

GOOGLE MONITORING SERVICE REPORT

AUGUST 2015 #1

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ellipsis regulatory solutions cc

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tel 021 701 2512 fax 086 540 4953 email dominic@ellipsis.co.za
unit c14 westlake square tokai / postnet suite #410, private bag x4, sun valley, 7985
member: dominic cull b.bus.sc. llb llm (ict law)

TELECOMMUNICATIONS

Document / Process	Detail	Relevance / Links / Analysis
<p>Department of Telecommunications and Postal Services</p>	<p>Simmering tensions appear to have boiled over at the Department, which is now looking decidedly light at the top. While the latest purge may be necessary it is also going to be time-consuming and disruptive.</p> <p>The Public Service Commission (PSC) has initiated an independent inquiry into the management affairs of the DTSP after reviewing concerns expressed about “dysfunction” and “paralysis” at the Department.</p> <p>The Minister has concurred with the Public Service Commission to initiate an independent inquiry with the following terms of reference:</p> <ul style="list-style-type: none"> • Reasons for the inaccuracies on the delegations of authority submitted to the former and current Minister by the Head of Department. • The lawfulness of the application of the delegations of authority by the former Minister of Communications to the Head of Department, dated 19 September 2013, in the Department of Telecommunications and Postal Services. • The circumstances and the role of the Head of Department in the disciplinary action taken against the three Deputy Directors-General, viz. Dr. S Vilakazi, Mr. T Phiri and Mr. G Buthelezi. • The manner, reasons and procedures followed in the disciplinary action taken against the three Deputy Directors-General. • Abuse of power and situations of conflict of interest in the relationship with the three 	<p>Media statement on the initiation of an independent public service inquiry into the affairs of the DTSP</p> <p>Media statement on DTSP Minister Cwele’s decision to place Director General Rosey Sekese on precautionary suspension</p> <p>Probe into mess at telecoms department</p> <p>Telecoms DG Rosey Sekese suspended</p>

	<p>Deputy Directors-General.</p> <ul style="list-style-type: none"> • The irregular appointment of two employees to the same post of Media Liaison Officer in the Office of the Deputy Minister. • The regularity of the finalisation of the performance assessment process for members of the SMS for the 2013/14 Financial Year. • The tension/ destabilisation at the senior echelons of the Department, and the role of the Director-General. <p>Director-General Rosey Sekese was placed on “precautionary suspension for a period of 60 days while the Public Service Commission conducts its independent inquiry” effective 7 August 2015. Tinyiko Ngobeni has been appointed as the Acting Director-General until further notice.</p> <p>It is difficult to say whether this a good thing or a bad thing: internal politics have certainly impacted on the effectiveness of the Department for a few years now, and this was aggravated by the decision to split the former Department of Communications. So it is a positive development that steps are being taken to address this. The process will, however, inevitably lead to further delays and history, unfortunately, tells us that there is no guarantee of something better to come.</p>	
<p>ICT satellite account</p>	<p>In the last report we noted that the Deputy Minister of Telecommunications and Postal Services had made reference to the recent completion of the ICT satellite account for South Africa for 2012, reflecting the contribution made by the ICT sector to the economy as a whole.</p> <p>We have obtained the consolidated report for the previous five-year period for comparative purposes.</p>	<p>ICT satellite account for South Africa 2012</p> <p>ICT satellite account for South Africa 2006-2011</p>
<p>ICASA CEO speaks out</p>	<p>The decision by the ICASA CEO to publish his views on the current policy and regulatory</p>	<p>CEO’s opinion piece</p>

environment should be applauded.

On spectrum management:

Spectrum management: ICASA’s primary mandate in relation to spectrum is to ensure efficient use of radio frequency spectrum. Critical to this mandate is the need to ensure that spectrum is assigned to licensees (broadcasting and electronic communications services licensees) to enable and facilitate provision of services and that no ‘available and usable’ spectrum lies fallow. To this end, the Authority is eager to reinitiate the licensing process for the assignment of the high-demand spectrum (suitable for deployment of broadband services) which was abandoned a few years ago. In effect, part of the reason why the sector has seen a wave of consolidations is mainly because the key players in the sector (Vodacom and MTN in particular) have been spectrum constrained whilst new entrants have not been able to launch services in the market as they have not been assigned the requisite spectrum. In this regard, it is important to note that the ICT sector in South Africa is regressing because of indecision by both the regulator and the policy maker on critical issues, particularly as they relate to management and assignment of radio frequency spectrum. It is clear that we are lagging seriously behind in digital migration. By the time the Set-Top Boxes become available, they may be irrelevant because of the already available digital television sets in the market.

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In the mobile space there is continued shortage of spectrum for deployment of Long Term Evolution (“LTE”) services. Spectrum is tied up in analogue transmission and that which is available has not and / or is not being assigned or issued to operators. The implication of the consolidation is that a giant infrastructure based player (or two) will be created in a first tier level of the market. A huge number of entities may not have reasonable and easy access to that infrastructure under the current regulatory framework. That is why concepts like wholesale open access, infrastructure sharing and Mobile Virtual Network Operators become relevant for the South African context. Any future licensing process needs to take account of the need for the creation of a wholesale open access framework to enable access by a myriad of service based players

	<p><i>to ensure rapid deployment of broadband services. The Authority hopes to work with policy makers and other key stakeholders to bring to an end the delays that have plagued the high-demand spectrum licensing process.</i></p> <p><u>On market consolidation and competition:</u></p> <p><i>The Authority is mindful of the effects of the consolidation trends on the competitive landscape in the market. It is also fully aware of its mandate over competition matters in the ICT sector. The ECA, read with the ICASA Act, is very clear about the process which the Authority must follow in order to impose pro-competitive measures in any market. Such a process must include a process to define relevant markets, identify licensees with significant market power (“SMP”) in such markets and imposing procompetitive and proportional measures on identified SMPs. The Authority recognises that it cannot regulate the spectrum effects of market consolidation on competition in the various markets without undertaking an in-depth enquiry in terms of the legislation. The Authority intends to prioritise the identification of markets that are susceptible to anti-competitive effects. The Authority is committed to radically transform the ICT sector to facilitate growth and employment in line with government’s national policy objectives.</i></p> <p>Since 2006 only two market investigations have been completed, both relating to call termination rates.</p>	
<p>Rapid Deployment Guidelines</p>	<p>Analysys Mason – appointed by the DTSP to assist in the drafting of policy and policy on rapid deployment of infrastructure - have finalised the initial stages of their work and drafted a Discussion Paper on the Development of a Rapid Deployment Policy for Electronic Communications Infrastructure which has been published on the DTSP website.</p> <p>The Discussion Paper is not open for comment but a public workshop will be held in August 2015 with draft policy to be based on the concepts set out in the Discussion Paper. The DTSP will then finalise a draft to be published in the Gazette which will probably be open for comment for 30 calendar days. According to Analysys Mason a reasons document will be published with the final policy.</p>	<p>Discussion Paper on the Development of a Rapid Deployment Policy for Electronic Communications Infrastructure</p>

<p>ICASA withdraws a licence</p>	<p>ICASA has published notifications in the Government Gazette to the effect that it has determined that specified licences have “expired” due to the failure of licensees to respond to queries from ICASA and their failure to commence provision of licensed services within the period required in the sets of Process and Procedure Regulations 2010. There are three licensees targeted, with two pairs of individual licences and one class electronic communications service licence deemed to have expired.</p> <p>To the best of our knowledge this is the first time that an ECS or ECNS licence has been withdrawn by ICASA for non-compliance with applicable regulations.</p>	
<p>Telkom BCX</p>	<p>The acquisition of the Business Connexion Group by Telkom has received final approval from the Competition Tribunal. The approval is subject to conditions, including:</p> <ul style="list-style-type: none"> • The extension of the previous settlement agreement entered into between Telkom and the Competition Commission by two years so that it now expires in 2020. • A freeze on the price of Diginet and Metroclear services; and • Addition transfer pricing obligations. 	<p>Telkom gets final BCX nods</p>
<p>Municipal Wi-Fi</p>	<p>Project Isizwe has increased the speed available on its Tshwane Wi-Fi network to 15Mbit/s. They report a user average speed of 7Mbit/s to date with 633 sites and average monthly unique users of 165 000 in 2015.</p> <p>Only 7% of users of the network reached the daily cap of 250MB.</p> <p>Project Isizwe also announced a new collaboration with the Open Society Foundation of South Africa in the Western Cape.</p>	<p>Free Pretoria Wi-Fi gets speed bump</p> <p>Project Isizwe free Wi-Fi now in W Cape</p>
<p>Open Access</p>	<p>MTN is prepared to open its mobile network on a wholesale basis to competitors, “but can only consider doing so once government has issued it with additional radio frequency spectrum”.</p>	<p>MTN mulls opening mobile network to rivals</p>

	<p><i>He said the idea of providing wholesale, open access to MTN’s network is “something that continues to come up in discussions” with policy makers. “As long as there is no fixing of prices by the regulator, we don’t have a challenge around that. This is already happening in mature markets.”</i></p> <p><i>But, he said, it can’t happen until new spectrum is allocated because MTN simply doesn’t have the capacity at the moment to cope with additional strains on its network.</i></p>	
<p>National ICT Consultative Forum</p>	<p>Following the launch of this Forum in May 2015, the next steps are finally been taken with meetings of the various chambers scheduled for August 2015:</p> <ul style="list-style-type: none"> • ICT Governance and Security (17 August) • Social (21 August) • Economic (26 August) • Disability (to be scheduled) <p>There have in the interim been two meetings of the chairpersons of the four chambers from which the following appears:</p> <ul style="list-style-type: none"> • The focus is to be on implementation, not policy drafting • Accept that there will be overlap between the chambers and this will need to be rationalised over time • Decided that Disability Chamber has a cross-cutting function and will meet last <p>The writer has attended the first ICT Governance and Security Chamber meeting, which was a little like wondering around in a dark room desperately searching for light. Progress was made in deciding the scope of work of this Chamber but there was little in the way of concrete steps....</p>	

INTELLECTUAL PROPERTY

Document / Process	Detail	Relevance / Links / Analysis
<p>Copyright Amendment Bill</p>	<p>The Department of Trade and Industry (dTl) has published a Copyright Amendment Bill</p>	<p>Copyright Amendment Bill 2015</p>

<p>2015</p>	<p>2015 which is intended to review and modernise South Africa’s intellectual property law regime. The main take-out for present purposes is that there are no proposed provisions impacting directly on ISPs such as three-strike rule or other mechanism for “copyright-enforcement-by-proxy”.</p> <p>The Bill seeks to amend the Copyright Act 98 of 1978, so as to:</p> <ul style="list-style-type: none"> ▪ amend certain definitions; to allow for the reproduction of copyright work; ▪ provide for the protection of copyright in craft work; ▪ provide for the accreditation and registration of Collecting Societies; ▪ provide for the procedure for settlement of royalties disputes; ▪ allow fair use of copyright work; ▪ provide for access to copyright works for a person with disabilities; ▪ provide for the protection of ownership of orphan works by the state; ▪ provide for the establishment of Intellectual Property Tribunal; ▪ provide for the appointment of members of the Intellectual Property Tribunal; ▪ provide for the powers and functions of the Intellectual Property Tribunal; ▪ provide for protection of performers’ moral and economic rights; ▪ provide for the protection of rights of producers of phonograms; ▪ provide for prohibited conducts in respect technological protection measure; ▪ provide for prohibited conduct in respect of copyright management information; ▪ provide for management of digital rights; ▪ provide for the promotion of broadcasting of local content; 	
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	<ul style="list-style-type: none"> ▪ provide for certain new offences <p>As a general comment I have included an excerpt from Muhlberg’s Briefs, a specialist intellectual property legal advisory, both the reflect on the difficulties in the Bill as well as because it is damn funny.</p> <p><i>It had been my intention to summarise the Copyright Amendment Bill 2015 in this brief. But then I read it and very strange things happened. In this very order, I found myself losing the will to:</i></p> <ul style="list-style-type: none"> • <i>read further;</i> • <i>continue working in IP;</i> • <i>live.</i> <p><i>So I’m ducking out of this. Perhaps I’ll attempt it in the next brief. But what I’m really hoping is that some braver and hardier soul will tackle this semi-literate abomination before then. If you think I’m being unkind, this is what a colleague who’s much nicer than I am said of the bill: ‘I think it was drafted after the State Attorney’s Christmas party or something – it reads like a drunkard drafted it!’</i></p> <p>Comments are due by 27 August 2015, and should be emailed to Meshendri Padayachy at MPadayachy@thdti.gov.za.</p>	
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FILM AND PUBLICATIONS

Document / Process	Detail	Relevance / Links / Analysis
<p>Film and Publications Amendment Bill</p>	<p>The South African Cabinet has approved the introduction of a Films and Publications Amendment Bill into the Parliamentary process. If the FPB’s draft online content regulation policy was the phony war, the introduction of this Bill marks the real commencement of the content regulation debate in South Africa.</p> <p>Media statement after yesterday’s cabinet meeting</p>	

	<p><i>4. Bills</i></p> <p><i>4.1. Cabinet approved the submission of the Films and Publications Amendment Bill, 2015 to Parliament. The Bill amends the Films and Publications Act, 1996 (Act 65 of 1996). The amendments provide for technological advances, especially online and social-media platforms, in order to protect children from being exposed to disturbing and harmful media content in all platforms (physical and online).</i></p> <p><i>The Bill strengthens the duties imposed on mobile networks and Internet service providers to protect the public and children during usage of their services. The Independent Communications Authority of South Africa will not issue licences or renewals without confirmation from the Film and Publication Board of full compliance with its legislation.</i></p>	
Submissions on draft online content regulation policy	We are publishing as many of these as we can find....	http://www.ellipsis.co.za/the-film-publications-board-and-online-content-regulation/
FPB & online content regulation	Latest media resources...	R2K, DA increase pressure on internet regulation policy PEN South Africa Condemns Film and Publication Board's Plan to Control the Internet

INTERNET GOVERNANCE

Document / Process	Detail	Relevance / Links / Analysis
Joint Launch of the Gender and ICT Strategy & Children and ICT Strategy	<p>The DTSP is hosting the launch of two new strategies on the 19th August 2015:</p> <p><i>The Department of Telecommunications and Postal Services (DTSP) proudly invites you to the Joint Launch of the Gender and ICT Strategy as well as the Children and ICT</i></p>	Full text

	<p><i>Strategy. These two strategies were widely consulted upon by the then Department of Communications. The Gender and ICT Strategy seeks to empower women so as to enable them to enter, participate and compete in ICT sector. The Children and ICT Strategy seeks to harness the benefits of ICTs for children’s empowerment and their protection whilst interacting with ICT content, products, services on different ICT platforms.</i></p> <p><i>The details of the launch are as follows;</i></p> <p><i>Date: 19 August 2015</i></p> <p><i>Time: 09h00-13h30</i></p> <p><i>Venue: Golden Horse Casino, Pietermaritzburg, KwaZulu-Natal</i></p>	
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DIARY

Date	Event
18 August 2015	Portfolio Committee on Telecommunications and Postal Services, (National Assembly), [Briefing by Independent Communications Authority of South Africa (ICASA) on its impact on all entities in terms of its ICT mandate], Committee Room V475, Fourth Floor, Old Assembly Building, 09:00
19 August 2015	Joint Launch of the Gender and ICT Strategy & Children and ICT Strategy, Pietermaritzburg
25 August 2015	Portfolio Committee on Telecommunications and Postal Services, (National Assembly), [Briefing by Department, National Treasury and Broad Band Infraco (BBI) on matters pertaining to funding of BBI], Old Assembly Chamber, Ground Floor, Old Assembly Building, 09:00
1 September 2015	Portfolio Committee on Telecommunications and Postal Services, (National Assembly), [Briefing on spectrum policy and processes moving forward], Committee Room 2, Upper Ground Floor, 90 Plein Street, 09:00
2 September 2015	Select Committee on Communications and Public Enterprises (National Council of Provinces), [The Department of Telecommunications and Postal Services (DTPS) Universal Services Access Agency of South Africa (USAASA)'s mandate and its role in the communication sector], Committee Room M315, Third Floor, Marks Building, 10:00
8 September 2015	Portfolio Committee on Telecommunications and Postal Services, (National Assembly), [Briefing on the cost to communicate], Committee Room E249, Second Floor, National Assembly Building, 09:00
7 September 2015	WAPA Future Wireless Technologies Forum
7-10 September 2015	ISPA iWeek http://www.iweek.org.za/programme-2015/
22 September 2015	Portfolio Committee on Telecommunications and Postal Services, (National Assembly), [Briefing by SITA in respect of progress on SA Connect and governance issues], Committee Room 2, Upper Ground Floor, 90 Plein Street, 09:00
11-14 October 2015	Films and Publication Board (FPB) invites you to a three day conference scheduled for the 11-14 of October 2015 in Johannesburg South Africa. The objective of the conference is to facilitate dialogue and to establish a road map in the quest to expand online child protection and cyber safety initiatives in the Southern African Development Community (SADC) and

	the rest of the African Continent. The theme of the conference is: Cyber safety, child protection and classification: An African perspective.
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