



## **SUBMISSION BY SENTECH LIMITED**

on the

**DRAFT CALL TERMINATION REGULATIONS**

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## 1 INTRODUCTION

- 1.1 Sentech Limited ("**Sentech**") would like to thank the Independent Communications Authority of South Africa ("**the Authority**") for the opportunity to submit comments on the Draft Call Termination Regulations ("**the Regulations**")<sup>1</sup>, together with the Explanatory Note, which seeks to explain the Authority's rationale for the provisions contained in the Regulations.
- 1.2 Sentech records that it would like to make oral representations to the Authority on the Regulations, if public hearings are to be held as part of the consultative and participative process to be undertaken by the Authority in finalising the Regulations.
- 1.3 Sentech endeavours to provide general comments related to the Regulations and thereafter make individual submissions in respect of specific provisions set forth in the Regulations.

## 2 GENERAL COMMENTS

- 2.1 The liberalization of the electronic communications industry in South Africa created an opportunity for new entrants to begin to compete with incumbent fixed and mobile operators in South Africa. However, new entrants have been barred from effectively competing as a result of the high interconnection rates. Sentech therefore welcomes the Authority's attempt to introduce pro-competitive measures by prescribing these Regulations in terms of section 67(4) of the Electronic Communications Act 36 of 2005 ("**ECA**").
- 2.2 Notwithstanding the importance of the Regulations, Sentech is inclined to point out some of its concerns with regard to the Regulations with a view to alerting the Authority to issues which are of critical importance in ensuring that the pro-competitive measures adopted by the Authority are effective in furthering competition in the market and ultimately reducing the cost for

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<sup>1</sup> Published under Notice 314 in Government Gazette No 33121.

ordinary fixed and mobile customers in South Africa.

### **3 MINIMUM CONTENT OF A REFERENCE INTERCONNECT OFFER**

- 3.1 Regulation 8 provides for the submission of a Reference Interconnection Offer ("**RIO**") by an Established SMP Licensee to the Authority. It is suggested that more clarity be provided with regard to the procedure to amend a RIO and in particular the submission of an amended RIO to the Authority for approval.
- 3.2 The objective of the RIO is to allow an operator to interconnect on the terms contained in the RIO without further negotiations in order to avoid disputes and to shorten the entry time for a new competitor. It is therefore important to ensure that the terms in the RIO are in fact feasible in general for other SMP Licensees. To the extent that SMP Licensees are directly affected by the content of the RIO, Sentech recommends that the RIOs submitted for the Authority's approval, also be made available for public comment.
- 3.3 The possibility exists that if a RIO is not regularly re-assessed by the Authority, the terms contained therein may become redundant and Regulation 8 does not contemplate the scenario where the terms set forth in a RIO already approved by the Authority are no longer appropriate. In order to address this issue, Sentech recommends that the Authority be empowered to review a RIO on an *ad hoc* basis and that all RIOs be reviewed and re-submitted to the Authority for approval when the Authority conducts its review of the Call Termination markets in terms of Regulation 12.

### **4 PRICE CONTROL**

- 4.1 For many new entrants, interconnection is one of their largest costs. A high interconnection price inevitably deters efficient competition and customers are then forced to pay more than they need to. Sentech applauds the Authority for the adopting cost orientated prices for call termination, to the extent that the proposed glide path from July 2010 to July 2013 represents

a substantial reduction in the current interconnection rates.

- 4.2 It is, however, important to note that the interconnection rates adopted in other African countries such as Namibia and Nigeria are lower than the interconnection rate that will be applicable in July 2012 in South Africa terms of the proposed glide path. It may therefore be necessary for the Authority to revisit the benchmarking conducted for the cost of interconnection in South Africa in order to determine whether the glide path proposed accurately reflects the cost of interconnection.
- 4.3 It may also be prudent for the Authority to be empowered to review the call termination rates set forth in the glide path within a shorter period of time, than the period of 3 years in terms of Regulation 12, if it becomes evident that the interconnection rates are still too high.

## 5 **CONVERGENCE**

- 5.1 In light of the fact that Sentech holds a multimedia licence, Sentech encourages the Authority to also consider convergence in the context of call terminations rates. Whilst it is important to introduce these Regulations to stimulate competition in the market, the distinction between mobile and fixed call termination rates may very well become irrelevant in the near future.
- 5.2 The Authority's decision to apply symmetrical rates between fixed and mobile operators, does not take into consideration that the converged licensing regime under the ECA allows I-ECNS and I-ECS licensees to provide both fixed and mobile services as well as other services that are neither fixed nor mobile.
- 5.3 Sentech recommends that the Authority adopt a strategy and conduct a market review with regard to the provision for the convergence in fixed and mobile rates.

## **6 ACCOUNTING SEPARATION AND COST ACCOUNTING**

- 6.1 The successful implementation of the pro-competitive measures set forth in these Regulations is contingent on the provisions of the Accounting Separation and Cost Accounting regulations which, in terms of Regulation 8, will only be published in by the Authority in the future. It is not clear what interim measure for the submission of financial reports by licensees will be adopted by the Authority before the final Accounting Separation and Cost Accounting Regulations are published. Sentech therefore recommends that the Authority provide for an interim solution in these Regulations for SMP Licensees and the Established SMP Licensees to submit their respective financial reports in a format prescribed by the Authority.

## **7 CONCLUSION**

- 7.1 Sentech would like to thank the Authority for giving it an opportunity to express its views on the Regulations.
- 7.2 Sentech hopes that the concerns set out in this response will be given due consideration by the Authority in finalising the Regulations.
- 7.3 Please feel free to contact Dingane Dube on (011) 691-7008/9 should you have any queries regarding this submission or require any additional information from Sentech.