



PRESENTATION: **Virtual Public Hearing on the  
Draft Regulation on Mobile Broadband Services  
2021**

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# Cell C presentation

# Cell C Team

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# AGENDA 2021

1. Introduction, legal framework
2. Markets Identified and Competitiveness
3. Pro-Competitive Terms and Conditions – Retail and Wholesale markets
4. Roaming and Site Access –
5. MVNO/ APN –
6. Compatibility with DSMI and Mobile Broadband Services Inquiry
7. Conclusion



# Legislative and Market Context

# MOBILE SERVICES MARKET

❑ Cell C supports a forwarding looking regulatory regime that encourages and supports -

- an innovative and evolving mobile market that accommodates new sustainable business models
- the speedy adoption and roll out of new technologies like 5G
- Immediate access to high demand spectrum
- bridging the digital divide
- lowering the cost to communicate
- realising the objectives of PC4IR
- efficient use of network infrastructure, facilities and radio frequency spectrum (sharing)
- the national provision of electronic communication network and services that is affordable and accessible to all at prescribed QoS parameters

# LEGAL FRAMEWORK

- Presidential Commission on 4<sup>th</sup> Industrial Revolution Report
- Broadband Policy, SA Connect a policy 2013 – Minister issued in terms of the ECA 2005, as amended;
- Electronic Communications Act –sec 67 (4) – Competition matters- Regulations defining markets and market segments - pro-competitive conditions on SMPs where ineffective competition is determined.
- ICASA proposes to develop facilities regulations to address its findings, i.e. impose pro-competitive conditions;
- Cell C made submissions to the regulator during this Inquiry, and submitted written submissions to the Discussion Document of November 2019, and one-on-one meeting held 30 September 2020, and May 2021.
- Competition Commission Data Services Inquiry findings report has relevance to this regulations and would urge ICASA to take note of the findings of the CC in that (completed) Inquiry;

# Purpose of the Regulations



## Purpose of the Regulations

- a) define relevant **wholesale and retail markets** or market segments for
- b) mobile broadband services;
- c) determine whether there is **effective competition** in those relevant markets and market segments;
- d) determine which, if any, licensees have **significant market power** in
- e) those markets and market segments where there is **ineffective competition**;
- f) impose appropriate **pro-competitive licence conditions** on those licensees having significant market power to **remedy the market failure**;
- g) set out a schedule in terms of which the Authority will undertake periodic review of the markets and market segments.
- h) provide for **monitoring and investigation of anti-competitive behaviour in the relevant market and market segments**.

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## Retail and Wholesale markets

- The relevant wholesale and retail markets or market segments for mobile
- services are defined as follows:
- (a) **Retail market:** mobile retail services provided in regional geographic
- areas (provincial, split by urban and rural).
- (b) **Upstream market 1:** wholesale site infrastructure access in local and
- metropolitan municipalities.
- (c) **Upstream market 2:** wholesale national roaming services for coverage
- purposes.
- (d) **Upstream market 3a:** wholesale national mobile virtual network
- operator (MVNO); and
- (e) **Upstream market 3b:** wholesale access point name (APN) services (including resellers).

- **Cell C supports the structure of the key markets identified in the draft regulation.**

## Findings on Competition (Reg 5)

- Note that the draft regulation provides that Retail market, Upstream market 1, Upstream market 2, and Upstream market 3b, as defined in regulation 3, are ineffectively competitive
- **Cell C generally agrees with the draft Discussions Document and regulation, in particular that there is competition in the mobile broadband markets retail and wholesale is ineffectively competitive; and that there is persistent market power of the dominant operators in the retail and wholesale layer of the market;**
- **This finding is made in the draft regulation as fact having considered undertaken a mobile broadband market inquiry.**

# **Pre-competitive terms and conditions on the Regulations**



## Significant Market Power Determination (Reg 6)

- ICASA finds that MTN and Vodacom have significant market power (SMP) in the retail markets, upstream market 1 (market for site infrastructure access), and upstream market 2 (wholesale national roaming).
- It seems that in all the retail and site access markets, ICASA deems Vodacom and MTN to be dominant, as a result of vertical relationships.
- While the market share threshold for dominance is not exceeded in all local markets, it therefore seems that ICASA is not applying the methodology of local market definition, but rather accepting that both Vodacom and MTN are in any event dominant at a national level. These vertical relationships are not defined in the Schedule,
- **Cell C therefore concurs with ICASA's view that both Vodacom and MTN have market power in all markets that have been characterised by ineffective competition, regardless of the exact geographic market definition.**
- **ICASA does not find ineffective competition in the MVNO market. It also states (para 221) that "there is no evidence that any participant in this market has significant market power". ICASA does not find ineffective competition in the MVNO market.**

## Remedies for ineffective competition

- The proposed remedy for the ineffective competition in the site access market, - is regular reporting to ICASA of parties that require access to sites, and whether requests were approved or not, with reasons. Further detail that has to be reported i.t.o. site access includes average effective charges for the sites, updated lists of all sites, all charges for sharing of sites, as well as other technical detail of the site.
- The remedies for the roaming market also include regular reporting to ICASA with supporting data on effective prices paid for roaming services by each customer, for each roaming contract, any contractual price variations, technical details of the site and volumes used by site. Cell C welcomes this move towards monitoring of roaming agreements, as smaller mobile network operators are effectively price takers and have limited negotiating power.
- For retail markets, there is a requirement to provide a report and supporting data to ICASA on effective retail prices paid by end users for data services. This is calculated at a very high level by dividing total revenue for data with total volume of data used (Gigabytes).

## MVNO Market

- 'For MVNO and APN (markets 3a and 3b), a report and supporting data should be provided to ICASA with effective wholesale prices paid by ECS and ECNS licensees for MVNO and APN services. This should be split by wholesale customer.
- The requirement to report MVNO effective prices does not follow logically from the assessment of competitiveness.
- Cell C would like to confirm that only SMP operators are obliged to provide the above report and supporting data?
- **ICASA does not find the MVNO market to be ineffective i.t.o. competition, but proposes the same remedy as for the other markets.**
- **It is not clear why this remedy is imposed.**

## Site Access Essential facilities list

- ‘Macro sites are defined as referring to site infrastructure higher than 15m, or less than 15m) are typically used for coverage but also provides additional network capacity where needed’. This seems to exclude rooftops, indoor, micro, lamppost, billboards, and other infrastructure. Cell C has previously submitted a list of proposed essential facilities, and is of the view that the proposed regulations should apply to all of these facilities. For ease of reference the Cell C submission in this regard is duplicated below.
- “The following facilities are essential to the supply of mobile services:
  - All RAN sites, i.e. sites with masts more than 15m in height and less than 15m in height; rooftops; mobile “cows” (cell on wheels); distributed antennae systems; or any other in-building solutions, microcells, etc.
  - All RAN sites specifically used for transmission purposes, i.e. POPs (very high aggregation sites), repeaters (connecting two sites in rural areas), etc.
  - All transmission fibre, i.e. international links (via cable stations and undersea cable systems, national backhaul links, cross-border international links (i.e. SA to Zimbabwe), access network links (connecting access sites), etc.
  - All hosting facilities, i.e. data centres, etc.



## Essential facilities list

- Any fibre optic cables on national long distance;
  - Any backhaul circuits from cable landing stations;
  - Any cable landing stations; Any satellite earth stations but not VSATs;
  - Any undersea-based fibre optics cables;
  - Any data centres (and racks and space within that centre);
  - Any Telkom exchanges or exchange buildings;
  - A meet-me room, carrier hotels;
  - A multiplex; A satellite transponder; Any ducts and conduits
  - National roaming provided over physical infrastructure
  - International gateways; Masts.
  - The list should include other sites as per Cell C submission
- **Cell C is therefore of the view that the proposed site access regulations are wholly ineffective to deal with the failures identified by ICASA and elaborated on by many of the submissions, in addition to those of Cell C**



# Roaming Regulations

## Roaming market

- Cell C, supports ICASA's finding that the roaming market is characterise by ineffective competition, as there are only two choices of network providers.
- Roaming agreements will need to be submitted and filed for assessment.
- Cell C welcomes the fact that ICASA will now be able to analyse roaming agreements.
- While a pricing remedy may be a radical remedy at this stage, Cell C would like to encourage ICASA to consider doing a cost study in order to understand whether the roaming charges bear any relationship to the underlying cost of the network, especially in cases where the network costs have mostly been recouped.

# **Compatibility of the DSMM and Mobile Broadband Market Inquiry Findings**

## Roaming market

- Cell C, supports ICASA's finding that the roaming market is characterise by ineffective competition, as there are only two choices of network providers.
- Roaming agreements will need to be submitted and filed for assessment by the Authority.
- Cell C welcomes the regulation and findings on roaming markets. While a pricing remedy may be a radical remedy at this stage, Cell C would like to encourage ICASA to consider doing a cost study in future
  - to understand developments in the market for roaming
  - Cost structural relationship

# **Compatibility of the markets in DSML Findings and Mobile Broadband Market Inquiry Findings**



# Mobile broadband market inquiry and Data service market Findings

1. ICASA explicitly recognises that the Broadband Services Inquiry cannot be seen in isolation. It refers to the CC DSMI, the current ICASA ITA and the imminent licensing of the WOAN. All of these are interrelated and the ICASA regulations will only be effective if they also fit into the broader regulatory processes.
2. Cell C submit that ICASA should consider the findings of the Competition Commission study and recommendations on Data Services Market Inquiry. The DSMI has made very specific recommendations regarding high prices. ICASA is primarily also concerned with facilitating fair competition and lower prices. High prices are simply the outcome of the market failures that ICASA identifies hence the findings of the CC inquiry in DSMI should be taken into account.
3. Cell C welcomes the conclusion of the Mobile Broadband Inquiry and the proposed remedies. In line with the comments set out in this document, Cell C believe that more detail is required for some of the proposed remedies to work in practice. Cell C would welcome any opportunity to expand or meet with the Authority in this regard.

## Cell C - Future structure of the Market

1. Changing structure of the digital services market fuelled by an accelerated digital lifestyle services.
2. Cell C's operating modelling – Infrastructure Market has largely two parts: - Infrastructure providers; and networkers services aggregator.
3. Cell C - the large buyer and aggregator of network services
4. Data service-based competition in future.
5. Access to IMT spectrum resources to achieve certainty in the market
6. Spectrum sharing mechanism to bridge the digital divide.

**THANK  
YOU.**