



SALGA

South African Local Government Association

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REPRESENTATIONS BY SALGA IN RESPONSE TO GOVERNMENT GAZETTE NO 33467, VOL. 542, 17 AUGUST 2010. GENERAL NOTICE: 807 ICASA ACT (13/2000): DISCUSSION DOCUMENT: UNIVERSAL SERVICE AND ACCESS OBLIGATIONS REVIEW. INVITATION TO FURNISH WRITTEN SUBMISSIONS

The South African Local Government Association (SALGA) thanks the ICASA for the opportunity to make representations on the Universal Service and Access Obligations Review.

From a Local Government's perspective, it is imperative that municipalities are enabled and empowered through the provision of broadband for their own internal-use but also of the opportunities to use broadband as a socio-economic enabler within their local economies.

We appreciate the opportunity given to us to make these comments and we hope that they will be of assistance. We would also appreciate the opportunity to make oral representations should ICASA decide to hold hearings on this matter.

For further correspondence contact can be made electronically directly to Douglas Cohen (dcohen@salga.org.za; 012 369 8012 or 082 458 1282 for any queries)

Yours faithfully

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15.1: LEGISLATIVE AND REGULATORY ISSUES
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15.1.1. Yes.

We would support that given important services offered through broadcasting and the opportunities for access through digital broadcasting, broadcasters should also carry obligations.

15.1.2.1 Important factors include:

- Percentage of Market Share (voice and data)
- Geographic reach / spread
- Ability to roll out networks speedily and to areas most in need of access
- Promotion of Black Economic Empowerment through ownership and control;
- Readiness of existing assets and financial ability

15.1.2.2 ECNS and BS only

Given the low level of broadband penetration in many of South Africa's provinces and non urban areas, the effective application of USAO's are required to ensure that there is greater and targeted investment in broadband infrastructure and more efficient use of scarce radio frequency spectrum. It is our contention that only the larger telecommunications operators with ECNS therefore need to have USAO's.

- Focus on the infrastructure required for access to communications services and networks – which includes affordability and geographic proximity to facilities
- Force those with ECNA and BS to utilize the spectrum cost effectively and effectively and for the benefit of those most in need

15.1.2.3. If ECS do not have the USAO's it is believed that:

- It will lower the barriers to entry and encourage greater supply in the roll-out networks speedily and to areas most in need of access
- Encourage local economic development and the promotion of Black Economic Empowerment through local ownership and control
- Promotion of competition within ECS in respect of services, price and entry of new, capable licensees into the market
- Encourage alignment with provincial and national government's shared and accelerated growth programme which focuses on potential for job creation and enterprise development

15.1.2.4. N/A

15.1.3. N/A

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| 15.1.4. | <ul style="list-style-type: none">• Promotion of access to communications services and networks – which includes affordability and geographic proximity to facilities;• Empowerment of citizens through access to education and other government services;• Ability to utilize the spectrum cost effectively and effectively and for the benefit of those most in need;• Ability to roll out networks speedily and to areas most in need of access;• Promotion of Black Economic Empowerment through ownership and control;• Promotion of competition in respect of services, price and entry of new, capable licensees into the market.• Alignment with provincial and national government's shared and accelerated growth programme which focuses on potential for job creation and enterprise development. |
| 15.1.5. | N/A |
| 15.1.5.1. | N/A |
| 15.1.6. | N/A |
| 15.1.6.1. | N/A |
| 15.1.7. | Yes |
| 15.1.7.1. | N/A |
| 15.1.7.2. | N/A |
| 15.1.7.3. | N/A |
| 15.1.7.4. | N/A |
| 15.1.8. | N/A |
| 15.1.9. | N/A |
| 15.2.1. | N/A |
| 15.2.2.1. | N/A |
| 15.2.2.2. | <ul style="list-style-type: none">• The development of sustainable broadband services, particularly in rural areas where the business case may be insufficient to attract commercial suppliers is more challenging• However the role for local government, in such rural areas, as the primary |

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public infrastructure and service provider, to facilitate the growth of broadband is undefined

- Opportunities in working together with local government in the USAO process include:
 - *Acting the anchor client for a local network (that ultimately benefits the larger community)*
 - *With regards to Local Government facilities that could be made available / shared include; fibre telecommunications infrastructure; copper telecommunications infrastructure; electricity distribution network; substations; and street pole lamps, buildings; water towers; fire towers; radio masts; and vacant land, radio frequency spectrum licences; wireless network infrastructure; fixed line wire-line network infrastructure – both directly owned and leased, roads and subsurface conduits; road reserves and subsurface conduits; bridges; storm-water drains; and traffic lights.*
 - *Supporting the provision of online services to local communities;*
 - *Attracting local and national telecommunications private sector services providers to both invest in Broadband infrastructure;*
 - *Developing policies and programs that encourage the both the awareness and provision of affordable broadband services at the local level.*

- 15.2.2.3.** To facilitate the provisioning of affordable access to Broadband infrastructure to citizens, business and government and also stimulate the usage of Broadband services at national, provincial and municipal levels. National government needs to recognise that all levels of government need to work collaboratively on this important objective.
- 15.2.3.** N/A
- 15.2.4.1** Given the low level of broadband penetration in many of South Africa's provinces and non urban areas, the effective application of USAO's are required to ensure that there is greater and targeted investment in broadband infrastructure and more efficient use of scarce radio frequency spectrum. It is our contention that only the larger telecommunications operators with ECNS therefore need to have USAO's.
- 15.2.4.2.** N/A
- 15.3.1.1.** We are in support of the recommended model, supported by a co-ordinated planning framework. There needs to be alignment in the activities of national provincial and local governments, SOE's, government agencies (USAASA) and other stakeholders in the roll-out of broadband infrastructure and services.
- 15.3.1.2.** N/A

- 15.3.2.
- The policy needs to take cognisance of the following specific challenges:
 - *While there maybe a demand for basic and commercial broadband services there is a also a significant differentiation between also between urban and rural spatial realities*
 - *Understanding this challenge must be paramount in how Government proposes to intervene to facilitate the access and uptake of broadband services by local government, particularly in rural areas*
 - *The lack of a The limited ICT capacity and awareness within Local Government hampers progress in addressing the connectivity needs of local communities*
- 15.4.
- **Given that there are municipalities in South Africa without broadband, what is the position of ICASA and the USAO's policy to include them in the obligations?**
 - **The view of Municipalities, with their access to infrastructure and possible role of an anchor client, as becoming a partner for an USAO tender?**
 - **Metro municipalities are in possession of PTN licences and have various models in ensuring access beyond just internal use. Do any USAO's apply to them?**
 - A key challenge in the South Africa's currently liberalised telecommunication landscape shows that local demand is often not enough to attract broadband carriers to all regions of the country.
 - The National Broadband policy presents the view that all spheres of government act in unison to achieve bridging the digital divide.
 - Given that much of the South Africa's economic activity is only concentrated in 6 Metros and 21 Secondary Cities. It is therefore expected that the policy acknowledge that there are high disparities between urban and rural economies. This is true for both the levels of broadband infrastructure and access to affordable services. It makes a strong case to say that there is market failure especially in the remote and more rural areas.
 - Private sector investment toward non-economically viable areas is not expected to significantly change over time, a therefore a greater form of intervention is required.
 - Currently, of the 283 municipalities about 3 in 5¹ themselves use Leased Lines², however, the trend is moving towards Wireless Broadband and Asymmetric digital subscriber line (ADSL), with only approximately a third of municipalities on Broadband (such as ADSL, Wireless Broadband or Virtual Private Networks). **The reason many municipalities remain on dial-up, or basic Digital Network (ISDN)**

¹ ForgeAhead 2008 ICT in Government Provincial and Local Government Study.

² A leased line is a symmetric telecommunications line connecting two locations.
(http://en.wikipedia.org/wiki/Leased_line)

services for their Internet connection is due to the very limited access and availability of affordable broadband in their, often rural, areas.

- In this regard, some provincial and local governments in South Africa have successfully invested significant resources of their own in establishing broadband networks and promoted the uptake of broadband services for economic and social reasons. They have successfully demonstrated their ability to not only successfully manage and deliver on their own constitutional mandate but have also form strong partnerships with business, universities and other sectors. Local Government has been involved in many different areas of broadband, including:
 - *Identifying broadband access as being essential to the economic and social development of their communities and motivating for funding for broadband infrastructure rollout*
 - *With regards to assigned frequencies, various Metro's, including he the City of Joburg and Ekurhuleni has demonstrated efficient use of frequency*
 - *Both are using 5GHz and 18 GHz for last mile and backhaul within their WWAN*
 - *Developing a business case for obtaining broadband for their cities and communities*
 - *Making assessments of their own fibre, electrical and wireless and related infrastructure to be leased to a private sector bidder in return for rental income*
 - *Developing new approaches to regulations when using mounted on municipal infrastructure such as light poles*
 - *Owning both private telecoms network (PTN)³ and VANS licences. Subsequently converted to Class Electronic Communication Service (a ECS / service license) and where possible a Class Electronic Communication Network Service (a ECNS / network license) under the Electronic Communications Act⁴*
 - *Making written representations to ICASA on the allocation of radio frequency spectrum in the WiMax (3.5 GHz and the 2.6 GHz) band*
 - *Developing innovative approaches to regulating the rollout of broadband in 'Greenfield estates'*
 - *Procuring for their internal use, wireless based networks that cover a specific region, or whole municipality*

³ Private electronic communications networks used principally for or integrally related to the internal Operations of the network owner. Except that where the private electronic communications networks' Additional capacity is resold; the Authority may prescribe terms and conditions for such resale. This corresponds with the Private Telecommunications Network (PTN) licence category created by the Telecommunications Act (http://old.ispa.org.za/regcom/advisories/guide_to_licensing_under_eca.pdf);

⁴ ICASA General Notice on Licence Conversion in terms of Section 93 of the ECA 20081114.

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- Components for the USAO's that would assist and guide broadband initiatives at local government could include:
 - *Promoting greater collaboration between government agencies, USAASA, Provincial and Local Government, communities and commercial services providers in facilitating the development of broadband infrastructure and services*
 - *As there will always be areas which are unlikely to attract commercial services providers to the area, the policy needs to ensure that universal service requirements remain an important part of the telecoms obligations*
 - *Coordinating a planning framework that provides information to local government on broadband demand aggregation and funding opportunities*
 - *Encourage the development a "good practice" contractual, technological and commercial guidelines for use by provincial and local governments prior to entering into public/private partnerships and other collaborative arrangements with commercial infrastructure providers for the delivery of broadband in their area*
 - *Establishing guidelines for the relevant planning regulations and operational guidelines to provide consistency to infrastructure providers*
 - *The coordinated development of local policies and by-laws that shape the use of local physical infrastructure assets*

- Principles extracted from the NEPAD ICT Broadband Infrastructure Network Policy⁵ also provide further useful input into the USAO policy:
 - *Non-discriminatory Open Access, whereby all Authorised Service Providers will access broadband connectivity on the same terms, including pricing. This will provide a level playing field for all Authorised Service Providers, increase competition, and thereby reduce bandwidth prices to the end-users*
 - *Use of Special Purpose Vehicles (SPV's) for Government entities to build, own and "operate" through Public Private Partnerships (PPP) Broadband networks*
 - *All basic ICT Broadband Infrastructure should be viewed as a "public good*

⁵ <http://www.eafricacommission.org/projects/126/nepad-ict-broadband-infrastructure-network>