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**CONTENTS • INHOUD**

*No.*

*Page  
No.      Gazette  
            No.*

**GOVERNMENT NOTICE**

**Communications, Department of**

*Government Notice*

12	Electronic Communications Act (36/2005): Policy Direction on Individual Electronic Communications Network Service Licenses.....	3	31773
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**GOVERNMENT NOTICE**

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**DEPARTMENT OF COMMUNICATIONS**

No. 12

9 January 2009

**MINISTER OF COMMUNICATIONS  
ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)****POLICY DIRECTION ON INDIVIDUAL ELECTRONIC COMMUNICATIONS  
NETWORK SERVICE LICENSES**

I, Dr. Ivy Matsepe-Casaburri, the Minister of Communications hereby issue the Policy Direction contained in the Schedule, in terms of section 3(2) read with section 5(6) of the Electronic Communications Act, 2005 (Act No. 36 of 2005).



**Dr. Ivy Matsepe-Casaburri  
Minister of Communications**

## **SCHEDULE**

### **POLICY DIRECTION ON INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE**

1. On 7 July 2008, I issued through the government gazette, in accordance with section 3(2) read with section 5 (6) of the ECA, 2005 a notice inviting comments on the proposed Policy Directive on Individual Electronic Communications Network Service licence for the provisioning broadcasting services through satellite infrastructure. When the period of accepting comments closed on 15 August 2008, a total of 17 written submissions had been received from the following: the Independent Communications Authority (ICASA) hereafter referred to as the Authority, YAHSAT, ODM, APS, Vodacom, Telkom Media, Morai Telcoms, WOW, Telfree and Neotel.
2. The submissions raised a number of issues relating to the notice, particularly the following:
  - a) Technological specificity of the licence in view of the technological neutral environment advocated by the ECA;
  - b) Limitations of the proposed licence, and;
  - c) The requirements to be met by the applicants vis-a-vis the provisions of the ECA.
3. ***Taking into account*** that the notice on the policy directive on the Individual ECNS was issued amid
  - a) the directive issued to ICASA on 17 September 2007 regarding the continuation of the World Space service in the country;
  - b) the request by ODM to the Department regarding its ability to self-provide its own signal distribution service, and;

- c) the conversion of licences by ICASA in accordance with s93 of the ECA, and the desire expressed by some of those licensees to be granted Individual ECNS licences;

**further taking into account** the comments received pursuant to the notice of 7 July 2008 referred to above;

4. **I, therefore**, direct the Independent Communications Authority of South Africa, in terms of section 3(2) read with section 5(6) of the Electronic Communications Act, No.36 of 2005 (the ECA) and taking into account section 3(2)(b), to accept and consider applications for Individual Electronic Communications Network licenses prioritizing, amongst others, the licensees intending to use satellite infrastructure for the provisioning of broadcasting services and applicants whose primary target is the poor. ICASA, should ensure that, in this licensing process in particular, a fair balance is maintained between the public and private allocation of the radiofrequency spectrum, which, like land, is a scarce public resource, and must therefore be used optimally to the benefit of all and for accelerating our national efforts aimed at bridging the digital divide,
5. **I further direct** that, as part of the government-led campaign of *war on poverty*, in view of our commitment to meet our universal access goals and given the potential of ICTs to be effective empowerment tools for the poor, the Authority pays special attention, when considering licence applications, to the needs of the poorest sections of our population. In that regard, appropriate enabling as well as restrictive licence conditions for any applicants that may be targeting the poorest as their primary target customers, should be innovatively considered to ensure that the objective of prioritizing and empowering the poor in granting Individual ECNS licences is met and the use of the radiofrequency spectrum for that purpose is achieved and yet these considerations are not misused by any such successful applicants for

purposes of unfairly benefitting from, such a licence without making a qualitative difference in serving the poor.

6. This Policy Direction is only valid for ;
    - a) those licencees that qualify to be considered for licence conversion in accordance with s93 of the ECA,
    - b) licencees that had temporary permit, authority or licence or were granted a private broadcasting licence by the Authority for broadcasting services and wish to self provide their signal distribution services using satellite technology , and
    - c) any special case as may be exceptionally presented to the Minister by the Authority between this and the next policy direction to be issued in terms of s5(6) after consultation with the Authority.
  
  7. Applicants for Individual ECNS licences that do not qualify for consideration in terms of paragraph 6 (six) above or are not successful during this licensing period may only be considered under a new process after the next Policy Direction is issued to the Authority by the Minister in terms of section 5 (6) of the ECA as part of the implementation of government's policy of managed liberalization. Such Policy Direction will, as required by the ECA, be issued after consultation with the Authority.
  
  8. The Authority should, at the earliest convenience, and as a matter of urgency facilitate the licensing of the Individual Electronic Communications Network Services licences to the qualifying applicants following the publication of this policy directive in the Gazette.
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