

05 June 2026

Competition Commission

Per email: regulation@compcom.co.za

REVIEW OF REGULATORY BARRIERS TO COMPETITION AND SME PARTICIPATION

1. The Internet Service Providers' Association of South Africa (ISPA) sets out below its response to the review of regulatory barriers to competition and SME participation.
2. ISPA is a non-profit company representing the interests of internet access providers and related industries (collectively "ISPs") in South Africa and is recognised by the Minister of Communications and Digital Technologies as an Industry Representative Body (IRB) under the Electronic Communications and Transactions Act 2002.
3. The focus of ISPA's response is an assessment of the value and impact of the compliance obligations imposed on electronic communications network services (ECNS) and electronic communications service (ECS) licensees by the Independent Communications Authority of South Africa (ICASA) through its regulatory framework.
4. ISPA's central submission is that: the regulatory compliance framework imposed on all ECNS and ECS licensees through ICASA regulations acts as a barrier to entry, particularly for SMMEs.
5. ISPA has consistently raised its objections to ICASA:
 - 5.1. When participating in relevant regulation-making processes conducted by ICASA
 - 5.2. Through regular correspondence addressed to ICASA's Council since 2023
 - 5.3. During the course of industry engagements with SMME licensees and with broader industry initiated by ICASA.
6. Copies of correspondence addressed to ICASA are provided as Annexure A. This sets out detail in support of ISPA's central submission, and the Commission is asked to have regard thereto as a core element of this submission.

7. ISPA has not received a substantive response to its correspondence to the Authority. This lack of engagement in part informs ISPA's participation in this process.
8. Without restating this correspondence, ISPA wishes to highlight the following:
 - 8.1. An average SME holder of a class ECS and/or class ECNS licence is currently required to submit:
 - 8.1.1.5 reports on an annual basis
 - 8.1.2. 5 reports on a bi-annual basis
 - 8.1.3. 4 reports on a quarterly basis
 - 8.1.4. At least 3 ad hoc reporting requests annually
 - 8.1.5. Ad hoc notifications, e.g. in respect of tariffs
 - 8.1.6. B-BEE status verification.
 - 8.2. The compliance framework fails to meaningfully distinguish between the obligations imposed on small and large licensees. One-size-fits-all regulation in a sector as diverse as that for licensed services under the Electronic Communications Act simply does not make sense.
 - 8.3. Regulatory compliance obligations imposed on licensees are unduly complicated, costly, and difficult to comply with.
 - 8.4. The underlying obligations giving rise to compliance obligations have mostly not been reviewed for more than a decade.
 - 8.5. Regulatory compliance obligations contribute to increasing the cost to communicate without providing any discernible consumer protection or other benefit.
 - 8.6. Notwithstanding which ICASA has publicly stated that it only has regard to reports submitted by a limited number of licensees.
 - 8.7. ICASA itself can free up capacity and save costs by rationalising the compliance and reporting frameworks.
9. While ISPA has consistently requested that ICASA undertake a review of its compliance obligation framework, indications are that ICASA is only considering reviewing the forms used for compliance reporting and the not the underlying substantial obligations.
10. Publicly available minutes of the ICASA Council Meeting of 16 September 2025¹ reflect the following.

¹ Available from <https://www.icasa.org.za/pages/council-minutes>

Council was of the view that for minor administrative amendments, such as changes to forms, would not necessarily warrant Council regulatory oversight and therefore did not necessitate that a Council committee be established.

11. "Minor administrative amendments" are not what is required and ISPA regards this response as failing to address the central issue.

Conclusion

12. ISPA appreciates the Commission undertaking this process and is available to offer any further assistance should it's concerns be taken up by the Commission.
13. ISPA confirms that there is no confidential information in this submission.

Regards

pp. 

ISPA Chair

27 June 2024

Independent Communications Authority of South Africa

Office of the Chairperson, ICASA

Per email: chairperson@icasa.org.za

Dear Chairperson,

REVIEW OF THE REGULATORY COMPLIANCE BURDEN FOR SMME LICENSEES

1. On behalf of its members, ISPA extends its congratulations to you on your appointment. ISPA has already noted a new spirit of engagement under your leadership and looks forward to working with the Authority over what is undoubtedly a critical time for ensuring that all South Africans have access to affordable, high-quality connectivity services.
2. A vital component of achieving this goal is creating an environment conducive for the entry and sustainability of SMME network operators and ISPs.
3. One-size-fits-all regulation that applies to MNOs with multi-billion Rand licensed revenue and SMME ISPs turning over less than R10 million Rand a year is in direct conflict with national policy imperatives relating to SMME empowerment and universal service.
4. ISPA has previously made written¹ and oral submissions to the Authority requesting a review of the regulatory framework applicable to licensees, with reference to distinguishing between the compliance obligations of “large” and “small” licensees.
5. ISPA also participated in the SMMEs in ICT Dialogue hosted by the Authority on 3 October 2023.
6. However, despite these engagements, ISPA is unaware of whether the Authority is considering taking any steps to alleviate the challenges raised by SMME providers during the Dialogue or through correspondence.
7. ISPA’s position is that:
 - 7.1. Regulatory compliance obligations imposed on licensees are unduly complicated, costly, and difficult to comply with.
 - 7.2. Regulatory compliance has become a barrier to entry into the industry for SMEs as well as an obstacle to continued operation in the sector.
 - 7.3. Regulatory compliance obligations contribute to increasing the cost to communicate without providing any discernible consumer protection or other benefit.

¹ Copies attached for convenience.

8. ISPA looks forward to hearing from the Authority.

Regards

A handwritten signature in black ink, appearing to read 'SBRW', written over a horizontal line.

ISPA Chairperson

ANNEXURE – COPIES OF PRIOR CORRESPONDENCE

13 February 2024

Independent Communications Authority of South Africa

Office of the Chairperson, ICASA

Per email: chairperson@icasa.org.za

Dear Acting Chairperson,

REVIEW OF THE REGULATORY COMPLIANCE BURDEN FOR SMME LICENSEES

1. ISPA refers to its correspondence to the Authority dated 22 August 2023 and 23 November 2023 requesting a review of the regulatory framework applicable to licensees, with reference to distinguishing between the compliance obligations of “large” and “small” licensees.
2. ISPA also refers to the SMMEs in ICT Dialogue hosted by the Authority on 3 October 2023.
3. This issue remains relevant and pressing for ISPA members and we are aware that the compliance burden is an issue for SMMEs across the industry.
4. ISPA is accordingly keen to progress this matter, noting that the pending introduction of the Electronic Communications Amendment Bill 2023 into Parliament represents an opportunity to make any legislative adjustments that may be required to provide explicit authorisation for ICASA to intervene and reduce the licensing compliance burden for SMMEs.

Regards

ISPA Chairperson

23 November 2023

Independent Communications Authority of South Africa

Office of the Chairperson, ICASA

Per email: chairperson@icasa.org.za

Dear Acting Chairperson,

REVIEW OF THE REGULATORY COMPLIANCE BURDEN FOR SMME LICENSEES

1. ISPA refers to its correspondence to the Authority dated 22 August 2023 requesting a review of the regulatory framework applicable to licensees, with reference to distinguishing between the compliance obligations of “large” and “small” licensees.
2. ISPA also refers to the SMMEs in ICT Dialogue hosted by the Authority on 3 October 2023.
3. During the course of the Dialogue ISPA specifically raised that:
 - 3.1. The regulatory compliance burden for SMME licensees acts as a barrier to entry for SMMEs wanting to become ISPs.
 - 3.2. The inability to obtain individual electronic communications service (IECS) licences is stifling growth in the ISP sector (ISPA has previously written to the Authority on how this can be easily remedied).
4. ISPA reiterates its position that a review of the utility and appropriateness of the regulatory framework developed under the Electronic Communications Act since 2006 is long overdue.
5. ISPA requests that the Authority:
 - 5.1. Acknowledge receipt of this correspondence.
 - 5.2. Confirm that such a review will be undertaken alternatively provide reasons as to why it is not prepared to do so.

Regards

ISPA Chairperson

23 August 2023

Independent Communications Authority of South Africa

Office of the Chairperson, ICASA

Per email: chairperson@icasa.org.za

Dear Chairperson,

REVIEW OF THE REGULATORY COMPLIANCE BURDEN FOR SME LICENSEES

“This year, we are undertaking far-reaching measures to unleash the potential of small businesses, micro businesses and informal businesses. These are the businesses that create the most jobs and provide the most opportunities for poor people to earn a living.

....

There are too many regulations in this country that are unduly complicated, costly and difficult to comply with. This prevents companies from growing and creating jobs.”

President Ramaphosa, State of the Nation Address, 10 February 2022

1. ISPA has previously made written and oral submissions to the Authority requesting a review of the regulatory framework applicable to licensees, with reference to distinguishing between the compliance obligations of “large” and “small” licensees.
2. An average SME holder of a class electronic communications service and/or class electronic communications network service licence is currently required to submit:
 - 2.1. 5 reports on an annual basis
 - 2.2. 5 reports on a bi-annual basis
 - 2.3. 4 reports on a quarterly basis
 - 2.4. At least 3 ad hoc reporting requests annually
 - 2.5. Ad hoc notifications, e.g. in respect of tariffs
 - 2.6. B-BEE status verification.
3. ISPA’s position is that:

- 3.1. Regulatory compliance obligations imposed on licensees are unduly complicated, costly, and difficult to comply with.
- 3.2. Regulatory compliance has become a barrier to entry into the industry for SMEs as well as an obstacle to continued operation in the sector¹.
- 3.3. Regulatory compliance obligations contribute to increasing the cost to communicate without providing any discernible benefit.
4. ISPA is not aware of the Authority at any stage undertaking a regulatory impact assessment relating to the impact of the regulations which it imposes on licensees. Nor does the Authority consider the regulatory compliance burden when it develops regulatory instruments.
5. Importantly, there is also no evidence of consideration towards differentiating the compliance burden of licensees based on:
 - 5.1. the nature of the licence (i.e., individual or class); or
 - 5.2. the annual turnover from licensed services of the licensee; or
 - 5.3. a further appropriate metric.
6. As a result, there is a one-size-fits-all regulation that applies to MNOs with multi-billion Rand licensed revenue and SME ISPs turning over less than R10 million Rand a year.
7. This is despite the licensing framework contained in Chapter 3 of the Electronic Communications Act 2005 explicitly using socio-economic impact as a differentiator between class and individual licences.
8. ISPA questions the utility of uniformly applying regulation in this manner. Smaller licensees have a limited socio-economic impact, and it is information supplied by the incumbent operators and larger ISPs and other operators which is of value to the Authority.
 - 8.1. The Minutes of Council Decisions dated 29 March 2022 confirm that the ECS/ECNS Compliance Unit has an annual target to compile a report on sixty (60) licensees during a given financial year. At that time the market comprised 1 056 individual licensees and 2722 class licensees.
 - 8.2. It appears that most compliance submissions go unregarded, other than for the purposes of a compliance tick-box exercise.
 - 8.3. Additionally, many compliance submissions for SMEs are “zero-return” submissions because the underlying obligation is not relevant for many SMEs.
9. Noting that a reduction in wasted effort would also contribute to greater organisational efficiency across ICASA, ISPA requests that the Authority:

¹ ISPA notes that a staggering 381 licensees are listed in the Authority’s recently published “Notice to non-responsive ECS & ECNS licensees”. While there are errors in the list and multiple reasons for licensees falling into a state of non-compliance, it is also clear that licensees find the quantity and complexity of compliance obligations problematic.

- 9.1. Initiate a process to consider how the regulatory compliance burden for SME licensees can be reduced. This should include a cost/benefit analysis weighing the cost of compliance against the contribution of the obligation to discharging the Authority's mandate and could take the form of a regulatory impact assessment.
 - 9.2. Expressly consider distinguishing between licensees based on annual revenue from licensed services or other relevant metric when determining regulatory compliance obligations.
 - 9.3. Carefully consider any regulatory compliance obligation placed on licensees with specific reference to the relationship between the purpose of the obligation and the cost of compliance.
10. The ECA has been in force since July 2006: a review of the utility of the regulatory framework developed since then is long overdue.
11. ISPA looks forward to hearing from the Authority.

Regards

ISPA Chairperson