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**CONTENTS • INHOUD**

<i>No.</i>	<i>Page</i>	<i>Gazette</i>
<i>No.</i>	<i>No.</i>	<i>No.</i>
<b>GENERAL NOTICE</b>		
<b>Independent Communications Authority of South Africa</b>		
<i>General Notice</i>		
1809	Electronic Communications Act (36/2005): Regulations pursuant to section 67(4) .....	3 30622

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# GENERAL NOTICE

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## NOTICE 1809 OF 2007



### INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

#### REGULATIONS PURSUANT TO SECTION 67(4) OF THE ELECTRONIC COMMUNICATIONS ACT NO. 36 OF 2005 (THE ACT")

1. The Independent Communications Authority of South Africa ("the Authority") 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 defining relevant markets and market segments in terms of section 67(4) of the Act and section 4(3)(j) of the Independent Communications Authority of South Africa Act No. 13 of 2000, as amended ("The ICASA Act").
2. Interested persons are invited to submit written representations on these draft Regulations, by 15 February 2007, by post, hand delivery, facsimile transmission, or electronic transfer (in Microsoft Word) for the attention of:

Thamsanqa TM Kekana  
ICASA

164 Katherine Street  
Pinmill Farm: Block B  
Sandton

or Private Bag X10002  
Sandton  
2146

Fax: (011) 321-8233  
Telephone: (011) 321-8542

E-mail: [ttkekana@icasa.org.za](mailto:ttkekana@icasa.org.za); cc [mnkopane@icasa.org.za](mailto:mnkopane@icasa.org.za)

3. Persons making written representations are requested to indicate if they wish to make oral submissions in the event that the Authority decides to conduct oral hearings in terms of section 4(6) of the Act, the duration thereof not to exceed 45 minutes.

4. All written representations submitted to the Authority pursuant to this notice will be made available for inspection by interested persons at the Authority's library and copies of such representations may be obtained on payment of the prescribed fee.
5. At the request of any person who submits written representations pursuant to this notice, the Authority will determine whether such representations or any portion thereof is confidential in terms of section 4D of the ICASA Act. If the request for confidentiality is refused, the person making the request will be allowed to withdraw such representations or portion thereof.
6. 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 must 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.
7. The final regulations will be published in the Government Gazette.

**PARIS MASHILE  
CHAIRPERSON**

## **MARKET DEFINITION REGULATIONS**

The Independent Communications Authority of South Africa ("ICASA") hereby gives notice of its intention to prescribe regulations in terms of section 67(4)(a) to define and identify the retail or wholesale markets or market segments in which the Authority intends to impose pro-competitive measures in cases where such markets are found to have ineffective competition.

1. **Product and geographic market definition of mobile access and call origination**

- 1.1. The wholesale mobile access and call origination market, on a national level

2. **Product and geographic market definition for fixed and mobile narrowband access and call services**

2.1. *For business customers:*

- 2.1.1. Traditional fixed location access services.
- 2.1.2. Local calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection
- 2.1.3. National calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection.
- 2.1.4. International calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection
- 2.1.5. Fixed-to-mobile calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection.

2.2. *For residential customers:*

- 2.2.1. Traditional fixed location access services
- 2.2.2. Local calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection
- 2.2.3. National calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection
- 2.2.4. International calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection

- 2.2.5. Fixed-to-mobile calls from traditional fixed locations, including Carrier Selection and Carrier Pre-Selection
- 2.3. A single mobile voice market, which included access and outgoing calls, as well as prepaid and postpaid customers.

### **3. Product and geographic market definition of End to End Leased Lines and other Wholesale Services**

- 3.1. A market for fixed line local loop access is defined. The market excludes fixed wireless service, wireless services and other wholesale fixed line services.
- 3.2. The following fixed line narrowband (below 256Kbps) exchange line, call origination and call conveyance markets are defined.
  - 3.2.1. Wholesale fixed line narrowband exchange line services for residential customers;
  - 3.2.2. Wholesale fixed line narrowband exchange line service for business customers;
  - 3.2.3. Wholesale fixed line call origination over narrowband networks;
  - 3.2.4. Wholesale fixed line local conveyance services over narrowband networks;
  - 3.2.5. Wholesale fixed line trunk call conveyance services over narrowband networks.
- 3.3. The following leased line markets are defined (and exclude fixed wireless or wireless services):
  - 3.3.1. Low bandwidth (below 2Mbps) retail end-to-end leased lines for transmission within South Africa.
  - 3.3.2. Low bandwidth (below 2Mbps) wholesale symmetric broadband originator ("SBO") services;
  - 3.3.3. High bandwidth (above 2Mbps) retail end-to-end leased lines for transmission within South Africa
  - 3.3.4. High bandwidth (above 2Mbps) wholesale SBO services;
- 3.4. Wholesale trunk services for transmission within South Africa;
- 3.5. International leased lines.

**4. Product and geographic market definition of wholesale call termination**

- 4.1. Wholesale call termination on Vodacom's Electronic Communications Network in South Africa
- 4.2. Wholesale call termination on MTN's Electronic Communications Network in South Africa
- 4.3. Wholesale call termination on Cell C's Electronic Communications Network in South Africa
- 4.4. Wholesale call termination on Telkom's Electronic Communications Network in South Africa
- 4.5. Wholesale call termination on Neotel's Electronic Communications Network in South Africa
- 4.6. Wholesale call termination on all other Electronic Communications Network Service licensees' networks in South Africa, so long as they provide call termination on their Electronic Communications Networks. This will include call termination on USAL and municipal networks.
- 4.7. Wholesale call termination by all other Electronic Communications Service licensees' in South Africa, so long as they are in a position to set call termination rates. This will include call termination on VoIP networks.

**5. Product and geographic market definition of wholesale and retail asymmetric broadband services**

- 5.1. A national market for fixed line broadband services;
- 5.2. A national market for wireless broadband services (where the licensees are iBurst, Sentech, MTN, Cell C and Vodacom);
- 5.3. Asymmetric broadband origination by mobile operators;
- 5.5. Broadband conveyance provided from all the relevant parent nodes of a particular origination provider of fixed location broadband origination services; and
- 5.6. Broadband conveyance provided from all the relevant parent nodes of a particular origination provider of wireless broadband origination services.

## Explanatory Note

1. This Regulation contains the list of possible markets identified by the Authority in identifying and defining retail or wholesale markets or market segments in terms of section 67(4)(a) of the Electronic Communications Act No. 36 of 2005 ("ECA"). It is published to inform the industry of the range of retail and wholesale markets which the Authority will analyse to ascertain whether or not any licensee(s) possess significant market power ("SMP") and whether such markets or market segments are characterised by ineffective competition, such that the Authority might impose pro-competitive conditions.
  2. This list is to be understood as an indicative list, which may change as the market definition process envisaged by section 67(4) of the ECA continues. Any changes will be published accordingly.
  3. The publication of this list does not imply that all markets contained herein will attract the imposition of pro-competitive conditions. In accordance with section 67(4) of the ECA, only those markets or market segments in which the Authority finds that there exists a licensee(s) who possesses SMP and that there exists ineffective competition, will the Authority consider imposing pro-competitive conditions.
  4. The Authority will, in due course publish a regulation explaining the conceptual framework employed by the Authority to define the relevant markets or market segments.
  5. The Authority will also publish by regulation, the methodology (procedure and criteria) to be adopted in determining the effectiveness of competition in such markets or market segments in terms of section 67(4)(b).
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