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28 January 2019

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Dear Mr. Makgotlho

REQUEST FOR WRITTEN COMMENTS TO THE PROPOSED DRAFT INTERNATIONAL MOBILE TELECOMMUNICATIONS (IMT) ROADMAP REGULATIONS FOR CONSULTATION

1. The draft International Mobile Telecommunications (IMT) Roadmap for consultation regulations (“Regulations”) published in *Government Gazette 42021* on 9 November 2018 refers.
2. Cell C welcomes the Authority’s invitation to comment on these draft regulations and thanks the Authority for the extension granted for written comments. Cell C confirms that it would be participating in the oral hearings when they are convened.
3. It is Cell C’s understanding from the Regulations that the purpose of this exercise is to consult on suitable radio frequency spectrum bands to be utilised for IMT 2020 and beyond and to align them with bands as identified for compatibility/sharing studies by the ITU; and to enable the Authority to revisit the radio frequency spectrum assignment plans (“RFSAP”) that were developed under the 2014 IMT Roadmap regulations.
4. The importance of the fair and equitable assignment of scarce resources such as radio frequency spectrum to create a vibrant competitive ICT sector cannot be overstated. However any assignment must only be made if it can also ensure spectrum efficiency, and if it can contribute in a cost effective manner to ensure availability / accessibility / affordability of enhanced mobile broadband services. Cell C has made several

submissions to the Authority in the past in this regard. We believe that the IMT Roadmap process should not be unduly rushed. Our more detailed submissions on the proposals are attached, and indicate why we are concerned about the timeframe for the IMT Roadmap process.

Yours sincerely



Harrish Kasseepursad

Executive: Regulatory

CELL C WRITTEN COMMENTS ON THE PROPOSED DRAFT INTERNATIONAL MOBILE TELECOMMUNICATIONS (IMT) ROADMAP REGULATIONS

CONTENTS

1. INTRODUCTION
2. SCOPE AND TIMING OF THE CONSULTATION
3. IMT 2020 AND BEYOND
4. INVITATION TO APPLY ("ITA")
5. 2015 RFSAP's
6. SUPPORTING IMT 2020 THROUGH WRC- 19
7. OTHER ISSUES

1. INTRODUCTION

- 1.1. Cell C would like to thank the Authority for the opportunity to present these written comments, and requests the opportunity to both elaborate on the points below as well as to raise further points via oral submission when public hearings are convened on the Regulations.
 - 1.2. Cell C is in agreement with the Authority that there is a need to initiate consultation on identifying suitable radio frequency bands to meet the exponential needs of mobile services that will be deployed under the IMT 2020 family of technologies. The success of delivering and deploying competitive and universal mobile services under IMT 2020 is hugely dependent on the timing of making available appropriate radio frequency spectrum.
 - 1.3. Cell C encourages the Authority to use this process to address other outstanding matters in terms the 2015 RFSAP's such as the in-band and out of band migration of existing services. This will ensure that the radio frequency spectrum assignments to different licensees are made when the National Plan is in a stable form, when the spectrum bands have been properly harmonized, and therefore when the bands can be used more efficiently, realizing the fullest potential of the said RFSAPs.
 - 1.4. Cell C supports and recommends the alignment of these Regulations with the resolutions/recommendations as adopted at various international, regional and national levels (ITU, ATU and SADC), including those arising from WRC 2019 ("WRC 19"). This means the same spectrum bands are used country to country, which allows the same equipment, including mobile devices, to be sold across large regions, bringing down the cost while also reducing interference and enabling international roaming. This is likely to enable licensees to achieve economies of scale in terms of the acquisition of subscriber equipment whilst keeping cross-border radio frequency spectrum interference disputes to a minimum.
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2. SCOPE AND TIMING OF THE CONSULTATION

Cell C observes that in many instances the content of these Regulations are a repeat of the 2014 IMT Roadmap regulations. In some cases the Authority makes references to the 2013 National Radio Frequency Plan (“2013 NRFP”). Therefore Cell C shall focus its comments on matters that are not repeated from the 2014 IMT Roadmap regulations, specifically IMT 2020. Cell C recommends that the Regulations be updated to reflect current regulations only, to avoid unnecessary confusion and differences in interpretation between versions. Cell C’s previous submissions remain relevant in terms of the repeated issues.

Cell C notes that the Authority published the updated National Radio Frequency Plan (“2018 NRFP”) and draft Frequency Migration Plan (“2018 FMP”) in 2018. Both documents are informed by the recommendations of the Radio Regulations emanating from the 2015 World Radio Conference (“WRC15”). As the Authority is aware, the WRC19 is taking place in Egypt from 28 October to 22 November 2019. One of the outcomes of WRC 19 will be to pronounce on a list of suitable radio frequency bands above 6GHz for IMT 2020 use after taking into account feedback from the sharing and compatibility studies by ITU study groups. It is therefore unclear to Cell C why the Authority would initiate these important discussions at this time i.e. ahead of the WRC19 later this year. Cell C believes that the consultation is premature and is likely to lead to unintended consequences including expensive resource duplication and confusion. We say this because the Authority will have to revisit these Regulations by consultation after the ITU publishes the 2019 Radio Regulations and specifically any timelines that are bedded down in these Regulations. Furthermore, the Authority’s own year end is in March 2019. As far as we are aware, finalising these regulations is not in the Authority’s Annual Plan for the 2018/2019 financial year.

3. IMT 2020 AND BEYOND

In general, Cell C supports the Authority in referencing the Recommendation ITU-R M.2083 -0 document. Cell C is also in agreement with the principles of the IMT Vision – framework and overall objectives of future developments of IMT 2020 and beyond as contained in this document. This document provides for the next generation mobile technologies like 5G, enabling greater capacity for wireless networks whilst ensuring greater reliability at faster data speeds, with the intention at an international level being to create the platform for the ICT, commercial, entertainment, health and education sectors to flourish.

It is envisaged that three categories of services and applications will benefit from radio frequency spectrum set aside for IMT 2020 and beyond. These three categories are enhanced mobile broadband (“eMBB”), Massive machine –type communications (“mMTC”) and Ultra-reliable and low – latency communications (“URLLC”) services. These services are described as follows:

- a) Enhanced mobile broadband (“eMBB”) – enhanced indoor and outdoor broadband, enterprise collaboration, augmented and virtual reality.

- b) Massive machine-type communications (“mMTC”) – IoT, asset tracking, smart agriculture, smart cities, energy monitoring, smart home, remote monitoring.
- c) Ultra-reliable and low-latency communications (“URLLC”) – autonomous vehicles, smart grids, remote patient monitoring and telehealth, industrial automation.

Cell C however recommends that whilst acknowledging the benefits of IMT 2020, a practical and cautious approach be adopted by the Authority to avoid undue and perhaps unreasonable reliance on the vision for IMT 2020, namely that it will provide immediate and guaranteed economic benefits to the relevant sectors. We refer to an ITU Report titled “*Setting the Scene for 5G : Opportunities and Challenges, prepared in collaboration with the ITU's Standardization and Radiocommunications Bureau*”¹, (“the ITU Report”). This report sets the landscape for all stakeholders to navigate through the issues related to 5G and provides a measured, practical approach for those looking to make important decisions for the future. It must be noted that the ITU Report contains and refers to information from Recommendation ITU-R M.2083 -0 document. The Authority should, in our view, recognise that the needs and opportunities for 5G rollout are likely to differ in the South African environment from more developed countries including those in Europe. At present, the South African mobile and wireless landscape is characterised by a spectrum shortage, resulting in the refarming of expensive 2G spectrum, and many adaptations have had to be made by operators to achieve reasonable 4G services in difficult operating conditions. Not only is this relevant, but the need for 5G services in rural and semi-rural areas has not been proven – and device availability, cost and associate risk factors must be taken into account by any reasonable regulatory authority. In Cell C’s view, there are other areas that are in need of regulatory attention, before matters pertaining to IMT2020 vision should be addressed (particularly because WRC19 will have a significant impact on that vision).

The following is a summary of the other issues raised in the ITU Report that the Authority should take cognisance of:

“Expectations of 5G are high, with many assuming it will deliver a transformative promised land – an improved end-user experience, new applications, new business models and new services riding swiftly on the back of gigabit speeds, improved network performance and reliability. 5G networks and services, standing as they do on the shoulders of successful 2G, 3G and 4G mobile networks, are forecast by independent economic studies to deliver very significant economic gains.

Caution: high levels of investment needed

However, despite the potential benefits, there is concern that 5G is premature and notes of caution are being sounded. Operators are sceptical about the commercial case given the high-levels of investment needed to deploy 5G networks.¹ The report estimates the cost to deploy a small cell-ready 5G network – assuming fibre backhaul

¹ https://www.itu.int/dms_pub/itu-d/opb/pref/D-PREF-BB.5G_01-2018-PDF-E.pdf

is commercially feasible – can range from USD 6.8 million for a small city to USD 55.5 million for a large, dense city.

Danger of increasing digital divide

A viable case for investment in 5G can be made for densely populated urban areas – always the most commercially attractive regions for operators. More challenging will be a commercial argument for investing in 5G networks outside such areas, especially in the early years of 5G deployment. As a result, rural and suburban areas are less likely to enjoy 5G investment, and this will potentially widen the digital divide.

Balanced view is needed

As long as the investment case for 5G remains uncertain, industry and policy-makers should remain cautious and should consider enhancing the availability and quality of existing 4G networks in the run up to 5G. The need for 5G is not immediate. Policy-makers and operators should only consider deploying 5G networks where there is demand or a robust commercial case in favour of doing so.

Policy-makers' actions will make a difference

Where demand exists alongside high 5G deployment costs, policy-makers can use a range of legal and regulatory actions to facilitate 5G network deployment. These include:

- Supporting the use of affordable wireless coverage (e.g. through sub-1 GHz bands) to reduce the digital divide;*
- Commercial incentives such as grants, or PPPs to stimulate investment in 5G networks.”*

4. INVITATION TO APPLY

The Authority has stated the following with respect to the assignment of IMT Frequencies: *“The assignment of IMT frequencies will generally be made through an Invitation to Apply (“ITA”) in line with Regulation 7 of the Radio Frequency Spectrum Regulations 2011. This process will detail the actual mechanism of assignment (including market-based mechanisms, etc.)”*

The reference to the 2011 Regulations is not correct. These Regulations were extensively amended in 2015. In addition, it is Cell C's view that the Authority cannot as a matter of course assign high demand spectrum through an ITA without following due process. Cell C is concerned that the ITA could be issued upon the publication of the Regulation. Cell C believes that this was not the intention of the Authority and could have been an oversight. Therefore Cell C recommends that specific timelines are attached to each milestone in the Regulations thus providing regulatory certainty, prior to any ITA being issued, taking into account the other issues that we are concerned about and specifically the legality of any such ITA. This is supported by the provisions as contained in the 2013 Frequency Migration Plan Regulations, under regulation 5, *“Preparation of a Radio Frequency Spectrum Assignment Plans”*.

Not only would any ITA be risking a legal challenge by the Minister of Telecommunications and Postal Services, for the same reasons raised by that Minister

in the court action against the Authority to interdict the ITA for high demand spectrum in 2015 and 2016, but on its face, the proposed award of spectrum for a future technology would ignore current spectrum needs which are far more pressing.

Cell C also strongly recommends that any regulations, specifically the framework and issuing of an ITA for spectrum in demand be held in abeyance until such time as the draft policy direction/s for the award of high demand spectrum are finalised by the Minister of Telecommunications and Postal Services, as required under the ECA. The consultation on the draft policy directions closed in 2018, but no further action has been taken by the Minister either to confirm those policy directions or to issue amended directions.

Not only is the timing proposed and the legal barriers problematic but it may be sensible to aggregate the award of or make available other bands in one ITA process for the greatest efficiency and optimal returns. It does not appear to us that the necessary analysis has taken place to determine whether or not such an award would offer the benefits of, for example rural and urban coverage, and enable a number of competitors to roll out competing high speed broadband services. In addition, and importantly the Minister retains the prerogative to approve the national plan and any amendments to that plan under section 34(2), (10) and (11) of the ECA. It is not apparent from the draft that the Authority has engaged with the Minister in this regard.

It is Cell C's considered view that the proposed Regulations would run the risk of challenge, resulting in delay, cost, and ultimately resulting in prejudice to all concerned.

5. 2015 RFSAP's

Table 1. Summary of Final RFSAP's formulated under the 2014 IMT Roadmap

	Band Size	Typical services/ Technology	Migration	Channel Assignments	Timelines	ITA
IMT450	(450-470 MHz)	Rural mobile BB/PPDR/M2M LTE/A/HSPA+/WIMAX	Existing Licences in rural amended by 31 March 2018, except Transtel. Existing Lic.in rest of band to be amended by 31 March 2022 In case of coexistence with IMT = licence modified	2X5 FDD/15TDD either D2/D3/D4/D5 GB=2.5 for Broadcast & 1MHz GB narrowband systems	RFSAP 1 April 2018	ITA will be published into 31(3) of ECA New assignment approval only on RFSAP compliance

	Band Size	Typical services/ Technology	Migration	Channel Assignments	Timelines	ITA
IMT700	(703-733MHz //758-788MHz)	Mobile voice/data LTE/A/HSPA+/ WIMAX	Existing Licences are revoked STL must migrate out to point fixed links Self Help Stations migrate to Terrestrial Broadcast Freq Plan	2X30FDD ITU Region 1	RFSAP 1 January 2016	ITA will be published to 31(3) of ECA Assignment may commence prior to 1 January 2016 New assignment approval only on RFSAP compliance
IMT750	(733-758MHz)	Mobile voice/data LTE/A/HSPA+/ WIMAX	STL must migrate out to point fixed links Self Help Stations migrate to Terrestrial Broadcast Freq Plan	15MHzTDD,2x 5MHz GB ITU Region 1	RFSAP 1 January 2016	ITA will be published to 31(3) of ECA Assignment may commence prior to 1 January 2016 New assignment approval only on RFSAP compliance
IMT800	(791-821MHz //832-862MHz) – Notice 1013	Mobile voice/data LTE/A/HSPA+/ WIMAX	TV to migrate to Analogue switch off date include Self Help Stations to Terrestrial Broad. Plan, STL to migrate out	2X30MHz FDD ITU Region 1	RFSAP = 1 July 2015	ITA will be published to 31(3) of ECA Assignment may commence prior to 1 July 2015 New assignment approval only on RFSAP compliance
IMT850	(825-830MHz// 870-875MHz)	Mobile voice/data LTE/A/HSPA+/ WIMAX	Existing Licences are to be amended Neotel/GSM-R migration	2x5MHzFDD ITU Region 1		Deferred until further notice
IMT900	(880-915MHz //925-960MHz)	IMT UMTS/LTE/A/H SPA+/WIMAX	Licenses to Follow Ch. 10 process in FMP (licence to move to new location in band),	2X35 FDD harmonisation	Effective =date of publication	When assignment is enabled, ITA will be published to 31(3) of ECA New

	Band Size	Typical services/ Technology	Migration	Channel Assignments	Timelines	ITA
			Licence will be amended after assign change Short term = removal of GB by Licence.			assignment approval only on RFSAP compliance Migration date -31 March 2020, 2X5Mhz to be assigned separate process
IMT 2300	(2300-2400MHz)	IMT TDD LTE/A/HSPA+/ WIMAX	Conduct feasibility study and then new assignments	100MHz TDD ITU	RFSAP 1 April 2017	New assignment approval only on RFSAP compliance
IMT 2600	(2500-2570MHz & 2620-2690MHz)	IMT FDD and IMT FDD LTE/A/HSPA+/ WIMAX	WBS licence to be amended, Cell C understands that this is completed.	2x70 MHz FDD, 50TDD ITU Region 1 C1	Effective =date of issue	ITA will be published to 31(3) of ECA WBS migration from 2550-2565 to 2575-2590 within six months of RFSAP, remaining IMT 2600 TDD 2595-2615 reserved future assignment through ITA by 31 March 2017 New assignment approval only on RFSAP compliance
IMT 3500	(3400-3600MHz)	IMT	Existing Licences are to be amended & licensees to conform to requirements by effective date	200MHz TDD NRFP will be updated to TDD	RFSAP 1 April 2017	ITA will be published to 31(3) of ECA New assignment approval only on RFSAP compliance

5.1 IMT 700 and IMT 800

In the 2018 NRFP, both IMT 700 and IMT 800 spectrum bands has MOBILE and BROADCASTING as PRIMARY allocations. It is therefore unclear to Cell C if the BROADCASTING allocation will remain after analogue switch off and full migration of broadcasting services out of these bands. Cell C seeks clarity from the Authority if the allocation to BROADCASTING will remain after July 2020. We note that the proposed migration has yet to be completed even for the award of spectrum for 4G services.

Cell C understands that initiatives by the broadcasters, signal distributors, Department of Communications and the Authority on analogue switch off in identified geographic areas have started. In the public interest and for transparency, Cell C recommends that the Authority periodically publish status reports on the progress of analogue switch off per geographic area and refrain from jumping the gun on the allocation of any spectrum prior to completion of the migration process. Many pages of argument were devoted to the reasons why the Authority ought not to propose or issue any ITA where spectrum has yet to be made available.

5.2 IMT850

The Cell C submission on the Second Draft Radio Frequency Spectrum Plan for Band 825 to 830 MHz paired with 870 to 875 MHz Regulations in *Government Gazette 41082* ("IMT850") published on 1 September 2017 remains relevant to this Regulation, see attached **Annexure A**. Cell C requests that it be consulted where technical planning is concerned to avoid any unintended consequences or further prejudice to Cell C.

5.3 IMT 900

Cell C encourages the Authority not to use this process to reconsider the in-band migration principle in terms of previous 2014 IMT Roadmap and the finalised Radio Frequency Spectrum Assignment Plans ("RFSAP") for IMT as contained in *Government Gazette 38640* dated 30 March 2015. Attempting to shoehorn the migration proposed in 2014 into this process will result in unnecessary delays on the in-band migration principle already decided upon after extensive consultation with industry.

Following the agreed procedure will ensure that the radio frequency spectrum assignments to different licensees are harmonized and therefore used more efficiently, realizing the fullest potential of the said radio frequency spectrum band.

Furthermore, it has come to Cell C's attention that all of the 11 MHz radio frequency spectrum assignment can be utilised by Cell C. Cell C reiterates its concern that the Authority had adopted an option that was not fully supported by industry, as acknowledged by the Authority before.

In the 2014 IMT Roadmap, the Authority recommended in subsection 8.6.4 the following: "*The recommendations depend on the target market structure for the cellular*

industry. For a 3-player market structure, by decreasing order of priority, the Authority proposes the following options in decreasing order of value: Scenario 1; Scenario 3.a and 3.b; and Scenario 2." and " Scenario 1 provide the best overall benefits to the end users in a 3-player cellular scenario. Scenario 1 is easier and faster to implement given that operator buy-in exists." It is unclear to Cell C why the Authority had chosen an approach in these draft Regulations which will ultimately lead us to Option 3b. It is Cell C's view that this option runs counter to the objects of the ECA, specifically, "the promotion of competition in the ICT sector" as assigning the 5MHz spectrum to either Vodacom or MTN will only entrench their dominance in the mobile market. Cell C has raised concerns regarding the assignment of scarce resources to dominant operators in several previous submissions to the Authority, and in its court papers in relation to the ITA in 2015/2016.

Cell C has concerns with the location of 5MHz in the re-arranged 900 MHz band. We say this because the location of 5MHz technically suits both Vodacom and MTN as it could form a contiguous assignment with their newly in-band migrated spectrum. Given the above, Cell C strongly supports Scenario 2, so that after the full in-band migration is completed, Cell C can utilise its rightfully assigned 11 MHz radio frequency spectrum efficiently and compete on a fair and non-discriminatory basis, see **Annexure B**. As the Authority will be aware, spectrum awards and particularly the award of non-contiguous or "dirty" spectrum was a factor that prejudiced Cell C after the award of its licence in 2001 and for many years, and was in fact taken into account when the Authority first considered the mobile call termination market in 2010. The remedies afforded Cell C following the outcome of that market inquiry, which included asymmetric call termination rates, were predicated on the fact that Cell C had been prejudiced by discriminatory spectrum awards. It would be irrational to place Cell C in the same (prejudiced) position in this spectrum migration in 2019. As a consequence, Cell C will be prejudiced, forcing Cell C seek other legal avenues to protect its rights.

Cell C furthermore recommends that the Authority conduct a regulatory impact assessment to understand the implications of its proposed decision in relation to IMT2020. Our detailed submissions on this point were set out in our February 2012 response and in our application for in-band migration, and in several of our submissions to the Authority on a variety of matters on which the Authority proposes to make regulations. The South African government requires impact assessments prior to making any legislation, whether primary or secondary in nature. Copies of any previous submissions can be made available to the Authority upon request.

6. SUPPORTING IMT 2020 THROUGH WRC- 19

It is Cell C's understanding that certain mmWave spectrum bands above 24GHz for IMT 2020 are being considered by the WRC-19 after taking into account sharing and compatibility studies with other services. Therefore, after the outcomes of the WRC-19, we would have certainty on which mmWave radio frequency spectrum bands will be identified for IMT 2020. However, based on the DTSPS (National Working Group) recommendations, Cell C supports the following mmWave bands:

- a) 24.25-27.5 GHz
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- b) 37-40.5 GHz
- c) 40.5-42.5 GHz
- d) 42.5-43.5 GHz
- e) 60-71GHz

We recommend these bands be used for these services because they have the Department of Telecommunications and Postal Services (“DTPS”) support through the National Preparatory Work Group in terms of ITU Agenda item 1.13. In addition, these bands have multi-regional support which will lead to global harmonisation. In some cases no or minimal protection margins are required to ensure no interference with other services. This means the same spectrum bands are used country to country, which allows the same equipment, including mobile devices, to be sold across large regions, bringing down the costs. Using these bands in this manner would ensure that the Authority is in fact supporting the primary objectives of these Regulations as stated by it, which are to: *“to ensure spectrum efficiency, universal availability of broadband services as well as a vibrant and competitive telecommunications industry and promote investments”*.

7. OTHER ISSUES

- 7.1 We note that the Authority refers to SA Connect in relation to spectrum value in sections 4, 5 and 6. We do not dispute what SA Connect says or that it refers to how valuable spectrum is. However it is unclear why the Authority does not also reference the White Paper on Integrated ICT Policy, given that it has recently been adopted by Government in 2015. We also note that the upload and download speeds set out in that SA Connect policy document are now 6 years old owing to technology leapfrog to 4G/LTE networks. It would be useful for the Authority to provide some proposals in this scenario.
 - 7.2 Cell C is also unclear on why the Authority is referring to “spectrum parks”. This concept was introduced and trounced by stakeholders and government in 2011. The concept has not been properly or thoroughly explained and in any event, the Authority states on page 49 that the issue “should be decided later as well”. We recommend that matters such as these which are of a general or tangential nature, ought not to be referenced in the IMT Roadmap.
 - 7.3 Other information appearing in section 5.8 also appears to be marketing materials, of a discursive rather than decisive nature, and offering little certainty or clarity on the Authority’s intention. In fact, this section appears to enforce the Cell C view that the proposals outlined in the document are premature.
 - 7.4 Section 6 contains extremely technical data which does not seem to refer to or relate to the report generated for the Minister by the CSIR, and is eminent to be
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issued in a policy directive in relation to high demand spectrum, and the possible allocation of such spectrum to a wholesale open access network operator ("WOAN") and existing operators. Since this is a topical and concerning matter which has yet to be decided by the Minister in any amendments to the ECA, it would be useful to understand how the Authority believes its technical assessment withstands scrutiny when measured against the outcomes of the CSIR report. Has the Authority taken the spectrum reservation for a WOAN entity into account when considering the allocations proposed in this draft document?

- 7.5 Section 6 similarly raises concerns that the Authority appears to be relying on some old data for its estimated demand forecasts in relation to 5G and IMT2020. The years referenced here are 2012 and 2013, for example. Because technology-enhancement including spectrum refarming, and user demand changes considerably over time, it will be vital to ensure that the most up to date information is used when making critical decisions. Figure 5 (which is incorrectly numbered) on page 113, includes a diagram which has as its starting point, the year 2000, and its end point, the year 2020 with some activities extending past this end point. Cell C does not consider this to be an adequate representation of the activities that have taken place, or that would need to take place within the spectrum arena in South Africa. Furthermore, it offers no certainty in relation to regulatory planning or investment planning. This is not improved by information included on pages 114 or 115 which is similarly old or repeated. As indicated earlier in this submission, Cell C calls on the Authority to publish a proposed timetable which takes account of and reflects on the outcomes of WRC19.
- 7.6 On page 118, the Authority purports to discuss licensing conditions in the context of the IMT Roadmap. Licensing conditions are vital aspects of any spectrum award. The cursory discussion around these conditions, particularly coverage which is expensive and requires careful planning, is inadequate to deal with the multiple associated issues of a licensing process. The IMT Roadmap is not an appropriate place in which to situate such conditions, which as they stand, are not supported by any empirically sound data. Even the award process for spectrum has yet to be determined. The cost of acquiring any spectrum is not limited to the cost payable to the fiscus, it must necessarily also take account of the cost of associated licence obligations. This is a material and crucial area that deserves a separate and comprehensive discussion.
- 7.7 Finally, the additional "considerations" that the Authority has included in the last chapter of the draft document do not make it clear what is actually being proposed. It is therefore difficult to comment on these sections. Similarly the glossary and other terms included in the appendix do not track the local definitions or provisions within primary or secondary legislation. We believe the Authority should make it clear what it means when it uses terminology that is not currently in use in South Africa.

Cell C requests the Authority to separate out from the draft document the discursive sections, and to deal with the specific issues relating to the implementation of IMT2020, following a careful analysis of all existing regulations, consultation with the Minister, and only after the conclusion of WRC19. It is our considered view, as set out in this submission, that the document as it stands does not contribute to the objectives set out in the introduction as follows:

The Authority's primary objectives are to ensure spectrum efficiency, universal availability of broadband services as well as a vibrant and competitive telecommunications industry and promote investments.

We trust these comments have been helpful in identifying the numerous issues arising in the draft, and look forward to engaging with the Authority again regarding the most appropriate way forward.

ANNEXURE A



20 October 2017

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By email: makgotlho@icasa.org.za
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Dear Sirs

Re: Cell C submission in response to ICASA's Second Draft Radio Frequency Spectrum Plan for Band 825 to 830 MHz paired with 870 to 875 MHz Regulations in *Government Gazette 41082* (IMT850)

1. Cell C would like to thank ICASA for the opportunity to provide written comments on the Second Draft Radio Frequency Spectrum Plan for Band 825 to 830 MHz paired with 870 to 875 MHz Regulations in *Government Gazette 41082* ("IMT850") published on 1 September 2017 ("the Regulations").
2. Cell C supports and recommends the alignment of this second draft Radio Frequency Assignment Plan with the resolutions as adopted at various international, regional and national levels (ITU, ATU and SADC). This means the same spectrum bands are used country to country, which allows the same equipment, including mobile devices, to be sold across large regions, bringing down the cost while also reducing interference and enabling international roaming. This is likely to enable licensees to achieve economies of scale in terms of the acquisition of subscriber equipment whilst keeping cross-border radio frequency spectrum interference disputes to a minimum.
3. Cell C looks forward to engaging with ICASA should ICASA have any queries on Cell C's written submission.
4. Cell C confirms its readiness to participate in any subsequent consultations and oral hearings that might be called by ICASA.

Yours sincerely

Graham Mackinnon
Chief Legal Officer



Cell C submission to ICASA's Second Draft Radio Frequency Spectrum Plan for Band 825 to 830 MHz paired with 870 to 875 MHz regulations

Having regard to the provisions of section 2 of the ECA (Objects) and the provisions of regulation 2(1) of the Radio Frequency Spectrum Regulations, 2015, Cell C has considered the proposed revised assignment plan, and sets out its comments below.

1. Preparation of a Radio Frequency Spectrum Assignment Plan

- a) In terms of the ICASA 2013 Frequency Migration Plan Regulations ("FMP"), regulation 5, "Preparation of a Radio Frequency Spectrum Assignment Plans ("RFSAP)", states that:

"(1) A change in the use of a radio frequency band(s) must be initiated through a Radio Frequency Spectrum Assignment Plan for the radio frequency spectrum bands in the manner specified in the latest Radio Frequency Spectrum Regulations.

(2) With respect to the radio frequency migration process, a Radio Frequency Assignment Plan may include:

(a) The process for migrating existing users and uses from their existing spectrum location, specifying the bands to which the users and uses will be migrated - including in-band migration where applicable.

(b) The period for the reallocation of the radio frequency band in question, specifying the date at which the users to be migrated should cease transmission.

(3) A Radio Frequency Spectrum Assignment Plan shall be subject to public consultation:

(a) The Authority shall publish the Radio Frequency Spectrum Assignment Plan in the Government Gazette, and invite interested persons to submit written representations as specified.

(b) The Authority may, after any defined period for lodging comments by interested persons has passed, hold a public hearing in respect of the application."

- b) Therefore prior to finalizing the IMT 850 RFSAP, Cell C recommends that ICASA ensures that the processes listed above are followed and concluded. We say this because the Regulations include many milestones that do not have specific timelines for the affected users or are dependent on other timelines. For the IMT 850 band to be totally cleared, existing broadcasting licensees must be migrated to their appropriate bands, thereafter Neotel/GSM-R must complete an in-band migration and finally Neotel should permanently vacate IMT 850 Band – we are aware that this has been ICASA's intention for some years.
- c) To avoid unnecessary delays and ambiguity, Cell C recommends that each milestone be accompanied with a due date and indication in detail what steps are likely to be required to meet those timelines. We suggest that the process and expectations in relation to migration be clearly set out as an introductory section to the Regulations to avoid unnecessary delays and disputes.



2. Reasons Document

- a) Cell C notes that ICASA had consulted on the migration of certain licensees out of the bands under consideration prior to finalising the 2014 IMT Roadmap Regulations and 2015 Radio Frequency Spectrum Assignment Plans Regulations. However the RFSAP for IMT 850 was never finalised and was deferred until further notice as recorded in *Government Gazette* 38640 on 30 March 2015. No supporting information or a reasons document was provided for this determination.
- b) Cell C recommends that ICASA publish a reasons document for its decision to defer the finalisation RFSAP for over two years and believes this will greatly assist in providing informed comments to this process.

3. Assignment Process

- a) Cell C notes that ICASA will publish an Invitation to Apply ("ITA") process for the allocation of new assignments irrespective of current occupancy. Cell C is concerned that the ITA could take place upon the publication of the Regulation, in terms of sub-regulation 6(1). Cell C believes that this was not the intention of ICASA and could have been an oversight. Therefore Cell C recommends as stated above under "Preparation of a Radio Frequency Spectrum Assignment Plan" that specific timelines are attached to each milestone in the Regulations thus providing regulatory certainty, prior to the ITA being issued.
- b) Cell C also strongly recommends that any regulations, specifically the framework and issuing of an ITA for spectrum in demand be held in abeyance upon such time the policy direction/s for the award of high demand spectrum are published by the Minister of Telecommunications and Postal Services, as required under the ECA. This is because it may be sensible to aggregate the award of or make available other bands in one ITA process for the greatest efficiency and optimal returns, and also because the Minister retains the prerogative to approve the national plan and any amendments to that plan under section 34(2), (10) and (11) of the ECA.

4. Migrating Licensees

- a) In migrating users out of band or completing an in-band migration identified for potential future IMT services, it is imperative that ICASA ensures the objective to promote competition within the ICT sector as contained in Section 2 of the ECA read with Chapter 5 are observed at all times. Licensees who are required to migrate or complete an in-band migration should not unfairly benefit from the migration requirement by acquiring valuable radio frequency spectrum that is considered high demand spectrum pursuant to the migration (as was anticipated in the ICASA 2011 ITA process). An allocation on migration should take account of previous use of that band and future needs, having regard to all the possible and alternative allocations.
- b) At the same time, Cell C is concerned that current occupants of certain bands should not be able to retain those allocations and also participate in any ITA for additional bands, as



this would confer disproportionate benefits on those parties by affording them access to additional scarce resources.

- c) Cell C recommends that the Minister of Telecommunications and Postal Services should be consulted on the migration of existing governmental entities or organizations as users of the spectrum in terms of a migration plan, under section 34(16) of the ECA Act. Cell C recommends that due process must be followed. It is unclear from the Regulations that this process has commenced and been completed.

5. Compensation for Migration

Cell C recommends that any compensation for migration should be clearly explained as to whether it will take place at all and in what form – and as we say above, we do not believe that high value spectrum should form part of any migration compensation which does not involve migration off high value spectrum. Furthermore ICASA must clearly indicate how licensees may be compensated if they stand to lose valuable spectrum after the completion of an in-band migration.

6. Interference

- a) ICASA's role is to approve a clear and unambiguous migration framework which must consist of the following: strict timelines, co-ordination activities, communication plans, escalation process, disaster management process, a fall-back process and dedicated project team. Cell C therefore recommends that ICASA publish an action plan and timetable for greater transparency after necessary investigation into possible interference that has taken place, so that licensees or applicants for spectrum can begin business-planning and technical-planning with a greater degree of certainty; and ensure a fall-back option is in place.
- b) Cell C's 900 MHz assignment is non-contiguous and as follows:

925.2-934.6 MHz paired with 880.2-889.6MHz (9.6 MHz) and 949.2-950.4MHz paired with 904.2-905.4 MHz (1.4MHz), which is a total of 11MHz.

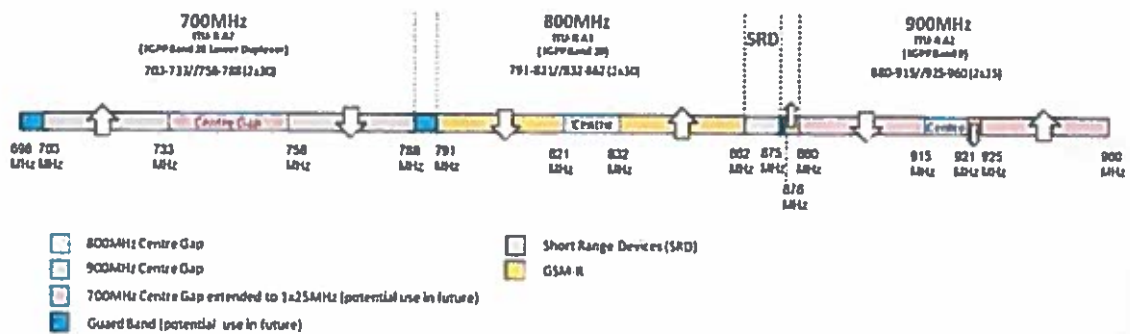
Because Cell C is the only licensee at the edge of the 900MHz band, it is (and always has been) most susceptible to radio frequency spectrum interference from the 800MHz and 850MHz Bands. Cell C has in the past experienced radio frequency spectrum interference from Neotel transmission equipment in particular which severely hampered Cell C's ability to deliver good quality electronic communication services. To mitigate against this interference, Cell C has, at its own expense, installed special high cost filters on Cell C sites to reduce the impact of the current Neotel CDMA850 interference.

- c) The Interim in-band migration by 2MHz by Neotel will result in less radio frequency spectrum interference to Cell C equipment. However anyone transmitting in the range (832-852MHz) will also impact Cell C. This is because Cell C is closest to the 800MHz range in the form of 3rd order harmonic which will interfere with the frequencies between 893MHz to 915MHz.

- d) Therefore Cell C requests that it be consulted where technical planning is concerned in both of these areas to avoid any unintended consequences or further prejudice to Cell C.

7. Certainty on the Channelling arrangements for 700MHz and 800 MHz bands

- a) Cell C understands that the proposed SADC channelling arrangements for the 700MHz and 800MHz bands are as follows which also aligns with the African Union Commission proposals:



- b) The above also aligns with the ICASA IMT 700 and IMT 800 RFSAP's published in *Government Gazette* 38640 on 30 March 2015. Cell C recognises the advantages of this approach. Globally and regionally harmonized spectrum and channelling arrangements are desirable. A reduced number of globally harmonized frequency channelling arrangements will reduce the overall cost of networks and terminals by providing economies of scale, and facilitating deployment, and cross-border coordination.
- c) Cell C therefore seeks clarity from ICASA if it is ICASA's intention through this process to align the IMT 850 band with the SADC proposals and the possible timelines thereof.

ANNEXURE B.



THE POWER IS IN YOUR HANDS

ICASA
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28 January 2015

Dear Sirs

CELL C'S COMMENTS ON THE 9 (NINE) DRAFT RADIO FREQUENCY ASSIGNMENT PLANS PUBLISHED IN TERMS OF THE ECA, THE 2011 RADIO FREQUENCY SPECTRUM REGULATIONS AND THE FINAL IMT ROADMAP 2014 REGULATIONS

Thank you for the very thorough consultations on this important subject. Cell C is pleased to submit its further comments, which in many respects will reiterate its specific concerns, and those matters which we believe ought to be taken into consideration.

Cell C further supports the alignment of these draft Radio Frequency Assignment Plans ("RFSAP") with the resolutions as adopted at various international, regional and national levels (ITU, ATU and SADC). This means the same spectrum bands are used country to country, which allows the same equipment, including mobile devices, to be sold across large regions, bringing down the cost while also reducing interference and enabling international roaming. Thus ensuring economies of scale in terms of the acquisition of subscriber equipment whilst keeping cross border radio frequency spectrum interference disputes to a minimum. Cell C believes that the resolutions for the 700 MHz (Digital Dividend 2) channeling arrangements are to be made final after the conclusion of WRC 15. The relevant RFSAP must take this into account and reflect the decision for Region 1. Lastly, to meet the exponential mobile data demand in the coming years, Cell C strongly supports the 9 (nine) RFSAPs as identified by ICASA for future IMT services.

Cell C's response is made against the backdrop of possible industry consolidation, the worldwide economic downturn and consequences for the South African economy, and the structure of the current market in which Cell C operates. We believe that all of these factors bear consideration when deciding how to allocate scarce resources.

We note that the Media Release published on 14 November 2014 describes the Roadmap as an attempt *"to ensure universal availability of broadband services as well as a vibrant and competitive telecommunications industry and promote investments"*. However, no steps have yet been taken to our knowledge, to implement the provisions of SA Connect (the National Broadband Policy) although this was published over a year ago. It is vital that the IMT Roadmap and the accompanying RFSAPs be consistent and capable of implementation in line with the ambitious goals of this Policy where the delivery of broadband services to all SA citizens is concerned.

Recognizing that this IMT Roadmap is in many respects, a requirement of the ITU, and therefore that much of the content is broadly in line with international requirements and agreements. In this regard, we would be grateful to understand the role that the Minister of Telecommunications and Postal Services (TPS) has played in its formulation and approval as a representative of the Republic in international for a such as the ITU.

Because Cell C has made a number of previous submissions on this and related topics, we will simply highlight our key recommendations in this response. We do however, refer ICASA to the submissions made in great detail in our October 2014 response to the consultation on the IMT Roadmap in which we gave numerous comments and recommendations.

Should there be oral hearings in this regard, Cell C would like to take part.



Recommendations

1. Cell C believes that there must be both regulatory and policy certainty in the process to be followed in making high demand spectrum available for IMT services and specifically meeting the SA Connect Policy objectives. It is concerning to Cell C that two major radio frequency consultations as published by the ICASA are occurring simultaneously. Both the RFSAPs and the review of 2011 Radio Frequency regulations have recently been published for comment. Cell C believes that this approach will lead to unintended consequences if the consideration of the responses and resulting output is not co-ordinated. We say this for following reasons.

a. Preparation of RFSAPs

In terms of the 2013 Frequency Migration regulations ("FMP"), in preparing the RFSAPs, ICASA must follow the process specified in the 2011 Radio Frequency Spectrum regulations. Sub-regulation 5 (1) of FMP states the following:

"A change in the use of a radio frequency band(s) must be initiated through a Radio Frequency Spectrum Assignment Plan for the radio frequency spectrum bands in the manner specified in the latest Radio Frequency Spectrum Regulations"

The manner specified may change after the conclusion of review of the 2011 Radio Frequency Spectrum regulations and therefore it is unclear on the effect this will have on the current draft RFSAPs.

b. Extended Application Procedure

Cell C observes that all RFSAPs, except, one are subject to the extended application procedure. This procedure is contained in regulation 6 of the current 2011 Radio Frequency Spectrum regulations. Furthermore an extended application procedure will also apply where an ITA has been issued by ICASA and this procedure is contained in regulation 7 of the same (current) regulations titled *"Procedure in Respect of Section 31(3) of an Invitation to Apply."*



Both the extended application procedure and the procedure for the ITA may change after the conclusion of the review of the 2011 Radio Frequency Spectrum regulations. The effect this will have on the assignments of radio frequency spectrum as contained in RFSAPs is unclear and leaves industry uncertain as to the future process that will apply.

c. Effective date and commencement of assignment process

Cell C notes that in many instances the effective date for certain RFSAPs are either on the date of issue of the final RFSAP or 1 July 2015 (6 months away). It is also stated that the assignment process for those dated 1 July 2015 may commence prior to 1 July 2015. Cell C believes that there is a huge risk of uncertainty if the review of the 2011 Radio Frequency Spectrum regulations is only finalised after these dates. It is further unclear what process will be followed by ICASA if an assignment process has commenced before the effective date or date of issue of the RFSAP and thereafter a migrating licensee is unable to meet the out of band migration timeline.

d. Invitation to Apply (ITA)

Cell C seeks clarity from ICASA as to whether or not the issuing of an ITA by ICASA in the absence of a policy directive is possible. Cell C notes with concern that it appears that ICASA plans to issue ITAs after finalising these RFSAPs under regulation 7 of the 2011 Radio Frequency Spectrum regulations which is now subject to review. It is unclear to Cell C as to why ICASA appears to be backtracking on its decision when it placed the draft 2011 ITA regulations on hold until further notice because there was no final policy direction on radio spectrum in demand. It is further unclear to Cell C if the draft 2011 ITA will be abandoned or issued once the RFSAPs are finalised. Cell C also believes that this is inconsistent with subsection 5.3 of the IMT Roadmap under "South Africa Connect" which quotes from the SA Connect Policy. The last paragraph of page 46 states the following: *"The speed of deployment of a wireless network is a fundamental consideration to meet the immediate challenge of meeting the targets of this policy. The Ministerial policy directive will consider as a priority how best to ensure that the release of high demand spectrum fulfils these policy objectives and specifically how best the application of open access principles to the assignment of broadband spectrum will be achieved."*



Cell C notes that there is no policy directive in respect the SA Connect Policy. Therefore Cell C believes that this process should not be unduly rushed. There may be an unintended consequence where once high demand spectrum is assigned, there would be insufficient spectrum available to meet the rollout and speed targets as required in terms of the SA Connect Policy. A regulatory impact assessment is highly recommended in this instance.

Recommendation: Cell C strongly recommends that any subsequent regulations, specifically the framework and issuing of an ITA for spectrum in demand, be held in abeyance until such time the policy direction/s for the award of high demand spectrum are published by the Minister of Telecommunications and Postal Services, as required under the ECA.

2. In February 2012 Cell C made an important submission on the migration regulations and radio frequency migration plan. In particular these submissions focused on Cell C's own application for the 900 MHz in-band migration in 2011.
3. Cell C is grateful for the inclusion of the harmonization of the 900 MHz band as one of the RFSAPs. We say this because Cell C's assignment of frequency in the 900MHz band is not contiguous, resulting in considerable financial and technical hardship to Cell C since 2001.
4. Cell C is concerned, however, that ICASA has adopted an option that was not fully supported by industry by its own admission. In the IMT Road Map, ICASA recommended in subsection 8.6.4 the following: *"The recommendations depend on the target market structure for the cellular industry. For a 3-player market structure, by decreasing order of priority, the Authority proposes the following options in decreasing order of value: Scenario 1; Scenario 3.a and 3.b; and Scenario 2."* and *" Scenario 1 provide the best overall benefits to the end users in a 3-player cellular scenario. "Scenario 1 is easier and faster to implement given that operator buy-in exists."* It is unclear to Cell C why ICASA has chosen an approach which will ultimately lead us to Option 3b. It is Cell C's view that this option is against the objects of the ECA, specifically,



"the promotion of competition in the ICT sector" as assigning the 5MHz spectrum to either Vodacom or MTN will only entrench their dominance in the mobile market. Cell C also notes with concern the location 5MHz in the re-arranged 900 MHz band. The location of 5MHz suits both Vodacom and MTN as it could form a contiguous assignment with their newly in-band migrated spectrum. Cell C continues to support scenario 2, so that after the full in-band migration is completed, ICASA and industry may revisit further changes to the band. We say this because it is uncertain to what extent the GSM users will be migrated out of the 900 MHz band or the GSM subscriber equipment would have reached its end of life cycle. These are all relevant considerations and would be taken into account if ICASA conducted a regulatory impact assessment.

5. Our detailed submissions on this point were set out in our February 2012 response and in our application for in-band migration. Copies can be made available to ICASA on request.

Recommendation: Finalise the in-band migration of the 900MHz users without further delay by adopting Scenario 2 and this migration must be completed prior to implementing the IMT Roadmap so that all licensees can compete on equal terms in the future. All references to new universal service obligations are to be removed. The existing universal service obligations for the 900 MHz band have been revised by the 2014 regulations which are in any event under review as they appear not to have been lawfully applied and/or ICASA has not followed a proper process in relation to the development of these regulations. In the case that a licensee's spectrum holdings changes through a migration process, the relevant universal service obligations must be immediately reviewed. It must be noted that some of the old universal service obligations remain current and this is not equitable if additional obligations are to be added whilst these are still in force.

6. Cell C made the point that the Minister of Communications (now the Minister of Telecommunications and Postal Services) should approve the migration of existing users in terms of a migration plan, under section 34(16). Cell C recommends that due process must be followed. We also noted that existing users should be migrated prior to government entities. It is unclear from the draft RFSAPs that this process was completed.

Neither does the IMT Roadmap deal with this aspect. Given the number of state-owned companies that have spectrum or that may wish to be allocated spectrum for broadband services in the future, clarity on this aspect is sought.

Recommendation: Issue a statement dealing with the approach to be taken by the Minister of TPS and/or ICASA regarding possible migration of or application for use of broadband spectrum by state-owned companies to ensure certainty.

7. The issue of compensation was briefly addressed in our February 2012 submission. At that time we noted that no compensation was appropriate. However, the latest draft radio frequency spectrum regulations appear to have changed the position previously adopted by ICASA in this regard. We suggest that the process and expectations in relation to migration be clearly set out as an introductory section to the IMT Roadmap to avoid unnecessary delays and disputes.
8. We maintain our previous position which was that no compensation ought to be paid to licensees where it is in the form of high value radio frequency spectrum if the migration takes place from low value radio frequency spectrum.

Recommendation: Compensation for migration should be clearly explained as to whether it will take place at all and in what form – and high value spectrum should not form part of any migration compensation which does not involve migration off high value spectrum. Furthermore ICASA must clearly indicate how licensees will be compensated if they stand to lose valuable spectrum after the completion of an in-band migration.



9. Since the ECA is a technology-neutral law and since ICASA is tasked with ensuring or promoting the convergence of services within the sector, Cell C is concerned at the categorization of services within the IMT Roadmap. It is not clear to us why it is necessary to do more than to confirm that the IMT Roadmap deals with spectrum bands that could be used for broadband services. In future, it is possible that other bands will be used as well or instead, as technology develops.

Recommendation: Ensure that the IMT Roadmap mirrors the technology-neutral approach of the law and avoids references to specific technologies.

10. There are various timeframes proposed within the IMT Roadmap for the completion of migration of various users, and the making available of certain bands of spectrum. It would be helpful if ICASA could indicate in detail what steps are likely to be required to meet those timelines. All RFSAP must include detailed calendar activities per year for each year from the beginning of the migration period to end, clearly specifying the roles and responsibilities of the licensees. For example, the introduction of the 703-733 and 758-788MHz bands is set to take place on 1 January 2016. However this range of frequencies currently falls within the broadcasting range and presumably continues to be occupied by existing licensees. Some licensees requested further engagement with the ICASA during consultation on the IMT questionnaire; it does not appear that this request was granted. It is further unclear what process will be followed by ICASA if some migrating licenses do not meet their out of band migration timelines. We also mentioned in our October 2014 submission at paragraph 2.6.2 that it would take Cell C about 2 years to execute certain activities as a result of spectrum consolidation – but the timelines in many cases appear to be abbreviated even where this may have a negative effect on licensees.
11. Further uncertainty is created by use of the words in relation to this and other potential assignments, such as “*operator to operator co-ordination may be necessary to avoid interference*”. Interference is not only prohibited by law, but also a matter of considerable concern in relation to quality of service.



12. If it is not known whether interference may occur, we recommend that further investigation including any necessary feasibility studies take place prior to final publication of the IMT Roadmap as disputes may result if it is not clear which operator's responsibility it is to deal with any interference following the proposed assignments.

13. In our October submission at paragraph 2.6.1 of the template for answers, Cell C stated "the ICASA's role is to approve a clear and unambiguous migration framework which must consist of the following: strict timelines, co-ordination activities, communication plans, escalation process, disaster management process, a fall-back process and dedicated project team". This remains our strongly held view and this has not been accommodated within the current IMT Roadmap.

Recommendation: Publish an action plan and timetable for greater transparency after necessary investigation into possible interference has taken place, so that licensees or applicants for spectrum can begin business-planning and technical planning with a greater degree of certainty; and ensure a fall-back option is in place.

14. As we also mentioned in our submission of October 2014, the National Spectrum Policy of 2010 remains in place until it is withdrawn or replaced. As mentioned in our introductory remarks to this submission, spectrum is a critical part of the SA Connect Policy as well.

15. In addition, Cell C opposed the allocation of 5MHz of spectrum in the 2100MHz band to MTN, but this allocation proceeded in any event. This allocation has undoubtedly preferred MTN over Cell C in relation to high demand spectrum which is patently counter to the stated policy objectives of Government and the objectives of the ECA, specifically in relation to the promotion of competition within the ICT sector in terms of subsection 2(f). The fact of usage of 60 MHz in the 2300-2400MHz band by Telkom is also unclear despite Cell C having asked about this in its October 2014 submission at paragraph 2.7.1.



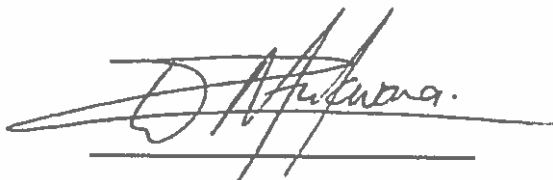
16. Radio frequency spectrum assignments must be completed in a fair and objective manner ensuring the promotion of competition. Cell C notes with concern that the draft RFSAPs, specifically the 880 to 915 MHz and 925 to 960 MHz, does not take into account this important object of the ECA. Migrating licensees should not unfairly benefit when migrating from one band to another, or from an in-band migration. Cell C believes that ICASA is not consistent in its approach with respect to ensuring the promotion of competition in the ICT sector. This can be seen in the requirement in Section 1 of the IMT Roadmap which states the following: *"the Authority's primary objectives are to ensure spectrum efficiency, universal availability of broadband services as well as a vibrant and competitive telecommunications industry and promote investments"*. However, the promotion of competition is not considered in the feasibility study for this band and also the related draft RFSAP is not published in terms of this objective. This inconsistency is observed again in subsection B 4.2.6 under *"Underlying Framework for the Scenarios"* which states *"It is also the Authority's mandate to promote a vibrant wireless industry. To reach this goal, the Authority must promote competition and avoid imposing undue costs on the licensees. In addition to measures such as investment protection, it is in the spirit of the Authority's mandate to select the least costly options in the in-band migration of the 880- 960 MHz band."*
17. Whilst the IMT Roadmap is an excellent step towards implementation of national policy goals, there does seem to be a disconnect between the two policies that we refer to above and the IMT Roadmap as far as implementation is concerned. For example, SA Connect provides that some spectrum may be reserved to a new entrant, alternatively that a multiplayer entity may be created which would be eligible for spectrum in order to provide broadband services. This entity may be comprised of both private and public entities. The IMT Roadmap does not deal with this aspect at all. It is further unclear if combined assignments are going to be accepted as the timelines for commencement of assignment processes for different bands in most cases are not synchronized. This issue is discussed briefly in subsection 10.3.1 titled *"To link or not to link frequency bands"* of the IMT Road Map.



Recommendation: Alignment of all policy goals is critical to the successful implementation of the various policies by ICASA. ICASA should ensure to the best of its ability that its actions do not run counter to or have the effect of frustrating these policy goals, particularly where equity and the promotion of competition are concerned. With this in mind, ICASA should work closely with Department of Telecommunications and Postal Services to ensure a proper and co-ordinated implementation.

We end by repeating that ICASA's objects under the ECA include the promotion of competition and the fair allocation of scarce resources. Spectrum is a critical scarce resource enabling competition between licensees. Whatever processes are adopted by ICASA, they need to be consistent with national policy and the goals and objects of the ECA.

Yours faithfully



Zolile Ntukwana
Executive Head: Regulatory Affairs