



SUBMISSION BY MWEB ON THE INFRASTRUCTURE SHARING DISCUSSION DOCUMENT

1 INTRODUCTION

- 1.1 MWEB thanks the Independent Communications Authority of South Africa ("the Authority") for giving it the opportunity to furnish the Authority with its comments on the Discussion Document regarding the Draft Infrastructure Sharing ("the Discussion Document").
- 1.2 MWEB's comments on the Discussion Document attempt to encourage the Authority to consider infrastructure sharing an important regulatory intervention to encourage competition in the provision of electronic communications services. However, this regulatory intervention would also need to be balanced with a fair pricing structure for the operators who invest in infrastructure, and such sharing would need to be practical.

2 DISCUSSION

2.1 Introduction

The sharing of infrastructure has become a norm in industry, with competitors sharing of masts in the mobile environment, and avoiding duplication of infrastructure, which frees up funds to be invested in other areas of the business.

2.2 Do you agree that infrastructure sharing will encourage the deployment of networks to rural and sparsely populated areas? If not, please provide reason(s) for your answer

MWEB agrees. Currently, there is not much investment in infrastructure in sparsely populated areas as there are concerns with

the return on the investment. The sharing of infrastructure will enable competitors to coordinate investment in rural areas in order to realise efficiencies in the deployment of infrastructure in less lucrative areas, like the rural and sparsely populated areas. It will also enable smaller or new entrants to provide services in areas that may have been impossible for them to enter. The regulation on infrastructure sharing should encourage cooperation between competing entities, provided they don't discriminate against others who seek access to such built infrastructure.

2.3 To what extent do you believe that the objectives of infrastructure sharing are reached?

Electronic communications network service providers have not been compelled to share their networks. The only notable sharing of networks is around mobile networks sites. The sharing of sites is also done voluntarily by mobile network providers. This has resulted in difficulty in the Authority determining the effect of infrastructure sharing.

2.4 Do you believe that the Authority should deal with infrastructure sharing matters in one regulation?

Yes, the sharing of infrastructure should be dealt with in one regulation to avoid inconsistency across various regulations.

2.5 Please list other benefits realised as a result of infrastructure sharing.

The sharing of infrastructure allows new entrants to enter the market earlier than they would have been able to if they had to rely on their own network provisioning prior to operating. It should, however, be noted that the sharing of infrastructure should never be done in such a way that it discourages investment in infrastructure.

2.6 Do you think that it is necessary for the Authority regulate for 'one-build' civil works and mast erections at this time? Please state your reasons?

The "one-build" concept is not the only solution to encourage infrastructure sharing. The Authority would need to provide guidelines which industry can follow to achieve the objectives of "one-build". The intervention of the Authority in a sector should be based on empirical evidence that demonstrates that there has been a failure in achieving a particular policy objective. The intervention should also be measured against the benefits to the industry.

2.7 In your view, what incentives will encourage infrastructure sharing in general?

In order to achieve infrastructure sharing, operators would need to have regulation that is consistent and lacking ambiguity.

2.8 In your view, how can the Authority improve on its intervention in terms of non-discriminatory access to infrastructure?

The Authority would be able to encourage non-discriminatory practices by making it compulsory for all infrastructure owners to be transparent in their pricing, negotiating and the conclusion of agreements for the sharing of infrastructure. This would allow access seekers to such infrastructure to know the true costs of sharing such infrastructure. Further, the Authority could also consider implementing price controls on the costs charged to access seekers.

2.9 Would you say that the facilities leasing regulations adequately cater for infrastructure sharing needs in South Africa? If not, please state the areas that have not been covered.

The facilities leasing regulations do not go far enough in ensuring that access to facilities seekers are guaranteed access when they seek access to facilities. There are various impediments to facilities seekers, and this includes lack of transparency from facilities providers, on what is available and the cost structure when one requires access to facilities. The facilities provider has no obligation to justify why in some instances they can not grant access. There is no penalty where the facilities provider has denied access without good reason. It should also be noted that the Authority is yet to prescribe "Essential facilities" in terms of the Electronic Communications Act 36 of 2005.

2.10 Do you agree with the Authority on the definition of passive infrastructure? If not, please provide an alternative definition.

MWEB agrees with the definition as contained in the Discussion Document.

2.11 Please state other passive infrastructure that you consider essential for sharing.

None.

2.12 Please state the advantages and disadvantages of passive infrastructure sharing.

We do not believe that there are disadvantages to sharing passive infrastructure. The advantages are realising efficiencies and being able to avoid a duplication which would otherwise have led to incurring unnecessary

capital expenditure.

2.13 Do you agree with the Authority on the definition of active infrastructure? If not, please provide an alternative definition.

MWEB agrees with the definition as contained in the Discussion Document.

2.14 Please state other active infrastructure that you consider essential for sharing.

None.

2.15 Please state the advantages and disadvantages of active infrastructure sharing.

We do not believe that there are any disadvantages to active infrastructure sharing.

3 CONCLUSION

MWEB once again thanks the Authority for giving it this opportunity to comment on the Discussion Document.