



MOBILE BROADBAND SERVICES
COUNCIL COMMITTEE

PUBLIC HEARING

KGOTLA Conference Centre
ICASA Offices
SANDTON

27 October 2020

ATTENDEES / Present:

Ms Thembeke Semane	Chairperson
Ms Yolisa Kedama	Deputy Chairperson / Councillor
Mr Phillip Ramalata	Member
Ms Zintle Malgas	Member
Mr Mpho Mgwebi	Member
Mr Junior Khumalo	Member
Mr Owen Mhlanga	Member
Ms Lufuno Sigwavhulimu	Panel Member
Mr Leweng Mphahlele	Panel Member
Siphesihle Manentsa	Member
Ms Derone Nyathi	Assisting on Registration
Mr Ryan Hawthorne	Acacia Enterprises
Ms Sha'ista Goga	Acacia Enterprises

ISPA

Liquid Telecom

Media Monitoring Africa

Vodacom

Cell-C

MTN

Competition Commission

Transcription prepared by:



phiko@mkatshwa.co.za

TRANSCRIPTION CERTIFICATE

I,/We, the undersigned, hereby certify that the transcript below, **in as far as it is audible**, was transcribed by me, **to the best of my abilities (to type) and capabilities (to hear)**; and that it was transcribed from the audio track/s received from the client party / agent (i.e. representative, proxy, go-between):
[played back through Express Scribe / Transcriber player/software]

ICASA : MOBILE BROADBAND SERVICES INQUIRY

27 October 2020

76 pages

This is to certify that the following problems were experienced with the above matter:

1. *Verbatim* as far as possible – no grammatical or other corrections
2. Remote / Zoom / Teams meeting
3. There is an inherent buzz throughout all the audio tracks. At times adversely impacting on audio clarity – especially on ICASA side and/or when parties do not speak up
4. Many attempts through various programs were used to try and improve the recording (remove the bzz as it severely impacted on the duration of being able to listen and transcribe these lengthy and ‘loaded’ audios, but to no real effective avail.
5. Not always certain who is speaking – after spending countless hours on the internet, until one namelist was eventually supplied. Although the different speakers were at times pinpointed by names, the surnames could not successfully and with accuracy Googled / sourced.
6. In matters such as these, it would be of immense help to have documentation at hand – especially if there are technical words, references
7. Phonetic spelling as per pronunciation by the parties, unless if Googled or spelt on record.
8. Much time was also spent trying to learn more what the parties were talking about – especially because of the challenging audio. Short summaries or some links would have saved a lot of time.
9. Transcribed as heard, grammatical errors may occur because of the way role players speak during the proceedings.
10. Uncertainties indicated with [?]

D Oliver

D OLIVER

M CHMURKOWSKI

Typists/Transcribers

CONTRACTED OUT

Not checked

M Chmurkowski

C.E. Joubert

C.E. JOUBERT

Typist/Transcriber

Layout

Transcription prepared by:



phiko@mkatshwa.co.za

CONFIDENTIAL

PROCEEDINGS RESUME : 27 OCTOBER 2020

Audio : 27oct 2020 session 1 final 3hrs 2:50 minutes

CHAIRPERSON: Ladies and gentlemen, good morning,
5 especially to our virtual audience. My name is Thembeke Semane,
I'm a councillor at ICASA and I'm also chairing this session. We are
about to begin with our proceedings.

The first one will be, I will ask us [indistinct] especially ask her to
just observe a moment of silence in honour of Councillor
10 Botlenyana who was the Chairperson of this committee; I'm taking
over from [indistinct].

[moment of silence]

I will start with my own summation, afterwards we will [indistinct]
ourselves. To the Chairperson and the members of the ICASA
15 Council, the esteemed stakeholders who have made submissions to
this process, committee members, stakeholders joining us virtually,
members of the media, ladies and gentlemen.

My name is Thembeke Semane as I have already said, I the
member of the ICASA Council and I'm also chairing this committee
20 which has a Nobile Broadband Services Council Committee.

I am accompanied by another Council member, Ms Yolisa Kedama
who is the Deputy Chairperson of the Committee. We are flanked
by this capable team in front of you and we would look forward to
your engagement today.

25 This inquiry is one of the critical steps in the measures taken by the
Authority to address concerns relating to the perceived high
communication .. to the perceived high cost of communication in
South Africa. It follows the conclusion of the Priority Markets
Enquiry which began in 2018 wherein the Authority identified,
30 amongst others, broadband market for mobile services which is the

retail market for mobile services and the wholesale supply of the mobile network services including relevant facilities for prioritisation for a market review.

35 In addition the inquiry is the third intervention of the cost to communicate programme that seeks to address the state of competition in the provision of mobile services in terms of Section 4(b) of the ICASA Act and in terms of Section 67(4) of the Electronics Communications Act.

40 In the discussion document that was published in 2019, the Authority identified the following preliminary markets for further consultation:

- The first one was [indistinct] retail product market for mobile services;
- The second one is factual which is the Spectrum [indistinct] market, number one.
- 45 • Third, site access, upstream market number two,
- Roaming which is the upstream market number three and
- MVNO / wholesale APN services which is the upstream market, number four.

50 The Authority would like to thank stakeholders who participated in this process so far and we are hopeful that these oral hearings would provide more clarity on the written presentations in respect of the discussion document[?].

55 Ladies and gentlemen, this is an independent process over and above the recent settlement facilitated[?] by the Competition Commission with the network operators and aimed at providing immediate relief to consumers in respect of the retail prices to ensure that consumers pay the rates that are affordable[?]. Our engagements with the Commission are ongoing, we have a

60 Memorandum of Understanding that clearly outlines and articulates
our interaction on matters of common interest, however, the
Authority's discussions document notes that there are structural
problems in the wholesale layer[?] of the data services market.

ICASA would therefore like to specifically address that layer and
65 intervene. This we do because we have a regulatory mandate to
protect consumers against unfair business practices and ineffective
competition in this regard. We believe that this process will address
challenges at the wholesale layer specifically as it relates to,
amongst others, national roaming, site access and communication
70 matters including barriers[?] to entry, etcetera.

These measures are in line with the policy prescripts to promote
effective competition and to facilitate entry by new players in the
market whilst also advancing the transformation agenda within the
Information and Communications Technology sector, and of course
75 stimulating economic growth.

We are of the view that this inquiry will contribute positively with[?]
the broader government initiatives and plans aimed at ensuring
universal[?] access to affordable broadband services for all South
Africans as contemplated in the National Development Plan[?].

80 Furthermore, the Authority believes that the pending licencing of
high-demand Spectrum will also provide much needed relief in
reducing the cost for the provision of broadband services to South
Africans.

Esteemed stakeholders, we all have seen how Covid-19 has
85 impacted our lives in the recent past and how we have had to
change our way of living. Broadband services suddenly became an
urgent need to everyone because we've had to work from home;
learners and students had to resort to online learning and
communications in general had to change. It is therefore important

90 that South Africans must benefit from right costing structure for both
voice and data services in terms of the telecommunications
experience, however, this must be done without compromising the
quality of service and without collapsing the industry.

95 It is furthermore important that ICASA does not regulate for market
failure, therefore we need to make sure that the industry
appreciates its corporate citizenship and responsibilities such as
assisting the public with a correct costing of their products, but also
ensuring that the businesses are sustainable. It is equally not in the
100 public interest to have lower cost of data with a very dismal quality
of service or lower cost with data in a collapsing industry or sector;
we therefore need to strike a balance in addressing these issues
through this process.

Our long term objective is to see the price of data falling and the
public to see the value for their money. The findings of this process
105 will guide us in terms of the process that must be undertaken. If the
findings say regulations are necessary, we will gladly develop a
draft which will consult, before we publish a final regulation. In this
regard, we encourage all our stakeholders which is the NGOs, civil
society organisations, interest groups and the general public,
110 particularly the young people[?] to take it upon themselves and
make submissions in our processes.

Social media is not a good platform to raising the issues with the
regulator such as us at ICASA. Our processes are prescribed and
legislated and we will be acting out of our mandate if we entertain
115 comments from social media ..[noises].. to decide on what should
happen in the ICT[?] environment, that would be prone to litigation
because we operate in a fluid[?] and volatile space, and everything
we do must follow that[?] ... we must follow what the law prescribes.

I would like to thank you all for joining us and we look forward to
120 positive engagements guided[?] by our public mandate.

Our plan is to complete this inquiry by no later than the 31st March 2021. Information on additional steps, if any, will be provided in the findings and will be published [indistinct] by the end of the year.

125 We will then be starting with our formal [indistinct] but before the first presenter is Cell C but before we proceed with that, I will afford my fellow councillor as well as the rest of the committee members, to introduce themselves.

MS KEDAMA: Thank you Chair. Good morning colleagues, my name is Yolisa Kedama, I'm the Deputy Chair for this committee and a councillor ...[indistinct – voice fades]. Thank you.
130

MR RAMALATA: Good morning, my name is Phillip Ramalata, I am a committee member. Thank you.

MS MANENTSA: Good morning, my name is Siphesihle Manentsa, I am also a committee member.

135 MR MPHABLELE: Morning, my name is Leweng Mphahlele, I'm from ICASA, a committee member. Thanks.

MS SIGWAVHULIMU: Good morning, my name is Lufuno Sigwavhulimu, I am a member of this committee.

140 MR MHLANGA: Good morning, my name is Owen Mhlanga from ICASA and I'm a panel member.

MS GOGA: Good morning, Sha'ister Goga from Acacia Economics. We're assisting [indistinct] ICASA with this process.

MR HAWTHORNE: I'm Ryan Hawthorne and I am also at Acacia Economics.

145 MR KHUMALO: Good morning, my name is Junior Khumalo, I'm with the Policy and Research Division[?] [indistinct] ICASA.

CHAIRPERSON: Thank you very much, Colleagues. We will be proceeding to start with the [indistinct] representations from Cell C.

150 **CELL C**

MR PHIRI: Good morning, Chair and members of the Mobile Broadband Enquiry Committee. I may be allowed to share the presentation? ..[muted/background dialogue].. Is it showing everyone that side? Okay, thank you very much. So, Chairperson, 155 thank you for your welcoming remarks this morning.

At Cell C we are ready to present now, the Cell C team is headed by myself, Themba Phiri, I'm the Executive Head of Regulatory. We have Harrish Kasseepursad who is the Executive at Regulatory Department. I have Herman Pretorius, who is an Executive for 160 MVNO. I have Professor Nicole Theron, who is from FTI, who is assisting us with his complex inquiry. We also have a Marius Claasen, who is the Executive Head of Networks at Cell C.

Chairperson, representation is shared between all of us here, so as you can see in the slide, this is how we have planned to address the 165 agenda and with that I will proceed.

Chairperson, we have framed this whole process of the broadband market inquiry within the context of the broadband policy [indistinct] issued by the Minister in 2018 understanding that broadband is a key feature of policy priority in government and an important pillar in 170 economic growth.

We also understand that ICASA is joined to undertake the process that we are in now in terms of Section 67 which basically requires of ICASA to conduct market enquiries of this nature and in those markets, we must identify relevant markets in retail and wholesale 175 segments and in doing so, determine if there is any SMP[?] where

180 market [indistinct] impose pro-competitive conditions and we believe that this is the process that you as ICASA are following and we believe that it is legally grounded in legislation and we are comfortable with that and with that we would also like to support that this process continue to achieve the spirit and the aims of the legislation. We have made submissions since the inquiry has started, initially in 2019 and recently in the course of our interaction with ICASA during our one on one meeting.

185 Generally, Chairperson, I agree with the findings in the discussion document in as far as you identifying the markets [indistinct] and we also agree that there is persistent market power of the dominant operators in retail and also [indistinct]. You yourselves in the document propose to develop facilities, [indistinct] regulations which we are aware that they are already in existence and they were 190 referenced yesterday to be in the proceedings. We actively want to understand how and what is it that will be done in amending those ...[indistinct – voice fades].

We have also taken note, and as we have said in your .. this morning, that the Competition Commission has undertaken an 195 extensive inquiry into the data services market and we also urge you to take note of those findings in order not to repeat all of the processes in this, we ourselves at Cell C has entered into a Memorandum of Understanding in the Competition Commission and we are implementing a Memorandum of Understanding and 200 reporting to the Commission quarterly and in terms of that Memorandum of Understanding as well as responding to the inquiry that they have recently introduced and we are responding to the RFI[?].

205 So, I draw your attention, Chair, to the findings of the commission, in fact the commission found that infrastructure and profitability, infrastructure and profitability advantages of the incumbents,

[indistinct] based competition and as lower prices from the challenger networks are necessary to get a pronounced [indistinct] switching response due to network differences. This is the findings of the Competition Commission and we align this in order merely to request the Authority to take note of these reported findings.

Chair, as I proceed to deal with the market's identified and the competitiveness in those markets, you have identified the retail mobile broadband services market and this market you have categorised voice services, SMS and data services which have been [indistinct] for the analysis due to them having a potential [indistinct] and in terms of the geographic markets, the markets for mobile services is defined as narrow as local and metropolitan [indistinct]. Wholesale [indistinct] market is also identified. We agree that [indistinct] is a key feature in the broadband value chain and you consider this to be a national market. Wholesale site access market, you consider this market for site access and that is as narrow as the local and metropolitan municipalities.

The wholesale roaming, you have identified this market for roaming services in geographic dimension as at least narrow in local and metropolitan municipalities. You have also identified MVNO market and APN[?] and you did not provide any definitive markets in this category of market.

Basically we agree with the product definition and the principals that remedies be introduced at wholesale [indistinct] and in fact this is obviously what the Act requires of the Authority. We do, however, disagree with the geographic definitions, we do not understand the rationale for that with regards to the national common markets, in fact our position is that wholesale roaming is in fact a national market and the feature and its historic elements do gives an indication that it is already a national market. We also think that it does not make sense to design remedies in such a narrow

geographic market, so we are concerned that in dove-tailing your market definition to, as narrow as local and municipalities, you have
240 a high possibility of not finding the correct remedies to address any persistent market [indistinct].

With that Chair, I will ask my next colleague to address the next slide [indistinct] markets.

MR CLAASEN: [?] Thanks, Themba. As you can see there,
245 Chair, this is based on public information, the current retail mobile market share. We've used [indistinct] market shares because data market shares were difficult to obtain, this specific information as you can see there, the two larger operators in this structure is consistent over time and it's Vodacom and MTN and you've seen
250 the smaller operators is combined market share of around 22% as at December 2019 and obviously you can see there that Telkom Mobile has improved their market position relative to the others quite significantly. This conclusion is then that the market is still [indistinct] in the retail market specifically and it is persistent over
255 time. Thank you. I'll hand over to my next colleague and it is Harrish.

MR KASSEEPURSAD: Good morning Chairperson, Deputy
Chairperson and committee members. I would be speaking about the wholesale Spectrum market, the wholesale site access market
260 and a bit of roaming. Raising the concerns that we have with the Authorities findings to date and maybe some issues to consider.

So, my first point is with regards to the wholesale Spectrum market as defined by ICASA, ICASA finds that there is no concentration in the Spectrum in the hands of one operator. We recommend that
265 ICASA relook[?] at this because we see the slide in front of you, these are the existing assignments, so ICASA has declared that they are currently equal assignments that we can point, if you look

at Telkom for example, in the 2.3 [indistinct] band, ICASA, Telkom has an allocation of 60 megahertz.

270 In addition to this, so these are the existing assignments, in addition
to this, Themba, the next slide, so you would see what happens
with regards to the transaction that's taking place in the last few
years, so what this leads to is that there are certain licensees who
will benefit from additional Spectrum and thereby having better first
275 move advantage for example like 5G services.

We had recommended that ICASA look at this or take this into
consideration and then also in their auction process take this into
consideration but we all know, we are aware that the auction
process has proceeded, so the point we are trying to make here is
280 that you would have certain benefits, so earlier, in the early
presentations I wouldn't repeat it was shown how a good Spectrum
or valuable Spectrum can assist with regards to cost cutting or
lower cost to roll out of networks and the benefit of having a
valuable Spectrum. We think that this, through the transactions
285 ICASA should look at how additional Spectrum changes the market
dynamics.

On the site access market, we propose that ICASA defined four
categories of sites, these are categories of macro sites that are
more than 15 metres or less than 15 metres in height or they are
290 [indistinct] therefore there wouldn't be any classification in terms of
the height.

The second category we propose it should be in the market, should
be rooftop sites, keep this category because it has its own cost
component and coverage characteristic. It's normally situated in
295 densely urban areas and cheap to construct.

The third category of site, in the wholesale site access market
should be considered, the lamppost, billboard and other, we believe

300 these could be merged and as they are limited in height and [indistinct] solutions. They are normally provided to fill the gaps that the macro sites and the rooftop sites cannot cover.

And then the last category is the indoor and macro sites, these are sites that provide limited indoor coverage.

305 With regards to the roaming, we believe that ICASA has defined this as at a geographic level, at least as narrow as local and metropolitan municipal areas. We believe that ICASA should relook at this, the reason being that the current agreement signed between licence's are normally concluded on a national basis therefore we regard this as a national market and then in terms of the benefits of national roaming, we know national roaming has been used by
310 regulators and licensees for years and for different reason and amongst them are for competition reasons, so where you can provide services to MVNOs and thereby benefiting in terms of competition and in choice of services.

315 The other benefit for national roaming is to enable smaller licensees to enter the market to provide huge network costs in terms of network roll-out and then the last benefit will be to avoid the duplication of networks in terms of legating the impact on the environment and having positive health and safety benefits and then also legating public inconvenience.

320 Later my colleague or our expert advisor, Nicola will talk about the pro-competitive remedies in these areas such as prescribing a list of essential facilities; the amendments to the facilities leasing regulations and then other tools like such as the accounting separation and reference offers to licensees that have been
325 declared to have SMP. I will now hand over to Herman.

MR PRETORIUS: Thanks, Harrish. Let me briefly talk about the MVNO, APN market. This two slides, the next two slides will

330 mainly talk about the MVNO market. Currently the mobile market
share in MVNO retail customers is approximately less than 1.5% as
at December 2019, therefore it's a small market but it's an important
market, it obviously needs customer solutions, specific niche
segments and has obviously importance for other brands, hence
Cell C has enabled a lot of other brands by allowing three different
MVNO models and MVNO defined as selling [indistinct] network
335 capacity and that is basically voice, SMS and data capacity, so we
[indistinct] with these and then [indistinct] as a mobile virtual
network enabler. It's an independent enabler between Cell C and it
enables its own MVNOs.

340 We also have non-hosted MVNOs [indistinct] MVNO with its own
rating, billing, CRM capabilities, it also does its own marketing by
definition, it just gives customers support and then we host
MVNOs[?] [indistinct] own rating, billing and CRM stat [indistinct].

345 Over and above the MVNO models there's also a number of re-
seller models on the market place such as APN models and ICASA
has talked about the wholesale and the corporate APNs and also,
there is also just the previous slide - please Themba - ja, there's
also branded re-seller models offering limited brands, service and
product [indistinct] as compared to the unique MVNO models, so
that's the main difference between those models and the unique
350 MVNO model. Thanks.

Next slide. So in the future the competitiveness and cost structures
of Cell C and its MVNOs will directly depend on the service offered
by its roaming by this and also the input cost, we will pay and those
MVNOs will pay for those voice and data services charged by its
355 national roaming providers. Given the [indistinct] that all MVNOs
will be [indistinct] to provide MNO access as part of the recent
ITA[?] high demand special conditions, Cell C's concerned that
incumbent operators will offer MVNO access at prices lower than

360 roaming rates provided to roaming partners such as Cell C. This
will have effect on competition in the MVNO market and because of
the importance of this enabling other brands, this should be
prevented. Thank you.

PROF THERON: Hi, good morning, I'm Nicola Theron; I will be
365 discussing some of the rest of the slide. Good morning to all the
Councillors, thank you for the opportunity. I will be discussing some
of the areas that Cell C agrees and disagrees with the discussion
document and also just highlight some of the recommendations that
we agree with and some additional recommendations that Cell C
wants to offer.

370 So, firstly just at a high level, we want to comment on the
discussion document where we agree, but also we provided, Cell C
has provided answers to the 12th June letter [indistinct] ICASA,
I also want to touch on a few of the issues that were mentioned in
that letter.

375 So, as Themba has also indicated, Cell C agrees with the need for
pro-competitive remedies. We recognise the persistence of the
dominance of the two incumbent operators as also shown in the
slide on server's revenue, so we agree with the scope of this
inquiry. We agree that we need pro-competitive remedies. The
380 question is, where are these remedies most needed and which are
the relevant markets which you want to implement such remedies.

So, as also indicated right at the start, we agree with the defining of
aggregate retail markets, so that was also a question specifically
asked by ICASA to Cell C. So although there are different deter-
385 minants of competition for instance in voice, SMS and data, we
agree that for the purposes of this inquiry, these services can be
aggregated.

Very importantly also as already indicated, the market power identified in the retail markets is best addressed with upstream market remedies and therefore, as already indicated, we just
390 caution ICASA not to define local municipal retail markets, we note that there is no remedy at the moment contemplated in terms of municipal level interventions, so we think that the retail market, markets cannot be defined at such a local level, they should be
395 defined at the national level but in any event agree that any remedies in the retail market would not be appropriate at this stage.

Also, in terms of the question posed to Cell C, for the moment we agree that broadband is separate from fixed. There might be convergence in future but for purposes of this inquiry, this is not a
400 reality yet in South Africa.

We also agree with the distinction between MVNO and APN being grouped together, separate from roaming and we think that these are the markets where pro-competitive remedies are required. We agree that any issues in these markets derive from upstream
405 access and roaming and that is also important to understand that in terms of the MVNO market, we agree with ICASA that no remedies are required. I will speak about that also on the next slide.

So we agree with mandating roaming offers, we agree that dominant operators should publish [indistinct] offers. Again, we do
410 not think that that relates to local dominance because these roaming agreements are concluded at a national level, so while we don't agree with the granular market definition for roaming which defines subnational markets, we agree that dominant operators, nationally dominant operators should publish roaming offers.

Also the same for site access. For site access we agree that there
415 is a local market, we agree that if you apply the [indistinct] test then that market should be a local market and we also agree that dominant operators then in those local areas should publish details

420 in terms of site access, also in terms of timing and what it means if
it's not technically and economically feasible to provide access and
then finally just in terms of what we agree with, we were also asked
whether Cell C support the [indistinct] and Cell C indeed supports
the [indistinct] as we think that infrastructure duplication should be
425 limited going forward and that effective [indistinct] would actually
also stimulate competition.

So, on the next slide we just want to highlight the few dis-
agreements that we have. So in terms of the disagreements, most
of these have already been mentioned. We just want to caution
around the very local definition of the retail market. Obviously we
430 understand that if there is market failure which we agree with in the
retail market, then the remedies imposed should be proportionate
and it's very difficult to think about remedies that will be workable if
you define local markets but again, as I've already pointed out, this
is actually not a very important point because ICASA recognises the
435 discussion document that remedies should not be imposed at the
retail level but nevertheless we think it's important that markets are
correctly defined.

Then, as already also pointed out, especially if we look at the new
type of [indistinct] agreements, these are all national in scope, so it
440 doesn't make sense to impose remedies at a regional or a municipal
level if you think about roaming markets and how to address market
failure in roaming markets, so we agree with the recommendations -
I will talk about that in a second, but we think that ICASA should
rather define these markets in relation to the actual realities of the
445 market where we see that these markets are indeed being operating
at national level and then I will deal with that also in a second, but
we don't think it's necessary to redraft the facilities meeting
regulation, we accept the market failures currently, the site access
market but we think that a whole new redrafting of these facilities
450 easing regulations will simply delay the process.

We believe at Cell C that issue rather be amended - so Themba, on the next slide I just want to deal briefly then with recommendations and proposed remedies as also requested by the regulator to Cell C. Importantly as Herman has also indicated, we agree with
455 the definition where the APN and MVNO markets are grouped together.

We note that ICASA also points out that no remedies are required but there are some statements in the document which is a concern to Cell C where it is indicated that competition in the MVNO market
460 may not be optimal as there is only one current supplier of MVNO access which of course is Cell C.

So, we are interested in seeing how this will change, the new Spectrum assignment processes if the auction happens next year, but Cell C is of the view that this market does not require any
465 remedies currently and it is in fact a competitive market because the buyers of these services are strong buyers who buy these services from Cell-C, but this market is expected to change rapidly and therefore no remedies are required currently.

Then in terms of site access [indistinct], we should also introduce
470 this point, but Cell C is supported of clear rules in this area, but we think that a whole redrafting of these facilities, the whole legal process, regulatory process that will be required will simply delay the speed with which one need to address, some of the market failures that are currently obvious in this market.

So Cell C is happy to provide input and the idea is that these
475 regulations should simply be amended if it's necessary, but more importantly from Cell C's perspective is that, what is there already should be properly implemented, so delays and technically economically feasible reasons being provided for not providing
480 access by incumbent operators, that is what Cell C would like to see curbed by these regulations. So it's not necessary to re-draft them,

485 it's necessary to implement them and as Cell C and Harrish has also indicated, in our answers to the letter and at the end of the slide, Cell C has provided a list of essential facilities that they see as essential and they think that ICASA should also publish these regulations on essential facilities, then finally also, we note in terms of site access and roaming that the Authority is talking about accounting separation, functional accounting separation for these and so far as it will improve transparency, we support this.

490 We note also that this should apply to the dominant operators in the specific area in terms of site access and if one can provide clarity on the cost of some of these elements it would help in terms of transparency and make the market more competitive in that regard, so that is supported also by Cell C.

495 Then finally the next slide, just on roaming, as we already indicated, we do not agree with the market definition being sub-national and very specifically, as Themba also indicated right at the start, we would request ICASA also to take note of the Competition Commission, the data service market inquiry findings and very specifically also on roaming.

505 We agree with the Commission, the Commission entered into agreements as indicated by Themba with all the operators and they then recommended that the national agreements should be priced at a minimum at wholesale rates which reflect a reasonable discount on their own effective retail rates, so this is important also for competition going forward and also for MVNO access that roaming be offered at a rate which is below the effective retail rate and eventually, as also indicated by the Commission, the minimum price for national roaming should be incorporated into the amend-
510 ments of the legislation with potential powers for ICASA also to regulate.

515 So we want to caution ICASA that the roaming divided, national level and the recommendations which have already been made by the Commission should be implemented and this as Herman also indicated, the difference here between the wholesale rate and the effective retail rate is important for the market to be competitive and also for MVNO access to make sense going forward.

520 And then finally just in terms of discrimination on quality and services obviously there is a pricing component, but it's also important that whatever services are provided going forward, especially in terms of 5G that these should also be offered then to the roaming party.

525 So those are just briefly where Cell C agrees and disagrees, as you see, we agree with most of the recommendation but we think that there are some recommended remedies that we want to point out that would make sense also in terms of these markets going forward but certainly we agree that the level of these recommendations are correct in terms of the wholesale agreements or the wholesale markets and we also agree with the fact that the MVNO market
530 does not need any remedies at this stage. Thank you, I think this is the end of our presentation for now and we are open to questions then from ICASA.

535 CHAIRPERSON: Thank you very much to the Cell C team led by Mr Themba Phiri. I will now hand over to my colleagues to proceed asking the questions.

540 MS [?]A: Thank you Chair, thank you Cell C for the presentation. I just wanted to find out from you, in your presentation, you are urging the Authority to investigate the arrangement like rate Vodacom, MTN etcetera. How different is the arrangement between Cell C and MTN to the ones that Cell C wants us to investigate and as a follow up, what is your view with regards

to the impact of such arrangements and service arrangements on competitive dynamics in the [indistinct], that's the first one.

545 Secondly, Cell C mentions also that for Cell C's competitiveness and [indistinct] knows it will be dependent on roaming arrangements and Cell C makes an example of 5G rollout for example. Does this mean that Cell C is not planning to deploy or invest in network going forward and what I wanted to understand as well, the roaming costs
550 *versus* network belt, how does Cell C determine whether to roll out in a specific area or to roam given the traffic for example in a specific municipality or geographic environment. Thank you.

MR [?] P : Should we proceed to answer, Chair?

CHAIRPERSON: Yes, we can proceed and provide a response.

555 MR [?] P : Chairperson, thank you very much for the questions, I just need to clarify, Cell C is not saying that the Authority must investigate the deals, Cell C is merely making the Authority aware of the Spectrum holding that is existent as of today as a matter of fact, so we are not asking for an investigation to be
560 undertaken on any of these deals.

Our position, Chairperson, is that these deals that are currently in the market are informed by [indistinct] arrangements, these arrangements has received the [indistinct] approval, we are very clear and aware that the arguments were also probed by the
565 Competition Commission and ICASA and therefore we have no issues with that, we are comfortable that these deals have been filed with the correct authorities and also properly considered by both ICASA and the Competition Commission and Cell C is comfortable with that.

570 But insofar as the Authority's[?] document defines Spectrum as a
key contributing feature in the broadband market, it is important to
be aware of the Spectrum position and the Spectrum holdings that
currently exist and that is what we are basically pointing out. In
terms of network deployment, Cell C has a national roaming with
575 MTN and Cell C has taken a strategic position to use that
collaboration as a key contributor, it's enabling it to provide
services.

So our investment, in terms of the arrangement that we have, we
have managed services argument where Cell C needs to provide
580 services anywhere, including expansion of these services to areas
where we don't have present. Cell C is able to ask MTN to build
those sites, pay for them and that is how Cell C contributes to
network expansion for its own specific competitive needs.

So Cell C is basically, in terms of the manual services agreement,
585 every [indistinct] to compete, what it has done, it has merely
appointed MTN to do that service and that is, as you will
understand, the future [indistinct] of the market in [indistinct] that it
will be healthy for Cell C's business. If there is any colleague who
want to contribute to this - Marius, if there is anything that you want
590 to add?

MR CLAASEN: Yes I think there is, Chair, good morning;
this is Marius from Cell C. Ja I think there was a question related
to, the actual, how we would service coverage and any specific
[indistinct] municipalities I think. Just getting back to what Themba
595 has already mentioned, we are obviously providing or are being
provided these services by MTN, so where we do require services
we would merely purchase this through the existing agreement that
we have with MTN and if we acquire a specific requirement and
specific area then we would request that from our roaming partner.

600 MR MHLANGA: [?] Thank you Chair. Mine is a [indistinct]
question. In your position on safe access, [indistinct] Cell C
highlighted that they see their [indistinct] this market going forward,
so my question then is, is this dimension present due to the
605 anticipated competitive dynamics in this market or maybe it's a
deliberate strategy, I mean option on the part of Cell C for them not
to have presence in this market or to draw from this market.

MR CLAASEN: Nicola, do you want to take that one?

PROF. THERON: Yes, I think it's probably a company specific
question as well but I think in general the point is that infrastructure
610 [indistinct] is not good for competition so wholesale access, that
would be offered on a non-discriminatory manner to all players
which is also envisaged in terms of the wohan[?] would be able to
increase competition at the retail level but maybe Marius or Themba
can just comment of the Cell C specific strategy?

615 MR PHIRI: Ja, Mr Mhlanga[?], to your question, yes
Cell C is in the process of exiting some of the sites that is owns.
There is also most of the sites which we do not own, in fact we
lease these sites, we will obviously go to the original owners of
these sites, in fact in this market, it is known that sites are actually
620 acquired through third parties, Cell C has previously sold its sites to
ATC[?] and some of the sites Cell C does in fact own, so it is a
combination of all of those factors and some of these issues are
informed by the need to continue to be competitive in the market in
future and so it is very clear that the future competitiveness of the
625 market is dependent on service offering as opposed to competition,
infrastructure competition as it were and I'm highlighting this as a
major principal that will define the future high speed data services in
the 5G environment.

PROF THERON: Yes, it's Nicola again, if I could just add to
630 what Themba has said. In the ICASA discussion document there is

quite significant analysis of site market shares and customer market shares and ICASA has found that there is a high correlation obviously between site market shares and customer market shares but that does not necessarily have to be that way going forward. 635 It's not effective for competition if the site access holders also have access to most of the customers. The idea is to make the [indistinct] and the role that ICASA can play in that regard is important, so Cell C also will be well positioned then to benefit from this new world where it's not about infrastructure competition really 640 but it's about service based competition so it also fits into findings of the discussion document.

MS [?]B ___: Hi, I was wondering maybe, just in terms of what the Councillor's initial question on the competitive dynamics of the [indistinct] agreements. Just if you could go into a bit more 645 detail on whether you think that these agreements provide MTN and Vodacom with some kind of speed or cost advantage but then also, just a question over the fact that since you're roaming on these networks, indirectly this provides Cell C with more capacity and what your comment on this is with regard to how you analyse 650 [indistinct].

The second question is that, in terms of roaming, in your presentation you've said that only Vodacom and MTN can provide national roaming, obviously these [indistinct] agreements, so you are also providing some kind of roaming, so does this in some way 655 suggest different types of categories of roaming? Maybe [indistinct] roaming versus capacity roaming? I mean my understanding from the discussion and the submissions is that roaming in rural areas where you have certain different characteristics and costs with respect to roaming in urban areas, just if you could comment a little 660 bit on what [indistinct] different types of roaming agreements [indistinct].

MR PHIRI: [?] Can we proceed Chair to answer?

CHAIRPERSON: Yes, please proceed.

665 MR PHIRI: With regards to the first question regarding
the cost advantages of the big [indistinct], we are not able to
provide a full picture to this question because we have not modelled
this question for these two MVNOs and so we are not able to
entirely give you a fuller picture of what the cost advantages are for
MTN and Vodacom and with regards to capacity, of course roaming
670 does provide the smaller operators with access to more capacity
and in fact as we have seen it now, we are able to also have access
to 4G at a quality of service that is properly defined and I will also
say that they should not be a differential whether they are in rural or
urban areas.

675 The use of service also has to be good, having said this and this is
what Cell C has analysed and understood that to have a national
roaming service will still enable it to continue to be accessible,
competitive in the market in providing data services, a more strong
and also to price for those services contributing to lowering of cost
680 to communicate, so this is also one of the key features of the Cell C
strategy. I don't know if any of my colleagues want to respond to
the other question relating to roaming dynamics and different types
of [indistinct] as it were? Herman?

MR PRETORIUS: Themba, I think you've answered it, maybe
685 just add on some more comments. Obviously if one has more scale
benefits than others, your unit cost is lower as Themba has
indicated, we haven't modelled those specifically as we do not have
that information, but it's private information [indistinct] and it means
we cannot model it. But I believe ICASA has done some modelling
690 in the past on the call termination regulations market study.

And there they defined cost related voice. So I would refer you to those modelling is done, in that, in the past to, to look at those costs, that was defined by ICASA.

695 MR PHIRI: Now Chair, that is how we, that is how far we will go with that question, [indistinct].

MS GOGA: Sorry, just if you could touch on the sort of question of the rural areas and the cost of roaming coverage there. But let me ask one or two other questions as well. Maybe we can jumpstart a little bit more about the cost that are going into rural versus urban areas.

700 And that is sort of how you negotiate the cost but, in the cost of provision in those areas and how it may differ? So I guess my other question remains to your presentation where you talk about the MVNO and [indistinct] roles and my question is whether from a wholesale customer perspective, the different models of MVNO, is, are alternatives to each other.

710 And then whether you sort of CV set of models that being the different, whether a branded reseller could substitute towards companies MVNO models, as where you can see them as a separate product market in some ways or whether (you know) they can be breached together. From your perspective in the business? So that is the other question. Ja, I think that is my questions [indistinct]?

715 MR PRETORIUS: I think I will try to answer that. For Cell C our MVNO offerings is unique in a sense that we sow a wholesale capacity. So, for example, voice data and SMS capacity. What the MVNO does with that is up to their freedom and they can package it with their core products, for example, the banking or in insurance and they can then sell it to their client customer base or they can obviously increase their customer based by acquiring more

720

customers and make their unique offerings more sticky for those customers.

725 There is also models like A10 models, which focus on, only on data services and there is also branded reseller models, which is normally identified by their starter pack where it is the brand plus powered by a host network. Those specific ones sell existing tariffs or might maybe slight modification to those tariffs and there is readily shared agreement in the background.

730 What we as Cell C does, is not specifically now MVNO's area, enabling those kinds of models. We are looking at selling total usage to the MVNO and that the MVNO has all flexibility to repackage it to enable it with its own core products to improve stickiness and has that freedom, because we believe and we want to enable brands and make those brands as competitive as possible. They don't, [indistinct] customer based much better than us and they will know what is sticky for their customers.

I hope that that is an answer to your question?

740 MR PHIRI: Marius, do you have views on the cost of provision for rural and urban areas, in terms of the common benefits?

745 MR CLAASEN: Themba, yes I can try. Obviously we don't provide in ourselves, but then I think if one thinks about it, in the urban areas, the density is much higher in terms of base stations and obviously the population, although there is communities out in the rural areas that are also very dense, but in general, urban areas are carrying more traffic, so therefore if we want to derive, I think in urban area, there will, you need to be a bit more investment in the network there for the party that adds to providing the roaming service in order to create capacity.

750 In the rural areas, as said, except for (you know) that settlement of communities where there is a very high density, it is more a coverage aspect. So from that perspective you would be able to get away with less investment. So that is probably the best way I can explain that from our point of view.

755 PROF. THERON: Themba, it's Nicola, may I just maybe add to that, sorry, so I think it is important to also think about the economic, because there might be a difference in terms of the cost of rural access than to urban access, but that is why you don't want to design your remedy at that level.

760 Because presumably the, incumbency that offer roaming access or using some cross up civilisation between these different areas and offering national roaming events. So there seems need to be some benefit to rather than conclude those agreements at a national level, rather than at a sub-level where the cost impact might be higher and where the person that seeks the roaming then would have to pay a higher cost.

765

So it seems to me that there is cross of civilisation is actually a good thing for the market as it currently happens.

MS GOGA: Okay thank you, now just as a sort of list bit of questions on sites. I mean just listening to everything, it's, I mean with Cell C in some ways exiting infrastructure, there is sort of two indications I just want to grow. The one is why Cell C requires sort of better access to sites and such facilities about the, maybe some kind of remedy that is related to that if, if they don't plan on losing sites to [indistinct].

770

775

And the second one is that with Cell C exiting site infrastructure, so that implies an opening up of space or expanding of supply, particularly by open access operators and Cell C, this [indistinct] to

780 these operators and I just wanted to ask about whether this is the case and what this means for the [indistinct]?

MR PHIRI: So Chairperson, the issue regarding sites it's a question that relates to the economy of .. from the markets and obviously the sites there in the environment of open access, of course we believe that in going forward, even in the licensing of the wall, and such elements to be regulated, remains important for, a far acceleration of access to sites, a rapid response to request for site access by those who hold ownership of those sites, but also to ensure infrastructure sharing.

790 So, that is how we would see it, we would not think that because we ourselves are exiting sites, the importance of site access is not important. We even think that its important in the evolution of the market for the sites to remain open access and for that area to be clarified in that evolution.

Ja, that is how we will respond to that question.

795 CHAIRPERSON: Thank you very much, Cell C. We just have five minutes remaining with your representation, I don't know if there any other questions from our colleagues? We only have five minutes left?

800 MR HAWTHORNE: Sorry, if I can just follow up to Sha'ista's question, and that is really about whether if Cell C exiting sites, whether that is actually going to free up a lot of space in the market and whether a whole lot of sites will now become more available at, from the open access tower codes?

805 MR PHIRI: Ryan, I think, your question with regards, it does, does follow that as I have pointed out Cell C, most of the sites in fact it offers them from third parties. So, it doesn't entirely mean that that would increase the availability of sites. I think because we

are moving into a 5G environment and we think it is important to also categorised essential facilities, we would really want to ensure
810 more availability of sites because of the 5G requirements and this high demand spectrum that requires such, such sites to be made available and to be densely available, especially in the urban areas.

So it is an important consideration of the 5G technology evolution that which we have to take into account as you look at site access
815 from an equability point of view.

MR HAWTHORNE: Thank you, thanks for that. I also have a question about how customers go about choosing mobile networks in different areas. So, I mean some of the submissions that we have received suggest that there is quite a lot of regional promotion
820 activity.

Of course, we know that Cell C's network may be available everywhere from a customer's perspective, but of course there may be distribution or other challenges that mean that that customers don't have customers staying in rural areas, don't have the choice
825 of picking up a Cell C SIM as easily as they do in MTN and or Vodacom SIM?

And can you just tell us a little bit about that and whether Cell C's managed to penetrate rural areas at all, based on its roaming agreement?

MR PHIRI: Marissa[?], do you mind to think through this question, the [indistinct] of customers to access networks from Elias, [indistinct] selecting to roaming base network that is probably [indistinct], but we are in seamless handover environment. So, obviously that is an important point to consider as well, and Herman
835 also, if you have some views on [indistinct]?

MR PRETORIUS: So I think there is two questions there. Chair, I think the one was about the technical aspects and the other one was about the distribution. So I can obviously try and answer that technical one.

840 So yes of course, Cell C's has got way, way less sites than MTN or Vodacom. So therefore when we went into the roaming agreement with MTN, obviously our coverage footprint in the rural areas improved quite a lot, so I think, from a technical point of view, I mean that is how I would answer that one.

845 MR CLAASEN: Maybe I can just add, I think in any industry you need to have the product at the point of sale and that product needs to be available and for the customer who likes that product, whether it is a high [indistinct] utility decision, whether it is priced or whether it is a service offering that is unique, that customer would
850 like to use the product on a continuous basis and hence you need to have airtime available for that customer to, to recharge.

Now if Cell C use the same distribution networks, or most of the same distribution networks of the major operators (you know) be label as one of the primary distribution partners to most of the
855 networks, and there is other distribution parties and Cell C's part, use those as the vision networks.

So we believe we have the same extent of distribution like the other operators and at the end it depends on the customer what is the perception on, on the choice, whether it's dialling partners is on the
860 same network and you can benefit from an own network promotions et cetera, or whether the service that it desires is available on that network.

MR PHIRI: Chair, Ryan, regarding the our ability to penetrate the rural market, and definitely, we, we have a network
865 that is nationally available, that offers impressive customer

experience, so in, and as we have seen, even during Covid, that the online access to Cell C products has increased across the country and this, or from urban and, and rural areas.

870 So that market segment in fact is growing, there is definitely a demand in rural areas. And we plan to continue in that trisection, where we offer products that are [indistinct] to also [indistinct].

CHAIRPERSON: Thank you very much, Mr Phiri, as well as your team members, your time is up now. Thank you very much for making the representation. We will have to take the next presentation from MTN. Thank you very much, Sir.
875

MR PHIRI: Thank you very much, Chairperson, for affording us the opportunity to present and we wish you well in your deliberations. Thank you.

MTN

880 CHAIRPERSON: Morning MTN, morning Moses, we are ready for you.

MR MASHIANE: Morning, yes.

CHAIRPERSON: Oh you were waiting on us, I was actually waiting on you as well. You can proceed?

885 MR MASHIANE: Thank you Counsellor, now I would like to join the call. I think it is better that we, we come back.

CHAIRPERSON: I don't know, I think there is a bit, there is bad feedback, I don't know if it is from our side. I think it is from yours, because we didn't have the same problem with the previous presentation.
890

MR MASHIANE: Ja, [indistinct]. Okay Let me see? Not from this side, but anyway. Counsellor, we would like to proceed.

895 Good morning and thank you for giving us this last slot. I hope it has been great day for, two days [indistinct]. And I would like [indistinct] team. I don't know why. Thank you.

Alright, let me go ahead and introduce the team as best. My name is Moses Mashiane, I am the general manager for the South African NTT, in terms of Africa. With me here I have our shall I call economist, because this is an economic discussion.

900 Mr Patrick Smith, who will be leading our presentation, I also have Mr Zoltan Miklos, who is the general manager, connective planning and engineering and we also have Mr Marcus in Competition, senior manager in terms of Africa. So I don't want to waste any time other than thanking you for this opportunity, together with other
905 opportunities of engagement with you.

And it looks like there has been a long group, but in all the conversations and the engagements that we have, I think they were all fruitful and I believe today where it will [indistinct] as well, it could be, we are going to clarify and in providing most of the points we
910 made in our submission and also on our one point one, which we had a few weeks ago.

So with that, I would like to hand over to Mr Patrick Smith to give the presentation. Our protocol will be when he speak, we will put off the video and then we will [indistinct] we will swich of the video,
915 so we can have an impact form discussion. Thank you, Mr Patrick, you can proceed?

MR SMITH: Thank you very much, Moses, and thank you Chair and thank you, Counsellors, I hope you can hear me clearly. We are just going to be trying to be as brief as possible. I hope that
920 the audio of 29 minutes, just quickly share a - sorry let me rather turn my screen in a different way, so just that you will hopefully, it would be [indistinct]. okay, can each see my screen?

CHAIRPERSON: Yes, we can see the screen, but if you ...[intervenes]

925 MR SMITH: Okay, thanks very much. We have a few observations just generally on the market and I think it is important context. I know you will be familiar with many of these aspects. But we think this in features that are, that are important, that an MTN submission an important part of their, their perception of the market
930 works.

And then we would like to address you on perhaps for key aspect, that come up in the discussion document, is relating to the retail ...[intervenes]

CHAIRPERSON: Mr Smith?

935 MR SMITH: Secondly, the site access ...[intervenes]

CHAIRPERSON: Sorry, Mr Smith ...[intervenes]

MR SMITH: You heard a lot of discussion about that in the last day-and-a-half. Third on roaming and wholesale activity more generally.

940 CHAIRPERSON: Hallo?

MR SMITH: And fourth the issue of Spectrum. Spectrum obviously important than the other three, ongoing ITA, but also in how you consider being the MNS type Spectrum terrain that is already in the market place. I will refer to Mr Nicholas as we go
945 through certain aspects here.

And finally, you might look at remedies, which would only follow this market definition assessment of [indistinct] a robust conclusion on abusive common into lack of competition and then some need for appropriate remedies.

950 So, in the retail market, I think MTN would agree that data voice and
SMS are kinetically defined within the same market. There is the
same supply side input. Bundles of the concise are linked by this
whole chain of substitution, and that is on the supplier and the
demand side. On the demand side, the subscribers can choose
955 bigger or smaller bundles.

On the, on the supply, sorry ... so that is on the demand side, on the
supplier side operators can choose to move across these different
types of bundles. I think what MTN has seen in the market is that
as I mentioned, a few slides ago, some substantial conversations.
960 And this comes to the importance of fixed, for this whole discussion.

I think the key point is fixed is or three, there are three key points at
that. Firstly, fixed is a substantiate input into mobile. We know that
for back hold and for linking and for linking sides. And for
signalling. Secondly, there has been substantive conversations in
965 that mobile, mobile has repeated the fixed mobile broadbands and
also some fixed solutions.

People with their mobile phones are often [indistinct] the wi-fi spot
to wi-fi spot. In some regions there is [indistinct] people help them
with mobile signal to their available dongles.

970 And thirdly, fixed, in particular, the place in Telkom is a substantial
source of subsidy towards its mobile business. But I think the key
observation of MTN isn't in regard to the geographic market. So,
yes MTN and Vodacom each have a effectively 100% national
coverage. They have increasingly rapidly brought up the
975 technology layers to cover MTN, sorry ... to cover South Africa in, in
mobile connectivity.

Cell C, Telkom, smaller operators and MVNOs all over national
coverage by virtue of their roaming, their roaming arrangements. So
you so heard Cell C say just a few moments ago, their network is

980 nationally available. That is what they have always been able to
answer, first to roaming on Vodacom now through the deal on, in
regard to MTN And these services are provided and planned on a
national basis. They allow users to connect as they move
throughout the country and they provide the, they use the same
985 underline, underline network components. These changes of
substitution actually link the different rand towers.

And I think this is, this is substantial, when, when you think about
what market definition exercise actually is, it's imagining if the
hypothetically isolated operators in one region were to increase
990 prices, would-be other hypothetically isolated operators outside of
that region come in and that is within a period of one to two years.

If you look at South African case law, if you look at international
guidance with the US, the UK, the India, [indistinct] and Australia,
we see all these agencies say well market definition is about seeing
995 what responses would we have in two, in one to two years.

Or we know in one to two years, volume is going to grow almost
threefold. Prices are going to collapse about 60, 70% lower than
they are today. That is what they have done each two-year period
for the last decade or so. So, we know that anyone outside of those
1000 areas would come in.

They are going to have to upload infrastructure in that metropolitan
area in any event. And we think that, therefore it is not a robust
basis for making these local retail market definitions. I think on the
site access, much of this, you have, you have heard from other
1005 operators, that in many cases, we just want to bring this to back to
actual evidence.

Firstly, MVNOs don't often [indistinct] the site to which they
construct the infrastructure and then whether in dense urban areas
or less dense areas, there are often options for MVNOs. MTN

1010 doesn't see the specific examples of refusal or delay that have been
cited .. sorry .. I should say a general accusation of refusal and
delay that have been made, we haven't actually seen specific
allegations that there have been dominance in one area and that is
reliably defined; and second, there has been a refusal to supply,
1015 and we do see the [indistinct] switching between different forms of
site and options available.

And operators always have the strong incentives to share common
cost, whether it is in a building or on a macro site. I want to quickly
defer to Mr Nicholas, just to describe, firstly the way that MTN plans
1020 its network roll out and I think that is in the national sense.

And secondly, on these incentives, and very briefly the plan in
process that leads, the team when he is thinking about a new site
and alternatives available to him, and these incentives to share
those sites and those sites costs with other operators.

1025 MR MIKLOS: Thanks Patrick, *sjoh*, it is quite a broad topic,
but let's start from the beginning. I think (you know) coverage is, is
planning terms of population distribution where people commute,
where services are required. So that is, that is the first thing.
Coming to your point, whether it is in a rural or an urban area, you
1030 needed to get that based station in that particular (you know) traffic
back to the core network. So, you need to have an end to end
network that supports those, those services and, and the service
requirements. So, that is key point.

I think in terms of obviously from a coverage perspective, you aim
1035 for a higher population coverage as possible. From a capacity
perspective deployment of, of capacity required.

I think the point cannot be over [indistinct] the last few days, the
operators went identifying the networks, because that capacity
couldn't be (you know) achieved, just on, on the basis of adding

1040 more spectrum. The spectrum was constrained. We gave examples before in previous submissions but for example, go back to before 4G on 2G and 3G Spectrum allocation.

Because, well I then say in that [indistinct] because there wasn't a (you know) there wasn't a high demand spectrum in .. for that
1045 forged deployment. So that sort of, that has been some of the constraints. So it is your point, traffic is growing, a network operator can't stop you if you keeping rolling out infrastructure.

That infrastructure comes in, in various ways, means and forms. It comes in the form of towers, it comes in the form of fibre for back
1050 hold, coming in micro systems. It comes in the form of how [indistinct] because we said before maintaining (you know) unfortunately in how stability and availability is not, is not very good.

So a lot of the times you have to provide the relevant backup systems, security is a challenge. So, running network is, I will say
1055 tough business in different markets and this one is no different. So ja, so from a network perspective, I think the key thing in our big one, is to highlight was really looking forward to the, to the auction.

We need that capacity to cater for the increasing demand. Service quality is a key factor. It came up yesterday in terms of some of the
1060 other presentations, but maintaining that service quality is critical for the operators. And, and like I said, I mean keeping that quality going during, whether it be load shedding or load reduction, it various theft and vandalism incidents. Maintaining international roads, because people use mobile connectivity for maintaining
1065 critical services.

Those are the aspects that that we take into account when we plan a network.

MR SMITH: Thank you very much, Zoltan. I wanted to briefly go through a couple of other comments and much of it will, or
1070 all of it will be in our submissions and much of it will be familiar to you and then perhaps we will come back to some more specific comments Mr Nicholas can elaborate on some of these points.

We talked briefly about site access and it [indistinct] a rolling market and its rolling separate from MVNOs, APNs and MTN's consistent
1075 view has been roaming is a component of wholesale activity. We think of what is roaming, there is an operator, MTN perhaps, who has created some mobile capacity, so the capacity for mobile connectivity.

And then it is wholesale and access to that. And whether at
1080 wholesale it to Cell C that might need some capacity and access for its subscribers, or the capacity in the rural areas or to a [indistinct] who has some international guests who comes to some game lodge in the rural areas who need that capacity.

Or gives it to a MAMA VNOs so that they then go and retail that or
1085 give it to APN so that they can return go and retail that. This is part of wholesale activity. Yes, there are different cost to serves rural and urban areas. And we can elaborate on that more on questions if that is helpful. But it is typically, these costs typically aren't passed on to consumers.

I mentioned a moment ago about spectrum efficiency as one aspect
1090 with cost to serve each megabyte in urban areas, even those are, those are different. Typically, consumers who in areas that is, that have that to hold the handset population or that use smaller amounts of data are less sufficient to serve.

But these costs are specifically not passed on to consumers. But
1095 MTN again provides this critical second option that leads to that competitive tension in wholesale deals, what, whatever the type of

wholesale dealer is. Then have some very brief comments on sorry on spectrum.

1100 And again, to reiterate, Spectrum isn't produced or sold or partly traded. It is an input into these provisions of these mobile services. It is used by licensed operators to create mobile capacity, access to this capacity, you can trade it at the wholesale or retail level. So the entity that is licensed in the Spectrum, has the commercial say,
1105 are aware of that capacity that has created those and that is fundamental.

I understand through the legal position, that ICASA regulates in a position in South Africa, and also to the economic position. And perhaps on the question if you like, we can elaborate a little bit of this. But there has always been some sharing or activity and some outsourcing of activities at various stages on the supply chain.
1110

If you imagine that there is a core network for either [indistinct], there is then transmission infrastructure. That might be self provided, that might be lease clients, it might be provided by some third party, there is then physical side infrastructure, which from very early days was often shared.
1115

This might also include power access, security as Mr Nick was explaining, that can often be very expensive in a country like South Africa. It can be owned share to a third party, access by American [indistinct]. Then you have activator equipment. Again, more recent versions or configurations of sharing haven't held some sharing of activator equipment.
1120

But for a long time, there is often being outsourcing of some of operational aspects of the activator equipment to third parties, such as at MiWay or an Ericsson. And so again, the sharing and outsourcing of some aspects of operations is not new at all. It doesn't change the fundamental economics.
1125

1130 And with Cell C it was very clear that some sharing can be highly
efficient. We saw at a scale of investment required to keep up what
is, the [indistinct] is not a national infrastructure network, that even
an urban infrastructure network is substantiate and the cost savings
to them will be substantial.

1135 So, the nature of these sharing arrangements is almost certainly co-
competitive, as long as there remain some national infrastructure
competition, which is what MTN critical provides to Vodacom. So,
having talked about some of the recommendations, what are the
key constraints that remain, I think the critical one is Spectrum.
Particular connecting rural broadband as well as coping with the
massive increase in capacity and demand of that [indistinct]. So
1140 additional migration will improve rural broadbands and really
Spectrum is critical to keeping a second national network compe-
titive at that level.

1145 So we then talk about site acquisition, and I [indistinct] short of time,
but very, very quickly that those, the Spectrum is we think that the
key to competition is that ongoing use of, of competition to, of the
second national network to maintain that competition and achieve
[indistinct] outcomes.

I then open up to questions [indistinct].

1150 **CHAIRPERSON:** Thank you very much to the MTN team, I will
now open questions up from our panel.

MR SMITH: So I wasn't sure if I was being rushed
through the last slide or so there, I hope that was clear, I will be
very happy for any questions from the panel councillors ...[indistinct
– voice fades].

1155 **MR [Radison?]:** My question is emanating from MTN's
submission with regards to the MVNO and APN service market. So

in its submission MTN highlighted that ICASA ...[indistinct -
intervenens]

1160 MR [?]: Patrick, I think Radison[?] is muted, which
could be the issue.

MR [Radison?]: Can you hear me?

1165 MR SMITH: Thank you ICASA, we haven't heard
anything you have said yet, but we're happy to take those questions
[indistinct] elaborating and clarifying in the comment we made
[indistinct] a bit [indistinct] response.

MR [Radison?]: Can you hear me now? Can you hear
me?

MR MASHIANE: Chair, can anyone hear us?

MR [Radison?]: Ja, we can hear you, can you hear us?

1170 MR MASHIANE: Hallo? Yes we can, okay, we, we are ready
for questions.

MR SMITH: Moses, I suspect that Radison is muted
which is why they're not able to - if they can just unmute on their
side? Then I think we will get their questions coming through?

1175 MR MASHIANE: Okay, oh okay. Let me [indistinct] to them by
phone and see if they can do that?

CHAIRPERSON: We hear you.

1180 MR MIKLOS: Patrick, you did such a great job that there
are no questions, not at this stage. But I am happy ...[indistinct –
distortion]

PARTY/ies ...[indistinct – *sound / voices distorted*]

MR SMITH: Perhaps use the next 30 minutes to expand on those points. [chuckles]

MR MASHIANE: There we go ... Okay, can you hear us now?

1185 MR SMITH: Yes.

CHAIRPERSON: Yes, thank you.

1190 MR [Radison?]: Yes. So my question is emanating from MTN's submission with regards to the MVNO and APN service market. So in your submission you highlighted that ICASA conduct[?] a narrow definition of what constitutes MVNOs and you went on to provide a broadened definition of what MVNOs are and you also alluded that that lead to the misconception that Cell C is the only player in that market.

1195 So my question with that background is if we look at that market, [indistinct] that broadened definition of what constitutes MVNOs, where does MTN see themselves playing with regards to that market? And also are there any competitive dynamics which you might want to bring to our attention to aid our understanding of that market?

1200 MR SMITH: I prefer ... Perhaps first just comment on the MVNOs and roaming, just to clarify one and point and then certainly hand over to Zoltan to talk about the different aspects, that MTN sees its business. I think very quickly, I mentioned that roaming as a component it is a whole sale activity. I think MTN does see from a
1205 business perspective, that there is a different dynamic when you have a national roaming deal with someone else who has spectrum, there may be other aspects to the commercial negotiation if someone requires an MNS type of deal and they then require national roaming in other areas.

1210 That can be a different type of dynamic to your pure MVNO APN deal where the counter party has no spectrum. Where that mean any technical assistance or network assistance of that sort, in regard to their own spectrum.

1215 That is, I think MTN's other consideration is about MVNOs and APNs logistic is to where your question was, I think there are a range of different models and MTN wanted to, like suggest some more clarity on what are the different nature of MVNO and that is where I will hand over to Zoltan, just to clarify, where MTN see that as models and then where MTN sees the value that it is currently
1220 adding in negotiating those MVNO deals.

MR MIKLOS: Thanks Patrick. I think, let me, let me address the APN question firstly. So we have several 100 APNs configured on the network that cater for consumer services, enterprise services and wholesale services. So we cater for all
1225 those markets. We can provide a list and I think we already have previously in some submissions to the Council.

For example, on the wholesale side we have been (you know) provisioning for[?] affixed LTE, APNs, for the provisions of those services, that is one example. So the APNs, ja, there are a number
1230 of them and, and the model is fairly well defined. It's been, it's a model that's been around for a number of years.

On the MVNOs, we indicated in our last presentation to ICASA, is not public domain yet, but we are busy with some integrations at a wholesale level, with different MVNOs and MVNE providers that will
1235 come out very soon. So we think that is a moot[?] point.

MS GOGA: Thank you. I've just got a question on retail markets and I am very much interested in this type of business perspective by the [indistinct] perspective, so my question is whether MTN has .. how MTN has localised the pricing, regional

1240 divisions that have some sort of some role in pricing in providing regional offers, as well as how MTN zone works and individualised offers.

And does MTN charge different prices based on utilisation of the sit; how does capacity lead into some of this individualised crisis? And do regional managers have discretion in relation to pricing and promotions? And then how does an MTN regional reporting work? So just a question on that.

My second question relates to Spectrum and I am interested in understanding - I understand the submission saying that Spectrum is not market, but what I want to know is how would you and[?] Spectrum as input, change the analysis and conclusions that were reached in this particular discussion document?

So maybe we start with Mister ...[indistinct – voice fades]?

MR SMITH: Alright, I just want to frame that debate, but certainly I would leave it to hear the business perspective on the retail aspect. I think there are a number of different aspects here and I just wanted to make sure that your [indistinct] and cross-refer[?] to our submissions on this already.

I think firstly there is an above-the-line, below-the-line discussion. So yes, there are retail offers targeted at subscribers, as I mentioned in particular seeding[?] offers are offers to subscribers that don't use a lot of data or use no data whatsoever. Those can be dependent on that individual user's characteristics.

Secondly, the nature of promotional deals often leads to particular effective rates applying to a group of subscribers and there may be some correlation geographically.

And then thirdly, in response to other above- or below-the-line offers of competitors that might also have some geographic

1270 correlation, there can be some targeting of in particular above-the-
line offers recently at subscribers in particular areas. But I will
separate that substantially from the market division discussion.

1275 Ja, no, I know you wanted to hear the business perspective, so let's
perhaps finish on this retail point by either Zoltan or Moses as to
how regional and reporting works and how regional .. so regional
promotions and discounts work?

MR MIKLOS: Maybe, perhaps just jumping quickly, maybe
just from a, from a structure perspective, we have seven regions, if
you look at Johannesburg and Tshwane, you can think of it as one
and combined region. I think in each of those areas we have what
1280 we call commercial general managers, they are responsible for the
sales and the revenue in that particular region.

From a network perspective we have got an overlay organisation.
They report into the network team. So they don't report into as
commercial teams. And that is because of the structure of the
1285 business. They are there to (you know) deploy infrastructure
supported plan for the network, plan for the capacity and or
customer complainants and over the organisation activities, will
interphase directly with the third party.

1290 You mentioned in your presentation for example, so I think that is a
key thing. In terms of the regional offers, the regional commercial
teams that would be involved with that, would even turn below the
line activity, but it is not I think the key thing is from a network
perspective, you want to always, I call it magnetise the bit.

1295 You want to make sure you can provide promotions to get usage on
the network. One of the key things, but bear of mind is always (you
know) a team necessarily providing you promotion on a legacy,
technology, like 2G, I hate that. You know I prefer that, that should

be used on our new technology, like 4G, because they get more, a higher spectrum efficiency.

1300 You know, I would like to get people onto the new (you know) the relevant device. So (you know) just to give you a bit of background, that the structure is, your commercial general managers. There are also network teams, but those network teams reporting to .. into head office, into the CTO team, through the deployment team.

1305 And then yes, they are above the line and below the line campaigns, but really the main emphasis around what I would call getting the most utilisation out of a network, and that is the key sort of driving in a lot of the thought that goes around these campaigns.

MR SMITH: So I think, unless there are other questions and I am sorry, let me just direct one more just at Zoltan to clarify, because you did have a multi part question on that localised region office.

MR MIKLOS: No, on reporting.

MR SMITH: Reporting and also could you just talk about capacity utilisation locally and how do that gives in, and I think that the key point, I certainly want you to ask .. answer factually around what the business perspective is, but I think also that the key context here for us is that this is very short term dynamics.

1320 These are prices and offers that change, sometimes on a daily basis, sometimes on a month-to-month basis. This is something that will be unrecognisable in a year or two years' time, which is your typical market definition[?] timeframes. But Zoltan, I don't want steal[?] with all the economics talk, but let's talk first about reporting and secondly about how capacity utilisation feeds into this, in this context where you're having to increase 60% year on year in every region.

1325

MS GOGA: Sorry, if I may just – cognisant of time, I think we have [indistinct] this question, so we will move on to the ...[indistinct - *intervenes*] question.

1330 MR SMITH: On the Spectrum, just very quickly, I think the fact that it's an input, we wanted also to slightly anticipate respond, react to the other suggestions of how you could deal with Spectrum. So yes, we don't think Spectrum is a market. Yes MTN doesn't think that .. Spectrum it's something we can dominate in.

1335 I think what is important for competition, is that there is sufficient Spectrum to incentivise at least two operators to roll out and to pay these tens of billions of rand to roll out two[?] national networks so that you create those two wholesale infrastructures, that then we can keep one another honest, but then can keep advancing
1340 technology, improving quality, improving coverage over time; and then on those networks, yes, others can roam, others can do an MS deal, others can do a Spectrum emission .. and outsource Spectrum emission deal and that is kindly to our competitors.

1345 So I think that is the first aspect so speculate, is it the policy decision of yours to allow sufficient spectrum and probably roughly equal spectrum to go at least two operators. We will have those incentives, that capability to to have those national networks.

1350 The second thing is also a policy decision which is yours again on this ITA. You might decide that yes, those two national networks are all we can feasibly hope for in South Africa, but then we want three, maybe four again national networks through some combination of rolling or MMS deals to be over those infrastructures and again, that's a policy deal, but I think our clear[? *key?*] implication of it not being something we can trade, not being something we can
1355 add up, is that it can't be something that you are dominant in.

I think we're partly responding to other suggestions but as soon as someone roams on your capacity, somehow your capacity has gone to them, or if you self [indistinct] someone else, sometimes they own your Spectrum, and that just can't be right legally, operationally or economically.

Zoltan, is there anything to add to that?

MR MIKLOS: Sure, Patrick, there's so much to add, but I just want to quickly highlight a couple of things. The Spectrum, in the commissioning and then saying and even here, there are a number of presentations on the Spectrum, but when you combine those Spectrum holdings[?] you get one view of the world, but you really need to think about Spectrum in terms of what you're going to deploy and what's this .. and what's its use.

So like you had in your presentation, Patrick, with the sub-1 Gig it's quite important to provide [indistinct] capacity in certain areas, to provide those minimum coverage obligations and that 5 Megabits requirement that is currently in the LTA.

So I think there's a key thing, is (you know) that that Spectrum holding and where it is – in the low band, mid band or even in the high band; quite an important factor.

And then second into your point, is that, and on the Spectrum (you know) trading discussion, it's quite important to understand the architecture and how that Spectrum is being[?] enabled. (You know) there's a lot of question about the Cell C and MTN (you know) agreements. Currently we're implementing a national roaming agreement and using active reign[?] sharing features, so they seem as hand-over from a Cell C customer into the NT[?] network, but that's a roaming arrangement and it's seamless to the user and it's to provide that soft handover.

1385 So that's quite an important factor and I think that's .. those are things that are quite important to highlight. So one is – (you know) the devil's in the detail, can go one level deeper, the Spectrum holding is quite important per band, but also the use to that Spectrum, so it serves different requirements.

1390 The low, the sub-one Gig is really for that rural coverage, the extender all coverage, which you also need in the urban areas – you need it to provide indoor penetration because you can't densify your sites enough in certain areas, so you need additional Spectrum holdings to give you that density, but also provide the indoor penetration if it's a sub-one Gig for that particular purpose.

1395 MR SMITH: That's great[?]. So I hope to ICASA [indistinct] and councillors, that's sufficient on the .. on the retail side is, yes there are regional managers, but decisions are made essentially on a very responsive basis to make sure MTN respond effectively to competitors and on Spectrum we think those the implications of not considering Spectrum as a market. I think that's sufficient from us ...[indistinct – voice fades].

1400 MS GOGA: [?] Thank you very much. My other question is whether these MOCN deals that have been [indistinct] to the hearing[?], provide the MTN with [indistinct] and cost advantage [indistinct] as a result of the increased capacity? So that's one question.

1405 And the second is just to understand a bit more the difference between the cost of provisional urban *versus* rural roaming by MTN; and then the third one, the presentations seem to imply some kind of substitution between [indistinct] and I just wanted a bit more clarity about what exactly you would say in terms of these[?], and for example have you found that your mobile data or customers that use a fixed offering, [indistinct] or do you find that there is some kind of [indistinct] substitution? Thank you.

1415

MR SMITH: [indistinct] let us quickly talk about the MOCN[?] and then Zoltan could talk more specifically about the technical, but the MOCN [indistinct] just before that happens when Liquid comes to an MTN and says 'well, I've got some 800
1420 [indistinct] I want to do a managed network services arrangement with you, I want you to emit my Spectrum' – this is Liquid speaking – 'and I want you thereby as an outsourced third party, to create some capacity'; very similar to MTN going to Farway[?] Ericsson saying 'I want you to operate my RAN[?] equipment at this location,
1425 beam it where I tell you to beam it and create the capacity'.

In each case the person[?] has been licenced for Spectrum (which is Liquid in the first place), they have retained the agency over what happens to that capacity.

So you asked whether the MOCN deals assist MTN? No, they
1430 assist Liquid to get their Spectrum beamed in[?] all sorts of places, they simply could never reach because they haven't got 26 years and they haven't got a 100 billion to make a national network. So the immediate advantage is immensely for Liquid, not for MTN.

Then Liquid decides 'What shall I do with that? Shall I wholesale that to MTN, to Vodacom, to an MVNO, to someone else?'. At that
1435 stage they are in the advantaged position. So yes, MTN can go and purchase on a wholesale basis effectively at capacity and then go and resell it, and if it's at low end [indistinct] cost, or MTN can go and retail that capacity. But I think the first advantage is for the
1440 operator who has the Spectrum – in this case it is Liquid.

Zoltan, I don't know if you want to go into specifics on those? Probably [indistinct] cut up the questions.

MR ZOLTAN: Sure, Patrick, you did such a good job at
1445 commenting, or in giving the answer. I think the key thing is there are separate [indistinct] (you know) each operator maintains their

own core. I think the other important factor is the controls. Controls are in place for each of the operators to see that particular. So in the case of (you know) Liquid they would see the configuration management of that particular (you know) service that you're rendering. So .. not a service, but the configuration on that radio infrastructure.

So it's quite an important point. It's not as simple as yesterday in the one presentation who showed 'oh, you just take a spectrum asset, sum[?] it up over the other one and it's added' – it doesn't work like that. These are complex configurations, like I said, using active sharing (you know), [indistinct] so logically separating the PLMNs on the physical radio infrastructure is a very, very important point. And [indistinct] point is [indistinct] efficiency. It's really just to get (you know) the most efficient network out there.

MR SMITH: And I think it is an important point here, technically this a separate network, so this is .. MTN has outsourced their party MNS provider really a service provider emitting Liquid Spectrum in a particular direction as directed by Liquid at Liquid Network policy. So there are actually three separate networks here [indistinct] so the quality, very separate characteristics of these two networks. Yes, they're off the same piece of steel, but that has happened for more than 20 years – Vodacom and MTN often emit in different directions some times off the same piece of steel.

So that's not novel here, it's really this advantage[?] to get the Liquid Spectrum out there at lowest possible infrastructure cost.

I think the second point on rural and urban differences. Yes, there are differences and .. there are a myriad differences. As I mentioned, predominantly and the biggest picture point is that those differences and costs are not typically passed on at the retail level to consumers. It is national headline pricing. Yes, there are

some offers .. every single person has some specialised offers sent to them, but there are not typically passed on.

1480 And I think there are really two aspects I wanted perhaps Zoltan to cover in qualitative terms, then if you want him to quantitate it perhaps to follow up, but I think firstly there is obviously an efficiency of density; and secondly, there is some kind of spectral efficiency. There is something that's actually on the users and their device in[?] their system and how often and how long they are using those connections. If you have two extremes, a thousand people
1485 sitting right under a sale[?] in Sandton with 5G pho.. .. or 4G phones using great efficiency on the right band input, all streaming Netflix, that can be very efficient.

1490 If people have two and three and 2.5G phones in the rural areas; they all hop on, hop off; hop on, hop off; they can use that spectrum much less efficiently in addition to them being less densely there. But I don't – Zoltan, if you want to comment briefly, qualitatively on rural urban costs to provide ...[indistinct – voice fades].

MR MIKLOS: Sure. I'll just go through it very very quickly there, (I mean) like we said and you highlighted it now (you know)
1495 population (you know) the distribution of the population in a particular area is quite important. You find in a [indistinct] environment that (you know) it's obviously there's a higher density of population, as you go into a more rural environment that distribution (you know) is different.

1500 The service requirement is also different, that – you mentioned Patrick, it's another important point, the device mix, (you know) the mix between a 2G, 3G and a 4G device is also very different and it could be affordability, it could be a number of different factors that input that .. or impact on that.

1505 So these are all the factors you need to take into account. I think
from a – it doesn't mean that you provide a less of a service. I think
that service requirement is, and that's a key factor. We always,
when you obtain the network, you wanna make sure that your
service that you provide – because people travel - people go on
1510 holiday; people commute (you know); there's a service require-
ment in terms of of fixed location; there's a nomadic requirement;
and then there's a (you know) a mobile requirement. So I think it's
really going to cater for all those different aspects.

But in terms of the rural there are challenges, (I mean) I'm not
1515 gonna say there aren't, (you know), particularly power availability is
a big challenge. Some of the locations where we provided
examples previously to the .. to different commissions in terms of
some of the sites, we've had to put out solar – that comes at a cost
in terms of the Cap-Ex[?], but also in terms of (you know) the
1520 security – we have to make sure that that is secure and there has
been a number of different vandalism (you know) that .. there are
vandalism attempts at those particular sites.

So these are the aspects you need to take into count, but it's
important when you look at this, you look at it from a technical
1525 perspective and you also look at it from a .. let me say a subscriber
perspective - what services people require, the distribution of those
service requirements and then also the growth in those require-
ments.

MR SMITH: Sorry, ...[indistinct - *intervenes*]

1530 MR MASHIANE: ...[indistinct – *cross-talking*] ... [indistinct]
Patrick. Just one point that I think we need to emphasise, I don't
know if then .. there's Midland[?] in your presentation. You see, the
issue for us when it comes to fix convergence, is that (you know)
often in the market you'll read in the newspapers and everywhere in
1535 particular Telkom making this point that the[?] smallest in the

market and this is not how we do it, because when you look at Telkom, it's roughly the same size as MTN and (I mean) if you talk of revenue and ..

1540 What normally happens is MTN obviously getting[?] the bad side of things where we are .. we are compared obviously to Vodacom and we are roughly as .. we're not even half the size of Vodacom, but in all the regulations that we receive, we are all put in the same basket as if we are Vodacom and Vodacom is the clearly leader in this market and Telkom is not a small operator and obviously benefitting
1545 from their [indistinct].

So the thing about Telkom coming to you and saying 'no, we are the small, we are this, we are that' – they don't tell you about their big size and which is also very useful when it comes to broadband. I think it is unfair and the ideology of saying MTN and Vodacom are
1550 the .. they seem like the same size[?] - the same mistake which was made by the Competition Commission. We clearly [indistinct] serious problems with that and I hope we[?] can address ...[indistinct – voice fades].

MR SMITH: Thanks very much, Moses. Chair, I'll be
1555 literally 30 seconds just to summarise on this point and head to the next one on convergence and if there's more you need, we'll certainly follow up in writing. So we talked about this urban rural difference. It's primarily down to population density, although there is also a handset aspect.

1560 And if you look across Africa, I mentioned South Africa is a big sparsely densed .. sparsely populated area. Mauritius, Rwanda, Burundi, UK, Germany, France obviously are far more dense; Nigeria, Uganda, Ghana, Kenya, even Morocco, Portobar[?], Tunisia, Tanzania[?] – these are all more densely populated and
1565 easier to reach in some respects than South African consumers.

Briefly, you asked about convergence. I mentioned there were three aspects; I'll just stick to the two on convergence. I think the first one is really that we do see some substitution between fixed and mobile. So yes, people do use their mobile outside of wi-fi and then hop from hotspot to hotspot and we obviously see with your seniors[?] picking up the work wi fi, picking up public space wi fi, airports, shopping centres, etcetera.

Second, we do see some substitutions in those regions in which and in particular Telkom has a fixed mobile broadband solution, either a dongle or an egg or a properly fixed mobile broadband solution, and again we see substitution on both the supplier and demand side. If Zoltan has any else to add on that? I'm just very conscious of the .. the [indistinct] of time.

MR MIKLOS: No, spot-on. I think the one aspect we did highlight previously, Patrick, is that (you know) because of low fixed line penetration that people traditionally use the mobile for a number that [indistinct] (you know) service requirements, it could be for fixed wireless access in terms of home environment; PPNS in[?] requiring a business connectivity; and then obviously on the .. like I said, nomadic and then mobile usage. So it's spot-on in terms of the density and the terminal mix – very important inputs in terms of planning.

MS GOGA: Okay, thank you very much, Chair.

CHAIRPERSON: Thank you very much., gentlemen. We came to the end of your session. It's actually 11 o'clock now and we thank you very much for coming. We're going to be taking the next presentation of the Competition Commission. We really appreciate your time. Thank you.

MR MASHIANE: Thank you. Thank you, Chair. Thank you for listening to us.

MR SMITH: Thank you.

CHAIRPERSON: Okay.

...[BREAK IN RECORDING]...

1600 CHAIRPERSON: Good morning. Yes, we are ready for you.
You can proceed.

COMPETITION COMMISSION:

MR HODGE: Alright, thank you. Let me just bring up our presentation. ..[Pause].. and I trust that you can see that clearly and we've also sent an advance copy through to Leweng.

1605 CHAIRPERSON: Yes, we can see it. Maybe you can make it fullscreen, but we do confirm that we also have the presentation which we viewing from our own laptops.

MR HODGE: Alright, is that now better for you?

1610 CHAIRPERSON: Yes, it is, thank you very much [indistinct].
Thank you. You can proceed now.

1615 MR HODGE: Alright. Thank you, Councillor Semane and Councillor Kedame, the ICASA officials, as well as your consultants. Sorry, if I can just ...[incomplete]. We welcome the opportunity for the Commission to present to ICASA on your discussed[?] and then representers from my[?] division the Economic Research Bureau who headed up and their digital services and market inquiry available to answer questions.

1620 Turn to the presentation you have our submission, so we're just going to highlight a few features in the process of this public hearing; also things that have come up from other presenters that we'll address as well, but we'll stick to the main themes of your

discussion document, which is the effectiveness of competition in all[?] spectrum facilities [indistinct] roaming and MVNO markets.

1625 Maybe by way of introduction, as you're all aware the Commission itself completed its Data Services Market Inquiry in December last year and that sets out our findings and recommendations on data markets. So in a sense that is the reference piece for our views and forms the basis for also our responses to the discussion document.

1630 Just to highlight the main findings and recommendations: The first is that retail prices are high and it's high because of ineffective competition and not just spectrum constraints. So whilst spectrum constraints may contribute to raising costs, they're simply adding more spectrum to operators is not going to solve the problem. We have an ineffective competition problem.

1635 If you look at our package of remedies, there were two packages: The first was really a retail remedies aimed at addressing the current price levels of which were excessive. And that has been implemented and consent agreements signed with Vodacom and MTN in that regard and that resulted in a drop of prices for monthly
1640 packages of 35% and sometimes higher for smaller packages than 1 Gigabits.

1645 But importantly, if you look at the package of recommendations, that was there to address the current level of prices, but there's still a package of wholesale regulatory changes and remedies that are required to address the underlying competition problem and the persistence of dominance.

1650 So the Commission's work did not in a sense conclude that element of packages. We recommended some short-term interventions, but given that ICASA was already engaged on marketing review[?] itself, we felt this could be addressed through your own review or

legislative[?] changes. So that element is necessary if competition and prices are going to remain at competitive levels in the future.

1655 I think our real concern is (you know) a number of operators have pointed to what is changing in the market. But I think the big shift at the moment is the shift to 5G and what we've seen in the past is that every shift to a new generation of technologies, reinforces the leadership of Vodacom and MTN in the market because they are the ones with the pervasive coverage and the profitability and capital to make that technological leap early, which gives them a
1660 distinct advantage in the market.

The roaming agreements and other agreements don't bring in those new technologies and this sets the challenger networks behind and we think that the current move to 5G means and impact wholesale regulations more urgent than ever because absent that, what
1665 happens in the next five years will probably shape competition for the next 15 or 20.

The last point I think is to say that any market developments that have happened subsequent the ITA, the WOAN, are all anticipated in our market inquiry report and factored into that and in fact, the
1670 spectrum related recommendations we've made and some of which have been taken on board by ICASA, were considered complimentary to the wholesale interventions that we[?] deem necessary.

Starting off with effectiveness of competition. As I indicated retail prices are high due to ineffective competition and not just spectrum
1675 constraints. If we look at the broader sector of evidence because (you know) the game around price comparisons and international comparisons is a fascinating one, but ultimately can never be conclusive and is highly subject to what countries are selected; what operator is used in that price comparison; what bundle is
1680 used from that operator; and we also see the trends over time can

matter, but are not necessarily looked at at least within the current draft version of the discussion document.

1685 But what is more a conclusive evidence is, and is set out in the Data Services Market Inquiry: Vodacom has a Return Of Capital Employed we estimate in the range of between 55 and 60%. Its price-cost mark-ups (which include capital costs) are in the range of 20-25% since 2014; and that establishes a *prima facie* case for excessive pricing and hence the interventions that we did engage in.

1690 The EBIT for South Africa is 65% higher than the operator in the rest of Africa, and we can go to MTN as well, they're not as profitable, but they are highly profitable. Now that suggests that they are not constrained, that level of profitability and it's not just suggested, but rather conclusive.

1695 Also the Data Services Market Inquiry looked at trends over time and looke whether Vodacom and MTN in fact did respond to competitors when[?] competitors dropped price to aggressively try and take market share; and in fact it shows that there was a lack of response. So up until we intervened on the retail package, still
1700 Vodacom and MTN were selling a 1 Gig package at R150 compared to R100 or less by the challenging networks. The analysis in the data inquiry also looked at in effect your average price per Gigabyte which includes all your promotion on free data and that also is conclusive that they're priced higher than their challenging
1705 networks.

You've heard from Telkom/Cell-C. They didn't see themselves as effective constraints and don't consider this market to have effective competition. What we've also seen is that when we implemented the settlement agreement, Vodacom and MTN dropped prices by
1710 35% and more without at that stage having access to new spectrum, and that was a once-off level drop and they were able to

do that without falling into an unprofitable situation, which suggests there's a lot of that[?] due to the fact that they're not constrained.

1715 What was also interesting I thought from Vodacom's presentation yesterday is when they did get[?] temporary spectrum during the lockdown period, there was no suggestion that prices actually came down, rather there was (you know) a suggestion that this helped provide a more quality network experience. But if the suggestion is that now [indistinct] spectrum through the ITA will result in price
1720 reductions, this suggests that maybe that's not a given, and you'll also know obviously historically that Vodacom has access capacity from RAIN as well, even if its own constraints existed.

I think this has been alluded to by a number of consultants that we have a highly skewed market structure with Vodacom and MTN
1725 holding roughly 80% of mobile revenue (including data). We just updated that this morning based on results, and even with so-called Telkom growth, we get 77% of revenue at the moment in terms of revenue share based on results. That has persisted since almost time in memorial and is not going to change materially.

1730 I've mentioned the price comparisons. Maybe just to step back for a moment in terms of effectiveness of competition and just to look at why this persists and why in a sense wholesale regulation is required and this is again covered in the Market Services Inquiry and ICASA can go and review that. But in a sense these two
1735 operators obviously have a first move advantage and established that lead, but it's left them with absent any wholesale regulation in the past until we saw some call term regulation. An incredibly large subscriber base and a high level of profitability which then gives them an advantage in rolling out new technologies and services.
1740 So I mentioned early that each wave of upgrade from 2G to 3G to 4G to now 5G, these two operators move first; Cell-C followed on 3G many years after these two.

1745 The large capital expenditure needed to roll out infrastructure and to keep sufficient capacity so you have a quality network experience, can be done by these networks through in fact retained earnings. If you just look at even the latest Vodacom report of cash .. new cash generated of over 30 billion and in fact funding infrastructure expenditure 13 billion, it's still having spare change of 10 million[?] to pay out to shareholders.

1750 So they're in a unique position, but also that position of power[?] and pervasive network enables them to contract to these additional roaming agreements with the Rain or Liquid because they can offer a comprehensive network and sites in which those can roll out.

1755 If we look at the smaller networks, well, Cell-C's financial troubles are well-known and publicised and remains saddled with debt and unable to make the kind of investments and infrastructure to keep its network quality the same, and it's moved to now outsourcing the [indistinct] MTN roaming deal.

1760 Telkom has to take on debt as a mobile operator in order to expand its network and doesn't invest at near the same rate required as Vodacom and MTN.

1765 And the important thing is that the network coverage and quality advantage does weaken price-based competition and we set that out in the DSMI, but in a sense the quality advantage and the pervasiveness in rural areas and parts of the country where (you know) roaming costs are higher for the challengers[?], means that there's less need to respond and factually they haven't responded as much to the aggressive pricing of the challengers, but it also makes the aggressive pricing to grab, share a less profitable strategy for Telkom and Cell-C because it doesn't deliver the subscriber numbers and profits at the levels that it would require to
1770 in fact fund the infrastructure to keep the network quality the same

as they grow. So they hit periodic periods of poorer network quality and lose subscribers as a result.

1775 The whole point of wholesale regulation and wholesale access is to
in fact provide that bridge whilst you are building a subscriber base
to in a sense shift onto other capacity without having to fund that
investment yourself and treat it as a variable cost and the problem
is with such a skewed setup as we have in South Africa, there's not
1780 a mutual dependency and hence a willingness and an incentive to
offer infrastructure or roam[?] on competitive rates, but rather we're
left with uncompetitive rates for this and those are well documented
and complaints I'm sure ICASA have seen over time. But that
would be the short-term solution to build a more balanced market
1785 where in fact each operator is able and capable of investing in their
own infrastructure and roam[?].

Just in terms of whether the market has changed, I think as
I indicated before, 5G in fact represents a bigger risk at this stage, if
we don't fix the next phase of investment into 5G we are gonna
1790 likely be faced with the assistance of the 80-20 rule of the South
African mobile operators.

In terms of just[?] Telkom and RAIN I've said even on the current
numbers, Vodacom and MTN have 77% share of revenue. So
growth off a low base doesn't make it a substantial challenge to
1795 incumbents, some of whom have 45% of the market. But it's also
been far more focused on urban high data users and what we found
in the Data Inquiry is that this had less follow-through into the
majority prepaid. So if there was a response from the larger
networks, it was data only postpaid packages, but certainly not the
1800 prepaid; and that stands whether you include free data and[?]
discounting as well. As I indicated, we've looked at those averages
and the DSMI also went through a process of looking at it by
different types of consumers and lower income *versus* higher, and

1805 despite the comments earlier to the contrary, DSMI does deal with
all the issues raised by the operators with that analysis, but on their
own data it shows that in fact poorer consumers are worse off.

1810 We also have at the same time, a Cell-C that is going slightly
backwards. It's loss of subscribers has been .. tend[?] to sort of
rebuild and focus on the more profitable, it has reduced its revenue
size and it has in a sense decided to give up on the Capex arms
race and move to a variable cost roaming time model.

1815 Spectrum, as has been noted by many, is certainly needed, but can
only be operationalised through investment and this lies with these
two uniquely and if the others are going to get the opportunity to
build that into 5G, they will need the roaming and site access
essential for that.

1820 The current roaming agreements we have looked at and the DSMI
looks at in detail and that it is confidential, but as is set out in the
non-confidential version, whilst we've seen some quality and fee
improvements, the rates are certainly not wholesale and they won't
keep track with the price drops over time and they don't include 5G.
So we're back in the old again from 3G and 4G where with each
new technology leap, that remains out of touch or needs some[?]
roaming arrangement.

1825 But slightly better deals with RAIN and LIQUID are really due to
spectrum constraints at the time, but as soon as Spectrum is
released, it's far less incentive to engage in that. But I think
practically, the site access is not addressed through regulations.

1830 So you've heard that although the regulations say it should non-
discriminatory, different circumstances are always used to say it
doesn't have to be the same and what the DSMI identifies is in fact
(you know) that smaller operators tend to pay a much higher price
for this and the price, if you look at the share of the common cost

1835 rather than the cost of the alternative, is high. So it's fine to say
that maybe the cost is not high if you were building yourself, but the
fact that you're sharing a site with many others means it should be
lower.

1840 In terms of SPECTRUM obviously ICASA has moved ahead with
the ITA and the WOAN, so those in a sense is our[?] times[?] are
pre-empted by any findings here. But maybe just to address the
comment from Vodacom yesterday that this in fact solves the
problem in the market – (I mean) firstly, just as a technical point we
will not see Spectrum as a market because it's assigned, it's an
input, but the WOAN certainly is gonna face challenges. What
1845 we've seen historically is in this sort of investment cycle if you go,
the WOAN is going to take time to establish. It may have certain
advantages, but it's certainly not guaranteed to succeed or to
succeed at the unit[?] cost level that makes it highly competitive.
So it is an unknown and an unknown going into the future, but it
1850 certainly can't address I don't think in the next few years, let alone
the next 5 years, and that is a key period in which the competition
around 5G infrastructure will play out.

1855 The ITA conditions also don't make any further [indistinct]
regulations redundant. (I mean) we know that the Spectrum cap
still allows the two dominant players to acquire half the spectrum on
offer. The Reference Offer for site sharing doesn't have a regulated
price; and the MVNOs, the three MVNOs is that their selection –
now MVNOs can be niche, something like an FNB offering to its
own customer base; or they can be retails competitors, and those
1860 are very different MVNOs. We don't think that this will allow a
highly competitive MVNO to merge.

As I indicated I think the next phase of rollout and the ITA makes it
a requirement to get coverage, means that in fact those who're[?] in
the Tier to get Spectrum, will still need to reach 80% coverage in

1865 order to meet the licence condition and for that they are gonna be
dependent on the two operators because no other network has an
80% coverage element in terms of their own licensing.

In terms of SITE ACCESS, I think it was observed by one of the
presenters for Telkom – whereas if there is a more balanced market
1870 you might have a mutual incentive to offer site access to another in
return for site access and we make this point in the Data Market
Inquiry. The big imbalance in this market actually puts the small
operators in a very weak bargaining position and also removes an
incentive to offer a reasonable term, and that's visible in the
1875 outcome.

So we've seen evidence of constructive refusals; we've heard
complaints even in this public hearing about that; the frustration in
getting access on a timely basis. There is certainly evidence in our
own inquiry (which has been made available to ICASA) of small
1880 operators facing much higher prices when[?] larger operators
because they don't have anything reciprocal to offer; and if we look
at again what their costs are, they should factor in that the site is
shared.

I think the barrow focus on sites (and this will be a theme I think
1885 throughout) on sites and municipalities, is not really appropriate,
because (I mean) for one we highlight backbone infrastructure, but
looking forward to 6G, we're often going to be faced with a need for
access in urban areas and we've heard about access to smaller[?]
micro sites to get in office access as well. The actual level of which
1890 these agreements tend to take place, is not at the site level, it's at
a operator collective bargaining level. So to take an example, even
if Cell-C were to have the majority of sites in some municipality, that
doesn't give them the ability to exploit that; it's about the volume
and coverage of sites that are important.

1895 I also think this is a road which is going to end up in legal disputes
around (you know) the measurement of share in any particular area
and we've already seen that Vodacom claims on their version in fact
only have dominance in sites in 17 areas, unlike what the ICASA
has put out. But that's gonna an ever-revolving element for dispute
1900 that I think would just bog down any regulations.

I think we do agree that stricter regulations are needed. We think,
apart from sort[?] of the normal stricter element to access, there
needs to be a price element; that there needs to be cost-based
price regulation for essential facilities, those offer a fair return and if
1905 they're essential, they're required.

Also for other [indistinct] fair, reasonable and non-discriminatory
pricing. Now that doesn't have to be at a cost-based level, it can
be at a fair level, but that's fair[?] with cost accounting and the
separation, accounting separation, one can determine what fair
1910 pricing is and that it's not exploited. We don't think that this will
undermine incentives to invest, certainly the only cost-based pricing
we envisage is for essential facilities, most of which are essential
because they've been historically acquired and not strategic, but
more importantly what you hear from most is that (you know) they're
1915 looking for site share in order to spread ownership and coverage
and they'll get a fair return and recoup costs for that site and in fact
fund further capital expenditure themselves.

In terms of ROAMING, again I think apart from saying that roaming
is essential in order to provide that bridge to infrastructure rollout,
1920 again I think the narrow focus on municipal areas is inappropriate.
Again in a sense the power[?], market power and bargaining
position around roaming comes from the fact that MTN and
Vodacom have national coverage, a huge volume of sites, so
capacity and density as well outside of even remote areas. And
1925 these agreements are negotiated at an operator level. So it's not

about dominance in a particular municipality and my Cell-C example from site access would apply equally here. That is the point of which these agreement are done.

1930 If we look forward as well to 5G, roaming may well be required in the urban areas around new technology until infrastructure catches up; and so to focus on dominance will also have some of the same legal issues as well. So we think pricing is important. Mandating access doesn't achieve more than what we're seeing in the market at the moment, and again we don't think this undermines incentives
1935 [indistinct – *doing?*] the best because it's clear that there's a preference for own sites and certainly if site access is better. So our recommendation for a Retail-minus that's more like touch, it doesn't allow cherry picking and it maintains your incentives.

1940 Then lastly just on MVNOs and APNs, (you know) much like yourselves we found that MVNO activity in South Africa is inadequate relative to other markets and there can be benefit, it's not a substitute for infrastructure competition, but certainly it can provide retail innovation and that is a from of competition which benefits consumers.

1945 I think there is a problem of incentives, it's not a problem of capacity and the supply is beyond MVNO, is towards the APN. We've heard quite a lot of complaints from wholesalers and internet service providers who wish to offer corporate services through APN and others where they do compete directly with the mobile
1950 operators, but fail to get competitive terms for that.

So whilst the WOAN is the medium-term solution and in recognising that, the Commission had indicated that hard regulation in the area of MVNO is probably undesirable, at least in the medium term because that takes away the customer base of the WOAN – WOAN
1955 is not going to be a constraint in the short run; and neither is the

ITA around Spectrum and the requirement to put in three MVNOs of their selection.

1960 So we still think that as a short-run intervention, again a light touch retail minus may be desirable, (you know) this may already exist in many cases with some of the smaller operators and therefore it is not intrusive on them, but those for[?] the reference offers and requirements should be in the market.

1965 So maybe just to conclude quickly, certainly the Commission believes that there's overwhelming evidence that there's ineffective competition in the market and that there's this uniquely skewed market that we have with two operators with 80% that has persisted and perpetuated over time.

1970 And as I indicated earlier, really in each technology upgrade there's an opportunity to entrench that through the investment and leadership. We don't think the ITA and the WOAN will fix this problem. There is a deep seated ineffective competition in the market. What is needed is robust regulation. We don't think a 'wait and see' perspective is useful at this point in time because the next 15, 20 years the competition is going to be shaped over the next 5 years as we transition to 5G. So whether the other networks can follow these two and establish a key market share in the 5G world, will hinge on whether there's effective wholesale regulation or not.

1980 We also think that the solutions need to be national operated based, not municipal. I've already mentioned, I think the municipal one is probably impractical and it will be subject to continual legal disputes, but more importantly that's not the level at which these prices and access is shaped. Even at site access it's more big operator deals that play out in the market than individual site and those individual sites are more a function of the bigger deals. So 1985 the bargaining power comes from the not localised dominance but

1990 more collective coverage and the sheer number of site that are present. We do think regulation must include pricing oversight, even if you use different benchmarks - harder-based, cost-based for[?] essential facilities or retail [indistinct] for things like roaming; and we do think finally that obviously wholesale regulation route[?] requires the complimentary full accounting separation in order to monitor wholesale those prices and assess what is fair and reasonable in that context.

1995 Councillors, thank you very much. I am finished with our presentation and we're ready to take questions.

CHAIRPERSON: [?] Thank you very much, ...[indistinct - *electronic interference*]. .. Thank you very much to the Competition Commission for your presentation. I will open the floor to our panel members to proceed with the questions.

MR HAWTHORNE: Thank you, Chair. I have some questions about the retail pricing analysis that the Commission's conducted and I understood from the presentation that you did a couple things you looked at in this prices and you found that MTN and Vodacom essentially didn't respond. I think it was MTN and Vodacom's prices were of the order of R150 per Gig for[?] .. for like in this kind of a tariff and I think Telkom or Cell-C or both had dropped their prices and Cell-C and .. and MTN and Vodacom didn't respond.

2010 And so, but the – I don't know if you watched the whole of MTN's presentation? They say that their retail prices have fallen by 90% over a period of time for a Gigabyte and they say that they have these .. and Vodacom have these dynamic tariff offers, that they charge very radically different prices per Gigabyte depending on whether it's .. depending on time of day or location and all of this
2015 kind of thing.

And so I just wanted to understand a little bit better about the Commission's analysis of pricing and the extent to which you took into account these dynamic prices in your analysis?

2020 MR HODGE: [?] Thanks, Ryan. You want me to answer that question or do you want to give me your questions? I'm happy with either.

2025 MR HAWTHORNE: Oh okay, sure. And just a related question to that is (you know), so I think in several instances you recommend a kind of a retail minus type remedy, whether it's for I think roaming or MVNO .. MVNO wholesale charges and I was just wondering in this context of these dynamic prices where there's all this free stuff that gets handed out all the time, including in terms of ICASA's requirements, how do we get at a sensible retail price to start with? How do we regulate what looks like quite a dynamic and quite a
2030 fragmented kind of pricing space?

MR HODGE: Alright, let me .. if it's okay let me do these two, I don't know if you have more?

MR HAWTHORNE: We do have some more, but maybe if we could just start with this dynamic pricing ...[indistinct - *interven*es]

2035 MR HODGE: Alright.

MR HAWTHORNE: Can you ...[indistinct - *interven*es]

2040 MR HODGE: So we arrived[?] – we looked at list prices and we also looked at the structure of pricing in terms of share across different types of packages – daily, weekly and monthly. But maybe to cut one aspect short is we did look at total date of revenue over total date of volume which includes free data as well, in order to get your average price or effective price per Gigabyte or Megabyte, whatever benchmark you may want to use. And that we can tract over time and also relative across different operators, but

2045 that also becomes a benchmark for looking at the retail minus,
because that is your average in effect washout price to the market
that, if you were looking at a retail minus situation, you wouldn't
have to worry about different packages, this is the average on offer.

2050 So when we did the analysis for instance of roaming agreements or
MVNOs and how those prices compare to own pricing which .. of
the roaming seeker, and also the prices of the roaming provider, we
looked at that average effective price per Gigabyte. So in those
instances it is easy to remove the complexity from a regulatory
2055 perspective, but also to determine (you know) what is the
differential in pricing even if we include all of this noise in the
different types of pricing.

2060 So that analysis as I alluded to earlier, shows that Vodacom and
MTN can price higher than the other two and it's also the basis for
which we say that the roaming agreements (you know) are not at a
wholesale level once you've included all this discounting and
dynamic pricing.

2065 (I mean) in terms of just trends (you know) one would expect data to
come down over time. So the fact that it's come down does not say
anything about the level of competition in the market. I think more
informative of that is, as I indicated, whether there's a real response
and constraint imposed by the other networks in the market and the
level of profitability of these operators and both of those point quite
conclusively to the fact that even if data has come down, it has
scope to come down much more. And as I indicated (you know) in
2070 implement the settlement agreement, that was in fact what
happened without putting those operators into any difficulty.

MS GOGA: [?] Thank you, James. My question is a bit of a
broader one, but (I mean) the TOR of the Competition Commission
was quite price focused whereas ICASA's mandate also include for
2075 the more general issues, particularly forward looking compared to

2080 that. So when you apparently had[?] a situation where you have
two infrastructure focussed companies that are competing and often
competing on technicality .. on sort of technical provision and policy,
do you not think that there's a possibility that some of these
wholesale recommendations that you're suggesting which is price
2085 accessed and technologies like 5G, may actually dampen some of
the infrastructure for the[?] competition to benefit the service of
competition and sort of when you're looking at balancing
infrastructure and service based competition, that this not also has
...[indistinct – voice fades]?

MR HODGE: Ja, look although (you know) the beginning
of our terms of reference was high level around prices. Obviously
the inquiry dug deeper than just whether prices were high and
whether there's a retail remedy to that. So although we did,
2090 because we have powers around excessive pricing, impose a retail
level effect and also looked at the structure of pricing, which I won't
delve into in more detail here.

A large part of that report has focussed on precisely the competitive
dynamics and the infrastructure. And those recommendations and
2095 assessments (you know) take place within the full context of exactly
that element you raise, whether (you know) what is the balance
between investment incentives and ensuring infrastructure based
competition or not.

2100 But the things is you point out, infrastructure competition is critically
important and the leadership of these two and the inability of the
others to build that infrastructure is a factor what has led to the
imbalance in the market. So some interventions are required to
essentially bring back a level of create a level of infrastructure
2105 competition going beyond Vodacom and MTN and that does require
some interventions because as I've pointed out, almost this vicious
cycle or catch-22 situation plays out with smaller networks; that to

2110 build that and make that investment and to do so profitability with either debt or retained earnings, requires that in the interim where they're dependent on the bigger operators that in fact they get competitive rates.

2115 (I mean) what is also interesting is in fact the uncompetitive rates for that infrastructure, in fact just empowers the dominant to even more because they now have people paying high rates for roaming on[?] their cost and side actors, which means this becomes a big profit centre as well, which helps them invest more in infrastructure, so that initial leadership matters. (I mean) (you know) I think there is always the card played by the large operators around the investment threat and that is typical, but there's nothing to suggest certainly that from their current actions, even if you look at 2120 agreements with RAIN or Liquid, that this affects in any extent their incentive to invest in infrastructure, even while offering some better access because they need to get access to some of that capacity.

2125 Also intervention such as retail minus are far more soft touch (you know) if you look at roaming for instance, we cover in the inquiry report a range of pricing methodologies. But the hard base with the pure cost base, incremental cost much like roaming, which would maybe offer the least incentive. But retail minus really doesn't intrude much. These firms (you know) have a leadership, they have an existing site base and certainly to continue offering to their 2130 customers entertaining[?] .. they're gonna have to invest in the infrastructure. It just means they're not gonna profit to the same extent in order to fund their own capital expenditure.

2135 MS GOGA: Thank you. A second question I have just relates to the new roaming agreement, so I'm talking about the ones that are more focussed on [indistinct] capacity [indistinct] capacity. My question is just that whether [indistinct] these roaming agreements as being different in some ways to the coverage room

2140 [indistinct] a traditional [indistinct] taking place and whether they in
fact provide a very strong [indistinct] advantage to [indistinct]
networks in terms of provision of 5G by providing this capacity
earlier and sort of [indistinct] reinforcing ...[indistinct – voice very
soft]?

MR HODGE: Ja, it's a good question and I think you're
right to pick up on these new[?] roaming agreements. I think what
2145 is important which you allude to is that in fact the existing coverage
and site density, and I'm highlighting site density because it's not
just about being in remote areas, it's around site density in urban
areas – in fact places these two in a unique position to conclude
these deals, because if you're a RAIN or Liquid and your *quid pro*
2150 *quo* is that you get some access to sites and were to expand your
own network, well, then these are the real two operators that you
are gonna run to because they offer you that. You're not gonna get
that from Cell-C, certainly not now, and you're not gonna get that
kind of access from Telkom or anyone else. So in fact they are
2155 uniquely placed to conclude these deals and to get a jump on some
of that extra capacity (you know).

I think (you know) similarly what we see is, is as soon as they are
capacity constrained and you have a bit of a change in the
bargaining dynamic, better deals are possible in the market. So our
2160 own analysis looks at the different deals and ICASA will get a[?]
confidential version of the inquiry, but you will see within that we've
compared deals across operators and certainly it is clear where you
have more bargaining chips, then you're able to conclude better
deals and so what we're trying to address, even through the
2165 roaming type interventions is where there are no such bargaining
chips and you're at the mercy, that a minimum deal that is
reasonable and wholesale related, be put in place.

2170 But we, (you know) maybe to round off, it is a concern. I think why we're stressing the urgency is that the race to 5G will determine the market structure for the next 20 years and that's why ICASA has to act now.

MS GOGA: Thank you, that's all for me.

2175 MR HAWTHORNE: I just wanted to follow up on these MOCN and MORAN deals. It sounds as though you've dealt with them in a bit more detail in your confidential report, but can you give us a feeling for what impact do you think they have on competition, (I mean) we get sort of submissions that say well, (you know) these massively expand the capacity of MTN and Vodacom and now third .. (you know) smaller rivals simply cannot compete; on the other 2180 hand MTN and Vodacom of course these results in lower costs and so there's a question as to how we should consider these from a competition perspective and how we should deal with them in our final report?

2185 MR HODGE: Look, I think you touched on it that there are I suppose two elements to it, so on the one hand it does provide an advantage to Vodacom and MTN; it does provide them with access to capacity and different spectrum brands and they're uniquely placed to conclude those deals. And I think (you know) I think as we point out in our inquiry (you know) the balance of Spectrum and 2190 Spectrum holdings does affect the balance of competition and therefore just releasing Spectrum without any regard to that, does matter. So I think it does advantage.

2195 On the flipside it by [indistinct] almost circumstansive[?] of Spectrum not being released, has provided an entry point for Rain and Liquid that has been facilitated through these deals. I think the difficulty is that they are not .. that they are focused data only in urban primarily players who are not necessarily an immediate threat to the broader subscriber base and the prepaid subscriber base,

2200 more looking at sort of wireless to home[?] type operations and mobile phone.

2205 So I think it's more comfortable for Vodacom and MTN to conclude these deals because it's not gonna create the kind of full-blown competitor that we see in Telkom or a Cell-C, and that's why those deals may be superior to those that can be negotiated by the others. So it has this two sides that (you know) must be weighed up (you know) I think on this. I think, and that's why maybe (you know) we're not looking at an outright prohibition of these sort of deals because there is still a benefit of bring .. ironically bringing in some competitors.

2210 But now needs to be the time to expand the scope for those competitors to break out of that dependency relationship because those deals in effect are linked and their futures are linked; they need to be delinked but also those sort of benefits need to extend to the real competitors around prepaid at a national level.

2215 MR HAWTHORNE: Thanks. Okay, thanks. I think those are the main questions I wanted to ask.

MS KEDAMA: [?] Thank you very much to the Competition Commission. Then this concludes your session. Thank you very much, then.

2220 MR HODGE: Thank you, Councillor, and thank you to your team for calling us and the audience before your public inquiry.

CHAIRPERSON: Good morning once again. This has brought us to the end of our proceedings in terms of the hearings.

2225 Then with regards to the way forwards, as I have already highlighted when I was doing my opening statement, our plan is to complete this inquiry by no later than 31 March of next year. Then between now and then we will ..[quirk].. and inform - apologies about

2230 that. Information on additional steps, if any, will be provided in the
"Findings" document to be published hopefully by the end of the
year.

On that note I hereby declare the sessions are closed. I thank you
very much for you gracing us with your presence. Thank you very
much for taking time to come and also make representation within
the next .. within the past days. Thank you very much.

2235 PROCEEDINGS ADJOURN.

- - - o0o - - -