



## INTRODUCTION

Rain Networks (Pty) Ltd (“Rain”) is grateful for the opportunity to comment on the Electronic Communications Amendment Bill (the **Bill**) published by the Department of Telecommunications and Postal Services (the **DTPS**) in GN 1293, *Government Gazette* 41261 of 17 November 2017.

[rain.co.za](http://rain.co.za)

## Overview and Summary of our Submission

- Our presentation relates to the draft provisions regarding the;
  - ✓ Establishment of the Wireless Open Access Network (**WOAN**),
  - ✓ Treatment of high demand spectrum,
  - ✓ Open Access Principle,
  - ✓ Management Structure, DTPS and ICASA, and
  - ✓ Imposition of additional universal service obligations on spectrum licensees.

# Establishment of a Wireless Open Access Network

## Key Objectives of the Bill are:

- Facilitate entry by SMMEs and HDIs into the Sector,
- Rural Coverage, and
- Cost reduction of Telecommunications Services.

To meet these Objectives the Bill proposes the establishing of a WOAN as the primary provider of infrastructure with a focus on competition only at the services level.

# Establishment of a WOAN

## **Key Elements of the Bill:**

- Spectrum Assignment - High demand spectrum
- Capacity Uptake - procurement from the WOAN
- Pricing - Cost Based pricing
- Management Structure – Roles of the DTSP and ICASA

## **Industry Proposed Hybrid Model:**

### Key Elements:

- MNOs to retain existing Spectrum assignments,
- MNOs to purchase an aggregate 30% of WOAN Capacity,
- Government to conduct study to determine allocation of High Demand Spectrum.

[rain.co.za](http://rain.co.za)

# High-demand spectrum assignments

Section 31B(4) of the Bill proposes:

- “No high demand spectrum may be traded”.

This has to be clarified as it may inhibit restructuring or investment by new shareholders for the following reasons;

- Existing operators could not restructure/change shareholding without surrendering their spectrum Licences.
- Surrendering of Licences will deter investment in the Sector, and.
- This will result in static Control Structures.

## Capacity Uptake from the WOAN

The Bill proposes Capacity uptake of 30% by individual MNOs from the WOAN

This has limitations:

- Capacity is finite,
- Spectrum allocation to address capacity.
  - e.g. if three licensees each acquired 30% of the available capacity on the WOAN's network (i.e. 90% in total) this leaves 10% Capacity for the WOAN.

## Pricing – Cost Based

The Bill proposes Cost Based Pricing model

Rain's interpretation is that this is prescriptive.

- Pricing of Services is better placed within the ICASA (e.g. Chapter 10 of the ECA - Call Termination Rates)
- This should be left for the Regulator to manage.

# Management Structure

## Key Changes:

- Monitoring of Spectrum,
- Development of National Frequency Plan,
- Licensing and Enforcement of Spectrum use, and
- Spectrum Fees.

These activities are administrative in nature and better placed with ICASA.

Technical expertise and ICASA has this capacity.

[rain.co.za](http://rain.co.za)

# Universal service obligations

Section 8 of the Bill proposes that universal service and access obligations for all radio frequency spectrum.

- Understanding of different uses for various frequencies – the National Frequency Plan (NFP)
- Some radio frequency spectrum Licensees do not hold service licences (i.e. not subject any standard terms and conditions) and USOs will not be applicable.

Rain suggests that section 31A be amended to make this distinction:

- Section 31A be amended to distinguish appropriately between different types of spectrum users. In addition, universal service obligations which are imposed must be appropriate to the type of spectrum that is licensed.

# The ECA and current Regulations

It is our view that the Department can still achieve some of its intended Objectives through the current Act and its Regulations

## **Object of Act**

- 2(c) promote the universal provision of electronic communications networks and electronic communications services and connectivity for all;
- 2(h) promote the empowerment of historically disadvantaged persons, including Black people, with particular attention to the needs of women, opportunities for youth and challenges for people with disabilities;
- 2(p) develop and promote SMMEs and Cooperatives

1. Overview and Summary of our Submission.
2. The WOAN.
3. High demand spectrum.
4. Open access principles.
5. Management Structure, DTPS and ICASA.
6. Universal service obligations.
7. **Conclusion.**

[rain.co.za](http://rain.co.za)

Thank  
you

rain