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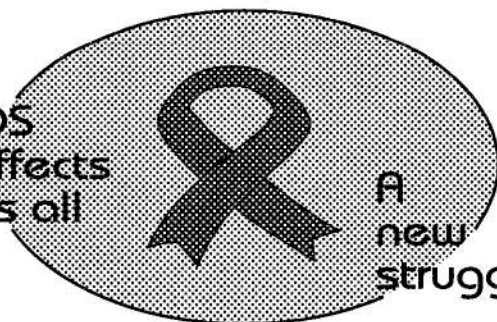
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MAART 2000

No. 20993

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPUNE**

0800 012 322

DEPARTMENT OF HEALTH

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GENERAL NOTICES

NOTICE 1259 OF 2000

DEPARTMENT OF COMMUNICATIONS

In terms of section 96(6) of the Telecommunications Act, 1996 (Act No. 103 of 1996), I, Dr. Ivy Matsepe-Casaburri, Minister of Communications, hereby approve and publish the following regulations made by the South African Telecommunications Authority in terms of section 43 of the Act regarding Interconnection Guidelines.

Dr. Ivy Matsepe-Casaburri

Minister of Communications

**INTERCONNECTION GUIDELINES ISSUED BY
THE AUTHORITY IN TERMS OF SECTION 43 OF
THE TELECOMMUNICATIONS ACT 1996**

1. DEFINITIONS

- 1.1 In these Guidelines the following words will have the meaning given to them unless the context otherwise requires:

Calling Line Identification (CLI) means the information generated by a telecommunication system which identifies the calling number and forwards that information through that telecommunication system to another telecommunication system directly or indirectly.

Customer means a retail end user customer of the provider of a telecommunication service.

Customer Service means a telecommunication or related service which is facilitated in whole or in part by interconnection.

Essential Service means an interconnection service that is part of a telecommunication network or service that:

- (a) (i) is exclusively or predominantly provided by a single or limited number of suppliers; and
(ii) cannot feasibly, whether economically and / or technically be substituted in order to provide a service; or
- (b) is declared by the Authority by notice in the Government Gazette to be an Essential Service, where, in its opinion, this would promote the objects of the Telecommunications Act.

Interconnection Agreement means an agreement in relation to the interconnection of telecommunication systems.

Interconnection Capacity means dedicated unswitched transmission capacity and other facilities for connecting the telecommunication systems of two telecommunication service providers so that telecommunication services may be passed efficiently between those systems.

Interconnection Information means information relevant to interconnection which is in the possession or control of the Interconnection Provider and which may assist the Interconnection Seeker:

- (a) to better formulate its request for interconnection;
- (b) to plan, establish or maintain its telecommunication system or a telecommunication service for the purpose of interconnection including, but not limited to:
 - (i) technical, traffic and other relevant information;
 - (ii) system and facilities specifications; and
 - (iii) any material changes to that information or specifications which may impact on the Interconnection Seeker's interconnection arrangements or the services it intends to provide to customers by means of that interconnection.

Interconnection Provider means a provider of a telecommunication service who is required to provide interconnection under section 43 of the Telecommunications Act.

Interconnection Seeker means a provider of a telecommunication service who has interconnected or has requested that it be able to interconnect its telecommunication system to the telecommunication system of an Interconnection Provider.

Major Operator is an operator which

- (a) has at least 35% of the Telecommunications Market in which it operates, unless it can show that it does not have market power,
- (b) which has the ability to materially affect the terms of participation (having regard to price and supply) in the Telecommunications Market for basic telecommunication services as a result of:
 - (i) control over Essential Services; or
 - (ii) use of its position in the market

- (c) is declared by the Authority by notice in the Government Gazette to be a Major Operator where, in its opinion, this will promote the objects of the Act.

Ministerial Guidelines means the Ministerial Determination on Interconnection Guidelines dated 7 May 1997 (Notice 771 of 1997).

POI means a Point of Interconnection that is a location that constitutes a point of demarcation between the telecommunication systems of an Interconnection Provider and an Interconnection Seeker

Private Operator means a provider of a private telecommunication network.

Public Operator means a provider of a public switched telecommunication service or a public mobile cellular telecommunication service.

Service Provider means a provider of a telecommunication service other than a Public Operator or a Private Operator.

Telecommunications Act means the Telecommunications Act 1996 (Act No 103 of 1996).

Telecommunication Market means any of the following markets:

- (a) public switched and telecommunication services;
- (b) mobile cellular telecommunication services;
- (c) national long distance telecommunication services;
- (d) local access telecommunication services and public payphone services;

Third Anniversary Date means 7 May 2000 the date of expiry of the Ministerial Guidelines in terms of Section 43(3) of the Telecommunications Act.

Unbundled Pricing means the separation of charges for network elements. This includes, but is not limited to local, national and international call completion also broken down by switch hub and transmission cost, database and signalling systems, operator services and directory assistance.

- 1.2 Words used in these Guidelines that are not defined by these Guidelines but are defined by the Telecommunications Act shall have the meaning given to them by the Telecommunications Act.

2. APPLICATION OF INTERCONNECTION GUIDELINES

- 2.1 Subsection 43(3) of the Telecommunications Act requires the Authority to prescribe guidelines relating to the form and content of Interconnection Agreements including amongst other matters:

- (a) the time by or period within which interconnection pursuant to the Agreement shall be carried out;
- (b) the quality or level of service to be provided by the means of one telecommunication system for the other telecommunication service; and
- (c) the fees and charges payable for such interconnection.

- 2.2 These Guidelines:

- (a) are issued by the Authority under Section 43(3) of the Telecommunications Act;
- (b) will be applied by the Authority in the manner contemplated by section 43 of the Telecommunications Act;
- (c) apply to all Interconnection Providers and Interconnection Seekers although specific parts of these Guidelines apply only to certain Interconnection Providers or certain Essential Services;
- (d) do not restrict a person's rights under section 43 of the Telecommunications Act; and
- (e) may be varied by the Authority from time to time by way of the appropriate procedures contemplated in the Act.

- 2.3 These Guidelines are intended to provide guidance to interconnecting parties and are not intended:

- (a) to limit the matters which may be dealt with in an Interconnection Agreement but to provide a minimum set of issues which should be addressed;

- (b) to prevent or delay parties from negotiating or entering into bilateral or multilateral agreements which deal with matters other than those addressed in these Guidelines.

2.4 In respect of interconnection with Telkom, the ministerial guidelines shall continue to apply up to 7 May 2000 and that SATRA guidelines will only apply in respect of Telkom from 7 May 2000.

3. CONTENTS OF AGREEMENTS

3.1 A written Interconnection Agreement must inter alia address each of the following matters unless it is not relevant to the form of interconnection that has been requested:

- (a) the scope and specification of interconnection;
- (b) access to all ancillary or supplementary services or access to and use of premises or land that may assist in the provision or support of interconnection or Customer Services;
- (c) service levels and the maintenance of end-to-end quality of service;
- (d) charges for interconnection;
- (e) billing and settlement procedures;
- (f) ordering, forecasting, provisioning and testing procedures;
- (g) the provision of POI and Interconnection Capacity;
- (h) the transmission of CLI and the provision of information necessary to facilitate CLI;
- (i) the provision of information regarding system modernisation or rationalisation;
- (j) technical specifications, standards and interoperability tests;
- (k) traffic and system management, maintenance and measurement;
- (l) information handling and confidentiality;

- (m) duration, renegotiation and review procedures;
- (n) dispute resolution procedures;

3.2 The interconnection agreement shall contain all the terms and conditions of the agreement between the parties related to interconnection matters, and no amendments, alterations, additions, variations or consensual cancellations will be of any force or effect unless they are reduced to writing, signed by both parties and approved by the Authority.

4. PROMOTION OF USE OF SERVICES AND FACILITIES

4.1 The terms and conditions of an Interconnection Agreement must in the opinion of the Authority promote the increased public use of telecommunication services or more efficient use of telecommunication facilities.

5. INTERCONNECTION AGREEMENTS NOT TO PRECLUDE RIGHTS

5.1 An Interconnection Agreement must not:

- (a) seek to preclude or frustrate the exercise of any statutory powers or prevent any person from seeking the exercise of statutory powers;
- (b) impose any penalty, obligation or disadvantage on a person for seeking the exercise of any statutory powers;
- (c) prohibit a person from providing a interconnection service which that person is lawfully able to provide;
- (d) frustrate the provision of a telecommunication service by a person which that person is lawfully able to provide.

5.2 A service acquired as part of interconnection may not be used for any unlawful purpose.

5.3 An Interconnection Seeker may at any time request that an Interconnection Provider vary any term or condition of an Interconnection Agreement. An Interconnect Provider may refuse that request but if it does so this will be a dispute for the purposes of section 43 of the Telecommunications Act.

6. REQUESTS FOR FURTHER INTERCONNECTION AND GOOD FAITH NEGOTIATIONS

- 6.1 An Interconnection Provider must provide Interconnection Information to an Interconnection Seeker that requests reasonable Interconnection Information. An Interconnection Provider need not provide Interconnection Information if the Authority determines that it is not to be provided.
- 6.2 The parties to an Interconnection Agreement must negotiate in good faith and use their reasonable endeavours to resolve all disputes relating to the form of interconnection the subject of that agreement or any other form of interconnection.

7. MAINTENANCE OF ANY TO ANY CONNECTIVITY

- 7.1 The terms of each Interconnection Agreement must facilitate interconnection in a manner which promotes any to any connectivity including by ensuring that:
- (a) a Customer of an Interconnection Seeker and/or Interconnection Provider is able to call, from any terminal device, a Customer of any other Interconnection Seeker and/or Interconnection Provider on a non-discriminatory basis; and
 - (b) the transmission of calls across and within telecommunication systems should be seamless to both the calling and called parties.
- 7.2 An Interconnection Provider may not terminate an Interconnection Agreement unless:
- (a) the termination is for:
 - (i) fundamental breach of the Interconnection Agreement;
 - (ii) vis major;
 - (iii) liquidation, deregistration or insolvency of one of the parties to the Interconnection Agreement;
 - (b) the Interconnection Provider gives reasonable written notice of its intention to terminate specifying the grounds of termination and, in the case of breach, requiring that the breach be remedied within the following notice period:
 - (i) Service Providers - not less than three (3) month;

- (ii) Public Operators or Private Operators not less than three (3) months; and
- (c) the Interconnection Seeker has been given the opportunity to remedy the breach and has failed to do so.

7.3 An Interconnection Provider of an Essential Service may not terminate an Interconnection Agreement without the Authority's consent.

7.4 An Interconnection Agreement must not allow the suspension of interconnection except where this is necessary to address material degradation of telecommunication systems or services or other material threat to the maintenance of the interconnection.

7.5 An Interconnection Agreement must establish termination and suspension procedures that minimise any adverse affect of that termination or suspension on Customers.

8. NON-DISCRIMINATION PRINCIPLES

8.1 An Interconnection Provider must treat each:

- (a) Interconnection Seeker on a basis that is non-discriminatory in its provision of interconnection and no less favourable than the treatment which the Interconnection Provider affords to its subsidiaries, its affiliates, or other similarly situated telecommunication service providers seeking interconnection;
- (b) telecommunication service of an Interconnection Seeker on a basis that is non-discriminatory and no less favourable than the treatment which the Interconnection Provider affords to telecommunication services of itself, its affiliates, or other similarly situated telecommunication service providers;
- (c) Customer of an Interconnection Seeker on a basis that is non-discriminatory and no less favourable than the treatment which the Interconnection Provider affords to its own Customers or the Customers of its subsidiaries, its affiliates, or other similarly situated telecommunication service providers.

9. QUALITY OF SERVICE

9.1 An Interconnection Agreement will contain service levels that reflect good interconnection practice and provide reasonable remedies for any failure to meet those service levels.

9.2 The parties to an Interconnection Agreement will comply with all relevant standards of the International Telecommunications Union, and such other technical standards as the Authority may prescribe from time to time.

9.3 In the event of the parties failing to reach an agreement with regard to the quality or level of service, the quality or level of service will be determined by the Authority.

10. INTERCONNECTION CHARGING STRUCTURE

10.1 Charges for interconnection must be structured to match the pattern of underlying costs incurred and to distinguish and separately price the following aspects of interconnection:

- (a) fixed once off charges for the establishment and implementation of physical interconnection;
- (b) periodic rental charges for use of facilities, equipment and resources including Interconnection Capacity; and
- (c) variable charges for telecommunication services and supplementary services.

10.2 All charges for interconnection shall be transparent and sufficiently unbundled so that a Interconnection Seeker does not have to pay for any thing that it does not require for that interconnection.

10.3 Charges for interconnection must not exceed retail charges for the provision of the equivalent services.

10.4 An Interconnection Seeker is free to acquire services from an Interconnection Provider at any retail price offered by the Interconnection Provider without prejudice to any rights to acquire the same or similar services under an Interconnection Agreement.

10.5 An Interconnection Agreement must make provision for the Authority's determinations to be applied retrospectively to the date on which a dispute is notified to the Authority.

11. INTERCONNECTION CHARGES

11.1 Major Operators of Essential Services must provide those Essential Services for interconnection to any requesting Public Operator at the long run incremental cost (LRIC) of those Essential Services.

- 11.2 LRIC is to be calculated on the basis of relevant forward looking economic costs calculated for an efficient telecommunication service provider and including a reasonable cost of capital.
- 11.3 Major Operators of Essential Services must provide those Essential Services for interconnection to Service Providers at no more than the Major Operators best retail prices less avoidable costs provided that this price is not less than the LRIC of the Major Operator.
- 11.4 Major Operators may charge Service Providers no more than the fully allocated costs of the Major Operator for establishing a POI.
- 11.5 Major Operators may charge Private Operators no more than the retail charge for the provision of an equivalent service.

12. EFFICIENT PROVISIONING

- 12.1 The forecasting, ordering and provisioning of interconnection must be efficient and occur within reasonable time frames and must not include any unnecessary or inefficient steps.
- 12.2 The facilities or systems required for interconnection shall be provided in sufficient capacity to enable the efficient transfer of signals between interconnected telecommunication systems.
- 12.3 An Interconnection Seekers' request for interconnection should be given reasonable priority over the Customer orders of the Interconnection Provider.

13. REQUESTS FOR INTERCONNECTION

- 13.1 An Interconnection Agreement must be entered into as soon as practicable but in any event not later than three (3) months after the Interconnection Provider has received a request for interconnection. This period may however be extended by such time as allowed by the Authority in any particular case.
- 13.2 In cases of existing interconnection and in the absence of an Interconnection Agreement, an Interconnection Agreement must be entered into within three (3) months after these regulations come into effect.

14. REQUESTS FOR NEW SERVICES AND SYSTEM CHANGE

- 14.1 Where an Interconnection Seeker requests a new form of or additional interconnection it must request that new form of or additional interconnection in writing and provide the Interconnection Provider with information in relation to the following matters:
- (a) the form of interconnection;
 - (b) the approximate date the interconnection is required; and
 - (c) an estimate of the capacity required.
- 14.2 All requests for new interconnection shall be filed with the Authority.
- 14.3 The Interconnection Provider must inform the Interconnection Seeker in writing within 15 calendar days of the provision of the information:
- (a) whether it is able to supply the form of interconnection; and
 - (b) whether it will be able to do so within the time frames required by the Interconnection Seeker.
- 14.4 In the event that the Interconnection Provider is unable to meet the time frames required, the Interconnection Provider must specify, for the Interconnection Seeker's consideration, the date by which interconnection can be established.
- 14.5 Where the Interconnection Provider has informed the Interconnection Seeker that it is able to provide the interconnection it must ensure that the system conditioning and provisioning procedures required to provide that interconnection are undertaken within the time required by the Interconnection Seeker.
- 14.6 A Major Operator that is an Interconnection Provider must provide six (6) months notice to Interconnection Seekers of planned changes to its telecommunication system that may materially impact the telecommunication services on the telecommunication systems of the Interconnection Seeker.

15. ESTABLISHMENT AND LOCATION OF POIS

- 15.1 The Interconnection Seeker must provide sufficient details to the Interconnection Provider in relation to a POI to enable the Interconnection Provider to assess what system conditioning may be required and to estimate the costs of establishing the POI.
- 15.2 POIs shall be established as soon as practicable following a request or conclusion of an Interconnection Agreement and in any case not later than forty five (45) calendar days from conclusion of an Interconnection Agreement.
- 15.3 POIs shall be established as soon as practicable following a request for additional POIs and in any case not later than forty five (45) calendar days from the date of the request.
- 15.4 Where interconnection occurs between operators each operator must bear its own port, network management system and switch costs to support the POI and the parties shall share the cost of the Interconnection Capacity.
- 15.5 Where a party seeking interconnection from a Major Operator requests that facilities be co-located with the facilities of the Major Operator, such co-location shall be provided unless it is not technically feasible. In those instances in which a Major Operator demonstrates that it is unable to establish the interconnection at the location requested, an alternative location proximate to the requested site must be identified by the Major Operator.

16. CLI

- 16.1 CLI and all necessary signalling data shall be passed between interconnecting parties in accordance with accepted international standards and all requirements issued by the Authority.

17. INTER-OPERATOR WORKING GROUP

- 17.1 The parties to an Interconnection Agreement will form appropriate working groups to discuss matters relating to interconnection and to endeavour to amicably resolve any disputes that may arise. The first meeting of such a working group will be facilitated by the Authority and thereafter be under the rotating chairmanship of the members of the working groups.

18. CONFIDENTIALITY

18.1 All confidential information provided by a party to another party in relation to interconnection must:

- (a) be kept confidential and only used in relation to the provision of interconnection except where the disclosure is authorised in writing by the other party, authorised or required by law or lodged with the Authority in terms of Section 43(2); and
- (b) only be disclosed to employees, agents or advisers who need to know that information for the purpose of the provision of interconnection or advising thereon.

18.2 Confidential information of a party received by the other party in relation to interconnection or information generated by the telecommunication system of a party as a result of providing interconnection must not be disclosed to any person involved in the development or provision of retail services of the other party or its subsidiaries or affiliates.

18.3 Confidentiality provisions of an Interconnection Agreement must not prevent or frustrate the public disclosure of any Interconnection Agreement by the Authority.

19. TRANSPARENCY OF AGREEMENTS

19.1 Where a major operator has entered into a written interconnection agreement for a particular interconnection service, the operator shall make that agreement, publicly available.

19.2 In the event that an operator requests that parts of an interconnection agreement not be made publicly available, the Authority will make a determination as to the nature of the confidential commercial information and may exempt the operator from making such information publicly available.

20. PROCEDURES

20.1 The Authority is to be advised by the requesting party of any new request for interconnection.

- 20.2 Prior to an operator or operators referring a dispute as to reasonableness or inability to negotiate to the Authority for a formal determination, either party may request the Authority's assistance in resolving the dispute through mediation.
- 20.3 Disputes between operators as to the reasonableness of a request for interconnection are to be referred to the Authority for a decision as to the reasonableness of the request.
- 20.4 Where an operator alleges that another operator is unwilling to negotiate or agree on any term or condition on which interconnection is to be provided, the issue is to be submitted to the Authority for consideration.
- 20.5 Where an operator or any other person alleges that there has been a contravention or failure to comply with:
- (a) the provisions of the Act;
 - (b) the appropriate Guidelines; or
 - (c) an interconnection agreement,

then the Authority shall investigate and make a decision in response to the allegation.

NOTICE 1260 OF 2000**DEPARTMENT OF COMMUNICATIONS**

In terms of section 96(6) of the Telecommunications Act, 1996 (Act No. 103 of 1996), I, Dr. Ivy Matsepe-Casaburri, Minister of Communications, hereby approve and publish the following regulations made by the South African Telecommunications Regulatory Authority in terms of section 44 of the Act regarding Facilities Leasing Guidelines.

Dr. Ivy Matsepe-Casaburri
Minister of Communications

<p>FACILITIES LEASING GUIDELINES ISSUED BY THE AUTHORITY IN TERMS OF SECTION 44 OF THE TELECOMMUNICATIONS ACT 1996</p>

1. DEFINITIONS

- 1.1 In these Guidelines the following words will have the meaning given to them unless the context otherwise requires.

Essential Facility means a facility of a telecommunication network or service that:

- (a) (i) is exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly, whether economically and / or technically be substituted in order to provide a service; or
- (b) is declared by the Authority by notice in the Government Gazette to be an Essential Facility, where, in its opinion, this would promote the objects of the Telecommunications Act.

Facilities Acquirer means a provider of a telecommunication service who has Leased facilities or has requested that it be able to Lease facilities from a Facilities Provider.

Facilities Provider means a provider of a telecommunication service who is required to Lease facilities under section 44 of the Telecommunications Act.

Facilities Leasing Agreement means an agreement in relation to the leasing or otherwise making available of facilities.

Facilities Information means information in the possession or control of the Facilities Provider that relates to a facilities request and which may assist the Facilities Acquirer:

- (a) to better formulate its request for facilities;
- (b) to plan, establish or maintain its telecommunication system or a telecommunication service for the purpose of including but not limited to:
 - (i) technical, traffic and other relevant information;
 - (ii) system and facilities specifications; and

- (iii) any material changes to that information or specifications which may impact on the Facilities Acquirer's Leasing arrangements or the services it intends to provide to customers by means of that Facilities Leasing.

Facilities Leasing means the leasing or otherwise making available of telecommunication facilities.

Major Operator in relation to a form of Facilities Leasing means a telecommunication Service Provider

- (a) with more than 35% market share in the Telecommunications Market in which it operates, unless it can show that it does not have market power, or
- (b) which has the ability to materially affect the terms of participation (having regard to price and supply) in the Telecommunications Market for basic telecommunication services as a result of:
 - (i) control over Essential Facilities; or
 - (ii) use of its position in the market
- (c) is declared by the Authority by notice in the Government Gazette to be a Major Operator where, in its opinion, this will promote the objects of the Act.

Private Operator means a provider of a private telecommunication network.

Public Operator means the provider of a public switched telecommunication service or a public mobile cellular telecommunication service.

Service Provider means a provider of a telecommunication service other than a Public Operator or a Private Operator.

Telecommunications Act means the Telecommunications Act 1996 (Act No 103 of 1996).

Telecommunication Market means any of the following markets:

- (a) public switched and telecommunication services;
- (b) mobile cellular telecommunication services;

- (c) national long distance telecommunication services;
- (d) local access telecommunication services and public payphone services;

1.2 Words used in these Guidelines that are not defined by these Guidelines but are defined by the Telecommunications Act shall have the meaning given to them by the Telecommunications Act.

2. APPLICATION OF FACILITIES LEASING GUIDELINES

2.1 Subsection 44(5) of the Telecommunications Act requires the Authority to prescribe guidelines relating to the form and content of Facilities Leasing Agreements including amongst other matters:

- (a) the time by or period within which Facilities Leasing pursuant to the Agreement shall be carried out;
- (b) the quality or level of service applicable to Facilities Leasing;
- (c) the fees and charges payable for Facilities Leasing.

2.2 These Guidelines:

- (a) are issued by the Authority under subsection 44(5) of the Telecommunications Act;
- (b) will be applied by the Authority in the manner contemplated by section 44 of the Telecommunications Act;
- (c) apply to all Facilities Providers and Facilities Acquirers although specific parts of these Guidelines apply only to certain Facilities Providers or certain Essential Facilities;
- (d) do not restrict a person's rights under section 44 of the Telecommunications Act; and
- (e) may be varied by the Authority from time to time by way of the appropriate procedures as contemplated in the Act.

2.3 These Guidelines are intended to provide guidance to parties and are not intended:

- (a) to limit the matters which may be dealt with in a Facilities Leasing Agreement but to provide a minimum set of issues which should be addressed; and
- (b) to prevent or delay parties from negotiating or entering into bilateral or multilateral agreements which deal with matters other than those addressed in these Guidelines.

3. CONTENTS OF FACILITIES LEASING OR SHARING AGREEMENTS

3.1 A written Facilities Leasing Agreement must inter alia address each of the following matters unless it is not relevant to the Facilities Leasing that has been requested:

- (a) the scope and specification of the facilities to be provided;
- (b) access to all ancillary or supplementary services or access to and use of premises or land that are required to support the provision of facilities;
- (c) service levels and the maintenance of facilities;
- (d) charges for the facilities;
- (e) billing and settlement procedures;
- (f) ordering, forecasting, provisioning and testing procedures;
- (g) the provision of colocation for facilities and the terms and conditions in accordance with which co-location is to be provided;
- (h) the provision of information regarding system modernisation or rationalisation;
- (i) technical specifications, standards and interoperability tests;
- (j) information handling and confidentiality;
- (k) duration, renegotiation and review procedures;
- (l) dispute resolution procedures.

- 3.2 The interconnection agreement shall contain all the terms and conditions of the agreement between the parties related to interconnection matters, and no amendments, alterations, additions, variations or consensual cancellations will be of any force or effect unless they are reduced to writing, signed by both parties and approved by the Authority.

4. PROMOTION OF USE OF SERVICES AND FACILITIES

- 4.1 The terms and conditions of a Facilities Leasing Agreement must, in the opinion of the Authority, promote the increased public use of telecommunication services or more efficient use of telecommunication facilities.

5. FACILITIES LEASING AGREEMENTS NOT TO PRECLUDE RIGHTS

- 5.1 A Facilities Leasing Agreement must not:

- (a) seek to preclude or frustrate the exercise of any statutory powers or prevent any person from seeking the exercise of statutory powers;
- (b) impose any penalty, obligation or disadvantage on a person for seeking the exercise of any statutory powers;
- (c) prohibit a person from providing a telecommunication service or facility which that person is lawfully able to provide or;
- (d) frustrate the provision of a telecommunication service or facility by a person which that person is lawfully able to provide.

- 5.2 A facility acquired under a Facilities Leasing Agreement may not be used for any unlawful purpose.

- 5.3 A Facilities Acquirer may at any time request that a Facilities Provider vary any term or condition of a Facilities Leasing agreement. A Facilities Provider may refuse that request but if it does so this will be a dispute for the purposes of section 43 of the Act.

6. REQUESTS FOR FURTHER FACILITIES LEASING AND GOOD FAITH NEGOTIATIONS

- 6.1 A Facilities Provider must provide Facilities Information to a Facilities Acquirer who requests reasonable Facilities Information. A Facilities Provider need not provide Facilities Information if the Authority determines that it is not to be provided.

6.2 The parties to a Facilities Leasing Agreement must negotiate in good faith and use their reasonable endeavours to resolve all disputes relating to the facilities the subject of that agreement or any other facility.

6.3 All requests for new Facilities Leasing Agreements must be filed with the Authority.

7. CONTINUATION OF LEASING OF FACILITIES

7.1 A Facilities Provider may not terminate a Facilities Leasing Agreement unless:

(a) the termination is for

(i) fundamental breach of the Agreement; or

(ii) vis major; or

(iii) liquidation, deregistration or insolvency of one of the parties to the Agreement.

(b) the Facilities Provider gives reasonable written notice of its intention to terminate specifying the grounds of termination and, in the case of breach, requiring that the breach be remedied within the following notice periods;

(i) Service Providers not less than three (3) months; and

(ii) Public Operators or Private Operators not less than three (3) months; and

(c) the Facilities Acquirer has been given the opportunity to remedy the breach and has failed to do so.

7.2 A Facilities Provider of an Essential Facility may not terminate a Facilities Leasing Agreement without the Authority's consent.

7.3 A Facilities Leasing Agreement must not allow the suspension of Facilities Leasing except where this is necessary to address material degradation of telecommunication systems or services or other material threat to the maintenance of the facilities.

7.4 A Facilities Leasing Agreement must establish termination and suspension procedures that minimise any adverse affect of that termination or suspension on Customers.

8. NON-DISCRIMINATION PRINCIPLES

8.1 A Facilities Provider must treat each:

- (a) Facilities Acquirer on a basis that is non-discriminatory in its provision of facilities and no less favourable than the treatment which the Facilities Provider affords to its subsidiaries, its affiliates, or other similarly situated telecommunication service providers;
- (b) telecommunication service of a Facilities Acquirer on a basis that is non-discriminatory and no less favourable than the treatment which the Facilities Provider affords to the telecommunication services of itself, its affiliates, or other similarly situated telecommunication service providers; and
- (c) Customer of a Facilities Acquirer on a basis that is non-discriminatory and no less favourable than the treatment which the Facilities Provider affords to its own Customers or the Customers of its subsidiaries, its affiliates, or other similarly situated telecommunications service providers.

9. REQUESTS FOR THE LEASING OF FACILITIES

- 9.1 A Facilities Leasing Agreement must be entered into as soon as practicable after the Facilities Provider has received a request for facilities leasing, but in any event not later than three (3) months. This period may however be extended by such time as allowed by the Authority in any particular case..
- 9.2 In cases of existing leasing of facilities and in the absence of a Facilities Leasing Agreement, a Facilities Leasing Agreement must be entered into within three (3) months after these regulations come into effect.

10. TIME FOR SUPPLY AND QUALITY OF FACILITIES

- 10.1 A Facilities Leasing Agreement will include time periods for the provisioning of each type of facility in each type of area which must not exceed forty five (45) calendar days or as directed by the Authority in writing for that type of facility for that type of area.
- 10.2 A Facilities Leasing Agreement will contain services levels that reflect good Facilities Leasing practice.

- 10.3 A Facilities Leasing Agreement must provide reasonable remedies for any failure to meet time periods for the provisioning of Facilities and service levels.
- 10.4 The parties to a facilities agreement will comply with all relevant standards of the International Telecommunications Union and such other technical standards as the Authority may prescribe from time to time.
- 10.5 In the event of the parties failing to reach an agreement with regard to the quality or level of service, the quality or level of service will be determined by the Authority.

11. EFFICIENT PROVISIONING

- 11.1 The Leasing of facilities by a Facilities Provider under a Facilities Leasing Agreement must be efficient and occur in accordance with the time table negotiated between the parties and specified in the Facilities Leasing Agreement.
- 11.2 The provisioning of facilities must be non-discriminatory as between the Facilities Acquirer and the Facilities Provider, and any subsidiaries, affiliates or related companies of the Facilities Provider.
- 11.3 Provisioning procedures must not include any unnecessary steps and requests for facilities must be provisioned in the order received and must not be provisioned after retail orders of the providing party, or orders of any affiliate or related party of the providing party.

12. FACILITIES CHARGING STRUCTURE

- 12.1 Charges for the provision of facilities shall be structured to distinguish and separately price the following aspects:
 - (a) the establishment and implementation (if any) of the physical facilities, including testing;
 - (b) rental charges for use of facilities, equipment and resources; and
 - (c) variable charges for ancillary and supplementary services.
- 12.2 All charges for the Leasing of facilities shall be transparent and sufficiently unbundled so that the party seeking facilities does not have to pay for system components or facilities that it does not require.

12.3 Charges for Facilities Leasing must not exceed retail charges for the provision of the equivalent services or facilities to be provided by that Facilities Leasing.

12.4 A Facilities Acquirer is free to acquire services from a Facilities Provider at any retail price offered by the Facilities Provider without prejudice to any rights to acquire the same or similar services under an Facilities Leasing Agreement.

13. CHARGING FOR MAKING FACILITIES AVAILABLE

13.1 Major Operators of Essential Facilities must Lease Essential Facilities to any requesting Public Operator at the long run incremental cost (**LRIC**) of those Essential Facilities.

13.2 LRIC is to be calculated on the basis of relevant forward looking economic costs calculated for an efficient telecommunications service provider and including a reasonable cost of capital.

13.3 Major Operators of Essential Facilities must Lease those Essential Facilities to Service Providers at no more than the Major Operators fully allocated costs for those Essential Facilities.

14. CONFIDENTIALITY

14.1 All confidential information provided by a party to another party in relation to Facilities Leasing must:

(a) be kept confidential and only used in relation to the Facilities Leasing except where the disclosure is authorised in writing by the other party, authorised or required by law or is lodged with the Authority; and

(b) only be disclosed to employees, agents or advisers who need to know that information for the purpose of the Facilities Leasing or advising thereon.

14.2 Confidential information of a party received by the other party in relation to the Leasing of facilities or information generated by the telecommunication system of a party as a result of Facilities Leasing must not be disclosed to any person involved in the development or provision of retail services of the other party or its subsidiaries or affiliates.

14.3 Confidentiality provisions of a Facilities Leasing Agreement must not prevent or frustrate the public disclosure of any Facilities Leasing Agreement by the Authority.

15. TRANSPARENCY OF AGREEMENTS

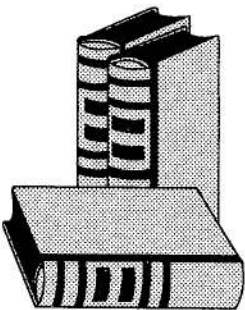
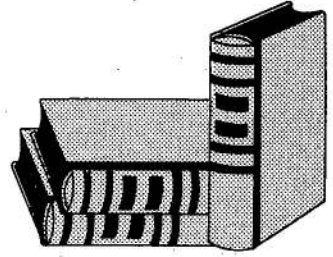
- 15.1 Where a major operator has entered into a written facilities leasing agreement for a particular service, the operator shall make that agreement publicly available.
- 15.2 In the event that an operator requests that parts of an agreement not be made publicly available, the Authority will make a determination as to the nature of the confidential commercial information and may exempt the operator from making such information publicly available.

16. PROCEDURES

- 16.1 The Authority is to be advised by the requesting party of any new request for a facilities leasing agreement.
- 16.2 Prior to an operator or operators referring a dispute as to reasonableness or inability to negotiate to the Authority for a formal determination, either party may request the Authority's assistance in resolving the dispute through mediation.
- 16.3 Disputes between operators as to the reasonableness of a request for facilities leasing are to be referred to the Authority for a decision as to the reasonableness of the request.
- 16.4 Where an operator alleges that another operator is unwilling to negotiate or agree on any term or condition on which facilities leasing arrangements are to be provided, the issue is to be submitted to the Authority for decision.
- 16.5 Where an operator or any other person alleges that there has been a contravention or failure to comply with:
- (a) the provisions of the Act;
 - (b) the appropriate Guidelines; or
 - (c) a facilities leasing agreement,

then the Authority shall investigate and make a decision in response to the allegation.

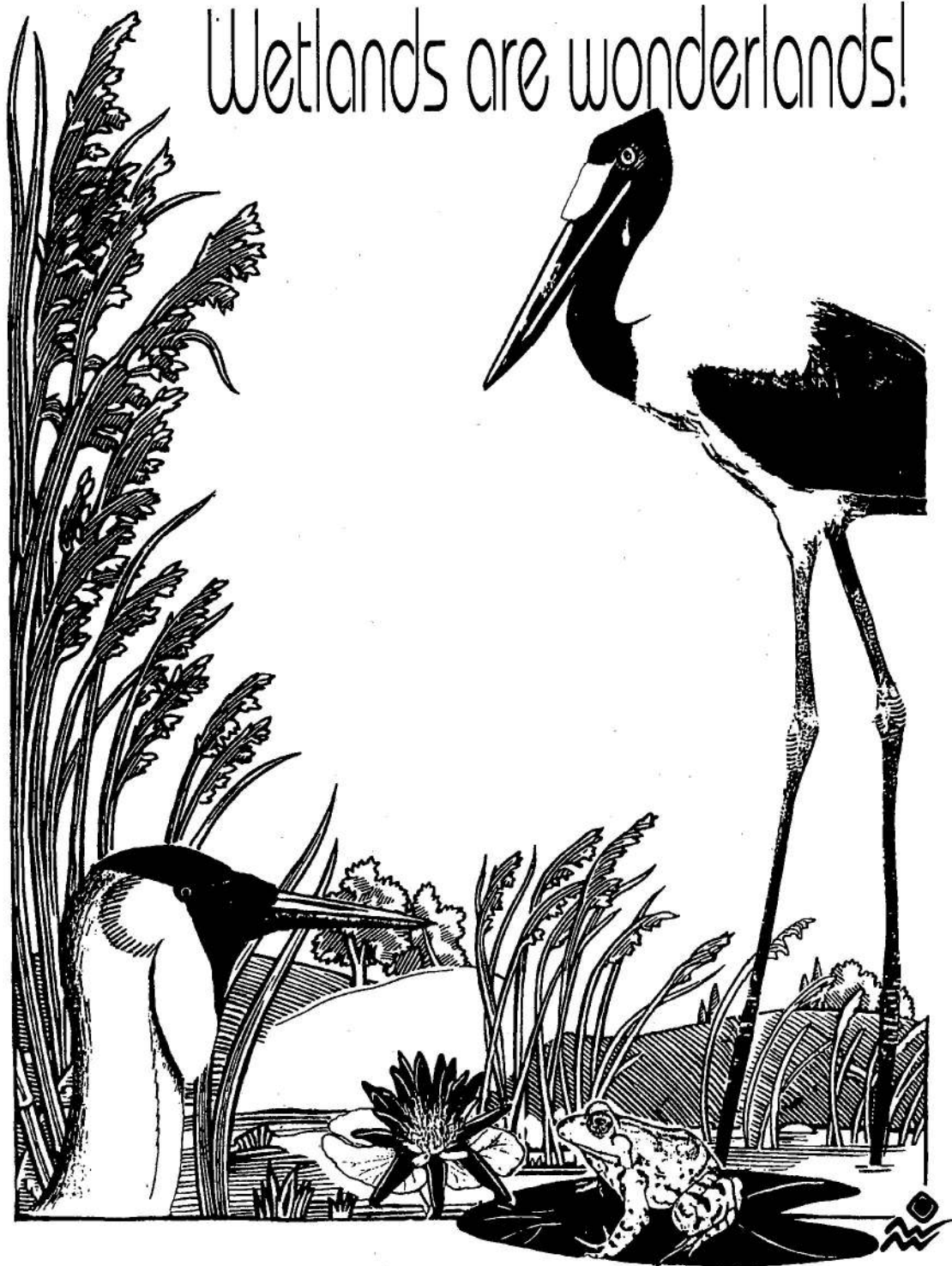
Where is the largest amount of meteorological information in the whole of South Africa available?



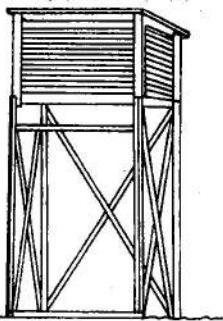
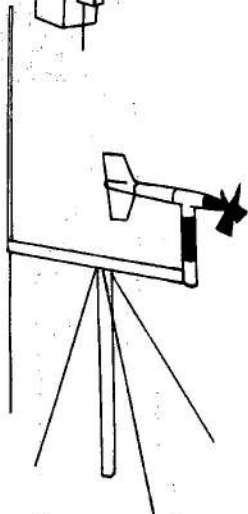
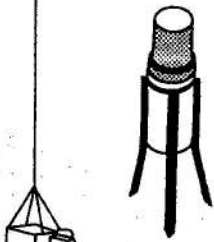
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Department of Environmental Affairs and Tourism
Departement van Omgewingsake en Toerisme

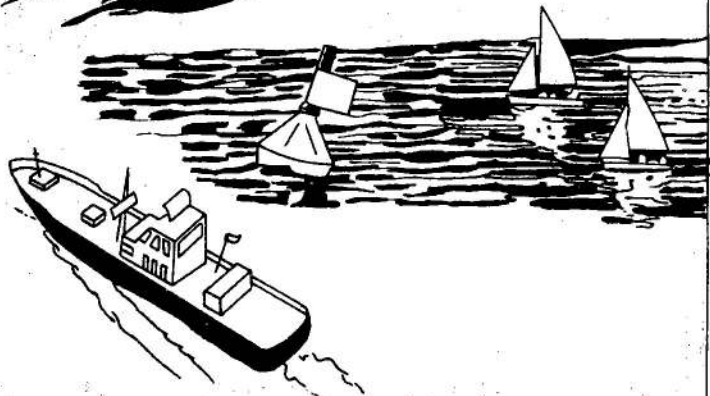
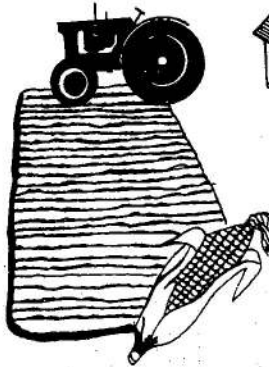
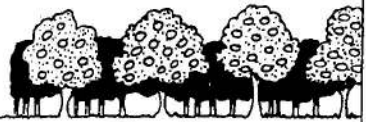
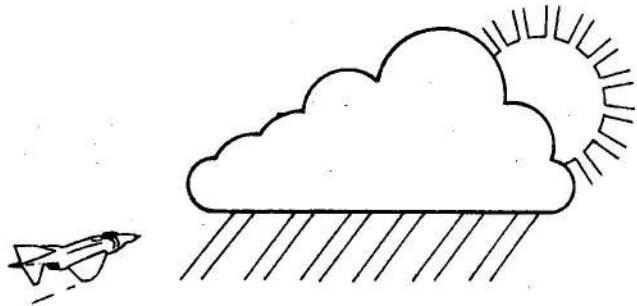
Wetlands are wonderlands!



Department of Environmental Affairs and Tourism

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