



Independent Communications Authority of South Africa
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Universal Service Obligation: Phase II

In 2010, the Authority embarked on a review of the universal service and access obligation (USAO) review. The review was for the purpose of aligning the imposed USAO's with market changes and the relevance of the then imposed obligations.

A consultation process was conducted with industry and a Findings on Review of USAO document was published¹. Industry had a common view that all licence holders must carry USAO's in order to level the playing field. Industry had a common view that whilst USAO's cannot be mandatory the Authority can in fact use its discretion to impose USAO's via section 8 of the ECA².

In pursuant of the above the Authority is conducting a Regulatory Impact Assessment (RIA) on imposing USAO's on ECS³ & ECNS⁴ licence holders in the market. The first phase of the RIA will be inform of informal questions to gather initial information for the purpose of crafting a problem statement and objectives.

The Authority hereby appeals for your participation in this phase by providing responses to questions how in the event that more information can be provided not asked for kindly submit same.

¹ General Notice-Findings on Review of Universal Service Access Obligations ("USAO"), gazette No. 35674, 12 September 2012

² Electronic Communications Act No. 36 of 2005 as amended.

³ Electronic Communications Service

⁴ Electronic Communications Network Service

**NA Batyi, MR Mohlaloga, KGS Pillay, (Councillors),
PK Pongwana (CEO)**

A. LEGISLATIVE AND REGULATORY CONSIDERATION

- (1) In terms of section 8 of the ECA the Authority must prescribe standard terms and conditions to be applied to individual and class licences, which include but not limited to “any universal access and universal service obligations”. Given that most Individual and Class licences were a result of licence conversion done on the basis of no less favourable terms. **In your opinion is it then justified that the Authority impose USAO’s after the fact?**

- (2) If USAO’s are imposed on licence holders in terms of the section 10 of the ECA the Authority must consult with licensees. The ECS/ECNS sector has over 600 licence holders in the market, consulting with each licence holder would entail a timeline of not less than two years to complete the process. **Should the Authority consult industry as a collective or should the Authority consult on licensee basis?**

- (3) Once the USAO is imposed each licence must be amended, in terms of section 10 of the ECA the provisions of section 9(2) to (6) apply. Given that the imposed USAO’s could be the same, **Should the Authority follow the provision of section 9(2) to (6) of publishing each licence amendment per licence or should the publication only be for the USAO to be imposed on all licence holders?**

B. UNIVERSAL SERVICE AND ACCESS

- (1) The Broadband policy⁵ objectives are but not limited to, affordable broadband, e-government services, and broadband to communities. **Which aspect of the stated should the USAO focus on?**

⁵ South Africa Connect: Creating Opportunities, Ensuring Inclusion South Africa’s Broadband Policy, gazette No. 37119, 6 December 2013, p 13

(2) Currently the Authority has imposed USAO's to licensees for the roll-out of internet connectivity to schools with a target number of 5250 to connect. South Africa has a total of approximately 24 000 public schools. Given that not all the schools will benefit from the current process, **should the Authority imposed the same obligation to other licence holders, how many schools per licensee and how should the obligation be structured?**

(3) The Broadband policy started in B (1) has targets for broadband roll-out to schools, public health facilities and government facilities⁶. **Should the Authority be limited to imposing USAO towards achieving this set target or is there any other areas the Authority can look at to advance the same objectives?**

(4) **What other areas should the Authority look at in imposing USAO to increase access and service delivery to under-served and under-serviced communities?**

C. MARKET STRUCTURE CONSIDERATION

(1) The South African market consist of Individual, Class licence holders and Resellers. **Should USAO be imposed evenly across the stated? Provide reasons.**

(2) Given that Individual licences can operate at a national scale and class licences are restricted to a geographic scale. **How best should the Authority impose USAO? Explain why?**

(3) It is common knowledge that entities in the market are of different size based on market size, product offering in market, revenues size and many other

⁶ South Africa Connect: Creating Opportunities, Ensuring Inclusion South Africa's Broadband Policy, gazette No. 37119, 6 December 2013, p 18 & 19

factors. **How should the Authority cater for the differences in imposing USAO's and why?**

(4) What other consideration should the Authority consider in imposing USAO's and how should that be done?