

20 October 2022

Department of Communications and Digital Technologies

The Director-General

Attention: Mr. T Ngobeni

Per email: spectrumpolicy@dcdt.go.za

SUBMISSION ON PROPOSED NEXT GENERATION RADIO FREQUENCY SPECTRUM POLICY

Introduction

1. ISPA refers to the draft Next Generation Radio Frequency Spectrum Policy for Economic Development (“the Draft Policy”) published for comment on 8 September 2022 and sets out its submissions below.
2. ISPA congratulates the Minister and the Department on what it regards as a comprehensive and appropriate policy statement. ISPA supports:
 - 2.1. The focus on expanding spectrum allocated for Wi-Fi on a license-exempt basis. New versions of Wi-Fi protocols are key to realising IoT and other 4IR applications by being more efficient at connecting more devices. ISPA understands the policy to be indicating that the extended 6GHz band should be considered by ICASA for allocation to the provision of wireless local access network (WLAN) and similar low-power services on a licence-exempt basis and is in full support of this being done.
 - 2.2. The requirement that a publicly accessible spectrum inventory and licensee database be established. This is a fundamental precondition for effective spectrum management and achieving the purpose and objectives set out in paragraphs 4 and 5 of the Draft Policy.
 - 2.3. The focus on empowering community networks. The policy should explicitly recognise that community networks meet many transformative and developmental objectives and that these should be accommodated in the licensing framework to be developed by the regulator.
 - 2.4. A review of the legislative and regulatory framework governing the management and use of radio frequency spectrum in South Africa.
 - 2.5. Policy underpinnings for dynamic spectrum access as a general spectrum management technique. ISPA submits that the Draft Policy should also – in the paragraph relating to fees – make specific provision for the regulator to consider approaches other than AIP where appropriate, including where spectrum is dynamically assigned to multiple users involving a series of micro-transactions.
3. ISPA has raised a few items below for consideration in finalising the Draft Policy, but these should not detract from the general statement of support set out above.

4. Term and renewal of RFS licences
 - 4.1. ISPA is concerned that the provisions relating to the term and renewal of RFS licenses do not bring sufficient clarity to the extremely complex issue of terminating or renegotiating licenses for high-demand spectrum where there is a substantial sunk cost in network investment.
 - 4.2. ISPA anticipates that this will be a contested issue in future and requests that the drafters consider a clear set of guidance to the regulator.
5. Terminology: “Wi-Fi”
 - 5.1. The term “Wi-Fi” refers to a family of wireless network protocols which are widely used for local area networking of devices – usually through a wireless router connected to the Internet in a home or business setting or through a “hotspot” in a coffee shop, airport or similar.
 - 5.2. Wi-Fi devices typically have a range of no more than 300 meters and are used as a “last-inch” connection.
 - 5.3. Wi-Fi devices operate on an unprotected basis in the same bands as other radio applications are provided. In future the 6GHz bands will allow Wi-Fi devices – subject to power restrictions and other interference mitigation techniques being observed – to co-exist with other, licensed uses of that spectrum, such as microwave backhaul links.
 - 5.4. Paragraph 21.1 of the Draft Policy requires that the regulator must consider and review more “protection of spectrum use for Wi-Fi services, including possible permits or licences”.
 - 5.5. ISPA submits that finalised policy should be clear that no permit or licences will be required for wireless local area networks including Wi-Fi hotspots, and to be clear about the circumstances under which a permit or license may be required.
 - 5.6. ISPA notes further with regard to paragraph 21.1 that Wi-Fi offload generally refers to offloading mobile data traffic onto fixed broadband networks and not “from” fixed broadband networks.
6. Terminology: “unlicensed” vs “license exempt” use of spectrum
 - 6.1. In ISPA’s understanding:
 - 6.1.1. “Unlicensed” use of spectrum refers to use of licensed spectrum without authorisation.
 - 6.1.2. “License exempt” use of spectrum is the use of radio equipment in designated bands without prior authorisation but in compliance with technical restrictions and conditions as set out in ICASA’s Radio Regulations.
 - 6.2. ISPA requests that the drafters consider whether use of the phrase “unlicensed or license exempt” is accurate where it occurs in the Draft Policy. ISPA submits that the correct term to use in the context of the Draft Policy is “license exempt”.
7. Terminology: “commercial” vs “non-commercial” use of spectrum
 - 7.1. ISPA requests that the drafters consider providing a definition for or examples of non-commercial use of spectrum as contemplated in paragraph 14(e). ISPA is concerned that a broad definition may have an anti-competitive effect.

8. ISPA trusts that the above will be of assistance to the drafters and looks forward to the finalization and implementation of the new policy.

Regards,

A handwritten signature in blue ink, consisting of a large, stylized initial 'O' followed by a series of connected loops and a horizontal line ending in a small flourish.

pp ISPA Chairperson