



**Independent Communications Authority of South Africa**

Pinmill Farm, 164 Katherine Street, Sandton  
Private Bag X10002, Sandton, 2146

**General Notice: Regulatory Impact Assessment: USO Phase II**

1. The Independent Communications Authority of South Africa (the "Authority") is conducting a Regulatory Impact Assessment (RIA) on Universal Service Obligations<sup>1</sup> (USO) in the Electronic Communications Services & Electronic Communications Network Services market.
2. The Authority seeks your input/comments/views on the Problem Statement with regards to USO in the Electronic Communications Services & Electronic Communications Network Services (ECS/ECNS) market. The RIA will inform the Authority on the views, problem/s, and action plan and this makes the basis on the way forward to either intervene or not.
3. This process (RIA) is not a regulation making process, it however seeks to inform industry and the Authority on the best course of action to be recommended to address the defined problem. In other words the RIA process feeds into the regulatory making process in order to come up with SMART interventions.
4. Respondents must indicate all information that should be treated as confidential. Kindly forward your response **within 21 working days** to:

Attention: **Godfree Maulana**; e-mail: [ecsecns.compliance@icasa.org.za](mailto:ecsecns.compliance@icasa.org.za)

**Subject: [Licensee Name or Stakeholder] – RIA USO Phase II**

**or**

**Physical address:**

Independent Communications Authority of South Africa  
Pinmill Farm, 164 Katherine Street, Sandton

**or**

**Postal address:**

Private Bag X10002, Sandton, 2146

5. The Authority appreciates and thank you for your participation in advance.

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<sup>1</sup> In this document the words Universal Service Obligations (USO) and Universal Service Access Obligations (USAO) can be used interchangeably however the basic context of universal service and universal access is being referred to.

## **Problem Statement and Options**

### **1. Introduction.**

In 2009, the Authority commissioned international benchmarking of universal access and service obligation by BMI-TechKnowledge. The following year BMI-TechKnowledge conducted a review study of the existing universal service and access obligation<sup>2</sup>. The study generated a discussion document which was sent out to stakeholders<sup>3</sup>, the findings were subsequently published in 2012<sup>4</sup>. One of the recommendations for these processes was for the Authority to conduct a review and amendment of all imposed USAO imposed on licence holders<sup>5</sup> and publish Under-served Areas Definitions<sup>6</sup> as stated in the ECA<sup>7</sup>.

The review and amendment process was positively received, industry had a general consensus on the need for all licence holders to carry universal service and access obligations. It is on this basis that, the Authority seeks to find possible ways to address this disparity among licence holders. In order to achieve that the Authority is embarking on a Regulatory Impact Assessment.

### **2. Problem Statement**

The South African ECS/ECNS market has total of 771 licensees and counting. Of these licensees in the market only 1%<sup>8</sup> have universal service and access obligation with the objective closing the ICT gaps within the communities.

The Definition Of Under-Served Areas Regulations as published shows a list of District Municipalities in the country for availability and accessibility of internet,

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<sup>2</sup> USAO Compliance Review of Licensees for ICASA by BMI-TechKnowledge and Mkhabela Huntly Adekeye Inc, March 2010

<sup>3</sup> Discussion Document: universal Service and Access Obligations Review, Notice 807, Government Gazette No.33467, 17 August 2010.

<sup>4</sup> General Notice - Findings on review of Universal Service Access Obligations ("USAO"), Notice 725, Government Gazette No.35674, 10 September 2012.

<sup>5</sup> General Notice – Amended Universal Service Obligations, Notice 401, Government Gazette No.37718, 4 June 2014.

<sup>6</sup> Under-served Areas Definitions Regulations, Notice 734, Government Gazette No.35675, 10 September 2010 & General Notice – Explanatory Memorandum on Under-served Areas Definitions Regulations, Notice 724, Government Gazette No.35673, 10 September 2010

<sup>7</sup> Electronic Communications Act No.36 of 2005 as amended.

<sup>8</sup> Licensees that have universal Service and Access Obligations are the following: Broadband Infracore, Cell C, Neotel, MTN, Telkom, WBS, Sentech, Vodacom

computers<sup>9</sup>, telephones<sup>10</sup> and cell phones<sup>11</sup>. The first 200 districts in the list have a combined average of internet, computers, telephone and cell phone at penetration rates of less than 30%, the lowest district has 12.7% average. The lowest internet access and availability in a district is 0.0% and highest is 12.5%. Access to computers is lowest at 0.3% and the average for all districts is 15.6%. Contrary to common perception the average for the districts with regards to access and availability of mobile phone services is 72.7%.

It is clear from the above that there are gaps within our communities with regard to availability and accessibility to ICT's. The South African market has licensees providing services at district and national levels. Their services range from wireless and fixed internet access to voice services. Entities providing these services are mostly WISP<sup>12</sup>, however due to their size most WISP have limited network infrastructure and rely heavily on established entities for backhaul fibre and access to international fibre. WISP often provide their own last mile connectivity to the customer premises which is mostly wireless, however they make use of the ISM band spectrum<sup>13</sup>.

Uptake of services must be considered when issues of universal service and access obligation are being resolved. Currently 5250 public schools have been targeted for roll-out of access to internet services. This forms approx. 22% of all public schools within the country. There is a need for the remaining schools be provided with access including other government service departments that are located within the of communities' e.g. police stations, community halls, community clinics and fire stations. If these are targeted for initial uptake it might make it easier for surrounding communities' to accesses these services.<sup>14</sup>

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<sup>9</sup> Computers is in reference to how many households have a computer in the house or access to a computer.

<sup>10</sup> Telephones means the number of fixed lines telephones per district and people that expressed an interest in accessing and having a fixed telephone line in their house.

<sup>11</sup> The number of people that can access and have mobile cellphones and access to mobile cellphone services within the district.

<sup>12</sup> WISP is a wireless internet service provider, in South Africa they can be operating independently of affiliated with other network service providers or Internet Service Providers. WISP sometimes do offer voice services as VoIP.

<sup>13</sup> industrial, scientific and medical (ISM) radio bands are radio bands (portions of the radio spectrum) reserved internationally for the use of radio frequency (RF) energy for industrial, scientific and medical purposes and other, in South Africa it can be used for last mile wireless access without a licence with condition e.g. less power outage used etc

<sup>14</sup> It is assumed that service providers that provide services to government service department would end up providing the same services to the surrounding communities.

There is need for backhaul fibre<sup>15</sup> to be made accessible and to be in close proximity for WISP and other players to pick-up in order to install base stations/wireless access points. Whilst some backhaul fibre is made available on a commercial basis there is limited access or no access in under-served areas. However, there is considerable backhaul fibre in the country but it serves mainly towns and cities, this needs to be extended to under-served areas.

### 3. Objectives

The primary objectives are:

- 3.1. Identifying the type of obligation
- 3.2. Setting the targets<sup>16</sup>
- 3.3. Implementation and monitoring

### 4. Options

#### 4.1. Option 1:

First option is to do nothing.

#### 4.2. Option 2:

Voluntary commitment to roll-out into under-served areas and providing services to targeted recipients in the communities. The commitment will be a binding agreement between the licence holder and Authority to deliver on a specified obligation to the Authority/Community at specified timelines.

The obligation shall be:

| Size of entity <sup>17</sup> | Obligation  | Timeline                          |
|------------------------------|---|-----------------------------------|
| R10-20million                | WSP:<br><ul style="list-style-type: none"> <li>• 1 public health institution</li> <li>• 1 public service institution</li> </ul> | • To be completed within 12months |
| R20 – 50million              | • 5 public schools  | 12 – 16 Months                    |

<sup>15</sup> Is the commercial wholesale bandwidth provider who offers Quality of service (QOS) guarantees to the retailer or the side of the network that communicates with the global Internet, paid for at wholesale commercial access rates.

<sup>16</sup> Setting of targets refers to the number each licence holder will be required to do and the period by which to complete implementation.

<sup>17</sup> The size is based on entities annual turnover and the scale is an extrapolation from the NATIONAL SMALL BUSINESS ACT, NO. 102, 1996, from Sector or sub-sectors in accordance with the Standard Industrial Classification, Transport, Storage and Communications.

| Size of entity <sup>17</sup> | Obligation   | Timeline  |
|------------------------------|--|-----------|
|                              | <ul style="list-style-type: none"> <li>• 1 community centre internet cafe</li> </ul>                               |           |
| R51 – 100million             | <ul style="list-style-type: none"> <li>• 20 public schools</li> <li>• 5 government service departments</li> </ul>  | 24 months |
|                              | Optic Fibre Entity: <ul style="list-style-type: none"> <li>• 10 PoP in identified Local Municipalities</li> </ul>  | 3 years   |
| R101 – 500million            | <ul style="list-style-type: none"> <li>• 50 public schools</li> <li>• 10 government service departments</li> </ul> | 3 years   |
|                              | Optic Fibre Entity: <ul style="list-style-type: none"> <li>• 20 PoP in identified Local Municipalities</li> </ul>  |           |
| R501million - above          | <ul style="list-style-type: none"> <li>• 100 public schools</li> <li>20 government service departments</li> </ul>  | 3 years   |
|                              | Optic Fibre Entity: <ul style="list-style-type: none"> <li>30 PoP in identified Local Municipalities</li> </ul>    |           |

The roll out to public schools only entails the provision of the connectivity and shall exclude the end user hardware and devices. The government service departments shall be limited to police stations, fire stations, social grants and home affairs departments.

The voluntary commitment entails the licence holder signing off on a commitment with the regulator on specified deliverables which become binding. The deliverable will have to be strictly adhered to by the licence holder, failure which based on specified penalties on the commitment Licence holder will be referred to CCC for non-compliance.

The option has no need for any amendment to the licence terms and conditions nor an extended public process. Once commitment is signed off the licence holder commences with implementation.

#### 4.3. Option 3:

Two types of obligations, first roll-out of backhaul fibre (by licence holders that specialise in optic fibre and currently do not have obligations) to under-served areas where there is absolutely no fibre. Second the roll-out of wireless internet

access by licence holders that currently are providing internet services by installing wireless access points.

Each licence holder with core business to roll-out optic fibre to be allocated specific areas to provide a point of presence (PoP). The allocation of specific areas will depend on the proximity of the licence holders existing fibre. Existing PoP must be made accessible to licence holders that are given an obligation to provide connectivity with enough capacity (bandwidth) for future expansion.

Each licence holder will be allocated a targeted recipient to provide access, either a school, police station or community hall. If it is a community hall licence holder shall set up an internet "café" to be operated by appointed person as per licence holder criteria. The speeds will be in line with SA Connect<sup>18</sup> targets, the roll-out will exclude any hardware.

The above intervention would be through the process of amending the Licence Terms and Condition of Licence holders, similar obligations for groups of licensees amendment and consultation done as a collective.

## **Further Questions**

### **5. Option 1**

5.1. In deriving at the different possible options it is always advisable that in the face of an issue at hand the Authority considers doing nothing i.e. no intervention at all. **Considering this statement do you think it would be advisable for the regulator to take this position? In essence leave the status quo as is and let market forces play out and eventually the market will reach all these under-served and under-serviced areas.**

### **6. Option 2**

6.1. The second option is for licence holders to voluntarily commit to providing services to under-served and under-serviced areas. **Give us your opinion on voluntary commitment? Should the Authority pursue this avenue and why?**

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<sup>18</sup> South Africa Connect: Creating opportunities, ensuring inclusion South Africa's Broadband Policy, Government Gazette No.37119, dated 6 December 2013.

- 6.2. Considering your response above. **How should the voluntary commitment be structured and what binding considerations should be considered?**
- 6.3. Considering your response to 6.1 and 6.2 above. **What should the Authority do in case fewer licence holders or no licence holders come forward to volunteer?**
- 6.4. If option 2 were to be considered, **what are the costs associated, that will be incurred in meeting committed requirements? Kindly provide a detailed cost assumption breakdown.**
- 6.5. **Is there any administrative costs associated with meeting the commitment requirements from the licence holder's perspective? Provide in detail the costs associated with meeting compliance.<sup>19</sup>**
- 6.6. The voluntary commitment outlines the different expectations of targets to be met based on the size of the entity. **Kindly provide your opinion on the targets and criteria used?**

## **7. Option 3**

- 7.1. This option requires that the USAO's are done through licence amendment processes via consultation. The Authority proposes to conduct a collective consultations process. **Kindly provide your views on the process?**
- 7.2. The option will formulate obligations which will be the same for licence holders depending on the same criteria as option 2. **Kindly provide your view if any.**
- 7.3. Licence holders will be allocated areas to provide services which is in contrast to option 2 whereby the licence holders will chose areas on their own since they are volunteering. **Kindly provide your view if any.**
- 7.4. **Is there any administrative costs<sup>20</sup> associated with meeting the commitment requirements from the licence holder's perspective? Provide in detail the costs associated with meeting compliance.**

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<sup>19</sup> In providing the cost the Authority would use the information to calculate the cost which the licence holder would incur in meeting the compliance requirements. These cost include but not limited to labour costs, service costs i.e. if Licence holder uses an agency or Attorneys for regulatory service. The information will be used to assess for the cost versus benefits of the options

<sup>20</sup> Same as above