



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 645

29 March
Maart 2019

No. 42355

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ISSN 1682-5843



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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**NOTICE 194 OF 2019****NOTICE ON THE STATUS OF THE PROCESS TO LICENCE INTERNATIONAL
MOBILE TELECOMMUNICATIONS.**

1. The Independent Communications Authority of South Africa (“the Authority”) hereby issues a notice regarding the status of the licencing process of International Mobile Telecommunication (“IMT”) spectrum.
2. The Authority initiated the process of developing the “High Demand Radio Frequency Spectrum Licensing Framework Regulations” promulgated by Government Notice R. 469, dated 28 May 2010 as amended. It further published a draft Spectrum Assignment Plan¹ for the combined licensing of the 800 MHz and 2.6 GHz bands and the Draft invitation to apply for Radio Frequency Spectrum Licence to provide mobile broadband wireless access service for urban and rural

¹ Government Gazette No. 34872 (Notice 911 of 2011) dated 15 December 2011

areas using the complimentary bands, 800 MHz and 2.6 GHz on 15 December 2011².

3. On 6 December 2013, South Africa Connect ("SA Connect")³, the country's broadband policy was published. South Africa Connect gives expression to the vision set out in the National Development Plan of a *"seamless information infrastructure by 2030 that will underpin a dynamic and connected vibrant information society and a knowledge economy that is more inclusive, equitable and prosperous"*.
4. The key areas of focus of SA Connect are broadband connectivity for educational and health institutions, as well as access to government services. In addition to SA Connect, the New Growth Path and the Strategic Integrated Project⁴ ("SIP") 15, sought to prioritise the expanding of access to communications technology through implementation of initiatives aimed at ensuring universal service and access to affordable and secure broadband services by all South Africans, prioritising rural and under-serviced areas and stimulating economic growth.
5. SA Connect acknowledges that the slow deployment of fixed broadband services and its relatively high cost, has meant that over the last ten years mobile broadband rapidly became the primary form of broadband access rather than a complementary service to fixed broadband services as it has been in more developed economies⁵.
6. One of the Authority's key strategic objectives over the strategic planning period (i.e. 2014/15FY – 2019/20FY) is "To increase access to broadband spectrum from 566MHz to 958MHz by 2019/2020".
7. The Department of Telecommunications and Postal Services ("the Department") published the National Integrated ICT Policy White Paper on 28 September 2016 ("the ICT White Paper"). The ICT White Paper *inter alia*; provides policy direction in relation to the licensing of IMT spectrum and the promotion of an 'open access regime' through the deployment of a Wholesale/Wireless open Access Network ("WOAN").

² Government Gazette No. 34872 (912 of 2011).

³ Government Gazette No. 37119 (Notice No. 953)

⁴ Expanding Access to Communications Technologies

⁵ Page 3 of South Africa Connect: Creating Opportunities, Ensuring Inclusion South Africa's Broadband Policy dated 20 November 2013

8. In an effort to achieve the set objectives, the Authority published an Information Memorandum on 11 September 2015⁶ with the purpose of providing information to prospective applicants and the public who intend to apply for the radio frequency spectrum licences, within the designated ranges 2500 – 2690MHz (“the 2.6 GHz band”) and 790 – 862 MHz (“the 800 MHz band”) and 703 – 790 MHz (“the 700MHz band”), for the purposes of providing national broadband wireless access services.
9. The Authority then published an Invitation to Apply (“ITA”)⁷ in terms of section 31 (3) (a) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) (“ECA”), as amended, read with regulations 6 and 7 of the Radio Frequency Spectrum Regulations 2015 (“the Regulations”), inviting applications for the radio frequency spectrum licenses within the above designated ranges.⁸
10. On 08 August 2016, the Minister of Telecommunications and Postal Services (“the Minister”) instituted legal action against the Chairperson and the Authority regarding the published ITA. The High Court, Gauteng Division, interdicted the Authority from proceeding with the licensing processes contemplated in the ITA on 30 September 2016, pending the determination of the review proceedings.⁹
11. On 26 September 2018, the Minister and the Authority signed a settlement agreement in terms of which the Authority agreed to withdraw the ITA, the Minister agreed to withdraw the litigation and the parties agreed to work together in line with their respective statutory mandates to ensure attainment of the policy objectives for universal provision of broadband services.
12. In line with the above, the Minister published an *‘Invitation to Provide Written Comments on a Proposed Draft Policy and Policy Directions To The Authority on Licensing Of Unassigned High Demand Spectrum’*¹⁰ (“draft policy direction”) on 27 September 2018.

⁶ Government Gazette number 39203 (Notice No. 914 of 2015)

⁷ Government Gazette number 40145 (Notice Number 438 of 2016) dated 15 July 2016

⁸ 2500 – 2690MHz (“the 2.6 GHz band”) and 790 – 862 MHz (“the 800 MHz band”) and 694 – 790 MHz (“the 700MHz band”) for the purposes of providing national broadband wireless access services.

⁹ Case No. 2016/59722

¹⁰ Government Gazette number 41935 (Notice 1003 of 2018) dated 27 September 2018

13. The Authority has continued to work closely with the Department of Telecommunications and Postal Services in the development of the draft policy direction. The consultation process is still ongoing. The Authority looks forward to completion of this process.
14. In anticipation of the conclusion of the aforementioned process and in line with the settlement agreement, the Authority has embarked on various processes (including internal processes) to optimise its level of readiness to complete the licensing process.



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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065