



Independent Communications Authority of South Africa

Pinmill Farm, 164 Katherine Street, Sandton
Private Bag X10002, Sandton, 2146

Office of the Chairperson

Tel: +27 11 566 3007

Fax: +27 11 566 3008

Email: chairperson@icasa.org.za

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ICASA Chairperson's January 2012 Statement to External Stakeholders

The calendar 2012 is upon us, and I guess we all welcomed it with expectation in terms of what we would like to achieve for our country in terms of communications and postal services.

But from a business point of view the start of a new calendar year, also points to the imminent end of the current financial year. This means we have to hit the ground running to ensure that we complete what we have undertaken to do a year ago.

As regulator, policy-maker and service providers there is only one common denominator that brings us together as a sector – the improvement of the life of our people and, ensuring that communications and postal services make an impact in the country's economic growth and job creation.

This is the beacon that guides us all in everything that we do, and pre-occupies our minds on a daily basis.

From the Authority's side, there are a number of regulatory matters that need clarification in order to put all our stakeholders at ease.

Some of these have been reported about in the media with inaccuracies, misrepresentations, sometimes without the necessary context or perspective.

The Authority would like to appraise all stakeholders about the following regulatory matters:

1. Ministerial Directive on Licensing of Combined 800 Mhz and 2.6 GHz

The Authority welcomes the Ministerial Directive to extend the date for public comment to the 29 February 2012 on the two Policy Directions with regard to the licensing of combined High demand frequency bands of 800 Mhz and 2.6 GHz.

It is the Authority's view that this extension for submissions will allow interested stakeholders ample time to finalise their input and representation to the Policy Directions on Electronic Communications Services in High Demand Spectrum and on Exploiting the Digital Dividend.

The Authority is on record, that the Minister's policy process and ICASA's licensing process for the combined frequency bands of 800 MHz and 2.6 GHz are aligned to ensure that all stakeholders are in a position to make the necessary input to the processes.

Our common understanding is that Government Policy precedes regulation and that regulation implements policy and that ICASA is the regulatory agency mandated for this role.

Minister's policy process and ICASA's licensing process are staggered and run parallel to each other, the Authority will finalise its licensing process once the Minister's policy process has been concluded.

As a result, the Authority will advise shortly as to the new timelines to its licensing process that are affected by the extension date that was announced by the Minister recently.

2. ICASA's Review of the Broadcasting Regulatory Framework

The Authority has begun road-shows across all the provinces to interact with stakeholders in reviewing the existing broadcasting regulatory framework.

This consultative process would provide the necessary input the Authority needs to take into account in the formulation of a new broadcasting regulatory framework in the light of the unfolding digital era.

This process will feed into the Ministerial Broadcasting Policy Review, and the regulator as one of the stakeholders will also make submissions to this process.

The Review of the Broadcasting Regulatory Framework will also feed into the Digital Migration process. Meanwhile, the Minister has also undertaken to gazette the Digital Migration Policy in February 2012. Thereafter, ICASA will finalise the Digital Terrestrial Television regulatory process.

All these policy and regulatory review process are aligned, but staggered. The Ministerial policy review process will have to be finalised first before ICASA can conclude its regulatory aspects.

3. Radio Spectrum Fees Regulations

The Authority draws stakeholders' attention to the delay in implementing the Radio Frequency Spectrum Licence Fees Regulations from 01 April 2011 to 01 April 2012.

The delay is caused by the protracted procurement processes of acquiring soft and hardware appropriate for the implementation of the Radio Frequency Spectrum Licence Fees Regulations.

In order to ameliorate the confusion amongst licensees whether to pay radio frequency licence fees in terms of the Radio Regulations of 1979 or the Radio Frequency Spectrum Regulations of 2010, the Authority intends to approach an appropriate High Court with the necessary jurisdiction for a relief.

The relief sought is for the Court to order, that for the period 1 April 2011 to 31 March 2012, licensees to pay radio frequency licence fees, in terms of the Radio Regulations of 1979.

And in respect of the period 1 April 2012 onwards, licensees be required to make payments in terms of the Radio Frequency Spectrum Licence Fees Regulations of 2010.

We are hopeful that the proposed course of action will bring some degree of regulatory certainty around the subject under discussion.

This means that the old Radio Frequency Spectrum Licence Fees Regulations will remain in force until the Authority pronounces its readiness to implement the new regulations and the date thereof.

This provision would also ensure a seamless transition from the old to the new licence fees regulations, and to allow licensees to make the necessary changes and adjustments for the new financial year.

The Authority intends to convene a workshop in the next two weeks or so to brief and explain to licensees how this matter is to be managed going forward.

It is the Authority's view that this proposed arrangement will go a long way in clarifying misunderstandings and confusion that might have arisen during the current financial year.

4. Collection of Licence Fees

Enabling legislation mandates the Authority to collect licence fees – as service licence fees or radio frequency spectrum licence fees, on behalf of the national fiscus.

The Authority experienced challenges in the past financial year, and has prioritised revenue collection from all licensees henceforth.

As a result of this concerted initiative, the South African Police Services and the Ekurhuleni Metropolitan Council recently made payments of R7 251 273 and R485 100, respectively, to the Authority.

The Authority will be embarking on a publicity drive to encourage all licensees to bring their accounts up to date as we go into the new financial year.

5. Call Termination Regulations

It is almost a year since ICASA published the Call Termination Regulations that set a pricing structure for charging wholesale voice call termination services among mobile and fixed line licensees over a three year period, starting from the 1st of March 2011 to the 1st of March 2013, ultimately with termination rates for mobile voice services reducing to R 0.40 per minute and between R 0.12 and R 0.19 per minute for fixed line services (and not as reported in the City Press article of 2012-01-29).

At the time of publishing the regulations, the Authority undertook to monitor the benefits that would accrue to the consumer at the retail level. This continuing monitoring exercise will enable the Authority to make a determination on the impact at retail level by 1 March 2013.

The regulations have only been in place for one year, having had a definite initial impact of reducing the cost of a telephone call from a fixed line to a mobile phone and reducing the cost of doing business for a number of smaller operators in the market. This has spurred on-going investment and participation in the economy by entrepreneurs, stimulating new services, new networks and more economic opportunities in the ICT sector.

As the rates decrease in line with the specified glide-path the Authority expects overall reductions in the total cost of communication as operators seek new avenues to provide cost-efficient and quality services to end-users.

6. ICASA Confiscates Illegal Communications Equipment

Two weeks ago ICASA received a tip-off about the sale of illegal communications equipment in some retail outlets in Nelspruit/Mbombela, Mpumalanga Province. It is suspected that this illegal equipment found their way into the country through one of the ports of entry in the Mpumalanga Province.

The Authority then sought the assistance of Home Affairs and the South African Revenue Service as the two departments also have jurisdiction over goods that come through our ports of entry.

On 28 January 2012 a joint operation consisting of ICASA Inspectors, Home Affairs and officials conducted a raid confiscating illegal communications equipment at three retail outlets in terms of Section 35 of the ECA Act:

The following equipment was confiscated from Family Traders, Shop no 44 Bester Street, Nelspruit:

- 4 x vhf wireless transmitter microphone
- 1x wireless Shiya microphone
- 5 x optical wireless mouse
- 5x cell phones to the value of

The following equipment was confiscated from Abed Cell & Sound, Shop no 22B, Bester Brown Building, Nelspruit.

- 2 x 28 in one mp3 player
- 8 x 8 in one mp3 players
- 13 cell phones

The following equipment was confiscated from Centre Cellular, Bester Brown Centre Building, Nelspruit

- 25 Cell phones
- 12 x 8 in one car mp3
- 1 wireless mouse

As Chairperson of the Authority, I hope this statement will help in clarifying the regulator's position and how stakeholders will fit in the greater scheme of things and the necessary contribution and participation they need to make.

Yours sincerely,

Dr Stephen Mncube
Chairperson

Date: ____/02/2012