
TECHNOLOGY

MEDIA AND TELECOMMUNICATIONS

IN THIS ISSUE

.....

FROM FLOPPY DISCS
TO TABLETS ...
POLICY CHANGES
TO ACCOMMODATE
TECHNOLOGICAL
REVOLUTION IN THE
ICT SECTOR

.....

FROM FLOPPY DISCS TO TABLETS ... POLICY CHANGES TO ACCOMMODATE TECHNOLOGICAL REVOLUTION IN THE ICT SECTOR

On 24 January 2014 the Minister of Communications published a National Integrated Information Communication and Technology (ICT) Policy Green Paper in the Government Gazette. The Green Paper is aimed at revamping and reconciling South Africa's current outdated and misaligned ICT Policies. Government is inviting interested persons to comment on the Green Paper and contribute to the development of new ICT policies that are sufficient to ensure that all sectors of society reap the benefits of a vast developing, ever evolving digital era. Comments must reach the Department of Communications on or before 24 February 2014.

The Green Paper sets an ICT policy transformation process in motion by setting out and inviting public opinion on numerous aspects of the ICT sector that require review to improve economic and social development and transformation in our society. The Green Paper provides a comprehensive overview of the current ICT environment and the developments in the ICT sector since 1994 and sets out a number of key factors affecting the ICT sector. South Africa's current ICT policies are based on a structure that distinguishes between the broadcasting, telecommunications and postal services sectors. In an age of digital revolution and convergence and rapid development of technology, this distinction is untenable.

Technological development and convergence and digitalisation of communications have made the implementation of an integrated ICT policy a necessity. Some of the major technological developments responsible for radically altering the communications landscape and which necessitate policy changes include a shift to Internet Protocol (IP) based technologies; deployment of high speed and high capacity fibre networks and broadband; wireless technologies; and open access regimes.

The principles that strongly underpin the Green Paper include fair competition (specifically in the electronic communications sector), the right to privacy and the protection of personal information; consumer protection (regarding wireless services); electronic communications facilities leasing; value for money encapsulated in the notion of public benefit; and a commitment to protecting the decision-making process from 'influence by political, industry or other powerful interests'.

Having identified the positive effects of enhanced electronic communications such as improved service delivery, sustainable market growth, job creation, education and poverty reduction, it comes as no surprise that a primary focus of the Green Paper is the widespread roll out of broadband and increasing internet access countrywide. Another central focus issue is that of achieving affordable access to reliable and robust communications infrastructure services. Research has shown that ICT access gaps between rural and urban areas as well as between higher and lower income groups are rising and a new ICT policy, if correctly framed and directed, could play a significant role in the alleviation of poverty, creation of jobs and reduction in social inequalities. The Green Paper invites comment on the strategies to be adopted for increasing the affordability of access to ICT (particularly for low income users) and how the cost of providing services to needy communities, government institutions (particularly schools and clinics) can be reduced.

As evidenced by and set out in more detail in the Green Paper, investment in the ICT sector is a fundamental policy along with transformation, diversity, universal access and empowerment of historically disadvantaged persons. A sustainable investment environment in turn is dependent on an enabling policy environment which includes the establishment of proper policies and regulations, building research and development capacity and promoting innovation.

Comment is also invited on certain policy issues, which include, amongst others:

- the mechanisms required to ensure effective co-ordination of broadband infrastructure planning and roll-out;
- policy interventions to reduce significant market power in the South African communications sector;
- institutional arrangements required to deal with cybercrime (nationally and regionally);

- key issues on spectrum allocation; re-defining the definition of broadcasting services to meet identified public interest objectives; and
- strategies to be adopted to meet the ICT sector's human resources needs.

The Green Paper may give rise to controversial debate as it contemplates certain changes in the way in which the Independent Communications Authority of South Africa (ICASA) is managed. Some of the proposals may be seen as undermining ICASA's independence. The Green Paper raises the possibility of legislative amendment to the funding of ICASA by suggesting that a funding model is to be adopted that reinforces ICASA's independence from all stakeholders. Comment is invited on how the provisions for ministerial policy directives can be improved without undermining ICASA's independence.

National public hearings on the Green Paper will be held by the end of February 2014 with provincial hearings following thereafter. The Green Paper serves as a precursor to the drafting and finalisation of the National Integrated ICT White Paper aimed to be concluded by August 2014, which will in turn provide the framework for the adoption of new ICT legislation suitable to serve the changing domestic and international ICT sector. It is expected that the process will lead to major policy, legislative, regulatory and institutional changes to the South African ICT sector which changes may or may not have serious implications for ICT companies and the ICT sector. Interested members of the public are encouraged to familiarise themselves with the Green Paper and make submissions to the Department of Communications and in so doing take part in shaping and changing the ICT sector.

Simone Gill, Mariska van Zweel and Bilal Bokhari

CONTACT US

For more information about our Technology Media and Telecommunications practice and services, please contact:



Preeta Bhagattjee
National Practice Head
Director
T +27 (0)11 562 1038
E preeta.bhagattjee@dlacdh.com



Simone Gill
Director
T +27 (0)11 562 1249
E simone.gill@dlacdh.com

Leishen Pillay
Senior Associate
T +27 (0)11 562 1265
E leishen.pillay@dlacdh.com

Tayyibah Suliman
Senior Associate
T +27 (0)11 562 1248
E tayyibah.suliman@dlacdh.com

Mariska van Zweel
Senior Associate
T +27 (0)21 481 6345
E mariska.vanzweel@dlacdh.com

Mukelo Ngobese
Associate
T +27 (0)11 562 1374
E mukelo.ngobese@dlacdh.com

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

BBBEE STATUS: LEVEL THREE CONTRIBUTOR

JOHANNESBURG

1 Protea Place Sandton Johannesburg 2196, Private Bag X40 Benmore 2010 South Africa
Dx 154 Randburg and Dx 42 Johannesburg
T +27 (0)11 562 1000 **F** +27 (0)11 562 1111 **E** jhb@dlacdh.com

CAPE TOWN

11 Buitengracht Street Cape Town 8001, PO Box 695 Cape Town 8000 South Africa
Dx 5 Cape Town
T +27 (0)21 481 6300 **F** +27 (0)21 481 6388 **E** ctn@dlacdh.com