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GENERAL NOTICE

Independent Communications Authority of South Africa

General Notice

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GENERAL NOTICE

NOTICE 1149 OF 2007



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

NOTICE IN TERMS OF SECTION 4(4) OF THE ELECTRONIC COMMUNICATIONS ACT READ WITH SECTION 89, AND SECTION 95(1) OF THE ELECTRONIC COMMUNICATIONS ACT 36 OF 2005

- (1) The Independent Communications Authority of South Africa ("ICASA") hereby gives notice in terms of section 4(4) of the Electronic Communications Act No. 36 of 2005 ("the Act") of its intention to prescribe regulations in respect of the prescribed annual contributions of the licensee's licensed activity to the Universal Service and Access Fund in terms of sections 89 read with section 95(1) and section 4 of the Act and further read with section 4(3)(j) of the Independent Communications Authority of South Africa Act No. 13 of 2000 as amended ("the ICASA Act").

- (2) A copy of the proposed regulation is 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, Sandton offices, between 10h00 and 16h30, Monday to Friday.
- (3) Interested persons are invited to submit written comments or written representations with regard to the proposed regulations, to be received **by no later than 16h00 on Monday 29 October 2007** by post, hand delivery, facsimile transmission, or electronically (in Microsoft Word or Adobe PDF file) for the attention of :

Contact Person	Sipho Mngqibisa Project Leader
Physical Address	ICASA HEAD OFFICE Pinmill Farm Block D 164 Katherine Street Sandton 2146
Postal Address	ICASA Private Bag X10002 Sandton 2146
Fascimile	011 556 3246

Further enquiries can be directed to:-

Mr Sipho Mngqibisa

Telephone: (011) 556 - 3245 and/or e-mail: smngqibisa@icasa.org.za

Ms Judicia Monyela

Telephone: (011) 556 – 3251 and / or e-mail: jmonyela@icasa.org.za

- (4) Persons making written representations are requested to indicate if they wish to make oral submissions in the event that ICASA decides to conduct oral hearings in terms of section 4(6) of the Act.

- (5) All written representations submitted to ICASA pursuant to this notice will be made available for inspection by interested persons at the ICASA library and copies of such representations will be obtainable on the payment of the prescribe fee.
- (6) At the request of any person who submits written representations pursuant to this notice, ICASA may determine that such representations or any portion thereof is confidential in terms of section 4D of the ICASA Act. If the request for confidential is refused, the person making the request will be allowed to withdraw such representations or portion thereof.
- (7) With respect to written representations or portions thereof determined to be confidential in terms of paragraph 5 above, ICASA may direct that the public or any member or category thereof, shall not be present while any oral submissions relating to such representations or portions thereof are being made; provided that interested parties shall have been notified of this intention and allowed to object thereto. The Authority will consider the objections and notify all interested parties of its decision.
- (8) The final regulations will be published in the Government Gazette.

PARIS MASHILE
CHAIRPERSON

**DRAFT REGULATIONS IN RESPECT OF THE PRESCRIBED ANNUAL
CONTRIBUTIONS OF THE LICENSEE'S LICENSED ACTIVITY TO THE UNIVERSAL
SERVICE AND ACCESS FUND**

1. Definitions

1.1 In these regulations, any word or expression to which a meaning has been assigned in the Act, shall bear such meaning and, unless the context otherwise indicates -

1.1.1 **"The Act"** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

1.1.2 **"Fund"** means the Universal Service and Access Fund established in terms of section 87(1) of the Act.

2. Purpose of regulations in respect of the prescribed annual contributions of the licensee's licensed activity to the Universal Service and Access Fund

2(1) These regulations are issued in respect of the prescribed annual contributions of the licensee's licensed activity to the fund and they seek to:

- a. repeal the regulations in respect of the annual contributions to the fund by holders of telecommunications service licences;
- b. to prescribe the annual contributions to the fund by the electronic communications service licensees, electronic communications network service licensees and broadcasting service licensees in terms of Chapter 3 of the Act and;
- c. to specify the date when such contributions become payable and the manner in which they may be paid.

3. Contributions payable by the licence holders to the Universal Service and Access Fund

- 3(1) Every holder of an electronic communications service licence, electronic communications network service licence and broadcasting service licence granted or considered to have been granted in terms of Chapter 3 of the Act, must pay an annual contribution of 0.2% of the annual turnover to the fund, derived from the licensee's licensed activity.
- 3(2) The private electronic communications networks reselling the additional capacity in terms of section 6(2) (c) of the Act, must contribute to the fund.
- 3(3) Holders of a broadcasting service licence who contribute funds annually to the Media Development and Diversity Agency ("MDDA") will have their annual MDDA contribution set off against their prescribed annual contribution to the fund.
- 3(4) However, if such a contribution to the MDDA is less than 0, 2 % of the total contribution to MDDA such a balance will be paid to the fund.
- 3(5) Holders of a broadcasting service licence must provide the Authority with proof of the contribution to the MDDA.

4. Payments

- 4(1) Contributions to the fund in terms of regulation 3 shall become due and payable in full on 1st July of each year. The first payment shall be due on 1st July 2008.
- 4(2) Payments in terms of regulation 3 must be calculated on licensee's audited financial statements for the preceding financial year.
- 4(3) All late payments to the fund will be charged at an interest rate determined by the Minister of Finance as required by section 80 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended.

5. Application of Regulations

5(1) These regulations are applicable and binding on Licensees in respect of individual and class licences for electronic communications network services and electronic communications service; and in respect of individual licences and class licensees for broadcasting services.

6. Amendment or Repeal

6(1) Government Notice 1241 of Government Gazette No. 25408 dated 28 August 2003 prescribing regulations relating to the contributions to the fund and the apportionment thereof, is hereby repealed.

6(2) Subject to the provisions of the ECA and ICASA Act, the Authority may amend or repeal certain provisions of the regulation or repeal it in its entirety.
