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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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 No.**GENERAL NOTICE****Independent Communications Authority of South Africa***General Notice*1321 Telecommunications Act (103/1996): Notice in terms of section 96 of the Act 3 28267

IMPORTANT NOTICE!!!

It is announced to the general public that all offices of the **Government Printing Works** will be closed at **12:00** on **2 December 2005** for an official function.

Any inconvenience caused is deeply regretted.

Chief Executive Officer

GENERAL NOTICE

NOTICE 1321 OF 2005



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE IN TERMS OF SECTION 96 OF THE TELECOMMUNICATIONS ACT

- 1) The Independent Communications Authority of South Africa (ICASA) hereby gives notice and invites comment in terms of section 96 of the Telecommunications Act No. 103 of 1996 ("the Act") on the intention to prescribe regulations for the provision of the ADSL service.

- 2) Interested persons are hereby invited to submit written representations on their views on the draft ADSL regulations, on or before 3 January 2006, by post, hand delivery or facsimile transmission and by an electronic version in Microsoft word for the attention of

Ms. D. Ngoasheng
Independent Communications Authority of South Africa
Private Bag X10002
Sandton
2146

Block C,
PinMill Farm
164 Katherine Street
Sandton

Facsimile: (011) 448-1369,

Telephone: (011) 321-8278

e-mail: dngoasheng@icasa.org.za

- 3) Persons making representation are requested to indicate if they wish to make oral representation, the estimated duration whereof shall not exceed 45 minutes.
- 4) All written representations submitted to ICASA pursuant to this notice shall be made available for inspection by interested persons within sixty (60) days of publication hereof at the ICASA library and copies of such representations and documents will be obtainable on payment of the prescribed fee.
- 5) At the request of any person who submits a written representation or document pursuant to this notice, ICASA may determine whether such representation or document, or any portion thereof, relates to the financial situation or business plan of any person, or to any other matter reasonably justifying confidentiality, in which event such representation or document shall not be made available for inspection by members of the public. If the request for non-disclosure to the public is refused,

the person making the request shall be allowed to withdraw such representation or document.

- 6) With respect to the documentation determined not to be open to public inspection in terms of paragraph 5 above, ICASA may direct that the public or any member or category thereof, shall not be present while the oral submissions relating to such documentation are being made; provided that those present shall have been notified of this intention and allowed to object thereto after such objections had been considered by ICASA.
- 7) The regulations made by ICASA following the public hearings will be published in the Government Gazette in accordance with Section 27 of the Act.

PARIS MASHILE
Chairperson
ICASA

SCHEDULE

1. Definitions

In these regulations any expression or word to which a meaning has been assigned by the Telecommunications Act, 1996 (Act No 103 of 1996), as amended, (hereinafter referred to as "the Act"), shall have the same meaning in these regulations, unless the context otherwise indicates:-

"Access Charge" means the initial charges in respect of costs relating to the set-up and connection of a subscriber to the network for ADSL services.

"Asymmetric Digital Subscriber Line" means a modern technology that converts twisted-pair telephone lines into access paths for multimedia and high speed data communications. The bit rates transmitted in both directions are different.

"Broadband" means an always-on data connection that is able to support various interactive services, and has the ability of a minimum download speed of 256 Kbps or as may be prescribed by the Authority from time to time.

2. Fees and Charges

- 2.1 The structure of an ADSL tariff shall comprise of a connectivity charge, a monthly telephone line rental for basic telephony and a bandwidth charge.
- 2.2 The connectivity charges shall be levied once off at the inception of the services, where after access charges shall be restricted to line rental. The network operator shall only levy a connectivity and rental for basic telephony. The bandwidth charge shall be a monthly charge levied by the Internet Service Provider (ISP).
- 2.3 The connectivity charge to ADSL services shall be a once off charge for the cost of providing connectivity of such services. A network operator or a licensed service provider of broadband infrastructure shall offer users an option to pay the connectivity charge over a specified period of time which shall not be longer than twelve (12) months.

- 2.4 Service Providers shall purchase bandwidth from network operators at a wholesale rate agreed between the parties and any benefits derived there from shall be equitably shared with the subscribers.
- 2.5 The Authority shall, at the request of the parties, intervene and make a determination whenever there is disagreement on wholesale rates.

3. Consumer Protection Issues

- 3.1 Subscribers who enlisted for the ADSL service prior to the introduction of the cap shall have the option to renegotiate and amend or vary the terms of services with the network operator in circumstances where the cap has negative implications on subscribers.
- 3.2 Subscribers that have reached the monthly cap shall be allowed to top-up or purchase extra bandwidth without the need to purchase a new user account.
- 3.3 Network operators shall inform subscribers, at all times during the course of the month, of their bandwidth usage until the monthly threshold has been reached. The subscribers shall also be in a position to track their bandwidth usage on a daily basis.
- 3.4 Local bandwidth usage shall not be subject to the cap. The cap shall be increased to a minimum level of 10GigaBytes (GB) per month.
- 3.5 Subscribers that have entered into ADSL contracts prior to the promulgation of these regulations shall have an option to substitute the existing contracts, at no cost to such subscribers, with the new contracts that comply with the new framework.
- 3.6 The licensee shall publish updated information on ADSL-enabled exchanges in the white papers.
- 3.7 The network operators shall install the ADSL service within fourteen days of receipt of an application if the applicant resides within a ADSL enabled area.

4. Throughput Speeds

Network operators and service providers shall guarantee minimum broadband speeds that are in line with ITU recommendations for the ADSL service so as to ensure that it does not lose its broadband character.

5. Port Prioritisation

Network operators shall charge subscribers only according to the throughput speed provided to the subscribers. There shall be no distinction in respect of cost and priority of customer's service over others within the same ADSL service.

6. Contention Ratios

The network operator shall publish the contention ratio as a commitment to good business practice.

7. 24 Hour ADSL Service reset.

The network operator shall not periodically reset the ADSL service. Any such reset if required for the service maintenance shall be done with a prior notification of at least seven (7) days to the subscribers.

8. Service Level Agreements

The parties shall enter into service level agreements and such agreements shall determine, among others:-

- (i) complaint processes and procedures;
- (ii) dispute resolution mechanisms;
- (iii) turn around times in effecting repairs;
- (iv) penalties for failure to effect repairs and issues related thereto in time;
- (v) for a local loop length of a given distance what is the guaranteed maximum downstream data rate;

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- (vi) at the guaranteed maximum downstream data rate in what time shall the ADSL deliver a 3MB file;
 - (vii) the data portion of the ADSL circuit shall be like a leased line and no dial-up procedure shall be required for connection to the internet;
 - (viii) the connection to the internet shall be permanent; and
 - (ix) the ADSL service shall operate up-stream at maximum rates of 384 kbps.

 - (x) The ADSL supplier should be upfront with the technological limitations of ADSL with regard to:
 - (i) distance limitations;
 - (ii) loop impairments;
 - (iii) digital loop carrier (DLC) systems;
 - (iv) installation difficulties

(xi) **UADSL**

In the event that a Universal ADSL (UADSL) or G.lite is used the supplier shall:

- (i) give the customer a guaranteed maximum downstream data rate as well as the upstream maximum data rate; and
- (ii) Indicate whether there is degradation of the quality of service where there is simultaneous use of a voice call and data transfer.

The Authority may, at the request of any party, intervene to resolve any dispute in instances where a service level agreement cannot be concluded in sixty (60) days.



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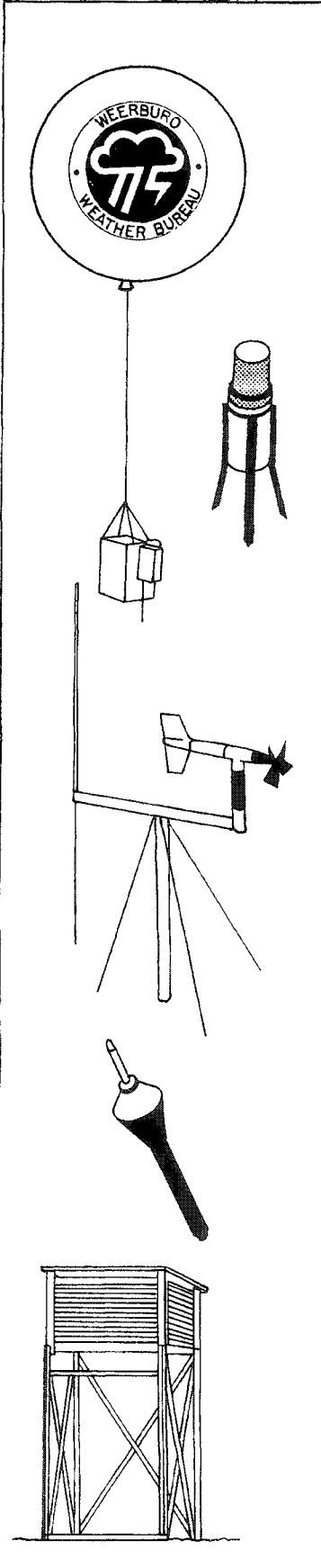


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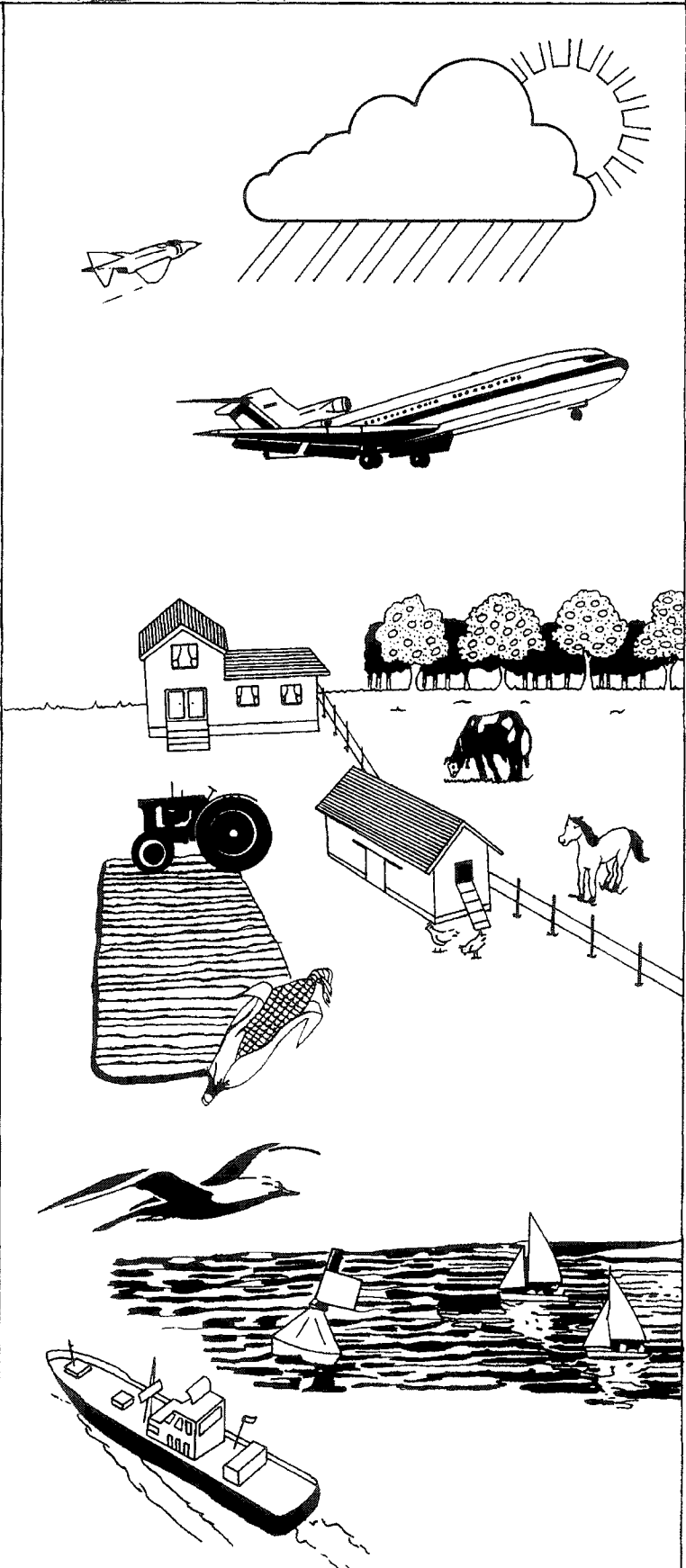


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