



**Independent Communications Authority of South Africa**

## **CONSUMER ADVISORY PANEL**

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**Representations by the Consumer Advisory Panel (CAP) of ICASA on the Draft  
Signal Distribution Services Regulations 2026**

**STAATSKOERANT, 16 JANUARIE 2026 No. 53966 2**

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Chairperson: Signal Distribution Council Committee

Independent Communications Authority of South Africa

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## **BACKGROUND**

1. The Consumer Advisory Panel of ICASA has been established by the Authority in terms of section 4, read with section 71 of the Electronic Communications Act, 2005 (Act No.36 of 2005), hereafter called CAP Regulations of 14 July 2024 (“CAP Regulations”) .
2. In terms of Sec 3(b) and 12(a) & (d) of the CAP Regulations, CAP is required to provide a consumer perspective through commentary on relevant regulations and regulatory projects when published for public comments.
3. On the 16 January 2026, and in terms of section 4, read with section 67(4) of the Electronic Communications Act, 2005 (Act No.36 of 2005), the Authority published the Draft Signal Distribution Services Regulations in the Government Gazette notice 3731 of 2026 for public comments.
4. Should the Authority elect to hold public hearings, CAP would like to have an opportunity to participate and make oral representations.

## **SCHEDULE**

### **1. DEFINITIONS**

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned, and the following words and expressions shall have the meaning set out below:

**“Act”** means the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended;

**“Reference Offer”** or **“RO”** means a document setting out the standard terms and conditions for terrestrial signal distribution broadcasting services agreements;

**“Sentech”** means Sentech SOC Limited, a State-Owned Enterprise responsible for providing broadcasting signal distribution services as a common carrier to broadcasting service licensees;

**“Significant Market Power”** or **“SMP”** means significant market power as defined in section 67(5) of the Act;

**“Terrestrial signal distribution AM sound broadcasting services”** means a wholesale terrestrial signal distribution AM sound broadcasting service provided by Sentech to a broadcasting service licensee in the Republic;

**“Terrestrial signal distribution FM sound broadcasting services”** means a wholesale terrestrial signal distribution FM sound broadcasting service provided by Sentech to a broadcasting service licensee in the Republic;

**“Terrestrial signal distribution television broadcasting services”** means a wholesale terrestrial signal distribution audio-visual service provided by Sentech to a broadcasting service licensee in the Republic;

**CAP COMMENTARY:** CAP fully agrees and supports the definitions with their associated words and expressions. We further support the extension of the definitions to include ,Common-Carrier, Shared costs, direct costs, indirect costs and shared costs as proposed by Primedia and Radio Pulpit in their representations.

## **2. PURPOSE OF THE REGULATIONS**

The purpose of these Regulations is to:

- (a) define the relevant wholesale markets for the provision of terrestrial signal distribution services;
- (b) determine whether there is effective competition in the defined markets;
- (c) determine which, if any, licensees have significant market power in those markets where there is ineffective competition;
- (d) determine whether there is any market failure;
- (e) impose appropriate pro-competitive licence conditions on licensees with significant market power to remedy the market failure;
- (f) set out a schedule in terms of which the Authority will undertake periodic review of the markets, taking into account regulation (8) and the determination in respect of the effectiveness of competition and application of pro-competitive measures in those markets; and

- (g) provide for monitoring and investigation of anti-competitive behaviour in the defined markets.

#### **CAP COMMENTARY:**

- 4.1 CAP fully agrees and supports the scope and purpose of these regulations as outlined in this regulation 2(a,b,c,d,e,f and g) which seeks to clarify the definition of the relevant wholesale markets in the audio-visual and sound terrestrial signal distribution services.
- 4.2 This Includes the determination of the effectiveness of competition in the identified markets and market failure (s) and the intended remedial regulatory interventions as expressed in 2(e),2(f) and 2(g).

#### **4. MARKET DEFINITION**

Markets are categorised according to the type of service provided and are defined as follows:

- (a) Terrestrial signal distribution for television broadcasting services market – the market for the provision of wholesale terrestrial signal distribution television broadcasting services within the Republic.
- (b) Terrestrial signal distribution for FM sound broadcasting services market – the market for the provision of wholesale terrestrial signal distribution FM sound broadcasting services within the Republic.

- (c) Terrestrial signal distribution for AM sound broadcasting services market – the market for the provision of wholesale terrestrial signal distribution AM sound broadcasting services within the Republic.

**CAP COMMENTARY:** CAP fully agrees and supports the market definition as outlined in this regulation 3(a),(b) and (c), which clearly captures the TV/audio-visual, FM and AM terrestrial signal distribution services market.

## 5. METHODOLOGY

5.1 In determining the effectiveness of competition in the markets defined in regulation 3 above, the Authority applied the following methodology:

- (a) the identification of relevant markets and their definition according to the principles of the Hypothetical Monopolist Test, taking into account the non-transitory (structural, legal, or regulatory) entry barriers to the relevant markets and the dynamic character and functioning of the relevant markets;
- (b) the assessment of licensees' market shares in the relevant markets; and
- (c) the assessment on a forward-looking basis of the level of competition and market power in the relevant markets.

**CAP COMMENTARY:** On a benchmarking basis, CAP fully agrees and supports the HMT (i.e. Hypothetical Monopolist Test) as one of the methodologies successfully utilised in the US in 1982 and EU in 1992 under similar market conditions.

## **6. EFFECTIVENESS OF COMPETITION**

6.1 Pursuant to regulation 4, the Authority has determined that competition in the terrestrial signal distribution for television broadcasting services market, the terrestrial signal distribution for the FM sound broadcasting services market and the terrestrial signal distribution for the AM sound broadcasting services market, as defined in regulation 3, is ineffectively competitive.

**CAP COMMENTARY:** CAP fully agrees and supports the Authority's determination that the current level of competition in the wholesale Terrestrial Signal Distribution services market is indeed ineffective, as only one licensee in the form of SENTECH has a Significant Market Power (SMP) and hence a natural monopoly.

## **7. SIGNIFICANT MARKET POWER**

7.1 The Authority has determined that Sentech has significant market power, due to its dominance in the following markets:

- (a) Terrestrial signal distribution for the television broadcasting services market.
- (b) Terrestrial signal distribution for the FM sound broadcasting services market.
- (c) Terrestrial signal distribution for the AM sound broadcasting services market.

## **CAP COMMENTARY:**

7.2 CAP fully agrees and supports the Authority's determination that Sentech has significant market power(SMP), due to its dominance in the wholesale market for the provision of terrestrial Signal Distribution services market for the television broadcasting services, the FM sound broadcasting services and the AM sound broadcasting services.

7.3 The main disadvantages for consumers resulting from Sentech's market power include:

- a) Because Sentech faces little competition, they can charge higher, less-negotiable tariffs for signal distribution. These high operational costs for broadcasters (SABC, commercial, and community radio) are often passed on to consumers in the form of higher subscription fees or lower-quality content. As a result, consumers experience higher costs for content services.
- b) By imposing price controls on wholesale and retail rates, the Regulator can prevent "excessive pricing" that often occurs in markets dominated by only one or two players. Increased competition from new entrants, supported by these licenses, often forces incumbents to lower their rates to retain customers.
- c) Because the market relies heavily on Sentech's infrastructure, any failures within their system, such as those caused by loadshedding or financial

constraints affecting maintenance, immediately impact a vast number of consumers simultaneously, making them susceptible to operational failures.

- d) Due to their monopoly status, there is little pressure for consumer-centric service improvements, and the lack of competitors means consumers have nowhere else to turn. There is limited accountability to consumers.

## **8. MARKET FAILURE**

8.1 The Authority has determined that the following market failures exist:

- (a) **Natural Monopoly:** Barriers to entry (such as high sunk costs of infrastructure) limit potential entry and therefore, competition on price and quality of service. With a near-monopoly provider, prices and quality of service are unlikely to be maintained at a competitive level without regulatory intervention.

8.2 **Lack of transparency:** Broadcasting service licensees are unable to obtain sufficient information on whether the prices and the quality provided bear relation to a competitive environment.

### **CAP COMMENTARY:**

- (a) CAP fully agrees and supports the Authority's determination of the existence of market failures as clearly articulated in this regulation 7 (a) and (b).

- (b) Characterised by lack of alternatives on prices and quality of service. Consumers have choice with regards to their preferred content and services. There is lack of transparency on prices and quality of services that could be available in competitive market conditions.
  
- (c) The high barriers to entry, driven by the need for massive, entrenched infrastructure, prevent new, more efficient competitors from entering the market. This limits the options for broadcasters, which in turn limits the variety of services and innovative, modern technology available to consumers. This results in limited choice and innovation.
  
- (d) Without strong competition, there is less incentive for a dominant firm to improve its service quality or operate efficiently. While Sentech has high network availability, reliance on a single entity reduces the pressure to innovate, such as accelerating digital migration or improving network resilience. Hence the reduced quality of service.
  
- (e) Increased competition drives companies to create diverse, innovative products to retain customers, such as different types of data bundles or bundled, high-speed fibre services.
  
- (f) Rules should include quality-of-service obligations (e.g., minimum speeds, reduced dropped calls) which ensure a better experience for the user, translating

into better service for consumers. Competitive markets encourage faster adoption of newer technologies, thereby investing in innovation, as companies compete to offer better connectivity.

- (g) Licensees with significant market power must be prohibited from discriminating in how they provide services or lease infrastructure to other companies, which prevents them from unfairly favouring their own products.

## **9. PRO-COMPETITIVE TERMS AND CONDITIONS**

9.1 To address the market failures identified in regulation 7 above, Sentech must comply with the following pro-competitive terms and conditions:

- (a) Ensure that all tariffs for terrestrial signal distribution services are reasonably derived from the costs of provision, allowing for recovery of efficiently incurred costs and return commensurate with risk.
- (b) **Submission of Reference Offers (“RO”):**
  - (i) Sentech must submit ROs in respect of each of the defined wholesale markets for approval by the Authority within forty-five (45) days after effective date of these Regulations.
  - (ii) The ROs to be submitted by Sentech must comply with the minimum requirements outlined in Appendix A, which is attached to these Regulations.

- (iii) Where the Authority determines that an RO submitted by Sentech is not consistent with these Regulations, the Authority will direct Sentech to amend it within a period determined by the Authority.

(c) **Publication of ROs:**

- (i) The Authority may publish the ROs for public comment.
- (ii) The ROs will become effective upon approval by the Authority.
- (iii) Sentech must publish the approved ROs on its website within fourteen (14) days after approval by the Authority.

(d) **Dispute Resolution:**

- (i) Where a broadcaster and Sentech have been unable to conclude a RO, either party may refer the dispute to the Authority for resolution.
- (ii) A dispute referral made in terms of regulation 8(d)(i) of these Regulations, must be in writing and must set out the details of the alleged dispute.
- (iii) Where the Authority determines that the dispute warrants further investigation, then the Authority shall provide the other party to the dispute with a copy of the referring party's notice of referral, afford the other party fourteen (14) days within which to respond and afford the referring party fourteen (14) days to reply to the other party's response.

(iv) The Authority may call for further written and or oral representations thereafter or may determine the matter on the basis of the information submitted to it by the parties.

(v) The Authority's determination on the dispute shall be final and binding.

9.2 **CAP COMMENTARY:** CAP fully agrees and supports the Authority's espoused regulatory intervention, in the form of imposing the above pro-competitive licence terms and conditions, as outlined in this regulation 8(a) ,(b) and (c).

9.3 This intervention will bring transparency, fair prices and improved quality of service in the market. CAP further agrees and supports the Authority on the outlined and planned dispute resolution mechanism as explained in this regulation 8(d).

9.4 The Regulator must impose specific rules on dominant network operators to ensure a level playing field, allowing smaller competitors to enter the market and preventing monopolies from exploiting consumers. For the consumer, this translates to lower prices, better service quality, more choices, and improved network coverage.

9.5 Pro-competitive measures often include regulating wholesale rates (what operators pay each other) and forcing reductions in termination rates. This, in turn, allows for cheaper retail prices, such as lower data cost.

- 9.6 It is clear that by breaking the monopoly of dominant players, companies are forced to compete on price, leading to more competitive, that might also translate to cheaper, service packages.
- 9.7 Pro-competitive conditions facilitate, for example, infrastructure sharing, which allows smaller ISPs to compete without building their own expensive networks.
- 9.8 Pro-competitive rules often mandate that operators expand access, improving connectivity in under-served or rural areas. Consumers benefit from, for example, improved mobile number portability, allowing them to change service providers without losing their phone number.
- 9.8 In essence, pro-competitive licenses prevent dominant firms from abusing their power to the detriment of the public, ensuring that the market provides more affordable and higher-quality options for the end-user.
- 9.9 Penalties should be imposed on operators who fail to comply with these pro-competitive conditions, providing a mechanism for consumer protection.

## **10. MONITORING AND INVESTIGATION**

10.1 Upon request by the Authority, Sentech must submit a detailed breakdown of the information and assumptions used to support its terrestrial signal distribution tariffs.

### **CAP COMMENTARY:**

10.2 CAP fully agrees and supports the Authority's commitment on the enforcement of Sentech's compliance with the imposed pro-competitive licence terms and conditions.

10.3 The Regulator has an obligation to protect consumers and ensure fair competition while the Service Provider, Sentech has an obligation to provide transparent, cost-based pricing as a dominant firm.

## **11. SCHEDULE FOR REVIEW OF MARKETS**

The Authority will review the markets, to which these Regulations apply, when the Authority deems it necessary or after five (5) years from the date of implementation of these Regulations.

### **CAP COMMENTARY:**

11.1 CAP fully agrees and supports the Authority's planned review of the identified markets, when the Authority deems necessary or after three (3) years as five(5) years could be too long, the dynamic nature of this market environment.

11.2 A 3- to 5-year cycle for reviewing telecommunications markets may be considered a long period, because technological innovation is taking place at a rapid pace. Consumer demand shifts, and infrastructure development in the sector happens. While 3–5 years provides regulatory stability and certainty for investment, it often fails to address market failures, such as high data costs or dominant market power, in a timely manner.

11.3 For a consumer, a 5-year review period means that operator may hold a dominant position without new intervention for half a decade, hindering competition. Slow reviews mean that necessary pro-competitive remedies, such as lower wholesale call termination rates or faster fibre access, are delayed, keeping consumer prices high. In fast-changing markets, a 3-year forward-looking period is considered more appropriate than 5 years to keep pace with new entrants and innovation.

## **12. CONTRAVENTIONS AND PENALTIES**

The contravention of regulations 8 of these Regulations is subject to a fine not exceeding five million Rand (R5 000 000.00).

**CAP COMMENTARY:** No comment.

## **12. SHORT TITLE AND COMMENCEMENT**

These Regulations are called the “Signal Distribution Services Regulations, 2026” and will come into force upon publication in the Government Gazette.

**CAP COMMENTARY:** Agreed and supported.

## **APPENDIX A**

### Minimum Requirements of a Reference Offer

The RO that must be submitted to the Authority by Sentech must include, at a minimum, the following:

#### *1. Application of this RO*

1.1. This RO is limited to the following service(s):

- (a) Terrestrial signal distribution for the television broadcasting services market,
- (b) Terrestrial signal distribution for the FM sound broadcasting services market, or (c) Terrestrial signal distribution for the AM sound broadcasting services market.

#### *2. Definitions of Terms and Abbreviations*

2.1. The ROs should define terms and abbreviations used in the agreements to provide clarity and a clear understanding.

#### *3. Term of the Agreement*

3.1. The effective date on which the agreement shall begin.

3.2. The period over which the agreement will last.

3.3. The extension of the term, which the parties will agree on.

#### *4. Services to be provided*

4.1. Specification of terrestrial signal distribution services in respect of television, AM and or FM sound services.

4.2. Conditions governing access to services.

#### **5. Technical characteristics**

5.1. The quality, availability, security, etc. of the services provided.

#### *6. Schedule of Charges for Signal Distribution Services*

6.1. General financial matters.

6.2. Billing procedures, payment terms and conditions.

6.3. Wholesale rates or charges, including surcharges (if applicable), and any escalation.

6.4. Mechanisms for the review of charges.

#### *7. Dispute resolution*

Disputes arising from the agreement between a broadcaster and Sentech that are not capable of being amicably resolved may be referred for resolution to ICASA or to arbitration or to the High Court of South Africa.

## EXPLANATORY MEMORANDUM ON THE DRAFT SIGNAL DISTRIBUTION REGULATIONS, 2026

- 1.1. On 17 September 2021, the Authority published a Notice indicating its intention to conduct an Inquiry (“the Inquiry”) into signal distribution services in terms of section 4B(1)(a) of the Independent Communications Authority South Africa Act, 2000 (Act No. 13 of 2000) read with section 67(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005).
- 1.2. The Inquiry was conducted in four phases namely, Phase I – Commencement of the Market Inquiry, Phase II – Publication of the Discussion Document, Phase III – Public Hearings on the Discussion Document, and Phase IV – Publication of the Findings Document.
- 1.3. Following the conclusion of the Inquiry (i.e., Publication of the Findings Document), the Authority published the draft Signal Distribution Services Regulations, 2025 in the *Government Gazette*<sup>1</sup> (“**the first draft Regulations**”) for public comment.
- 1.4. In the first draft Regulations, the Authority identified and defined the following relevant markets:

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<sup>1</sup> *Government Gazette* No. 52622 (Notice No. 3185).

1.4.1. Terrestrial signal distribution for the television broadcasting services market.

1.4.2. Terrestrial signal distribution for the FM sound broadcasting services market.

1.4.3. Terrestrial signal distribution for AM sound broadcasting services market.

1.5. The Authority determined the market failures exist in relation to natural monopoly and a lack of tariff transparency.

1.6. The Authority declared that Sentech has significant market power in all the relevant markets.

1.7. After due consideration of Sentech's role as a common carrier and its universal service obligations, the Authority proposed that the following pro-competitive terms and conditions:

1.7.1. Tariffs for terrestrial signal distribution services should be reasonably derived from costs of provision.

1.7.2. Sentech to submit a Reference Offer for approval by the Authority before publication on its website within fourteen (14) days after approval.

1.8. In addition, the Authority proposed that Sentech must, upon request by the Authority, submit detailed information regarding its tariffs for monitoring and investigation purposes.

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1.9. Following a review of all written submissions<sup>2</sup> and oral representations from stakeholders during the public hearings,<sup>3</sup> the Authority made significant changes to the draft Regulations and determined that further public consultation was necessary prior to the publication of the final Regulations.

1.10. The abovementioned Authority's decision was informed by significant changes made to the following provisions:

1.10.1. Regulation 8(a) (cost based tariffs)

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<sup>2</sup> The Authority received written representations from Primedia, Radio Pulpit, eMedia, Sentech and the SABC. <sup>3</sup> On 19 August 2025, the Authority held hybrid (online and in-person) public hearings on the written submissions on the draft Regulations.

The Authority revised regulation 8(a), removing sub-regulations (i) to (iv), as those provisions will be addressed in the cost modelling phase, which occurs after the publication of the final Regulations.

#### 1.10.2. Regulation 8(b) (submission of ROs)

The Authority made two key changes: first, it included specific processes and timelines for the submission of the ROs by Sentech; and second, the Authority replaced sub-regulations

(i) to (viii) with a list of minimum required information for the ROs, which is detailed in Annexure A, attached to the second draft Regulations.

#### 1.10.3. Regulation 8(c) (publication of the approved ROs)

The Authority included a provision for public consultation in relation to the review of the draft ROs to be submitted by Sentech to the Authority for approval. This measure is expected to ensure a transparent and efficient review process.

#### 1.10.4. Regulation 8(d) (dispute resolution)

Regulation 8 (d) seeks to promote a transparent and efficient process for resolving disputes, that might otherwise hinder negotiations between Sentech and broadcasters.

#### 1.10.5. Regulation 9 (monitoring and investigation)

The Authority revised regulation 9 by removing sub-regulations (a) to (e), as those provisions will be addressed in the cost modelling phase after the publication of the final Regulations.

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#### 1.10.6. Regulation 10 (schedule for market review)

The Authority revised regulation 10 by extending the review period from three (3) to five (5) years given that signal distribution services markets do not change rapidly. However, this does not prevent the Authority from conducting a review of the Regulations earlier than 5 years should significant market developments occur.

1.11. The Authority is publishing the second draft Regulations to afford stakeholders an opportunity to make written representations on the revised provisions. This feedback will help to inform the final Regulations.

1.12. Stakeholders are welcome to comment on the entire Regulations. However, stakeholders are advised that all inputs submitted on the first draft of the regulations remain part of the Authority's record and therefore need not be resubmitted. It is highly recommended that stakeholders focus their input on the revised provisions under regulation 8, 9 and 10.

