



Association of
Comms & Technology

Eco Court Office Park
Mezzanine floor Suite B5&B6
340 Witch-Hazel Street
Highveld Ext 70
Centurion
0157

16 February 2026

Mr Mothibi Ramusi
Chairperson
Independent Communications Authority of South Africa
350 Witch-Hazel Road,
Eco-Park,
Centurion

Email: chairperson@icasa.org.za

CC: iecns-inquiry@icasa.org.za; pmailula@icasa.org.za

Dear Chairperson,

RE: SUBMISSION IN RESPONSE TO THE NOTICE OF INTENTION TO CONDUCT AN INQUIRY INTO NEW INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCES (GOVERNMENT GAZETTE NO. 53215)

The Association of Comms and Technology (“ACT”) is an industry association representing telecommunications network operators within the ICT sector. Its main objectives are to promote and develop telecommunications infrastructure and networks, contribute to the development of a conducive South African policy and regulatory environment, promote education, and through informed research, promote industry stakeholder investments in the South African telecommunication infrastructure network.

The ACT also seeks to advance socio-economic development of the country as contemplated in the South African government’s Fourth Industrial Revolution vision and National Development Plan 2030. The founding members of ACT are Cell C, Liquid Intelligent Technologies, MTN, Rain, Telkom, and Vodacom.

The Association of Communications and Technology (ACT) and its member operators express their sincere appreciation for the opportunity to present this submission. ACT respectfully requests that the analysis, evidence and recommendations contained herein be given due consideration by the relevant authorities. The industry remains committed to constructive engagement, regulatory alignment and the advancement of South Africa’s digital-infrastructure objectives. ACT further affirms its willingness to



participate in any follow-up consultations, technical workshops or clarification processes required to support informed decision-making and to ensure that the final regulatory outcome promotes universal connectivity, competitive neutrality and sustainable network development.

1. Executive Summary

ACT submits that South Africa's current electronic communications licensing framework, particularly as it relates to Individual Electronic Communications Network Service (I-ECNS) licences, reflects regulatory assumptions developed for an earlier, voice-centric era and does not fully align with the realities of a converged, packet-based digital economy.

While the Electronic Communications Act, 2005 ("ECA") does not impose an explicit statutory cap on I-ECNS licences, the prolonged pause in issuing new individual licences and the increasing reliance on licence transfers have unintentionally created administrative friction, elevated secondary licence valuations and delayed infrastructure investment and service deployment.

ACT supports a progressive modernisation of the licensing regime, moving toward a general authorisation and notification-based framework for non-spectrum and non-scarce network deployments, while retaining proportionate regulatory oversight where spectrum, numbering, national security or critical infrastructure considerations apply. This approach is consistent with international best practice, including guidance from the International Telecommunication Union (ITU) and the European Electronic Communications Code (EECC).

Importantly, ACT does not advocate deregulation. Rather, it supports proportionate, technology-neutral and competition-aligned authorisation models that shift regulatory focus from ex-ante entry controls toward ex-post oversight, infrastructure deployment, service quality, consumer protection and competition law enforcement.

2. SECTION 1: TRANSFER OF INDIVIDUAL I-ECNS AND I-ECS LICENCES FRAMEWORK

Question 1.1: What are your views on the current licensing framework in relation to the sale and transfer of I-ECNS and I-ECS licences? Does it promote competition?

The current framework for acquiring I-ECNS and I-ECS licences, particularly through transfer processes under section 13 of the ECA, presents material barriers to entry for new network operators and innovative infrastructure models. While appropriate at a time of limited network competition and scarce switching capacity, this framework now risks constraining investment and innovation in a data-driven economy.

International experience demonstrates that jurisdictions which rely extensively on general authorisations, rather than individual licences, benefit from lower administrative burdens, faster market entry and greater infrastructure innovation, without compromising regulatory oversight.

In the European Union for example, the European Electronic Communications Code (EECC) (Directive 2018/1972) mandates the use of general authorisations to the greatest extent possible to stimulate the development of new communications networks. The EECC explicitly maintains a regime where "any operator can provide its services across the EU without the need for an individual licence". By removing the artificial cap on licences, the regulator removes the "licence value" from the equation, forcing entities to compete on service quality and infrastructure rather than on the possession of a scarce regulatory asset.

Question 1.2: Should the Authority intervene in the current sale and transfer market?

The current sale and transfer market is characterized by rent-seeking. Academic literature defines rent-seeking as "the expenditure of scarce resources to capture an artificially created transfer" rather than to create value. Because the Authority has paused the issuance of new I-ECNS licences for extended periods, existing licences have acquired an artificial market value unrelated to the underlying infrastructure or customer base.

Studies on telecommunications licensing demonstrate that when government restricts entry such as lotteries or strict caps, the secondary market inevitably inflates prices, which acts as a tax on genuine investment. It is therefore proposed that the Authority should intervene by expanding the availability of authorisation-based entry models for non-spectrum networks, thereby shifting market value toward infrastructure deployment and service differentiation.

Question 1.3: What other considerations or interventions would be useful?

It is our considered view that the entire regulatory framework in South Africa requires reconsideration.

To assess the impact of the current approach, it is proposed that the Authority should conduct a Regulatory Impact Assessment (RIA) comparing the administrative costs and market distortions of the current Section 13 (ECA) transfer process against a notification-based General Authorisation system.

3. SECTION 2: THE DEMAND FOR NEW INDIVIDUAL ECNS LICENCES

Question 2.1: Are there sufficient market opportunities to justify issuing new I-ECNS and I-ECS licences?

It is our submission, that this question frames the market incorrectly. In a functional market economy, "demand" should not be determined by the regulator but by market forces. The rise of Over-The-Top (OTT) services such as WhatsApp, Zoom, Netflix etc. demonstrates that demand for communication services is insatiable and growing organically. ACT submits that market demand for communications networks and services should primarily be determined by economic viability and innovation, rather than ex-ante regulatory assessment. The growth of cloud services, data centres, enterprise networks, private 5G, satellite connectivity and digital platforms demonstrates continued and expanding demand for network infrastructure.

Statistics show that the South African OTT market is projected to reach USD 27.30 Billion by 2033, growing at a CAGR of 21.08%. Globally, OTT subscription revenue is forecast to exceed traditional subscription revenue by 2027. These players enter the market with very little barriers to entry, no licence fees and facing minimal compliance costs, yet they compete directly with licensed Telcos. This creates regulatory asymmetry. ACT does not necessarily advocate for full regulatory symmetry, but it supports proportionate obligations for digital service providers, aligned with international norms, covering areas such as security, interoperability, lawful access and consumer protection, without imposing infrastructure licensing burdens.

Question 2.2: What technologies would be appropriate for any new I-ECNS licensees?

It is submitted that adopting a narrow view of "appropriate technologies" restricts innovation. The Authority's views should remain technology neutral, a core principle of the ITU, which states that licensing frameworks should "not specify technologies" to accommodate convergence.

Assessing the market, based on current technologies (like fibre or 4G) ignores rapid advancements such as Low Earth Orbit (LEO) satellites and AI-driven mesh networks. GSMA research indicates that while 4G/5G is growing, a massive "usage gap" exists for example 64% of the population in Africa is not using mobile internet despite living in areas with coverage. This suggests the problem is not just technology availability, but affordability and relevant content, and these issues are best solved by open competition, not technological prescription.

Question 2.3: Experience with the sale and transfer market vs. direct acquisition.

The current process for acquiring licences via transfer is excessively lengthy, bureaucratic, and capital-intensive. While the licensing process under the ECA is legally established, it is no longer the "best practice" approach. The delays inherent in Section 13 approvals (often taking months) stall investment decisions and delay the rollout of services, contrasting sharply with the "instant-on" nature of digital service competitors.

Question 2.4: Views on unsolicited interest/selling licences.

The phenomenon of unsolicited offers to buy licences confirms the "rent-seeking" argument presented in Question 1.2. The legislative intention of the ECA was to regulate the provision of services, not to create a speculative market in government permissions.

Question 2.5: Infrastructure and services provided.

While a market review is beneficial, the current inquiry is too narrow. A comprehensive review would include cloud infrastructure and hyperscalers, which are arguably the new "network" backbone.

Question 2.6: Additional points on demand (International Case Studies).

It is suggested that the Authority look to jurisdictions like Singapore and the EU:

- Singapore: The Infocomm Media Development Authority (IMDA) distinguishes between "Facilities-Based Operations" (FBO) and "Services-Based Operations" (SBO). SBOs can lease network elements from FBOs and require only a simple class licence (General Authorisation). This encourages service innovation without requiring every player to build a national network.
- European Union: The EECC explicitly prevents member states from limiting the number of general authorisations, except where strictly necessary for spectrum resource management.



4. SECTION 3: WHETHER NEW I-ECNS LICENCES WILL PROMOTE COMPETITION

Question 3.1: Will new I-ECNS licences promote or improve competition?

Simply issuing more licences under the current framework is unlikely to deliver optimal outcomes. Structural reform, rather than numerical expansion, is required to address entry barriers, reduce administrative delays and promote sustainable competition.

Question 3.2: Competition issues or concerns.

Licensed network operators bear significant regulatory and compliance obligations, including spectrum fees, universal service contributions and consumer-protection duties. Regulatory asymmetry arises not from the existence of OTT services per se, but from the absence of proportionate, cross-sector coordination in addressing market power and consumer impacts.

Question 3.3: Regulatory measures to remedy competition concerns.

ACT supports a tiered authorisation framework that differentiates between spectrum-based networks, non-spectrum national networks, private/campus networks and digital services, aligning regulatory obligations with actual competitive and public-interest risks. This is proposed to be introduced within a new legislative framework to replace the outdated ECA.

5. SECTION 4: POTENTIAL CONTRIBUTION TO UNIVERSAL ACCESS AND SERVICE

Question 4.1: Contribution to universal access.

ACT submits that universal access objectives are best advanced through technology-specific strengths, infrastructure sharing and targeted interventions, rather than uniform obligations applied across fundamentally different network models.

We furthermore support the use of Equity Equivalents as a mechanism for firms to contribute to the local economy, provided it is a mechanism available equally to all players in the market. This allows companies to offset ownership requirements by investing in skills development, enterprise development, and SME support, effectively "paying" for their social license to operate. This would furthermore unlock massive foreign direct investment (FDI) and solve the rural coverage gap without requiring state subsidies.

Question 4.2: Incorporating universal access obligations.

The "one size fits all" approach to Universal Service Obligations (USO) has become outdated. It is proposed that the Authority leverage the specific strengths of different technologies:

- Satellite: Excellent for rural/remote coverage.
- Fibre/5G: Excellent for high-density urban/peri-urban.
- Equity Equivalents: Instead of forcing for a company that does not have infrastructure as a focus area to dig trenches, allow them to offset obligations by leveraging their strengths in other areas or to subsidise user terminals for poor communities.

6. SECTION 5: BENEFITS VS COSTS & ENVIRONMENTAL IMPACT

Question 5.1: Negative consequences and infrastructure considerations.

Competition is required at all levels, infrastructure and service. However, the regulatory framework must ensure it is feasible to invest. We draw the Authority's attention to Section 21 of the ECA (Guidelines for rapid deployment of electronic communications facilities) and Section 43 (Obligation to lease electronic communications facilities).

Currently, the administrative cost of deploying infrastructure (duplication of trenches, municipal delays) is a great barrier. It is proposed that the Authority facilitate the implementation of the rapid deployment guidelines by collaborating with other government departments to harmonise wayleaves and standardise processes and fees.

Question 5.2: Benefits of new licences.

We submit that the concept of "issuing new licences" as a scarcity measure is not the correct approach. Instead, an Open Market (General Authorisation) allows innovation to determine outcomes. The benefit of an open market is that "disruptors" can enter niche markets such as private 5G networks for mines, and community Wi-Fi, without navigating a heavy licensing process from a bygone era.

7. SECTION 6: ANY OTHER COMMENTS

Question 6.1: Additional comments.

The ECA has served South Africa well but requires modernisation to reflect convergence, digitalisation and evolving network architectures. ACT supports a phased reform approach that:



Association of
Comms & Technology

Eco Court Office Park
Mezzanine floor Suite B5&B6
340 Witch-Hazel Street
Highveld Ext 70
Centurion
0157

- adopts general authorisation as the default entry mechanism where feasible;
- strengthens coordination between ICASA, the Competition Commission and the DCDT and other relevant regulatory bodies; and
- enables future-oriented regulation without rigid technological constraints.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Batyi', written over a faint, larger version of the same signature.

Ms Nomvuyiso Batyi

Chief Executive Officer

Association of Comms and Technology (“ACT”) NPC



References

- Competition Commission (2019) Data Services Market Inquiry Final Report. Available at: <https://www.compcom.co.za>
- Ellipsis (2025) Competition Commission Inquiry into Data Services Market. Available at: <https://www.ellipsis.co.za>
- European Union (2018) Directive (EU) 2018/1972 establishing the European Electronic Communications Code. Official Journal of the European Union.
- GSMA (2025) The Mobile Economy Sub-Saharan Africa 2025. Available at: <https://www.gsma.com>
- IMARC Group (2024) South Africa Over the Top (OTT) Market Size & Share 2033. Available at: <https://www.imarcgroup.com>
- IMDA (2025) Services-Based Operations (SBO) Licence. Infocomm Media Development Authority Singapore.
- ITU (2022) Licences & authorizations: Types of operating licenses. ITU DataHub.
- ITU (2005) Licensing Guidelines: Basic Principles. International Telecommunication Union.
- Krueger, A.O. (1974) The Political Economy of the Rent-Seeking Society. American Economic Review.
- PWC (2025) Africa Entertainment and Media Outlook 2025 - 2029. Available at: <https://www.pwc.co.za>
- ResearchGate (2015) The Cost of Rent-Seeking: Evidence from Cellular Telephone License Lotteries.
- South Africa (2005) Electronic Communications Act 36 of 2005. Government Gazette.
- Squire Patton Boggs (2019) Five Minutes On... The EU Electronic Communications Code.