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VAN
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No. 20866

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

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GENERAL NOTICE

NOTICE 385 OF 2000

SOUTH AFRICAN TELECOMMUNICATIONS REGULATORY AUTHORITY



NOTICE OF INTENTION TO MAKE VANS AND PTNS REGULATIONS IN TERMS OF SECTION 96(2) READ WITH SECTION 34(1) OF THE TELECOMMUNICATIONS ACT 103 OF 1996 ("THE ACT")

1. The South African Telecommunications Regulatory Authority ("the Authority") hereby gives notice that it intends making the VANS and PTNS regulations in terms of section 96(2) read with section 34(1) of the Act.
2. Interested persons are hereby invited to submit written representations with regard to the proposed regulations to be received by no later than **13h00 on Thursday, 4 May 2000** by post, hand delivery or facsimile transmission.
3. The written representations must be addressed to **Mr Andries Matthysen**, Acting HOD: Telecommunication Licensing, South African Telecommunications Regulatory Authority, Private Bag X1, Marlboro, 2063, or Block A, Pin Mill Farm, 164 Katherine Street, Sandton, Facsimile (011) 321-8536.
4. Persons making written representations must indicate if they wish to make oral representations (and the duration thereof which shall not exceed one (1) hour) at the public hearings to be held on **Friday, 9 June 2000** at Block B, Pin Mill Farm, 164 Katherine Street, Sandton, Gauteng.

MR HNL MAEPA, PrEng, PE, FSAAE
CHAIRPERSON - SATRA

VANS AND PTNS REGULATIONS

Definitions

1. In these regulations any expression shall have the meaning ascribed to it in the Telecommunications Act (Act 103 of 1996) (the Act"), and unless the context otherwise indicates -

"computer" means an electronic device for storing and processing data (usually in binary form), according to instructions given to it in a program.

"computer bureau" means a value added network service (VANS) licensee that provides data processing services to its customers by means of one or more computers that are interlinked by means of leased lines and accessed via a Public Switched Telecommunications Service (PSTS) licensee such as Telkom.

"data" means

- i) known facts or things used as a basis for inference or reckoning, and
- ii) quantities or characters operated on by a computer, data processor, etc.

"data bank" and **"data base"** means a store or source of data.

"data capture" means the action or process of entering data into a computer.

"data processing" means a series of operations on data, especially by a computer, to retrieve or classify raw data, or otherwise act on such data and change it into useful information.

"data processor" means a machine, especially a computer, that carries out data processing.

"data transmission" means the transfer of data, especially by means of encoded electrical signals via a telecommunication line, from one locality to another.

"Internet Service Provider (ISP)" means a value added network service (VANS) licensee that utilises the Internet Protocol and other related data transmission protocols to provide electronic information services to corporate and residential users by means of leased lines rented from a PSTS licensee.

"leased line" means a point-to-point telecommunication facility rented from a PSTS licensee for the purpose of enabling unmetered non-voice telecommunication between separately located premises of the same PSTS licensee's client or affiliated companies of the client.

"managed data network" (see computer bureau in this section)

"non-voice signals" means information (data) from any source other than real-time, interactive human speech, that has been converted into an electrical signal capable of being transmitted via the PSTS.

"non-real time interactive voice signals" means the electrical signals transmitted along a leased line to enable an exchange of verbal message on a store and retrieval basis as, for example, occurs in voice mail.

"non-interactive voice signals" means pre-recorded verbal information of common interest as, for example, sporting event results, weather and road conditions, etc.

"private telecommunication network service" (PTNS) means a usage method whereby two or more private automatic branch exchanges, situated at different locations but serving the same legal entity, interconnected by means of tie lines, either analogue or digital, are integrated into one virtual single PABX with a common numbering scheme for all extensions and transparent access to all facilities, for the purpose of providing a seamless, one stop service to all its users.

"tie line" means a point-to-point telecommunication facility rented from the PSTS licensee for the purpose of enabling unmetered real-time, interactive voice and non-voice telecommunication between separately located premises of the same PSTS licensee's client or affiliated companies of the client.

"value added network service" (VANS) means a usage method that increases the efficiency and effective value of a leased line by allowing customer originated non-voice signals, non-real-time interactive voice signals and non-interactive voice signals incidental to the business of the lessee, to also be transmitted over the leased line, in order to enable the customer to engage in interactive data exchange with the lessee's data bases and processing facilities, during which interaction such data is made available to the customer or processed or manipulated by the lessee on behalf of the customer, resulting in value being created for both lessee and customer.

"virtual private network" means a network of leased lines and tie lines rented by a VANS licensee who provides services to two or more PTNS licensees, or two or more other VANS licensees, or other clients of the VANS licensee, using leased lines and tie lines rented from a PSTS licensee.

"voice signal" means an electrical signal that has been derived from interactive, human speech in real-time and is capable of being transmitted via the PSTS licensee in the same real-time.

Licensing of Value Added Network Services

2. (1) The Authority shall determine if a leased line usage method falls within the scope of the VANS definition.
- (2) The lessee of a leased line used, or intended to be used for VANS provision, shall obtain a VANS licence from the Authority.

- (3) The Authority shall set VANS licence conditions.
- (4) Application for a VANS licence shall be made to the Authority in accordance with the procedure specified in section 34(1) regulations and further described in the document **"Guide for prospective VANS providers"**, compiled by and obtainable from the Authority.

Licensing of Private Telecommunication Network Services

3. (1) The Authority shall determine if the usage method of two or more PABXs, interlinked by means of tie lines, fall within the scope of the PTNS definition.
- (2) The user of a PABX used or intended to be used for PTNS provision shall obtain a PTNS licence from the Authority.
- (3) The Authority shall set PTNS licence conditions.
- (4) Application for a PTNS licence shall be made to the Authority in accordance with the procedure specified in section 34(1) regulations and further described in the document **"Guide for prospective PTNS providers"**, compiled by and obtainable from the Authority.

Validity of licence

4. (1) A licence referred to in regulations 2 and 3 shall be valid until 31 March subsequent to the date of issue and shall be renewed yearly by payment of the prescribed fees before or on 30 April.
- (2) The requirement for VANS and PTNS licences is contingent on the exclusivity bestowed on Telkom SA Ltd in clause 3.1 of its licence in respect of the provision of PSTS facilities and shall be reviewed when this exclusivity has lapsed.

Licence not transferable, suspension of service and revocation

5. (1) Except with the written approval of the Authority, no person or legal entity to whom a licence has been issued in terms of regulations 2 or 3 may transfer such licence, or the authority granted to him by such licence, to any other person or legal entity, or surrender it in any way in favour of another.
- (2) The Authority shall not renew a licence if the licensee concerned owes certain moneys to the Authority.
- (3) Should at any time it be found that a licensee has failed to comply with the conditions of the licence or for any other valid reason, the Authority

shall invoke the provisions of Section 100(3) of the Act in terms of which the following orders may be made by the Authority:

- a) instruct the licensee to comply with the conditions of the licence, or with due warning,
- b) instruct the PSTS licensee to suspend service to the licensee, or
- c) revoke the licence.

Provision of telecommunication facilities

6. (1) The VANS and PTNS licensees shall obtain leased lines and tie lines from PSTS licensees in accordance with the applicable standard PSTS licensee practices.
- (2) The PSTS licensee shall provide and maintain telecommunication facilities for VANS and PTNS licensees in accordance with the licence obligations of the PSTS licensee.
- (3) The PTNS licensee must provide all telecommunication facilities used in the provision of the service on the premises on which the leased line or tie line is terminated, and on adjacent premises under its control sharing a common border with the premises on which the leased line or tie line is terminated.
- (4) Written exemption from the requirements referred to in paragraph (2) may in certain instances be granted by the PSTS licensee.
- (5) All telecommunication line terminal equipment connected directly or indirectly to the PSTS, shall comply with the Authority's requirements, as prescribed in the latest issue of the applicable technical specification, compiled by and obtainable from the Authority

Prohibition

7. The holder of a VANS licence may not permit the service to be used for the carrying of real-time, inter-active voice telephony, until a date to be fixed by the Minister by notice in the Gazette, lifting this restriction.

Provision of information

- 8 (1) The licensee shall provide to the Authority any relevant information or reports as requested by the Authority for the purposes of exercising its powers, duties and functions under these Regulations and the Act.

- (2) The Authority shall ensure that any information or all or any part of any report referred to in clause 8 (1), such as commercially sensitive or proprietary information relating to the financial capacity or business plans of the licensee or trade secrets, shall not be open to public inspection or disclosed to any third party.

Offences by licensees

9. (1) Any alleged offence by a licensee shall be investigated and adjudicated by the Authority in accordance with the provisions of Section 100 of the Act.
- (2) Any apparent anti-competitive action by a licensee may be investigated and adjudicated by the Authority in accordance with the provisions of Section 53 of the Act.

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