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The Portfolio Committee on
Telecommunications and Postal Services
Attn: Ms Hajjera Salie
P.O. Box 15
Cape Town
8000

20 November 2018

Dear Ms Salie

**BROADBAND INFRACO – SUBMISSION ON ELECTRONIC COMMUNICATIONS AMENDMENT
BILL [B31-2018]**

Introduction

- 1.1 Broadband Infraco welcomes the opportunity to make this written submission to the Portfolio Committee on Telecommunications and Postal Services regarding the Electronic Communications Amendment Bill.
- 1.2 Broadly speaking, Broadband Infraco welcomes the draft Policy Direction. Broadband Infraco believes that the draft Policy Direction will provide much needed regulatory certainty regarding IMT-2000 frequency bands that have been identified for 4G wireless deployment.
- 1.3 As one of the country's leading high-capacity broadband backhaul providers, Broadband Infraco believes that the primary protagonists for licensing high-demand spectrum will also welcome the draft Policy Direction and its ambitions. The country's increasing demand for less expensive data prices should be helped by the licensing of unassigned high demand spectrum.

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SPECIFIC COMMENTS

2. Establishment of the WOAN

- 2.1 Broadband Infraco welcomes the establishment of the Wireless Open Access Network as the state's primary means of actively attempting to intervene in the access market to reduce the cost to communicate.
- 2.2 As a fellow State Owned Company, Broadband Infraco requests clarity on some fundamental issues regarding the establishment and operation of the WOAN.

3. Governance of the WOAN

- 3.1 The WOAN is intended to be a *Public-Private Partnership* ("PPP"), whereby government and the private sector are expected to be its owners. Telkom is the currently the most obvious example of a PPP in the ICT sector.
- 3.2 In this same vein, Broadband Infraco also notes the WOAN's stated ownership structure wherein 50% of the WOAN's equity will be held by South Africans, as well as needing to comply with the country's empowerment legislation. As government can appreciate, finalising the WOAN's ownership structure will lend a great deal of regulatory certainty to its governance, capitalisation and prospective operations.

4. Capitalisation of the WOAN

- 4.1 Firstly, Broadband Infraco notes the existing constraints on the national fiscus regarding its ability to meet a number of the country's key policy objectives, such as basic service delivery, universal and affordable health care, free education to qualifying learners and expanding access to broadband connectivity, to name but a few of the myriad of socio-economic challenges facing the country.
- 4.2 In light of these challenges and constraints and for the sake of regulatory certainty, Broadband Infraco requests greater clarity from the Department of Telecommunications and Postal Services ("DTPS") regarding the WOAN's initial capitalisation and how the state intends funding it.

- 4.3 Broadband Infraco also requests to know how the state intends meeting the WOAN's ongoing capex and opex requirements to ensure the entity's sustainability.
- 4.4 The WOAN's other shareholders will be compelled to engage in cost-benefit analyses in prioritising their allocation of capex for their own operations, especially in an era of spectrum auctions and significant capital expenditure requirements to deploy LTE and 5G network.

5. WOAN's Statutory Mandate

- 5.1 Notwithstanding that the WOAN will be a juristic entity with a quasi-public mandate given the possibility of it being a public private partnership, Broadband Infraco believes the WOAN should have a clear and unequivocal statutory remit. The WOAN's remit should be along the following lines:
 - 5.2 *The main objects of the WOAN are to expand the availability and affordability of access to wireless broadband electronic communications, including but not limited to underdeveloped and under-serviced areas in accordance with the Electronic Communications Act and commensurate with international best practice and pricing, through the provision of wireless:*
 - (a) *electronic communications network services; and*
 - (b) *electronic communications services.*

6. Access to high-demand spectrum

- 6.1 The current version of the ECA Amendment Bill envisages the WOAN being allocated over 70 MHz of high-demand spectrum bandwidth.
- 6.2 The pressure on the WOAN's from its private sector competitors for the WOAN to use that large amount of bandwidth optimally and efficiently in a "use-it-or-lose-it" spectrum management environment will be significant.

7. USOs for the WOAN

- 7.1 As a prospective electronic communications network services licensee, the WOAN will most likely have Universal Service Obligations. The fairness of USOs imposed on the WOAN will need to be viewed in the context of USOs being regulations of general application; notwithstanding the business purpose of the licensee, which in the WOAN's context and similar to Broadband Infraco,

is that of a State Owned Company being established to meet the country's developmental policy objectives.

8. Backhaul Services for the WOAN

- 8.1 To enable the WOAN to effectively, efficiently and economically achieve its statutory mandate, the ECA Amendment Bill should ensure that the WOAN is not restricted from whom it can procure its backhaul services from. Broadband Infraco supports this non-prescriptive position of the Bill on this critical issue as we note the Bill's silence on the provision of backhaul services for the WOAN.
- 8.2 Broadband Infraco believes that it would be short-sighted of the Bill to prescribe which entity/ies, whether private or public, the WOAN should obtain its backhaul services from. Importantly, the provision of backhaul services should be a commercial discussion for the WOAN could perhaps be left to an open, competitive and transparent tender bidding process.
- 8.3 Notwithstanding the Bill's silence on this issue, Broadband Infraco encourages the drafter's of the Bill to ensure that, as a potential "public-private" operator, the WOAN's management should be at liberty to procure support services for its operations from service providers who offer the soundest commercial solutions with the most value for the WOAN.
- 8.4 Of significance is Broadband Infraco's successful history of providing high-capacity fast backhaul connectivity to many government sites located primarily in rural areas, vis-à-vis SA Connect.

9. Conclusion

Broadband Infraco looks forward to participating in the public hearings on the draft ECA Amendment bill.

Yours faithfully,



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