qualifying licensees to plan their future activities and service offerings would be significantly enhanced were this database to be placed firmly in the public domain and calls on the Authority to do so without delay. Put differently: the lack of transparency as regards available frequency spectrum for ECNS licensees is severely hampering the growth of this sector.

17.2. ISPA has previously made an offer to the Authority to assist with the hosting of such database on a neutral basis and to provide such assistance as it can to ensure that this resource is more generally available. ISPA hereby repeats such offer at this time

17.3. ISPA submits further that it will be necessary for the Authority to publish spectrum licences and frequencies assigned across all areas so as to allow licensees to manage the mixing and matching of spectrum in an area which is delivering services over various distances.

### **Related processes**

18. There are a number of related regulatory processes which ISPA wishes to enquire about on the basis that ISPA believes these impact on the manner in which AIP in specific and spectrum pricing in general are to be implemented.

19. The Authority launched a **Review of the South African Table of Frequency Allocations (SATFA)** during the second quarter of 2008 and to this end published a draft of the revised SATFA for public comment, which was due by 28 August 2009.

19.1. The review as published indicated that it was intended, *inter alia*, to cover the realignment of SATFA with the ECA and related legislation as also allocating previously reserved spectrum and making spectrum available for new technologies and services.

19.2. No hearings have been held and the Authority has not made it known publicly how and when it intends to finalise the review.

19.3. ISPA has made formal enquiries as to the progress in finalising the review but has not received any reply thereto.

20. The Authority launched an **Enquiry into the use of the 5725-5875 MHz band for wireless broadband access** on 8 March 2006 and solicited public input into this process. Notwithstanding the passing of more than 3 years and numerous informal indications of the finalisation of this Enquiry no further progress appears to have been made.

21. The Authority further engaged industry in an **Enquiry in terms of section 33(3) of the ECA dealing with the assignment of the frequency bands where demand exceeds supply**. Notice of the Authority's Decision was published on 17 June 2008 indicating broadly that a two-stage process comprising a beauty contest and an auction would be followed. Notwithstanding the fact it was indicated that the Findings Document was a final document the Authority subsequently issued out a press release calling for comments on its findings. The deadline for such comments was 11 August 2008. ISPA is not aware of any further progress in the matter.

21.1. The summary of the Decision in this Enquiry notes that the Authority intends to “use this opportunity to promote competition in the industry and to promote the empowerment of historically disadvantaged persons” while introducing “progressive market based mechanisms”.

21.2. ISPA submits that the intentions of the Authority expressed above represent two areas which are in critical need of attention from Authority and that the finalisation of the process is overdue.

22. There has been no indication to date from the Authority with regard to the drafting of the regulations contemplated under section 33(3)<sup>1</sup> of the ECA relating to frequency co-ordination.

### **Frequency sharing**

23. With reference to the proposal to introduce a sharing factor into the formula for the calculation of annual licence fees ISPA wishes to bring to the attention the provisions of section 31(2)(b) of the ECA:

“(2) In controlling, planning, administering, managing and licensing the use of the radio frequency spectrum, the Authority must—

...

(b) take into account modes of transmission and efficient utilisation of the radio frequency spectrum, including allowing shared use of radio frequency spectrum when interference can be eliminated or reduced to acceptable levels as determined by the Authority;”

24. This section, through the use of the word “allowing”, presupposes that the Authority is to take positive steps to allow licensees to share specified frequencies, including a determination as to what constitutes an acceptable level of interference.

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<sup>1</sup> 33. (1) Holders of a radio frequency spectrum licence must, in good faith, co-ordinate their respective frequency usage with other such licensees to—

(a) avoid harmful interference among radio frequency spectrum licensees;

(b) ensure efficient use of any applicable frequency band; and

(c) allow for the provision of cost-efficient services.

(2) Where radio frequency spectrum licensees are unable or unwilling to co-ordinate in good faith in terms of subsection (1), the Authority must intervene and resolve the dispute.

(3) The Authority must prescribe regulations governing the co-ordination contemplated in subsection (1), which may include a process for the resolution of disputes among radio frequency spectrum licensees on an expedited basis.

25. Frequency sharing is a major determinant of spectrum efficiency and ISPA agrees with the intention expressed in the Draft Regulations to incentivise it but notes that this remains of academic interest until the Authority has finalised the necessary procedures.
26. ISPA requests information from the Authority as to its plans in this regard.

#### **Content of RF Spectrum licences under the ECA**

27. ISPA seeks clarity from the Authority with regard to whether the structure and terms and conditions of spectrum licences will also be reviewed to bring them in line with the ECA and with the so-called “thin licence” principle adopted with regard to service licences issued out under the ECA.
28. The Authority has applied a logic in its review of the annual spectrum licence fees which removes any licence fee portion more properly associated with the service licence from the spectrum licence fee obligations. ISPA supports this. ISPA also supports the application of this logic to spectrum licences in general which contain a number of terms and conditions more properly situated in the terms and conditions of the relevant service licence.

#### **Concerns regarding enforcement**

29. ISPA is concerned as to the Authority’s ability to implement and police AIP and it is not clear as to the penalties that may apply to any contravention of the Draft Regulations.
30. As with the processing of applications, enforcement of the Radio Regulations and licence terms and conditions is an activity which is explicitly being paid for by licensees who are the holders of RF spectrum licences.
  - 30.1. ISPA submits that the Authority is experiencing capacity constraints in this regard, noting that on 31 October 2008 the Authority issued a release to frequency spectrum licence holders calling for the payment of outstanding annual spectrum licence fees. Of concern is the fact that the list provided indicated that there were some 24 260 licensees in arrears with their payments at that time. ISPA regards collection of fees due as an incident of enforcement.
  - 30.2. Enforcement is also likely to become far more demanding given the existing pressure on South Africa’s spectrum resources. The apparent inability of entitled licensees to access licensed frequency at this time is also placing extreme pressure on the licence exempt bands: while interference resolution in these bands is not the direct responsibility of the Authority it remains a primary area for enforcement as between licensed and licence-exempt users.
31. ISPA seeks assurances from the Authority that increases in fees payable and the cost-recovery element factored into such fees will result in more effective enforcement.

## **SPECIFIC COMMENTS ON THE DRAFT REGULATIONS**

### **Objectives of the regulations**

32. ISPA is in broad agreement with the objectives expressed, save to note that:

- 32.1. As noted above the primary objective of imposing a frequency spectrum pricing regime should be to promote spectrum efficiency. ISPA accordingly suggests that the second objective be placed first to underscore this.

### **Exceptions**

33. ISPA submits that 5(1) could be more clearly expressed through a more direct reference to the ICASA Frequency Licence Exemption Regulations 2008 and suggest the following wording:

“The use or possession of the radio apparatus listed in Column B of the Table set out in the ICASA Frequency Licence Exemption Regulations 2008 and in accordance with specifications listed in Columns, A, C, D and E of that Table, does not require a radio frequency spectrum licence and no radio frequency spectrum licence fee applies.”

34. ISPA does not support the current formulation which refers to equipment which is licence-exempt, believing this to be an incorrect statement of the law.

### **Furnishing of information**

35. Section 12 of the Draft Regulations requires licensees to “furnish all information concerning the equipment they deploy as required by the Authority”.

36. ISPA is not certain as to whether this provision is properly placed in the Draft Regulations insofar as it is not clear how it relates to the calculation and payment of annual spectrum licence fees.

37. In any event ISPA notes that the Authority’s requirements regarding the furnishing of such information have not been made explicit and the provision as it stands can accordingly not be complied with at this time.

### **Provision relating to applying for spectrum**

38. ISPA suggests that section 13 of the Draft Regulations relating to the manner of applying for frequency licences and the discretion of the Authority in granting applications is out of place and should not be located within a regulation pertaining to annual spectrum licence fees.

### **Payment provisions**

39. ISPA notes that there do not appear to be any provisions in the Draft Regulations dealing with the manner in which payment is to be made and the consequences, if any, of late payment of annual spectrum licence fees.

### **Contraventions and Penalties**

40. Section 14 of the Draft Regulations reads as follows:

“Any person who contravenes or fails to comply with the provisions of these regulations is liable to a fine prescribed in terms of section 17H of the ICASA Act, 2000 (Act No. 13 of 2000).”

41. It is not clear to ISPA, after an examination of section 17H, which penalties will be applicable to what offences, nor what constitutes an offence under the Draft Regulations.

41.1. By way of example: a failure to provide information as required in section 12 of the Draft Regulations may constitute an offence in terms of section 17H(3)(c) although such an offence relates to the failure to keep records rather than a failure to furnish information to the Authority. Such a failure could possibly also fall under section 17H(3)(g) although this would no doubt be subject to legal argument.

42. ISPA submits that it would be preferable for the Authority to take the time to spell out the various offences contemplated in the Draft Regulations and the penalties which may apply thereto. In this regard ISPA notes that section 4(3) of the ECA – which deals with the regulation-making powers of the Authority - states that:

“(3) Any regulation made by the Authority in terms of subsection (1) may declare a contravention of that regulation to be an offence, provided that any such regulation must specify the penalty that may be imposed in respect of such contravention taking into account section 17H of the ICASA Act. “

43. ISPA submits that it is a clear requirement of this provision (as well as a general rule of criminal law) that the Draft Regulations explicitly spell out the offences which it creates and the sanctions applicable where a licensee is found to be in contravention.

## SPECIFIC COMMENTS ON THE FACTORS PROPOSED

### Bandwidth (BW)

44. ISPA notes the Authority's proposal to adopt the linear approach as set out in section 7.2.1 of the Discussion Document.
- "The linear approach is proposed by the Authority with the clear advantage of fairness. Spectrum hoarding can be avoided by setting appropriate price levels or by implementing market competition rules when demand rises dramatically."
45. ISPA agrees that the linear approach is inherently fair and that there is scope for its application as between those licensees who already have substantial assignments of frequency spectrum.
46. ISPA submits, however, that the linear approach does not address the urgent requirement to address spectrum hoarding and does not believe that the alternative measures proposed will alleviate existing spectrum hoarding.
- 46.1. As noted above demand has, in fact, already risen dramatically.
- 46.2. It is unlikely, however, that any "market competition rules" which may be imposed will be finalised within the next 3-5 years based on the current difficulties being experienced by the Authority with Chapter 10 of the ECA and the high probability of delay through litigation.
- 46.3. As set out in the General Remarks above ISPA does not believe that "appropriate price levels" will of themselves be even remotely effective in dealing with spectrum hoarding. It is also not clear to ISPA how price levels which discriminate against certain usage will be set within the context of the use of a formula which is of general application to all licensees.
47. ISPA would prefer the implementation of a hybrid "linear / premium for large bandwidth" approach under which:
- 47.1. After an initial period licensees would be required to maintain efficiency levels in their use of assigned spectrum measured against a bandwidth: users benchmark.
- 47.2. Licensees using their assignment efficiently (i.e. above the required ratio) would pay under the linear approach while a graduated premium is applied to licensees falling below the required ratio and therefore deemed to be inefficient users.
48. Under this approach efficient users such as the mobile networks would not be unfairly penalised while the Authority would be taking positive steps to free up underutilised spectrum resources and advance spectrum efficiency.

### **Frequency factor (FREQ)**

49. Save to note that a printing gremlin has inserted the ASTER table instead of the FREQ table under section 8(b)(i) of the Draft Regulations, ISPA has no comment in respect of this factor.

### **Geographic factor (GEO)**

50. ISPA supports the proposed approach to incentivise the deployment of communications infrastructure in under serviced areas but submits that it would be more effective if it was more closely linked to the work currently being completed by the Universal Service and Access Agency of South Africa (“the Agency”) in defining terms such as “under service”, “universal access” and needy person.

51. ISPA further supports the principle underscoring the suggested geographic factors proposed which will serve to incentivise deployment of wireless networks in rural areas.

52. ISPA does, however, have a reservation that the application of the factor in the manner proposed constitutes a relatively blunt regulatory intervention.

52.1. The application of the highest GEO factor in the area of coverage as the governing factor may result in the intention that this factor act as an incentive for rural network deployments being lost. There are, for example, a number of licensees that have proposed network deployments requiring national assignments of licensed frequency and which will specifically target rural communities.

52.2. It is also apparent that the provision of much-needed wireless networks in poor urban areas such as Soweto, Orange Farm and Khayelitsha will not be captured within the incentives intended to be offered.

53. ISPA understands that there are very real limits to the ability of a regulator to adopt a nuanced approach but submits that mechanisms should be available to allow such licensees and others, who are not, in fact, targeting or offering services in the High Density areas, to take advantage of the spectrum pricing incentive offered through the GEO factor.

### **Minimum hop length (HOPMINI)**

54. ISPA notes that the Authority has made a number of general assumptions with regard to radio technology and the suitability of different spectrum ranges for different distances. ISPA submits that these assumptions may not be generally shared and may, as is the nature of general assumptions, be subject to exceptions. It is also true that there is currently extremely rapid development in radio

technology and that assumptions of this nature may accordingly have a limited time-period of general validity.

55. ISPA wishes to enquire from the Authority as to whether the Authority will deal with proven exceptions in a flexible manner? Will the formula still be applied so as to place a premium on a lower frequency if proven technically that ICASA's recommended spectrum (which would have been at a lower rate) will not work effectively or as efficiently?
56. ISPA submits that such flexibility will result in equitable outcomes and submits further that the Authority should take steps to define a process for allowing an applicant to submit proof of a more efficient use for recommended spectrum so as to have access to the lower rate.
57. Such an approach would be in keeping with the rapid development in wireless technology.
58. ISPA further submits that the inflexible application of the proposed HOPMINI factor may have a further undesirable consequence in that a licensee wishing to apply for spectrum to provide access services in a specific geographical area may be faced with different minimum path lengths from those that are indicated. Such an applicant would then either be forced to apply for the optimal frequency spectrum - result in payment of the premium – or the proposed service might not be financially viable since different equipment might have to be deployed to operate within the different frequency spectrum ranges.
59. Finally in this regard, ISPA notes that a value of zero has been assigned to hops using a frequency greater than 38 GHz. Is it the intention of the Authority that such links should be exempt from spectrum fees entirely, or is the implication that the effective value of the HOPMINI factor is equal to one?

#### **Congestion factor**

60. ISPA understands the logic behind the proposed imposition of the Congestion factor (CG) to be that a higher value should be placed on spectrum where there are competing demands which cannot be met by available supply. It is ISPA's submission, set out below, that the factor as set out in the Draft Regulations will operate to the prejudice of new entrants and that, if it is to be retained, the values in the table of suggested factors should be adjusted so that the effect of the factor is to incentivise use of non-congested bands.
61. ISPA wishes to express the following reservations about the application of CG in its proposed form:
  - 61.1. Historically entitlement to frequency for the purposes of providing telecommunications services has been limited to a small number of licensees. As a consequence these licensees

today enjoy significant holdings of the available frequency spectrum allocated for use by ECNS licensees.

61.2. There is very little information publicly available regarding these assignments or the degree to which they are being utilised. This hampers licensees seeking to plan their future activities or to acquire a licence in that there is no prior knowledge of what is available and whether it is regarded by the Authority as being congested or not.

61.3. Although the Authority has considered the implementation of a use-it-or-lose-it policy this is yet to find expression in any regulatory document of which we are aware.

61.4. Accordingly those who are holders of new IECNS licences and who are positioned and sufficiently resourced to take up their new rights and compete in the local market will be prejudiced in the assignment of new RF spectrum licences.

61.5. This flows from the fact that there is already apparently a *de facto* state of congestion in most of the bands suitable for wireless service provision as a result of the existing, unaudited assignments.

61.6. It also flows from the fact that those licensees coming into the market and seeking assignments will pay a premium of 50% above the annual licence fees paid by the former holder of that assignment.

61.7. ISPA submits that the Authority will not, in any event, be in a position to state which bands are to be regarded as congested until such time as it has audited existing usage and thereby established with a greater degree of accuracy what the state of supply of spectrum actually is.

61.8. ISPA also notes that no applicant will be able to determine the potential licence fees payable in the event that their application is successful unless they are able to ascertain beforehand whether the spectrum they are applying for is regarded by the Authority as congested or not.

62. The Authority states in 7.2.4 of the Discussion Document that “wherever there is a waiting list for access to spectrum, prices are automatically 50% higher than the base price”. ISPA fails to see either the logic in this or, indeed, for the need for the application of the Congestion factor as a “penalty”.

62.1. The Authority has noted in several points in the Discussion Document that it does not intend to follow an approach whereby “commercial frequency bands – especially those used for cellular such as GSM and 3G – are priced higher than lower frequency bands due to their commercial value. This principle appears to be contravened through the application of the

Congestion factor in its proposed form in that the Authority is explicitly placing a premium on certain bands because they have commercial value (i.e. bands where there is greater demand than supply will be those that have the highest potential commercial value to licensees entitled to apply for them).

62.2. Furthermore placing such a premium on these bands does nothing to sort out the competing demands. It is ISPA's understanding that in such a scenario the Authority would follow the regulations or "procedures and criteria" contemplated under section 31(3) of the ECA and relating to the assignment of RF spectrum where demand exceeds supply.

62.3. While industry is still awaiting the finalisation of the section 31(3) process detailed in the General Remarks section above, it seems reasonable to anticipate that, where there is a waiting list, any frequency which becomes available may well be subject to a beauty contest and/or auction process. This certainly appears to be the approach adopted by the Authority in its Decision following the Enquiry in terms of section 33(3) of the ECA dealing with the assignment of frequency bands where demand exceeds supply<sup>2</sup>.

62.4. ISPA submits that this is the more correct approach when considerations of value are taken into account, i.e. where the premium required as a result of commercial value indicated by demand outstripping supply is placed on an initial fee and not annual licence fees.

63. ISPA accordingly submits that the Congestion Factor (CG) should not be included in the formula to be applied in the calculation of annual licence fees in the proposed manner.

64. ISPA submits further that, if the formula to be applied is to be true to the objectives set out in the Draft Regulations and generally associated with AIP, the following table of factors should be used so as to incentivise use of less popular (generally higher) frequency bands:

<b>CONGESTION</b>	<b>CG Factor Value</b>
Congested	1
Not Congested	0.5

#### **Degree of sharing (SHR)**

65. ISPA strongly supports the presence of a factor which seeks to incentivise the sustainable sharing of frequency where this is possible.

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<sup>2</sup> General Notice 748 of 2008, GG31550, 17 June 2008

66. ISPA suggests that the Authority include at least one further SHR factor value in the table so as to increase the effect of the intended incentive for sharing amongst multiple licensees ISPA proposes the following table:

<b>Sharing</b>	<b>Value of sharing factor</b>
Exclusive	1
Shared (2-4 licensees)	0.5
Shared (5+ licensees)	0.25

#### **CONCLUDING REMARKS**

67. ISPA thanks the Authority in advance for its consideration of the above submissions and trusts that these are found to be of assistance in creating a licence fee structure which facilitates greater spectrum efficiency in South Africa.

68. Please contact the ISPA Secretariat ([queries@ispa.org.za](mailto:queries@ispa.org.za)) should you require any further information in respect of this submission.