

**31 January 2018**

**NAMEEC BBC ECA Contributions:**

The ICT desk of the Black Business Council (BBC) and the National Association of Manufacturers in Electronic Components (NAMEEC) welcomes the process of the holistic review of the National Integrated Information Communications & Technologies (ICT's) by the Department (of Telecommunications and Postal Services.

The development and public consultation of National Universal Access and Services Strategy by USAASA between 2013 and 2014 highlighted gross inequalities in infrastructure provision across the country. In so doing, it also acknowledged the position of Government vis a vis business. Government was to enable and provide a conducive environment for the sector to thrive, while business was responsible for the commercialisation thereof. Inherent in that acknowledgement was a fundamental acknowledgement in the changing and convergent nature of the sector; a factor that appears to be lost in the current draft bill. This is of concern.

It is well understood and accepted by business, that there is a social concern within government circles in respect of equitability of technology access and benefit. That concern can never be rectified by the unilateral replacement of institutions. Government must acknowledge that it has failed to act to correct non-performance of its Institutions and has rather proffered to continue to create additional and duplicative entities. The net result issues that were raised in the green and white paper process of the 1990s, appear yet again in the existing process. And so commentary is made with little hope for improvement should the fundamentals not be dealt with appropriately.

**Universality of ICT Services**

The idea that the primary driver in all we do as a sector is universal access and service is supported. Access by the "poorest of the poor" must always be paramount in the minds of government and sector. As such, the matter of cost effective infrastructure extension to outer lying areas (or those that make no economic sense to people sitting in Sandton) must be explored and addressed firmly. As such, the idea that the repatriation and aggregation of costly spectrum is ridiculous considering that debt has been raised on the back of such an asset having been allocated in the first place.

Doing so is most irresponsible as government and is effectively collapsing the sector. The successful universality of infrastructure will only be found in low-cost equipment that uses low-demand or unregulated spectrum.

#### The WOAN

The concept of the WOAN is not fundamentally opposed in so far as it is pluralistic and realistic. It is incorrect to base the creation of a WOAN(s) as inextricably linked to spectrum; and more so, high demand spectrum. The failure to allocate spectrum in recent years has set the country back and has not done any favours to the consumer. There should be multiple WOANs offering services to MNOs and ISPs equally. None must have government as a shareholder; government must remain in its policy making domain and leave business to run business. As such, the BBC and NAMEEC do not condone the Deloitte's proposal on behalf of the big MNOs. It is collusive and anti-competitive. Competition within the core network space as well as the service provision space will help drive down the cost to the consumer and allow a more robust competitive environment on services.

The prohibition of trading of high-demand spectrum and planned wholesale open-access network (Woan). In its existing form it is an infringement of basic business rules and is unconstitutional. The unlimited access to private property infringes on the right to privacy.

While spectrum is a technological asset, it has national implications and as such warrants the attention of the Regulator. That said, the Regulator already has a "use it or lose it" policy that needs nothing other than competence and implantation. It does not need nationalisation as in the proposed WOAN approach.

In the instance that government resolves to continue on this trajectory, it must be cognizant of the financial implications of inherent in the buy-back of that spectrum inclusive of capital raising costs, loss of business and the like. It is a financial burden the country cannot afford to simply satisfy the financial and career ambitions of the few. Government must be assured of legal battles around the Constitutionality of what it is proposing and validity of its worth when it eventually emerges from the courts.

## SADC Roaming

This section does nothing to alter the status quo. It continues to perpetuate exploitation of SADC citizens. The bill must expressly state that the “home away from home roaming” provisions accepted by the SADC Minister of ICT in Windhoek be adhered to. That means the cost of voice and data connection in the home country must carry to the country being visited. South Africa has been cited by its neighbours as being lax in the implementation of this policy and its Regulator effectively captured by its MNOs. Mozambique has long implemented “home away from home roaming” regulation but like all other SADC countries, requires the cooperation of South Africa to make it worthwhile.

The East African Community (EAC) of countries has long implemented this principle resulting in citizens across its member countries enjoying communication freedom. It interestingly has done it with many of the same South African telecommunications companies. It is concerning that sector companies would choose to respect citizens and authorities of other countries and not of their those of their own.

## Conclusion

The legislative framework of South Africa is world renowned for its openness. It has been used for many years as a benchmark on how to structure the sector. It has been adopted by the likes of Korea and many others. The fact that these countries are ahead is not a function of the framework design; it is a function of the implementation of the framework. These countries have simply been able to implement the very same framework better and have been decisive in their efforts to do so. South Africa’s illness is not of design, it is of implementation.