

COVID-19 National Disaster interventions specific to ICTs

The Minister of Communications and Digital Technologies has issued Directions under the Disaster Management Act which apply specifically to those in the electronic communications and digital services value chains¹. They set out a series of obligations imposed on providers as well as proposed interventions to facilitate rapid deployment of networks where required to combat the COVID-19 national disaster and make available additional spectrum.

What is the scope of the Directions?

To provide for the availability and use of technologies to combat COVID-19 in the following areas:

- Dissemination of real-time public information;
- Access to communications infrastructure and digital services;
- Provision of essential postal services;
- Tracking and tracing of persons; and
- Support for the education, health and local government sectors.

The Directions are valid for the duration of the declared national state of disaster.

Who do the Directions apply to?

Amongst others:

- Electronic communications network service (ECNS) licensees;
- Internet Service Providers (ISPs);
- Electronic communications service (ECS) licensees;
- Over-the-top (OTT) providers; and
- Land holders including all spheres of government and sector.

There are also references to obligations on “Internet and digital sector in general” and “non-licensed service providers”.

What is the purpose of the Directions?

To facilitate the availability and use of digital technologies to combat the spread of COVID-19 in SA, through:

- Ensuring the smooth operation of the electronic communications industry as essential services during the disaster period;
- Enabling ECNS licensees and other service providers to rapidly deploy networks and facilities as contemplated in the ECA and removing obstacles to rapid deployment; and
- Establishing a coordinating mechanism through which licensed and non-licensed industry service providers can facilitate the provision of the services outlined in the Directions.

Obligations in respect of content /dissemination of information:

- All ECS and ECNS licensees with access to spectrum must make their platforms available for streaming of public announcements to their customers or subscribers.
- ECS licensees, OTT providers and ISPs that “provide linear and non-linear services” bear the responsibility to remove fake news related to COVID-19 “immediately after it is identified as such”.
- All Internet sites operating with .ZADNA top-level domain names must have a landing page with a visible link to www.sacoronavirus.co.za.

¹ Full document: <https://www.ellipsis.co.za/wp-content/uploads/2020/03/DMA-Electronic-Communications-Postal-and-Broadcasting-Directions-Issued-under-Regulation-10-8-of-the-Act.pdf>

Obligations to make communications and digital services available

- Providers of “electronic communications network and services (telecommunications infrastructure and services) must ensure continued service provision”.
- They must also, when requested to do so, rapidly deploy temporary electronic communications networks and services in areas identified “after consulting with the relevant Ministers”.
- “For the purpose of easing network upgrades related to the COVID-19 disaster”, a licensed entity may seek approval to deploy infrastructure without delay, in which case the Minister will engage with affected Ministers to secure concurrence to allow industry to deploy without delay. Ministerial interventions could include temporary deferment of wayleaves and the payment of fees if there is agreement on this.
- Property owners are required to charge no fees for access to their property if infrastructure to be deployed is not intrusive or will unduly burden the owner. Where this is intrusive or will be a burden, then a reasonable access fee may be charged which is proportionate to the intrusion or burden and which does not exploit the licensee.
- Licensees must report to ICASA on new infrastructure and network facilities installed in response to the COVID-19 disaster. ICASA must keep a register of this information and must in general prioritise the regulatory framework applicable to managing and licensing spectrum to enable implementation of the Directions on an urgent basis.
- ICASA must relax spectrum regulations to enable the temporary licensing of all available spectrum bands including the unassigned high-demand spectrum for the duration of the national disaster. Temporary assignment of high-demand spectrum must be focussed on those licensees that would be able to implement and use assigned spectrum for the duration of the national disaster on an expeditious basis and is subject to the necessary frequency coordination and planning.

Type approval

Type approval of network equipment and handset devices will be “automatic” based on meeting predetermined criteria including prior approvals in SA and other recognised jurisdictions and submission of a safety certification.

ICASA must provide for online real-time approvals for equipment approved in other Region 1 jurisdictions. A register must be kept of all approvals issued during the national disaster.

Obligation to assist in tracking and tracing individuals

ECNS and ECS licensees and the Internet and digital sector in general, must provide location-based services in collaboration with the relevant authorities identified to support designated departments to assist and combat the spread of COVID-19.

Obligation to support the education sector

ECS licensees must provide zero-rated access to local educational content websites.

ECS and ECNS licensees with access to high-demand spectrum must make available connectivity to 104 district virtual classroom platforms with minimum speed of 10Mbps to support virtual teaching during the national disaster.

Obligation to support the health sector

ECS and ECNS licensees with access to radio frequency spectrum must zero-rate all COVID-19 sites as identified by the Department of Health.

Prohibition on price increments and mobile number portability

Licensees are prohibited from effecting any price increases, and may not perform mobile number portability, for the duration of the national disaster.