

28 April 2022

The Director-General, Department of Communications and Digital Technologies

For attention: Mr. T Ngobeni, Deputy Director-General: ICT Infrastructure Support

Per email: mrathokolo@dtps.gov.za

Dear Sir

DRAFT AMENDMENTS TO THE POLICY ON HIGH DEMAND SPECTRUM AND POLICY DIRECTION ON THE LICENSING OF A WIRELESS OPEN ACCESS NETWORK (WOAN)

1. The Internet Service Providers' Association of South Africa (ISPA) refers to the Draft Amendments to the Policy on High Demand Spectrum and Policy Direction on the Licensing of a Wireless Open Access Network (WOAN) and sets out a brief submission below.
2. Insofar as the draft amendments amount to the deletion of all references to the WOAN and the process required to licence it, ISPA supports the draft amendments.
3. ISPA has noted:
 - 3.1. The Statement on the Cabinet Meeting of 9 March 2022 and the affirmation that the licensing of high-demand spectrum remains critical to South Africa's economic recovery.
 - 3.2. The settlement reached between the parties to the High Court litigation initiated by Telkom against the Minister, ICASA and others and ICASA's commitment to initiating a further high-demand spectrum licensing process by the end of June 2022.
4. Within this context ISPA submits that – upon finalisation of the draft amendments – the spectrum currently set aside for the WOAN should be made available for assignment as part of the ICASA licensing process.
5. ISPA refers to the proposed paragraph 2.1.1:
 - 5.1. This paragraph makes the claim that “there are over four hundred players that hold electronic communications network service licenses but cannot access spectrum, due to its scarcity”.
 - 5.2. This is not an accurate claim as only a small percentage of these licensees have the need for licensed spectrum and the ability to use it efficiently to provide electronic communications network services. ECNS licensees operating as fibre network operators, for example, have no requirement for spectrum, while wireless internet service providers (WISPs) typically use a mix of licensed backhaul (i.e. not high-demand) spectrum and licence-exempt spectrum.

- 5.3. ISPA submits that the policy should simply state that access to high-demand spectrum is an established barrier to entry and competitive constraint.
6. ISPA refers to the proposed paragraph 2.1.2:
 - 6.1. This paragraph specifies the 700 MHz, 800 MHz and 2600 MHz bands as being available for assignment to electronic communications network service licensees.
 - 6.2. ISPA submits that policy should not inadvertently limit the bands in which the regulator may make spectrum available. It would therefore be preferable to delete this paragraph (which appears to be linked to the discussion of the WOAN licensing process).
7. ISPA has also noted the intention of the Minister to issue a “Next Generations Radio Frequency Spectrum Policy” for public consultation and requests that the above comments be taken into account in the drafting of this policy.
8. ISPA trusts that the above is of assistance and looks forward to the rapid conclusion of this process.

Regards

ISPA Chairperson

