

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 525

Pretoria, 26 **March**
Maart 2009

No. 32066

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GENERAL NOTICE

NOTICE 329 OF 2009



Independent Communications Authority of South Africa

INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE (I-ECNS) LICENCE FOR THE PROVISIONING OF BROADCASTING SERVICES

I, Paris Mashile, Chairperson of the Independent Communications Authority of South Africa ("the Authority") acting on behalf of the Council of the Authority, hereby approve and publish the invitation to Apply for Individual Electronic Communications Network Service (I-ECNS) licence for the provisioning of broadcasting services, in terms of sections 9(1) and 9(2), read with section 63(1) of the Electronic Communications Act, Act No: 36 of 2005 ("ECA"), and in terms of the Ministerial Policy Directive published in the Government Gazette No.31773 dated 9 January 2009.

A handwritten signature in black ink, appearing to read 'Paris Mashile', written over a horizontal line.

**PARIS MASHILE
CHAIRPERSON**

**INVITATION TO APPLY
FOR
INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE (I-ECNS)
LICENCE FOR THE PROVISIONING OF BROADCASTING SERVICES**

1. INTRODUCTION

The Independent Communications Authority of South Africa ("the Authority") hereby invites broadcasting services licensees to apply for Individual Electronic Communications Network Service (I-ECNS) licence for the provisioning of broadcasting services, in terms of sections 9(1) and 9(2), read with section 63(1) of the Electronic Communications Act, Act No: 36 of 2005 ("ECA"), and in terms of the Ministerial Policy Directive published in the Government Gazette No.31773 dated 9 January 2009.

All applications will be considered based on this Invitation To Apply (ITA) and applicable regulations made by the Authority.

2. BACKGROUND

Broadcasting services licensees may self provide their broadcasting signal distribution upon obtaining an electronic communications network services licence in terms of section 63(1) of the ECA.

In terms of section 3(2) read with section 5(6) of the ECA, the Minister issued the policy directive in Government Gazette No:31733 on 9 January 2009, directing the Authority to accept and consider applications for I-ECNS licences prioritising, amongst others, licensees intending to use satellite infrastructure for the provisioning of broadcasting services and applicants whose primary target is the poor in order to self provide their own signal distribution.

It is upon this policy directive and in view of our commitment to meet universal access goals and the potential of ICTs to be the effective empowerment tools for the poor, that the Authority will, on considering the applications, pay special attention to the needs of the poorest sections of our population.

3. SCOPE OF THE INVITATION TO APPLY

This ITA apply to;

- a) Those licensees that were considered for licence conversion in accordance with section 93 of the ECA, and
- b) Licensees 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.

4. MANNER OF APPLICATION AND MINIMUM REQUIREMENTS

- a) All applications must be submitted to the Authority by 21 May 2009.
- b) Application must be in writing.
- c) Applicants must submit 10 copies of their applications.
- d) The application must include a percentage of equity ownership held by persons from historically disadvantaged groups (HDGs) that is not less than 30%.
- e) The Authority may conduct a public hearing in relation to any application for an individual licence.
- f) After the application has been submitted on the date mentioned above, the applicant may be required to submit additional information to the Authority. The additional information must be furnished within a period of seven days of receiving the request for additional information.
- g) Other interested parties will be allowed to view the applications submitted in terms of (a) above from the ICASA library during ICASA office hours as from 25 May 2009. Where such interested parties want to respond to the application

they must submit to the Authority such responses no later than 19 June 2009. Such responses must be in writing.

- h) Applications, representations, responses and other documents relating to an application which are submitted to the Authority are open for public inspection during the normal office hours of the Authority.
- i) Subject to section 4D of the Independent Communications Authority of South Africa Act, Act 13 of 2000 (*“the Act”*), applicants may request that any part of the application be treated as confidential. The Authority may determine that an application or portions thereof are confidential and will inform the applicants accordingly.
- j) If the request for confidentiality is refused, the Applicant making the request will be allowed to withdraw such portions as applicable or waive the confidentiality as appropriate. Applicants' attention in this regard is drawn to Section 4D of *the Act* with regard to applications for confidentiality.
- k) All applications submitted must be in the format as provided in **Annexure A** of this ITA.
- l) The application must be accompanied by a non-refundable application fee of R 50, 000.00.
- m) Applications must be addressed to Chairperson and for the attention and submission to the General Manager: Licensing and Compliance at Block D, Pinmill Farm, 164 Katherine Street, and Sandton.
- n) The closing date for the submission of applications shall be no later than 16h00, South African Standard Time (SAST), on or before 21 May 2009.
- o) Failure to comply with any of these requirements will render the application liable to disqualification.

5. PROPOSED LICENCE TERMS AND CONDITIONS

- a. Applicants must indicate their strategy and commitment to meet universal access goals, and
- b. Applicants must indicate how they will empower the poor when the licence is issued.

ANNEXURE A

1. PARTICULARS OF THE APPLICANT	
Full name of applicant:	
Designated contact person:	
Applicant's street address:	
Applicant's principal place of business (if different from street address):	
Applicant's postal address:	
Applicant's phone number/s:	
Applicant's fax number/s:	
E-mail address of designated contact person:	
Indicate if the applicant, in the case of :	
Natural person, is a citizen of South Africa; or	
A juristic person, is, or will be, registered under the laws of South Africa and has or will have its principal place of business located within South Africa.	
Indicate how the applicant, in obtaining the licence, will:	
ensure that electronic communications network services are provided to persons or groups of persons from poorest communities in South Africa also ensuring within those communities diverse views are accomodated; and	
promote the empowerment of historically disadvantaged persons including women and the youth and people with disabilities, in accordance with the requirements of the ICT	

charter	
other (specify)	
If the Applicant is a juristic person:	
Indicate the legal form of the Applicant (e.g. private company incorporated in terms of the Companies Act, 1973):	
Registration number of the Applicant:	
Attach certified copies of the Applicant's certificate of incorporation and memorandum and articles of association or other constitutive documents of the Applicant (e.g. memorandum and articles of association, association agreement, constitution) indicating the applicant's compliance with the requirements of section 5(8) (b) of the ECA.	
ATTACH AS APPENDIX 1.1	
If the Applicant is not a juristic person but intends to operate as one, if the licence that is the subject of this registration is granted:	
Provide a written undertaking that the Applicant will comply with section 5(8) (b) of the ECA.	
ATTACH AS APPENDIX 1.2	
Indicate when and how the Applicant will comply with section 5(8) (b) of the ECA.	
Provide a resolution authorizing the signatory to this application to sign this application and/or to represent the applicant at the Authority's hearings in respect of this application.	
ATTACH AS APPENDIX 1.3	
3. Proposed licence conditions that will be applicable:	
The applicant must indicate their strategy and commitment on how to meet universal access goals.	
Applicants must indicate how they will serve and empower the poor when the licence is issued; and	
Applicants must indicate how they will ensure that the poorest are their primary target customers.	
ATTACH AS APPENDIX 1.4	