



# Presentation on Draft ECA Amendment Bill

ECA Consultative Workshop, 6 March 2018  
*Lombardy Boutique Hotel, Pretoria*  
South African Communication Forum

# Introduction



The SACF welcomes the opportunity to comment on the ECA Amendment Bill

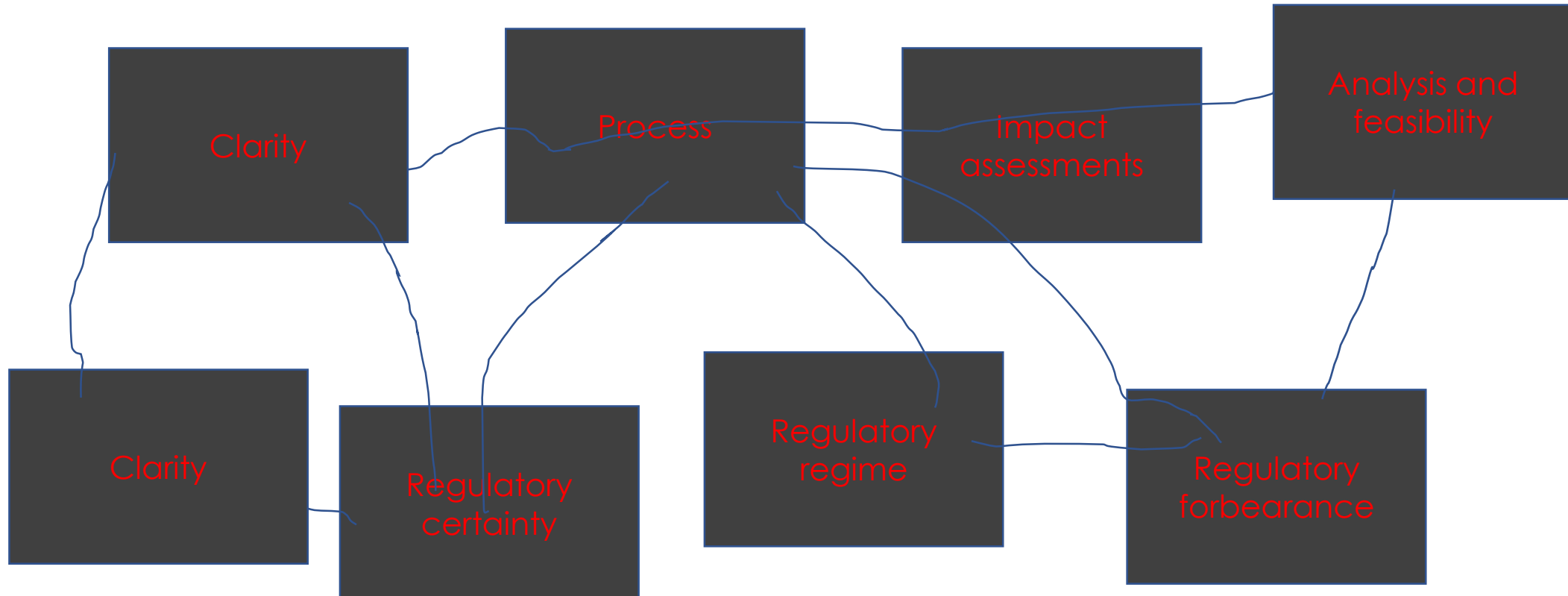
SACF is an industry association that represents a broad cross-section of the ICT sector and includes incumbents, potential entrants, disruptors, OEMS, non-licensees

The SACF supports the objects of  
transformation  
promoting competition in the sector and  
making services more affordable

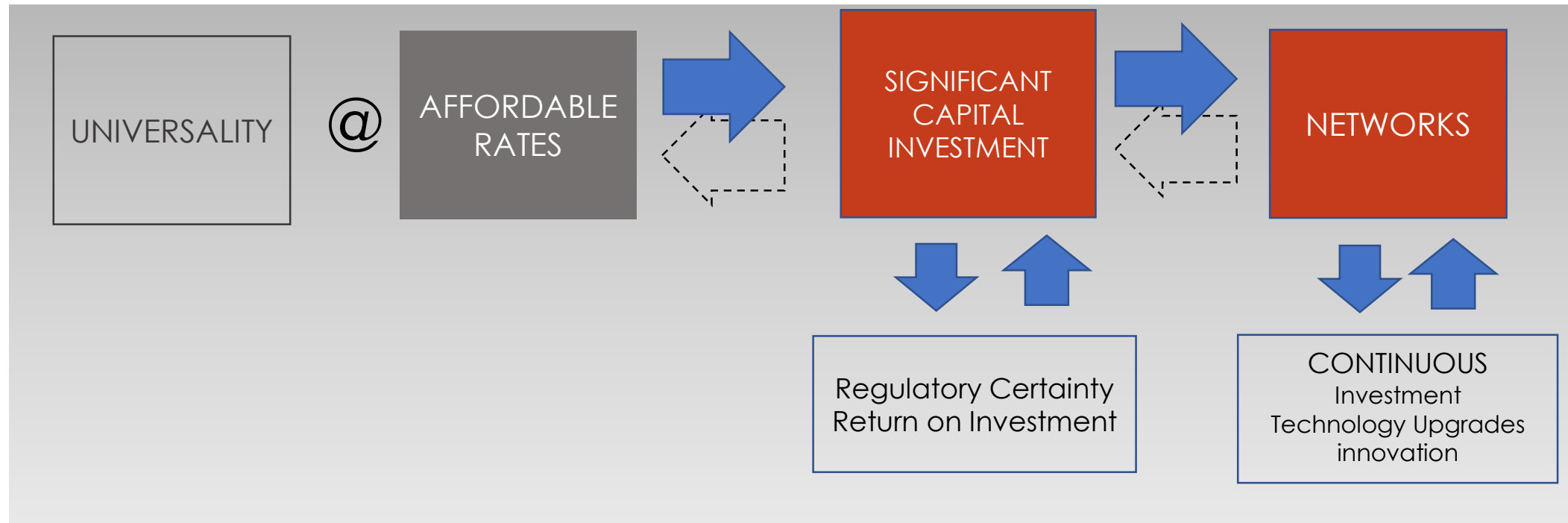
Three key themes – direct correlation to the objectives of the Bill

Environment required for investment  
Licensing of the WOAN and spectrum  
Regulatory certainty and independence

# General Comments



# Universality of Networks



The Bill threatens investment → threatens network rollout and expansion and affordability

# Impact on Investment



Networks - financed through debt finance and investor funding  
- regulatory certainty needed

The threat to spectrum rights – creates regulatory uncertainty

CONSEQUENCE – impedes investment for incumbents and  
entrants alike

The Bill does not reflect the May agreement that attempted to provide certainty on  
spectrum rights of incumbents while, licensing new entrants

## THE ECA AMENDMENT

Impedes innovation and adds costs

- Spectrum refarming
- Spectrum trading

Further delays to licensing of high demand spectrum

- Impact untenable
- delays rollout
- impedes economic growth

Open licensing vs exclusive licensing framework

- Technical feasibility?

NO licensing of high demand spectrum for 14 years

The result

- Severe spectrum constraints for incumbent
- Constraint to entry of new players since 2008

Digital migration repeatedly delayed

The result

- No spectrum to licence
- Time required to migrate

## REQUIRED

- Speed up digital migration
- Speed up licensing
- Do not inhibit innovation

# Licensing of the WOAN



## SACF View

### Promotes

- Transformation
- Service based Competition – universal service @affordable rates

A WOAN or multiple WOANs can be licensed now

- A licence transfer to ICASA
- ECNS licensees are entitled to spectrum rights, or
- Policy direction

Legislative amendment – not necessary and will delay licensing

## The Bill

### Promotes

- Transformation
- Service based Competition – universal service @affordable rates

Amendment required to licence the WOAN

Spectrum reserved for the WOAN – no recognition for the May 2017 agreement

# Policy Framework



POLICY		POLICY DIRECTIONS
Radio frequency spectrum		Priorities for the development of ECN or ECS or other services contemplated in Chapter 3
Universal access and service policy;		
Application of new technology		
Guidelines for the determination of licence fees and spectrum fees by the Authority;		
a) Mechanisms to promote participation of SMMEs in the ICT sector		
Limitation	<p>Policy and policy directions may not be on the granting, amendment, transfer and renewal of licences.</p> <p>However, the Authority may only accept and consider applications for I-ECNS licences in terms of a policy direction issued in terms of Section 3 ...</p>	

**SACF VIEW: THE MINISTER MAY ISSUE A POLICY DIRECTIVE TO PERMIT ICASA TO ACCEPT AND CONSIDER APPLICATIONS**



# Framework for the WOAN



The WOAN would be a new entrant – the success of new entrant hinges on a pro-competitive framework

The Bill imposes obligations usually imposed on dominant operators with demonstrated abuse of power

- Cost-based pricing
- Rollout obligations

## CONSEQUENCE

The Bill stacks the odds against the WOAN

The WOAN have pro-competitive measures that includes;

- No cost-based pricing, at least initially
- No rollout obligations
- Regulatory holidays

Incumbents committed to purchase capacity from the WOAN to ensure its sustainability

# Regulatory Regime



The White Paper changes the regulatory regime to improve efficiency

The Bill imposes several new obligations on the Regulator – which one? ICASA? The Economic regulator? the content regulator?

Stakeholders provide comments in a vacuum

Reduces regulatory certainty further

Most likely to further slow down licensing and access to spectrum

## Critical Success Factors

Effectiveness and growth of the sector depends on:

An efficient regulator

Regulatory forbearance

Proportionality

Regulatory certainty

THE END ..... Thank you!