

Cover sheet: representations on draft IMT Roadmap, 7 October 2014

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| Confidentiality | Not confidential |

Declaration

I confirm that the information supplied on the cover sheet may be incorporated into a formal consultation response: It can be published by ICASA, unless otherwise specified on this cover sheet, and I authorise ICASA to make use of the information in this response to meet its legal requirements.

Signed *Mawela* at *RANDBURG*

Date *07/10/2014*

Signed at

Date



7 October 2014

The Independent Communications Authority of South Africa (ICASA)
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Number of pages: 5

Dear Sir

Draft International Mobile Telecommunications (IMT) Roadmap

- 1 M-Net and Orbicom thank the Authority for the opportunity to comment on the draft International Mobile Telecommunications (IMT) Roadmap which was gazetted on 27 August 2014¹ ("the draft Roadmap").
- 2 Our comments relate primarily to the Authority's proposed migration of broadcasting services out of the band 694-790 MHz ("the band"), ostensibly in reliance on Resolution 232 of the 2012 World Radio Conference ("Resolution 232").
- 3 Resolution 232 does not require that existing users migrate out of the band. The resolution provides for the allocation of the band to mobile services on a co-primary basis with broadcasting services.
- 4 The allocation on a co-primary basis to mobile services will only be effective after WRC-15 and, most importantly, the conditions for co-allocation will be determined after the necessary studies have been conducted, including studies on the spectrum requirements of users.
- 5 Prior to making a decision on making broadcasting services vacate the band, the Authority should consider not just the economic value in terms of profits that can be realised by use of the radio frequency bands, but also the social value

¹ Notice No 729, Government Gazette No 37948

thereof by calculating what the absence of a broadcasting service in these bands would cost the public.

- 6 The proposed migration of broadcasters out of the band should not occur until a proper study has been done to understand the future spectrum needs of the broadcasting industry. Without such a study, the Authority cannot know whether the capacity in the proposed band of migration is adequate.
- 7 It would be premature for the Authority to proceed with the migration of broadcasters out of the band before the necessary studies have been concluded and the conditions for co-allocation are determined after WRC-15.
- 8 Notwithstanding our submission that the Authority should await the outcome of WRC-15, there are a number of considerations which the Authority will need to take into account if it intends to migrate users out of the band. We address some of these below.
- 9 The broadcasting sector needs spectrum in order to grow and remain viable. Spectrum is necessary not only for radio and television broadcasting in the current broadcasting environment, also crucial for broadcasters to evolve with new technologies and to drive innovation and meet audience expectations, e.g. the introduction of new spectrum-hungry technologies such as 3DTV and UHDTV. High viewer demand for additional or new broadcast services such as pay-DTT, high-definition (HDTV), mobile television, and Push VOD is expected.
- 10 The final Digital Migration regulations propose the allocation of a portion of an 8 MHz multiplex to each of the migrating analogue broadcasters. Due to severe spectrum scarcity during the period of dual illumination, additional spectrum could not be allocated to migrating broadcasters. However, these allocations cannot be considered adequate compensation for the dividend which will be returned by these broadcasters when they relinquish spectrum which has been licensed to them.
- 11 M-Net has repeatedly alerted the Authority to the inadequacy of the multiplex allocations. The allocation proposed in the latest version of the DTT regulations will not even permit M-Net to dual illuminate its existing services in HD, let alone offer any digital incentive channels. Multi-channel and HD will become the standard for the DTT platform and this will require additional spectrum allocations for broadcasting services.
- 12 The Authority must guarantee migrating broadcasters, whose rights to use the radio frequency spectrum licensed to them have been expropriated, appropriate and adequate spectrum in return. Broadcasters must also be eligible to bid/apply for spectrum in the band in order to roll out their content offerings.

Network neutrality will also be essential to ensure transparent and equitable access to the assigned spectrum. In addition, the Authority must ensure that sufficient spectrum will be available for broadcasting services' current and future needs, taking into account the findings of the relevant studies to be conducted in terms of Resolution 232.

- 13 While the Authority notes the need for sound radio frequency spectrum management, the time frame to migrate existing customers (end-users); the economic life of the equipment installed, and adequate forward planning,² the Authority does not appear to have fully considered the practical and cost implications of migrating broadcasters out of the band.
- 14 The process is costly and potentially very disruptive. For example, viewers may need to retune their television sets to the new band. Communication campaigns must be launched to notify viewers/subscribers, new transmitters and new combiners will have to be acquired and installed, and the migration to a different frequency could result in transmission disruptions lasting anything from two days to a week (depending on the transmitter affected).
- 15 It is not clear how these issues will be dealt with. The Authority will need to carefully consider issues such as how a co-primary allocation will work, whether migration out of the band is feasible, how long it will take, how much it will cost and who will bear the costs thereof.
- 16 It appears that the Authority's expectation is that broadcasters will migrate out of particular bands, cover all the direct costs and absorb the revenue losses which result from migration, return licensed spectrum to the Authority after the migration is complete and do all this without any compensation whatsoever, while at the same time launching and promoting a new DTT platform. This proposal is clearly prejudicial to affected broadcasting licensees.
- 17 While the Authority may have been contemplating financial compensation for users in the future, the issue of compensation to analogue broadcasters for the release of spectrum has never been adequately addressed.
- 18 It is generally accepted that the primary purpose of the migration to digital terrestrial television is to secure the release of radio frequency spectrum, known as the digital dividend. That this dividend is produced by existing analogue broadcasters is not in dispute.

² Pg 35 of the draft Roadmap

- 19 The allocation of capacity on the DTT multiplexes serves not only to compensate these broadcasters for the costs associated with migration, but more importantly, to compensate them for the expropriation of their rights to use the radio frequency spectrum licensed to them. Compensation could also take the form of reduced licence fees.
- 20 Given that mobile telecommunications are to be the main beneficiaries of the digital dividend, they should assist to fund the migration. The Authority should provide that the licensees acquiring this spectrum make a contribution to the costs incurred by migrating broadcasters.
- 21 The debates concerning the band are not unique to South Africa. Last year the European Commission convened a High Level Group on the future use of the UHF band to advise the European Commission on the development of a European strategy on the future use of the UHF band. On 1 September 2014 the Group's chairman provided the European Commission with a report on the results of the Group's work.³ The Report notes that the 700MHz band is not immediately needed for the European mobile sector and that the DTT platform's sustainable development is dependent on spectrum in the UHF band which gives it capacity to further innovate and develop and thus to remain viable and competitive. It stresses that broadcasters and citizens should not be disadvantaged by the transition of DTT out of the band and that the costs of transition should be duly addressed, stating that migration "necessitates addressing the need and scope of compensation for the broadcasting sector in order to avoid putting it at a disadvantage".⁴ It states:
- "A related aspect is the cost compensation for the broadcasting sector upon vacating the 700 MHz band as it would carry the burden of ensuring continuation of its services through costly network re-configuration within a certain deadline and within a reduced amount of spectrum. The cost impact on consumers also needs careful planning and mitigation."⁵
- 22 The Report therefore proposed a compromise which foresees co-ordinated repurposing of the 700 MHz band to mobile services while linking it to reassurances for the sustainable development of terrestrial broadcasting in spectrum below the 700 MHz band, as well as stock taking of market and technology developments at a later point in time in order to cater for any adaptation of the policy approach. It sets a deadline for its assignment to

³ Report to the European Commission, Results of the Work of the High level Group on the Future Use of the UHF Band (470 - 790 MHz), 1 September 2014 ("the EU Report")

⁴ Pg 5 of the EU Report

⁵ Pg 6 of the EU Report

mobile around 2020, leaving time for a proper transition roadmap, proposes a "stock take" by 2025 to provide a factual basis for future policy decisions on spectrum allocation, and calls for safeguards to be given to terrestrial broadcasting in respect of spectrum below 700 MHz until 2030 (the so-called "20-25-30 model").

- 23 In conclusion, the necessary studies on the future spectrum needs of broadcasting are underway. We strongly urge the Authority to hold off the finalisation of the current proposal to migrate broadcasters out of the band until this exercise has been completed. Since the co-allocation provided for in Resolution 232 will only be effective after WRC-15, the Authority has sufficient time to do so. The Authority must take numerous practical considerations into account, including ensuring sufficient spectrum for broadcasting services and compensating migrating users.
- 24 Given that our comments deal only with the Authority's proposed migration of broadcasting services out of the band we have not completed the Authority's template.