



Cell C (Pty) Ltd
150 Rivonia Road, Sandown 2196
Private Bag X36, Benmore 2010
Johannesburg, South Africa
General Tel: +27 (0)11 324 4000
Fax: +27 (0)11 324 4001
Website: www.cellc.co.za
Reg. no: 1999/007722/07

15 February 2013

Mr Manyapelo Richard Makgotlho

Project leader: ICASA
Pinmill Farm Block A
164 Katherine Street
Sandown

Per Email: rmakgotlho@icasa.org.za
chairperson@icasa.org.za

Dear Mr Makgotlho

RE: DRAFT UPDATE OF THE NATIONAL RADIO FREQUENCY PLAN

We wish to thank the Authority for the opportunity to provide written comments on the proposed draft regulations on the update of the National Radio Frequency Plan as published in Government Gazette 36025 dated 21 December 2012.

Cell C wishes to make an oral submission when the public hearings are convened.

Yours sincerely

Mothibi Ramusi

Executive Head: Regulatory Affairs



DRAFT REGULATIONS FOR THE T DRAFT UPDATE OF THE NATIONAL RADIO FREQUENCY PLAN

CONTENTS

- 1. Introduction*
- 2. Specific Comments*
- 3. Conclusion*

1. INTRODUCTION

- 1.1 Cell C would like to thank the Authority for the opportunity to present these written comments, and requests the opportunity to both elaborate on the points below as well as to raise further points via oral submission when a public hearing is convened on the matter.
- 1.2 Cell C commends the Authority on the publication of the proposed draft regulations on the draft update of the National Radio Frequency Plan (“NRFP”). Cell C is in agreement with the Authority that there is a need to update the National Radio Frequency Plan as published in Government Gazette 33409 on 30 July 2010.
- 1.3 Cell C believes that the latest NRFP is all-inclusive and will create an environment where spectrum bands are used for specific services, radio frequency spectrum is used in an orderly manner and provide for reduced or no interference between licensees. The plan must be sufficiently transparent and unambiguous regarding the availability of contiguous and usable spectrum in the short, medium and long term.
- 1.4 Lastly, Cell C would like to thank the Authority for the extension granted for the deadline for written comments from 8 February 2012 to 15 February 2013 as published in Government Gazette 36134 on 4 February 2013.

2. SPECIFIC COMMENTS

2.1 Spectrum Management Principles

Cell C encourages the Authority to abide by the following spectrum management principles:

- (a) Ensure that the radio frequency spectrum is utilized and managed in an transparent, orderly, efficient and effective manner;
- (b) Ensure procedures are in place to eliminate harmful interference;
- (c) Create an environment for flexibility (adapt to market changes and new technologies), innovation, and rapid introduction of services;
- (d) Ensure economic efficiency where market allocation of spectrum to users, and to uses, that derives higher value from the spectrum resource;
- (e) Must be consistent with government policy;
- (f) Promote development and introduction of new spectrum-saving technologies where the cost of such technologies is justified by the value of the spectrum saved; and
- (g) Ensure the harmonization of radio frequency spectrum with international, regional and national requirements.

Cell C strongly Cell C recommends the harmonization of the 900 Mhz radio frequency band through the in-band migration and management of the E-GSM900 and P-GSM900 radio frequency bands. The harmonization of this band will culminate into realising the true potential of the radio frequency spectrum assigned to the relevant electronic communications network licensees. Thus ensuring principle (e) above is adhered to.

2.2 Radio Frequency Processes

The Authority published the draft Frequency Migration Regulations and Radio Frequency Migration Plan in Government Gazette 35598 on 17 August 2012 for written comments. Subsequently, the Authority held oral hearings during the months of October and early November 2012. The Authority has released a second draft for comments on 24 December 2012. A noticeable change in the second draft has been the inclusion of Appendix A, "Model Radio Frequency Spectrum Assignment Plan". It is unclear to Cell C on the relationship and related procedure between this NRFP and the draft Frequency Migration Regulations, draft Radio Frequency Migration Plan ("FMP") and the draft Model Radio Frequency Spectrum Assignment Plan ("FSAP"). Section 2, the "Preamble" of the NRFP is silent in this



regard. For certainty, C recommends that the Authority clearly state the process to be followed where the FMP and FSAP are to be completed upon finalization of the NRFP.

2.3 Decisions by World Radio Conference 2012

The Authority has indicated that it has consulted with senior officials of the Department of Communications (“DoC”) to include radio frequency spectrum allocated by the Minister for use by security services. This requirement is contained in s34(7)(c) of the Electronic Communications Act (“ECA”) which states:

“In preparing the national radio frequency plan as contemplated in subsection (4), the Authority must-

- a) *take into account the ITU's international spectrum allotments for radio frequency use, in so far as ITU allocations have been adopted or agreed upon by the Republic, and give due regard to the reports of the experts in the field of spectrum or radio frequency planning and to internationally accepted methods for preparing such plans;*
- b) *take into account existing uses of the radio frequency spectrum and any radio frequency band plans in existence or in the course of preparation;*
- c) *consult with the **Minister** to-*
 - i. *Incorporate the radio frequency spectrum...*
 - ii. *Take account of governments current ...*
 - iii. *Co-ordinate a plan for the migration of existing users, as applicable, to make available radio frequency spectrum to satisfy the requirements of subsection (2) and the objects of this Act and of the other related legislation.”*

Cell C notes that the consultation has taken place with senior officials of the Department of Communications and not with the Minister. To avoid unintended consequences or future disputes between the DoC and the Authority, Cell C recommends that due process be followed as stipulated in the ECA.

Cell C also notes that these draft regulations are developed in terms of Section 34 (5) of the ECA which only deals with updating and amending the NRFP. Cell C recommends that this should be expanded to include Section



34 (7). This is due to the reference by the Authority to consult with the DoC and the requirement in the draft regulations to revise the existing NRFP to incorporate ITU decisions taken at the 2012 World Radio Conference (“WRC 12”). Furthermore Cell C recommends that the NRFP must be approved by the Minister in terms of Section 34(2).

Therefore the revised General Notice should read:

“1. The Independent Communications Authority of South Africa (‘the Authority’), in terms of section 34 (5) and 34 (7), of the Electronic Communications Act (Act No.36 of 2005), hereby gives notice and invites comments on the *draft Update of the National Radio Frequency Plan 2012*”

2.4 Primary vs Secondary Services

Cell C seeks clarity from the Authority on how the Authority is going to deal with licensees who are assigned radio frequency spectrum for primary services but utilize this spectrum for secondary services. This occurs when radio frequency bands are identified for uses/applications other than that allocated for primary. For example, the 2,3 Ghz band may be assigned to a licensee for FIXED services, however due to this band been identified for IMT services, the licensee then chooses to use this radio frequency spectrum for IMT services (MOBILE-secondary services). Further an entire radio frequency spectrum band may be changed where the old Primary service (FIXED) is migrated out and replaced by a newer ITU recommended service like MOBILE (IMT) which replaces FIXED (Fixed links), the licensee who has Fixed links refuses to migrate these services out and then chooses to use the assigned radio frequency spectrum for the newer MOBILE service. Cell C believes that if this behavior is unchecked it may lead to potential abuse or unintended consequences by licensees who are assigned radio frequency spectrum for primary services but hold on to the assignment to their benefit when an amendment occurs to the NRFP.

2.5 IMT Frequency Bands

Cell C strongly supports the Authority in its interpretation and inclusion of the WRC 12 Radio Regulation Resolutions in the NRFP. In particular, Cell C believes that the 450Mhz, 700Mhz, 800Mhz, 850Mhz, 900Mhz, 1800Mhz, 2100Mhz, 2300Mhz, 2600 Mhz and 3500Mhz radio frequency spectrum bands are aligned to the corresponding WRC resolutions (212,223,224,232 and 749). Cell C further believes that this approach is aligned with ATU and SADC recommendations which will go a long way in contributing to regional



harmonization and affordable IMT service availability. Cell C recommends that the Authority expedites the assignment processes to follow to ensure that the demand for IMT services is met in the country.

3. CONCLUSION

3.1 Cell C supports the changes to the National Radio Frequency Plan that was published in Government Gazette 33409 on 30 July 2010 with respect to the MOBILE (IMT services) frequency bands. These changes are aligned to the WRC 12 Radio Regulations

3.2 Cell C encourages the Authority to review the NRFP periodically when the need arises. The need may arise from ITU-R Sector recommendations and resolutions, Regional and National requirements and obsolete technologies. The NRFP must also embrace the framework of the ECA and create an environment for technological innovation and economic growth.

3.3 Cell C commends the Authority for developing a comprehensive NRFP and encourages the Authority to ensure that licensees comply with the regulations in its final form.

Ends