

TECHNOLOGY

MEDIA AND TELECOMMUNICATIONS

ALERT

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NATIONAL BROADBAND POLICY CONSULTATION DOCUMENT PUBLISHED FOR COMMENT

The Minister of Communications, on 3 April 2013, published a proposed National Broadband Policy for South Africa. Comments on or before 16 May 2013.

The policy document seeks to define 'broadband' for South Africa and identifies key policy areas namely:

- Access to international backbone networks

The draft policy seeks to encourage investment in international networks and, in the event of market failure, it is proposed that government will 'intervene to ensure' competitively priced international bandwidth availability. It is also proposed that all submarine cable landing stations be declared essential facilities.

- Access national backbone networks

The policy proposes that Government play a critical role in the deployment of broadband backbone networks in rural and underserved areas and advocates for the deployment of wholesale backbone networks by the public and private sector. It is envisaged that these networks will be operated on an open access and non-discriminatory basis and that ICASA will develop wholesale regulations to support service-based competition on national broadband networks. Significantly, the policy states that Telkom will provide the bulk of infrastructure and will be supported by other state owned companies and the private sector.

- Access to local networks

Local loop unbundling is not expressly mentioned. The policy states that there should be infrastructure sharing in non-economically viable areas by way of wholesale open access network competition. Whilst the proposed policy requires the deployment of fibre-optic cable to premises and home in the long-term it states that radio frequency spectrum will be made available for mobile broadband applications to support last mile access technologies.

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- Availability of radio frequency spectrum for broadband services

The policy proposes that to promote the availability of broadband services in rural and underserved areas, the allocation and assignment of radio frequency spectrum bands which are generally suited to low capacity large coverage areas will be prioritised. Future allocations of radio frequency spectrum for broadband will be done in a manner that advances competition, black economic empowerment, quality of service, universal service and access principles.

- Minimising infrastructure rollout costs

To address the cost of accessing public and private servitudes, the policy advocates the implementation of regulatory measures to promote the availability of both publicly and privately owned servitudes. As a matter of policy, ducts will be installed in all major publicly funded infrastructure developments and the finalisation of guidelines to obtain approvals for rights of way, land acquisition and environmental approvals is to be fast tracked with the aim of establishing a one-stop shop to facilitate approval of wayleaves.

continued

- Increasing uptake and usage of broadband services through promotion of access to end-user equipment and development of content and applications

The policy proposes that relevant Cabinet Ministers develop strategies to promote the availability of affordable end-user equipment and to develop innovative and local applications.

The policy recommends that a dedicated Inter-Ministerial Committee be established and, in recognition of the role that the private sector plays, a joint Government/Private Sector Liaison the Committee be established to coordinate broadband activities. Ultimately, a National Broadband Strategy will be developed in collaboration with all key stakeholders and a Broadband Implementation Plan developed. The effectiveness of the National Broadband Policy will be assessed in terms of an annual impact assessment.

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GENERAL LICENCE FEE REGULATIONS, 2012, COME INTO EFFECT

The General Licence Fee Regulations, 2012, published in the Government Gazette on 28 March 2013 came into effect on 1 April 2013.

These regulations repeal the General Licence Fee Regulations, 2009.

Small enterprises (as defined in the National Small Enterprise Act, No 102 of 1996) were exempted from payment of annual licence fees under the 2009 Regulations. Small enterprises are no longer exempt under the 2012 regulations. Class licences for sound community broadcasting (but not community television) and public broadcasting services remain exempt from the payment of annual licence fees.

In terms of the 2009 regulations, annual licence fees equivalent to 1.5% of gross profit derived from electronic communications network services (individual and class), electronic communications services (individual and class) and commercial broadcasting services (individual) were imposed on licensees. In calculating gross profit, licensees were permitted to deduct, from gross revenues, costs directly incurred in the provision of the services. The new regulations do not permit licensees to deduct these costs in calculating license fees due and annual license fees are to be calculated with reference to a sliding scale.

In terms of the 2012 regulations, annual licence fees are payable in respect of 'licensed services'. For the purposes of the 2012 regulations, the resale of electronic communication services, service provider discounts, agency fees, interconnection and facilities leasing charges, government grants and subsidies are excluded from what constitutes 'licensed services'.

Annual licence fees in respect of licensed services provided after 1 April 2013 are to be calculated in terms of the following formula read with the applicable percentages:

$$Pa = R \times B$$

Where:

Pa = payable annual licence fee

R = revenue from licensed services

B = applicable percentage as per the following table

Licence Revenue (R)	Percentage
0 - 50,000,000	0.15
50,000,001 - 100,000,000	0.20
100,000,001 - 500,000,000	0.25
500,000,001 - 1 000 000 000	0.30
1,000,000,001 and above	0.35

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