

12 November 2024

ICASA

Attention: Mr. Mandla Mchunu

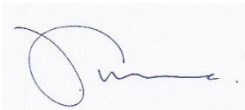
Per email: satlicensing@icasa.org.za

Dear Sir

Consultation on the proposed New Licensing Framework for Satellite Services

1. ISPA refers to the consultation document published on 25 August 2024 under the Authority's inquiry into a proposed new licensing framework for satellite services.
2. ISPA supports this process and is of the view that a speedy conclusion to amending the existing regulatory framework is required in order for South Africa to position itself optimally to take advantage of new developments in satellite technology.
3. ISPA has set out responses to questions raised in the consultation document below, which we trust will be of assistance to the Authority.
4. The majority of ISPA's members are internet service providers who are the holders of service licences or licence exemptions issued by the Authority under Chapter 3 of the Electronic Communications Act 2005. ISPA's primary interest relates to the interaction between international satellite providers and locally-based service providers.
5. ISPA strongly supports proposed measures which will act to reduce barriers to entry, and which will encourage infrastructure investment in South Africa.

Regards



Dominic Cull

for ISPA

QUESTION 1

These are the policy principles from the ATU that ICASA seeks to align with.

Kindly provide comment(s) on the proposed policy principles and any further recommendations listed in the above section?

1. ISPA supports the policy principles listed and the legal instruments cited, as forming the context for this process.

QUESTION 2

Do you agree with the exclusions of radio navigation satellite services, amateur satellite services, earth exploration, space research satellite services and radio astronomy services indicated above and others if applicable? If not, please explain your reasoning and propose an alternative to this proposal.

2. No response.

QUESTION 3

Do you agree with the proposed approach of having a separate licence/authorisation (where applicable) for each segment of the Satellite Communication value chain? Please elaborate

3. ISPA broadly supports this approach.
4. In order to be clear about the nature of the proposed licenses – authorisation to utilise radio frequency spectrum – ISPA suggest that the word “spectrum” is included in the licence name.
5. The consultation document states:

In the South African context, electronic communications services (ECSs) are subject to the ECA. According to section 1 of the ECA, Electronics Communication services (ECS) are any service that consists wholly or mainly of the conveyance, by any means, of electronic communications over an electronic communications network (ECN), regardless of whether such services are provided on a wholesale basis or to end-user subscribers. Satellite communications services are therefore considered to be electronic communication services under the ECA.

- 5.1. This paragraph is not accurate.
- 5.2. The delivery of subscriber services over satellite systems involves both **the provision of capacity over an electronic communications network (ECNS)** as well as **the conveyance of electronic communications using that capacity (ECS)**.
- 5.3. In other words, it involves both ECNS and ECS. This distinction is important, because only ECNS licensees can lawfully acquire satellite capacity from an operator who does not itself hold an ECNS license.

QUESTION 4

Please provide your comments on the proposals in the preceding paragraph and the duration of the Gateway Earth Station licences.

6. ISPA submits the term should be linked to the term of the underlying service licence.

QUESTION 5

Please comment on the above-mentioned alternative proposals to levy the spectrum fees for Gateway Earth Stations and indicate your preferred option. The Authority understands that there are other spectrum fee calculation methodologies used elsewhere in the world.

Please give details of the methodologies which you believe would be most suitable for South Africa.

7. ISPA agrees with the analysis of challenges arising from the existing spectrum fee framework, and strongly supports proposals to reduce spectrum licences fees for spectrum used by Gateway Earth Stations that will incentivise investment in infrastructure on the ground in South Africa.
8. Both proposals made are supportable.
9. Noting that there is competition from other jurisdictions and that the nature of emerging satellite technologies is dynamic, ISPA suggests that the second option is preferable in that it is easily adjustable and allows for easier comparative benchmarking.

QUESTION 6

Kindly comment on the section above and on the proposal for blanket licensing with a fee for a set number of terminals under a new proposed licence regime to be referred to as "Satellite User Station Network Licence". If possible, please provide a breakdown of the number of terminals with the corresponding spectrum fee values in South African Rands.

10. ISPA supports a blanket licensing approach for user terminals based on ease of implementation and reduced regulatory burden.
11. In ISPA's understanding, however, this is not "very similar to the mobile/cellular environment, where devices are exempt from individual licensing i.e. blanket licence".
 - 11.1. Under subsection 31(5) of the ECA a subscriber may use radio apparatus to transmit or receive a radio signal in the course of making due and proper use, as a subscriber, of licensed or licence exempt ECS or ECNS.

11.2. Further, the definition of an “electronic communications network” explicitly excludes “subscriber equipment”.

“electronic communications network” means any system of electronic communications facilities (excluding subscriber equipment), including without limitation—

11.3. A similar consideration applies to the definition of “radio apparatus”:

“radio apparatus” means an electronic communications facility which is capable of transmitting or receiving any signal by radio, excluding subscriber equipment, if such subscriber equipment is used solely for that purpose;

11.4. “Subscriber equipment” is defined as:

“subscriber equipment” means any device which is used by a subscriber to access, use or receive the services of a licensee referred to in Chapter 3 or the services of a person providing a service pursuant to a licence exemption, including without limitation, a telephone, regardless of technology such as IP (internet protocol) phones, mobile phones, publicly available phones: a handset, a computing device such as a personal digital assistant or a personal computer, a device for receiving a sound radio broadcasting service and a television, or other device or equipment, and any associated software;

11.5. The ECA makes it clear that “subscriber equipment” used as such is not regarded as part of an electronic communications network. This should not be equated to a “blanket licensing” approach.

11.6. A terminal for receiving satellite services does not, in ISPA’s view, fall within the definition of “subscriber equipment”. The handset or laptop linking to the terminal would fall within such definition.

11.7. In the definitions section of the consultation document, “terminal” is defined as “equipment used by customers to access the licensed service”.

11.8. This is confusing as it implies that terminals are “subscriber equipment”.

12. Subject to this clarification, ISPA supports:

12.1. Amending the radio spectrum fee formula so that it is not specific to VSAT terminals.

12.2. The proposed model for user-terminal fees, subject to comparative benchmarking and other exercises to inform the setting of these fees.

QUESTION 7

Kindly comment on the appropriateness of using regulation 37 of the ICASA radio regulations (“Recognition of licences issued by other countries”) to recognize ESIM licences issued by other countries.

13. No response.

QUESTION 8

Please provide your comments and details of the best practices in other jurisdictions to fulfill the intentions of the Authority as indicated in the above section. Furthermore, considering the provision set out in the Astronomy Geographic Advantage (AGA) Act of 2007, and the requirements of the Radio Quiet Zone, what measures and techniques do you propose to be employed in mitigating the possible interference that may be caused by the satellites within the Astronomy radio frequency bands in South Africa?

14. No response.

QUESTION 9

Please provide proposals on the role the Satellite operators can play in ensuring that broadband connectivity reaches the areas of the country in terms of community networks with Satellite connectivity as a backhaul.

Kindly provide a regulatory solution that can be applied by Satellite operators to address the shortcomings of terrestrial networks in providing to unserved and underserved areas of the country. This may include collaboration with government programs to reach out to those unserved and underserved areas of the country.

15. ISPA supports the imposition of universal service and access obligations on satellite operators in line with the existing provisions of the ECA.
16. It would make sense for such obligations to be aligned with SA Connect Phase 2 targets as has been done with the MNOs pursuant to the March 2022 spectrum auction.
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