

16 February 2026

Independent Communications Authority of South Africa

Attention: Project Manager, Mr Peter Mailula

Per email: iecns-inquiry@icasa.org.za and pmailula@icasa.org.za

Dear Peter

NOTICE OF INTENTION TO CONDUCT AN INQUIRY INTO NEW INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCES

1. ISPA has noted the publication of the Authority's notice of intention to conduct an inquiry into new individual network services licences ("the inquiry") and sets out below:

- 1.1. Introductory remarks, and
- 1.2. Questionnaire responses.

Introductory remarks

2. ISPA understands that the Authority is acting to implement a Ministerial policy direction which dictates the scope and nature of this inquiry.
3. ISPA is nevertheless of the view that the inquiry does not have the correct departure point or focus.
4. The appropriate point of departure is whether there is any good reason to **retain a restriction** on the availability of IECNS licences which was expressly included in the ECA in 2006 **to limit infrastructure-based competition**.
5. This restriction became irrelevant after completion of the licence conversion process. The issuing of more than 500 individual licence pairs removed legal barriers to the holders of these licences deploying and operating national communications networks, while the introduction of class licences allowed hundreds of smaller entities to deploy and operate regional networks.
6. The result – particularly in the fixed infrastructure market where barriers created by lack of access to high-demand spectrum did not apply – was an explosion of competition in providing wholesale and access fibre networks by providers such as Vumatel, Dark Fibre Africa, Frogfoot, Octotel and many other new fibre network operators. This competition continues to drive innovation and expansion of these networks into lower LSM areas with pricing points as low as R5 per day for uncapped internet access.
7. **Is the restriction doing any harm? Yes, on at least three levels:**
 - 7.1. Not using the provisions of the ECA relating to applications for new licences and instead relying on provisions relating to transfers of ownership and control created a false scarcity and a secondary market for individual licences. This is the root cause of excessive prices being paid for licences.

7.2. Competition is being harmed, particularly in the market for fixed voice services where an IECS licence is required to access numbering resources. This is a result of the cost of acquiring the licences and the 8-12 month delay in commencing operations.

7.3. The Authority itself has indicated in Parliament that it is in favour of allowing for direct applications for individual licences and is on record as regarding the use of the transfer processes as an “unwarranted administrative burden”.

8. Would lifting the restriction address these harms? Yes:

8.1. Inflated pricing in the secondary market will be immediately addressed by allowing direct applications for individual licences.

8.2. Opening up direct access to IECS licences at an affordable application fee and with commercially reasonable processing times will assist to address competitive failures in the fixed voice market.

8.3. Reducing unwarranted administrative burdens will help to alleviate the financial constraints under which the Authority operates.

9. ISPA is also cognisant of the Authority’s clarification that it has been requesting the issuance of the required policy direction since 2016.

10. Given the above and its history of sending correspondence to the Minister and the Authority calling for direct applications to be allowed, ISPA’s position is to support this process insofar as it results in the Minister issuing a final policy direction as soon as possible.

11. The Authority is requested to make budgetary and other provisions for the development of the necessary processes and procedures to enable direct applications in the 2026/2027 financial year.

12. ISPA acknowledges that the Authority has met the deadline imposed by the Minister to commence this inquiry and looks forward to its rapid conclusion.

Regards

ISPA

(intended as an electronic signature)

ANNEXURE: QUESTIONNAIRE RESPONSES

Organisation	Internet Service Providers' Association (ISPA)
Name and surname	Dominic Cull
Position	Regulatory Advisor
Contact details (telephone number and e-mail address)	084 581 0200 / regulatory@ispa.org.za

A number of the questions raised reference only IECNS licences: ISPA has responded to these on the assumption that the reference should be to both IECNS and IECS licences. This takes into account ISPA's understanding that the Authority will – pursuant to this process if indicated – make both IECNS and IECS licences available through direct application.

SECTION 1: TRANSFER OF INDIVIDUAL I-ECNS AND I-ECS LICENCES FRAMEWORK

Question 1.1: *What are your views on the current licensing framework in relation to the sale and transfer of I-ECNS and I-ECS licences (section 13 of the ECA)? In particular, does the current licensing framework hinder or promote competition? In providing your response, please provide reasons supported by evidence or case studies, where applicable.*

In the absence of processes for direct applications, section 13 of the ECA has been the exclusive means for new entrants to obtain licences for:

- Operating electronic communications networks of national or provincial scope and/or
- Providing electronic communications services requiring the use of numbers allocated from the National Numbering Plan.

ISPA has previously written to the Authority noting member complaints about the length taken by the Authority to process applications for transfer of ownership or transfer of control. In essence, this is completely at odds with commercial reality.

Further, ISPA members have indicated that the transfer process is overly bureaucratic and subjects smaller licensees to the same requirements as incumbent operators. The Authority treats every transfer application as if it has a significant socio-economic impact, but this is not the case.

This is also true of the transfer fee charged by the Authority: a small entity acquiring an IECS licence to provide national voice services pays the same fee as, for example, Vodacom when applying for a transfer of control over the Neotel licences. The cost to the Authority of processing these applications is not the same.

ISPA's members – like the Authority – regard the process as unwarranted and as being an administrative burden.

Question 1.2: *The Authority has noted with concern the reports of high purchase prices charged by I-ECNS and I-ECS licensees in the market for such licences, which may create barriers to entry and expansion - particularly for small and new entrants in the market. In your view, should the Authority intervene in the current sale and transfer market to facilitate the purchase of existing licences? If yes, to what extent should the Authority intervene? Please motivate your response by providing reasons and any supporting evidence or data.*

ISPA does not understand why the Authority would even consider such an intervention and is unable to identify any empowering provisions in the ECA or ICASA Act for the Authority to do as proposed. Further, any intervention of this nature would require a regulatory process which is likely to be complex and time-consuming (as well as being regulatory over-reach).

As noted above, high purchase prices are a direct result of the false scarcity created by individual licences not being directly available on application.

It would be far simpler just to allow for direct applications and **to allow the application fee charged by the Authority to act as a benchmark for the value of IECNS and IECS licences.**

Currently the cost of acquiring an IECNS and/or IECS licence for a new entrant is made up of:

- The price negotiated on a willing-buyer-willing-seller basis, and
- The Authority's fee for processing the transfer application (currently ZAR82 111).

When the Authority sets a fee for a new individual licence application this will become the effective value of individual licences. The portion of the cost made up of the negotiated price falls away.

The transfer processes will still remain available for new entrants that are acquiring licences as part of acquiring a business as a going concern or where equity transactions result in a change of control over a licence.

Question 1.3: *What other considerations or interventions would be useful for the Authority to consider regarding the effectiveness and efficiency of the current sale and transfer licensing framework so as to promote competition?*

ISPA has nothing to add to the responses above.

SECTION 2: THE DEMAND FOR NEW INDIVIDUAL ECNS [AND IECS] LICENCES

Question 2.1: *In your view, are there sufficient market opportunities to justify issuing new IECNS and I-ECS licences? Please motivate your response.*

The average of ten applications for transfer of ownership of or control over individual licences received by the Authority per year attests to the sustained demand from new entrants that identify market opportunities.

The existence of market opportunities is also evidenced by the high number of class ECNS and ECS licence registrations which the Authority continues to process.

Allowing new individual licences to be issued will reduce the cost of entry for those that require them, and this will be particularly helpful for those wanting to enter the fixed voice market.

Question 2.2: Have you, or are you aware of any licensee or interested party who has, considered, or is considering launching or expanding network infrastructure or providing services in South Africa? What technologies, network architecture and/or spectrum frequencies do you think would be appropriate for any new I-ECNS licensees? Please provide examples or evidence where possible.

ISPA – as an association of service level competitors – notes that most of the demand it is aware of flows from new entrants to voice markets requiring access to numbering from the national numbering plan. This requires an IECS licence.

Question 2.3: If you are an existing licensee, did you acquire your I-ECNS and or I-ECS licences through the sale and transfer market (i.e. bought from another licensee) or did you obtain them directly from the Authority (not through transfer or change of ownership)? If acquired from the secondary market, please provide details on your experience.

No response.

Question 2.4: If you have/had I-ECNS and/or I-ECS licences, have you been approached or have you received unsolicited or solicited interest from an interested buyer to acquire your licence? Please elaborate and provide as much information as possible, if applicable.

ISPA's members indicate that such approaches are made and that communications are sent to multiple licensees at a time enquiring whether they wish to sell their individual licence(s).

Question 2.5: If you have I-ECNS and/or I-ECS licences and are not intending to sell your licence(s) in the next 3 - 5 years, please describe the infrastructure used (mobile, fixed, satellite or combination). Provide a list of services that you currently provide and whether those are provided to private consumers and/or businesses/organisations (or both where appropriate)?

No response.

Question 2.6: Are there any additional points that you think would be useful for the Authority to consider regarding the demand for I-ECNS and I-ECS licences?

Other than to emphasise that the current cost of and time taken to acquire these licences acts to dampen demand, ISPA has no additional points.

SECTION 3: WHETHER NEW I-ECNS [AND IECS] LICENCES WILL PROMOTE COMPETITION IN THE MARKET FOR IECS

Question 3.1: In your view, do you believe that new I-ECNS [and IECS] licences will promote or improve competition in the market? Please substantiate your answer.

Yes. It is certain that the removal of restrictions on the availability of IECNS and IECS licences will not harm or impair competition in the market.

Issuing licences by itself will not promote or improve competition: this is discussed below.

Question 3.2: If you answered yes to Question 3.1 above, are there any competition issues or concerns that may hinder the effectiveness of such new I-ECNS [and IECS] licences in promoting or improve competition? Please provide evidence or examples.

ISPA's focus is on the issuing of new IECS licences, required for new entrants into the fixed and mobile voice markets.

It is important to recognise that small businesses participate effectively in the fixed voice market: **small operators also require access to IECS licences.**

The following competitive constraints apply to the newly licensed entity:

- **Call termination regulation:** ISPA has consistently participated in in processes over the years relating to regulating the fixed and mobile call termination markets as a pro-competitive measure under Chapter 10 of the ECA.
- The net result of 15 years of regulatory intervention is to make it more difficult for VOIP providers to compete. The exercise has become about reducing termination rates rather than promoting competition. ISPA members have indicated that the next scheduled reduction to R0.01 for fixed call termination will put this industry under severe pressure while practises such as floor volume commitments and upfront guarantee requirements persist.
- The scope of what is being regulated under the call termination regulations has shrunk. Firstly, through the Authority's decision to exclude termination of internationally originated calls from the scope of regulation. The Authority's commitment to remedying the unintended consequences of this decision remains unfulfilled.
- Secondly, incumbent operators have themselves narrowed the scope of what is regarded as interconnection excluding, for example, voice transit services. What were interconnection services have been shifted to wholesale voice and messaging products which are not subject to the Authority's regulations.
- **Access to numbering resources:** new entrants wanting to offer mobile voice call and termination through MVNO or roaming arrangements are unable to access mobile numbers due to amendments to ICASA's Numbering Plan Regulations which are at odds with the relevant ITU recommendations. ISPA has addressed correspondence to the Authority on how this is preventing the expansion of competition in the MVNO market.

Question 3.3: What regulatory measures, if any, should the Authority consider to remedy the competition concerns you have identified in Question 3.2 above, or to ensure that any new IECNS licences compete effectively with the incumbents? Provide examples of the kinds of remedies you would expect to see.

ISPA members provided the following input:

- Reduce the number of reports that have to be submitted for compliance.
- Reconsider the call termination rate glide path.
- Create a process allowing review of incumbent operator reference interconnect offers.
- Intervene effectively in mobile broadband markets.

SECTION 4: POTENTIAL CONTRIBUTION OF NEW I-ECNS [AND IECS] LICENCES TO UNIVERSAL ACCESS AND SERVICE

Question 4.1: In your view, will new I-ECNS and I-ECS licences contribute to universal access and service within the current electronic communications network and services market? Please explain the mechanisms through which such contribution may occur. Provide any supporting data, case studies, or examples.

It is certain that the removal of restrictions on the availability of IECNS and IECS licences will not harm or impair reaching South Africa's universal service and access objectives.

ISPA notes from published minutes of Council meetings that the Authority is undertaking a review of the USAO framework and supports this. The imminent arrival of LEO services in South Africa and the likelihood of some LEO providers applying for IECNS and IECS licences lends urgency to developing a coherent USAO framework aligned with broader connectivity goals.

Question 4.2: In your view, how should the Authority incorporate universal access and service obligations into the terms and conditions of new I-ECNS and I-ECS licences to ensure equitable access to communications services across South Africa?

A comprehensive process is required to answer this question and to transition away from the current *ad hoc* approach.

SECTION 5: BENEFITS OF NEW I-ECNS LICENCES VERSUS COSTS, INCLUDING THE COST TO THE AUTHORITY OF MONITORING AND ENFORCING COMPLIANCE WITH ANY SUCH LICENCES, AND THE BURDEN ON THE ENVIRONMENT

Question 5.1: Are there any potential negative consequences associated with the rollout of infrastructure by the new I-ECNS licensees that the Authority should consider?

ISPA is not aware of any potential negative consequences.

In ISPA's view the role of a communications regulator should be to accommodate demand from the market for service licensing. If new entrants are willing to acquire service licences and comply with the resulting

obligations and terms and conditions, there is no scarcity or other consideration which justifies limiting the availability of such licences.

To the extent that the cost to the Authority of monitoring and enforcing compliance by new licensees is a valid consideration within the scope of this inquiry, ISPA makes the following observations:

- The cost to the Authority of monitoring and enforcing compliance by existing licensees is unnecessarily inflated. This is a consequence of adopting a one-size-fits-all approach to licensee compliance. Tens of thousands of compliance reports containing little to no useful information and not used by the Authority are filed every year.
- ISPA has for years addressed pleas to the Authority to review and simplify the compliance framework for smaller licensees. This would benefit both the Authority and licensees.
- Recent Council minutes indicate that it is the Authority's view that this review is matter of adjusting some forms. This is, with respect, short sighted.
- Compliance and reporting is key to sector data collection which informs policy and regulation and also allows accurate calculation of the contribution of the regulated sector to the digital economy and the overall communications sector. Recognising and adjusting the weighting of this sector in the national system of accounts is key to more resources being made available to the Authority.

Question 5.2 What new or additional benefits, if any, could new I-ECNS [and IECS] licences provide compared to existing licensees? Please provide examples or evidence of potential improvements such as service coverage, infrastructure rollout, technological innovation, competition, or other market and social benefits.

As indicated above, ISPA's view is that availability of IECS licenses will ease entry into the fixed voice market.

LEO satellite service providers are another example of the potential additional benefits of making IECNS and IECS licences directly available.

SECTION 6: ANY OTHER COMMENTS

Question 6.1: Do you have any additional comments regarding this Inquiry process that you would like the Authority to consider?

ISPA does not have any additional comments.
