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GENERAL NOTICE

Independent Communications Authority of South Africa

General Notice

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GENERAL NOTICE

NOTICE 244 OF 2007

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

CONVERSION OF LICENCES IN TERMS OF CHAPTER 15 OF THE ELECTRONIC COMMUNICATIONS ACT No 36 of 2005 ("ECA")

The Independent Communications Authority of South Africa (ICASA) on 30 August 2006, in Government Gazette No. 29168 published a Notice in terms of section 93 (3) of the ECA. In terms of such Notice, ICASA required licence holders to furnish ICASA with information as stipulated in the Notice.

In terms of the information received and pursuant to section 93 (3) and (4) read with Chapter 3 of the ECA, ICASA hereby proposes the framework for licence conversion.

A copy of the proposed framework is also available on the Authority's website at <http://www.icasa.org.za> and in the ICASA Library at 164 Katherine Street, Pin Mill Farm, Ground Floor, Block D, between 10h00 and 16h30, Monday to Friday.

Interested persons are hereby invited to submit written representations and to indicate whether they would require to make oral representations, should ICASA deem it necessary to hold a hearing, with regard to the proposed framework. Representations should be submitted to ICASA by no **later than 16h30 on 13 April 2007** by post, hand delivery or fax transmission for the attention of:

Mihloti Baloyi
ICASA,-
Private Bag X10002,
Marlboro, 2063;

or at

Block A, Pinmill Farm
164 Katherine Street
Sandton
2146

Fax: (011) 321 8547

Further enquiries can be directed to

Mihloti Baloyi

Tel: (011) 321-8200 and/or e-mail: mbaloyi@icasa.org.za

**PARIS MASHILE
CHAIRPERSON**

Electronic Communications Act, 2005 Framework for Converting Existing Licences

The following tables I through to III are intended to provide guidelines for mapping the existing licences issued under the Telecommunications Act, the Broadcasting Act and the Independent Broadcasting Authority Act ("IBA") to the licencing framework of the Electronic Communications Act, 2005 (No. 36 of 2005) ("ECA").

Relevant Sections of the ECA

Chapter 15 of the ECA requires all licences granted, issued or considered to have been granted or issued in terms of the Telecommunications Act, the Broadcasting Act or the IBA ("existing licences") to be converted by the Authority within 24 months from the commencement date of the ECA. The Authority is mandated to convert existing licences by granting one or more new licences that comply with the ECA.

Chapter 3 of the ECA sets out the licence framework to be used by the Authority in converting existing licences as applied to facilities and services.

Chapter 5 of the ECA governs the licencing of radio frequency spectrum. In accordance with Chapter 5, a radio frequency spectrum licence is required in addition to any service licence contemplated in Chapter 3. Thus, where an existing licence grants the licensee authority to both use the radio frequency spectrum and to provide one or more services (e.g., broadcasting services and use of radio frequency spectrum), the Authority will convert such licence by granting a "services" licence and a separate radio frequency spectrum licence.

"Individual" and "Class" Licences under Chapter 3

Individual Licences

Section 5(3) provides, in relevant part that "individual" licences apply, but are not limited to--

- (a) electronic communications networks of provincial and national scope operated for commercial purposes;
- (b) commercial broadcasting and public broadcasting of national and regional scope whether provided free-to-air or by subscription;
- (c) electronic communications services consisting of voice telephony utilizing numbers from the national numbering plan;
- (d) any electronic communications network service, broadcasting service or electronic communications service where a state entity (directly or indirectly) holds an ownership interest of greater than twenty-five (25%) percent of the share capital of the person providing such service; and
- (e) such other services as may be prescribed that the Authority finds have significant impact on socio-economic development.

Class Licences

Section 5(5) provides, in relevant part, that "class" licences apply, but are not limited to--

- (a) electronic communications networks of district municipality or local municipal scope operated for commercial purposes;
- (b) community broadcasting and low power services whether provided free-to-air or by subscription;
- (c) such other services as may be prescribed, that the Authority finds do not have significant impact on socio-economic development.

Licence Conversion Table I Telecommunication Act (Licences)

Note: Where an existing licence under the Telecommunications Act authorises both the use of radio frequency spectrum and the provision of one or more telecommunications or other services, the applicable existing licence will be converted using the guidelines below and a separate radio frequency spectrum licence will be issued to the licensee authorizing use of the specific radio frequency spectrum previously assigned to that licensee (see Table III below).

LICENCE CATEGORY *	ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCE	ELECTRONIC COMMUNICATIONS SERVICE LICENCE
Public switched telecommunication service licence	▪ Individual	▪ Individual
Mobile cellular telecommunication service licence	▪ Individual	▪ Individual
Mobile data telecommunication service licence	▪ Individual	▪ Individual
Wireless data telecommunication service licence	▪	▪
Multimedia services licence	▪ Individual	▪ Individual
Private telecommunication network licence (interconnected to PSTN; non-interconnected not requiring a licence)	▪ Class ** ▪ Individual* ▪ Exempt	▪ N/A
International telecommunication gateway service licence (carrier of carrier)	▪ Individual	▪ Individual
Under-served area licence	▪ Class	Individual for USALs using numbers from national numbering plan
Value-added network service licence	▪ Class ▪ Individual	▪ Individual for those VANs providing voice/VoIP using numbers from the national numbering plan. ▪ Class for all other VANs not meeting the criteria for individual

* Where a state entity (directly or indirectly) holds an ownership interest of greater than twenty-five (25%) percent of the share capital of the person holding an existing licence, the converted licence will be classified as an "individual" licence regardless of the designation identified in the above table.

**Where the PTN licensee will be selling spare capacity it will be a class licensee.

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Licence Conversion Table II
Broadcasting Act & IBA (Licenses)

Note: Broadcasting licences issued under the Broadcasting Act and/or IBA will be converted using the guidelines below and a separate radio frequency spectrum licence will be issued to the licensee authorising use of the specific radio frequency spectrum previously assigned to that licensee (see Table III below).

LICENCE CATEGORY *	ELECTRONIC COMMUNICATION NETWORK SERVICE LICENCE	BROADCASTING SERVICES LICENCE
Public Television Broadcasting Services	Individual	Individual
Public Sound Broadcasting Services	Individual	Individual
Commercial Free to Air Television Licence	Individual	Individual
Commercial Terrestrial Subscription Broadcasting Licence	Individual	Individual
Commercial Sound Broadcasting Licence	Individual	individual
Community Sound Broadcasting licence	Class	Class
Community Television Broadcasting Licence	Class	Class
Low power Broadcasting Licence	Class	Class
Category 1 Signal Distribution Licence	Individual	
Category 2 Signal Distribution Licence	Individual	
Category 3 Signal Distribution Licence	Class	
Multi-channel distributor licence	▪ Individual	▪ Individual

* Where a state entity (directly or indirectly) holds an ownership interest of greater than twenty-five (25%) percent of the share capital of the person holding an existing licence, the converted licence will be classified as an "individual" licence regardless of the designation identified in the above table.

Licence Conversion Table III Radio Frequency Spectrum Licences

Note: Radio frequency licences are governed under Chapter 5 of the ECA. The Chapter 3 licence framework (i.e., Individual/class) does not directly apply to radio frequency licences; except that, a communication service or communication network service licence requiring use of frequencies must be accompanied by a separate radio frequency spectrum licence (See ECA, section 31 (2)).

Note: The following attempts to capture the "major" and "minor" frequency licenses that may justify different terms/conditions as well as those that may be "exempted" from licensing.

Radio frequency Spectrum Licenses

	Major	Minor	Exempt
Radio Frequency Spectrum Licenses	<ul style="list-style-type: none"> • Broadcasting Frequencies • 1800 MHz • 900 MHz • 3G • DECT • ¹Fixed Services (FS) • ²Fixed Wireless Access (FWA) • Satellite • Mobile Data • Digital and Analog Trunking 	<ul style="list-style-type: none"> • Maritime • Radio Amateurs • Aeronautical • ³Spectrum licences of general nature 	<ul style="list-style-type: none"> • ISM Band • Short Range Devices (SRD) • Citizen Band Radio (CB)

¹ FS : All spectrum licenses for links below and above 1 GHz

² FWA: All spectrum licenses for point-to –multipoint wireless access,

³ alarms, private repeaters, paging, etc