

7 May 2021

Dr Keabetswe Modimoeng

The Chairperson

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Attention: Mr Davis Kgosimolao Moshweunyane

By email: Covid19regulations@icasa.org.za

DMoshweunyane@icasa.org.za

Chairperson@icasa.org.za

Dear Mr Moshweunyane

CELL C SUBMISSION IN RESPONSE TO REVIEW OF THE ICT SECTOR COVID-19 NATIONAL DISASTER REGULATIONS

1. We refer to the Authority's request inviting interested parties and members of the public to make written representations on issues which the Authority should consider regarding the review of the ICT COVID-19 National Disaster Regulations as published in *Government Gazette* 44488 on 23 April 2021.
2. Cell C Limited (**Cell C**) would like to thank the Authority for the opportunity to provide written representations in response to the Authority's request as contained in the abovementioned regulations.
3. Cell C looks forward to engaging with ICASA should you have any queries on Cell C's written submission.
4. Cell C confirms its readiness to participate in any subsequent consultations and oral hearings that might be called by ICASA.

Yours faithfully

Mr Themba Phiri
Executive Head: Regulatory

ICASA REVIEW OF THE ICT SECTOR COVID-19 NATIONAL DISASTER REGULATIONS

1. Temporary radio frequency spectrum licences

- 1.1. ***“Whether the Authority should consider further extending the duration of temporary radio frequency spectrum licences beyond 31 May 2021 despite the issues raised in the pending litigation and the interdict which has been granted against it.”***
- 1.1.1. Cell C appreciates that the temporary spectrum allocation to the industry operators during the State of National Disaster is a critical resource for enabling greater access to the information communications and communications services in general. Electronic Communications Network Service and Electronic Communications Service licensees have used the allocation of temporary spectrum to strengthen signal coverage and extend broadband services to assist various sectors of the economy, including Education, Health, Agriculture, Financial Services, Online Businesses and SMME’s, and to benefit consumers.
- 1.1.2. Cell C recommends that the Authority extend the duration of the temporary radio frequency spectrum licences beyond 31 May 2021. Cell C submits that the spectrum allocated to licensees may be extended because the regulations as published by Minister of Cooperative Governance and Traditional Affairs in *Government Gazette No. 43096* on 15 March 2020 and subsequent amendments remain in force. In addition, the Minister of Communications and Digital Technologies’ policy directions as published in *Government Gazette No. 43107* on 26 March 2020 also remain unchanged.
- 1.1.3. The behaviour, impact and consequences of the COVID-19 pandemic are unpredictable, which is what is being observed both locally and globally in the absence of full herd immunity. Countries have been experiencing various waves of infection which have prompted the review and implementation of their lockdown and alert levels at different times. Cell C also takes note of the recent cautionary announcements by the National Institute for Communicable Diseases regarding the potential severity of a third wave of Covid- 19 infections in the country. Whilst it is uncertain if we will also experience a severe third wave of infections, Mobile Network Operators would need to ensure that the continuation of provision of ICT services in the country remain the same and at prescribed quality of service parameters in the event of such a third wave.
- 1.1.4. Cell C submits further that the assignment of temporary radio frequency spectrum licences in the in the 700MHz, 800MHz, 2300MHz, 2600MHz and 3500MHz (“IMT”) bands remain important during these times of unpredictability.
- 1.1.5. Cell C notes that several economic activities have been allowed to return to operation, albeit within the scope of the National Disaster Act. For many businesses, the resumption of business is possible only because of a new normal that entails remote working and hybrid-working models. These models favour either working at home exclusively or a combination of working from home for some of the workforce while a limited number of the workforce works from the office. This approach has been made possible due to the making of available of quality ICT services nationally through part of the temporary radio frequency spectrum relief provided by the Authority.
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- 1.1.6. Cell C prefers not to comment on the Telkom and e-Tv interdict against the Authority proceeding with the Auction Process as this process is *sub judice*. However, Cell C believes the duration of assignment of temporary radio frequency spectrum licences should be consistent with the duration of COVID-19 pandemic regulations and sometime thereafter. The temporary radio frequency spectrum licences are important and key to ensuring that the appropriate relief measures are in place for the continual provision of quality ICT services.

- 1.2. **“The appropriate extension periods.”**

- 1.2.1. Cell C recommends that the temporary radio frequency spectrum licences be issued for the full duration of the National Disaster Regulations as published by the Minister of Cooperative Governance and Traditional Affairs from time to time and for a maximum of three (3) months thereafter.

- 1.3. **“The spectrum fees which should be applicable to the extension”**

- 1.3.1. Cell C recommends that the radio frequency fees be charged in terms of the Authority’s administrative incentive pricing regulations as published in *Government Gazette 33495* with subsequent amendments. However, Cell C further recommends that such fees must be offset against the costs associated with any obligations attached with the issued temporary radio frequency spectrum licences.

- 1.4. **“Competition impact and proposed remedies, if any, of the further extension of temporary radio frequency spectrum licences.”**

- 1.4.1 Cell C believes that the strength of competition in the market remains strong despite the Covid-19 pandemic, and therefore should not be adversely impacted by the temporary spectrum allocation in the short-term.

- 1.5. **“Consumer benefits in respect of spectrum obligations that the Authority should consider regarding further extension.”**

- 1.5.1. As stated above, it is notable that other MNOs declared the public domain importance of spectrum to avoid network congestion because of high network services uptake, particularly of broadband services during the Covid-19 pandemic period. Although Cell C has not applied or received any temporary radio frequency spectrum licences, to date, Cell C has connected and zero-rated many websites in the education sector; health sector; and the other public benefit organisations, and in terms of Zero Rate Universities and Covid-19 regulations These sites includes the Department of Health (DoH) COVID news and information portals, public schooling platforms, Higher Education and Training institutions and universities (public and private).

2. **Spectrum pooling/Sharing arrangements**

- 2.1. **“Spectrum sharing/ pooling arrangements on a temporary basis which ICASA should consider.”**

Cell C supports the Authority’s proposal for permitting spectrum pooling in terms of the Radio Frequency Spectrum Regulations issued in 2015. In this regard, Cell C submits and recommends that the Authority adopt a regulation on Spectrum pooling/sharing

arrangements in terms of the National Disaster Act. Cell C wishes to submit further that the Authority should in terms of such regulation consider and approve sharing/pooling applications that contains spectrum relief measures that support the continual provision of quality Information and Communications services from licensed operators, in terms of the Electronic Communications Act, 2005; and related regulations during the COVID-19 pandemic period. Cell C is of the view that the approval for spectrum pooling applications may be considered in terms of the Radio Frequency Spectrum Regulations.

2.2. *Competition impact and proposed remedies, if any, which ICASA should consider regarding the spectrum sharing arrangements.*

As already stated, the competitive landscape in the Mobile Broadband Network Industry remains strong, with the enabled electronic communications services reaching high quality of services, stronger network coverage, and benefiting many sectors of the economy and consumers. Cell C submits that through spectrum pooling and sharing, licensees will ensure that market competition, especially amongst mobile network service providers, strengthens.

2.3. *Consumer benefits in respect of spectrum obligations that the Authority should consider regarding the spectrum sharing arrangements.*

The ability to pool radio frequency spectrum will significantly ease network congestion due to increased demand and changing traffic patterns on the respective pooling networks of the parties during the duration of the National State of Disaster and beyond, allowing each party to maintain good quality of services to subscribers and achieve additional network efficiencies. This will allow for single carriers to be configured in such bands across the pooled spectrum rather than requiring separate carriers. This will bring the following benefits:

- 2.3.1. increased efficiency with a common channel effectively allowing for instantaneous load balancing across the single carrier in the band;
 - 2.3.2. improved customer experience on devices as devices on both networks will be able to leverage the benefit of the increased channel size in both downlink and uplink in the band;
 - 2.3.3. reduced operational complexity for both parties in maintaining load balancing functionality which requires regular parameter adjustments due to changing user traffic patterns on each network;
 - 2.3.4. by configuring a single channel in the band, more spectrum can be activated on more sites where needed, in a shorter time frame as this may be done remotely rather than requiring hardware upgrades on sites in order to accommodate the separate carrier;
 - 2.3.5. a single carrier requires less electronic equipment capacity on the tower compared to two separate carriers (regardless of the carrier bandwidths); and
 - 2.3.6. the pooling of radio frequency spectrum will result in additional capacity that will achieve the required download speeds to access and support government online educational content initiatives.
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3. Obligations relating to IMT Radio Frequency Spectrum licensees

3.1. ***“The Authority would like the written representations, including the reasons thereof, to address the following, amongst others:***

(a) Consumer benefits in respect of spectrum obligations, including reducing cost to communicate, which the Authority should consider regarding further extension.”

Cell C recommends that the obligations placed on licensees for the spectrum allocated during Covid-19 pandemic may be extended accordingly. Some of these obligations included schools’ connectivity and public news announcements, as well as zero-rating to public websites during the State of National Disaster period.

4. Complaint’s resolution

4.1. ***“Timelines required to resolve complaints in light of the eased lockdown restrictions.”***

Cell C is supportive of the easing of the 14 days required to resolve a complaint for the duration of the COVID-19 Pandemic. We say this because there would be instances where any of the subscriber, the Authority’s Complaints Official or the Cell C Complaints Officer may be unavailable in the 14 days due to the effects of the COVID-19 pandemic. It must be noted that Cell C strives to ensure that complaints referred by the Authority are resolved within prescribed timeframe.

5. Tariffs and Fees

5.1. ***“Timelines required to file tariffs and fees in light of the eased lockdown restrictions.”***

Cell C is supportive of the easing of the 7 days required to file permanent, promotional and amended tariffs to 1 day for the duration of the COVID-19 pandemic. This approach will ensure that Cell C and other licensees continue to be efficient when going to market with products that provide relief during the COVID-19 pandemic. Cell C recommends that the Authority consider amending the Individual Electronic Communications Network Services (IECNS)/ Individual Electronic Communications Services (IECS) Licence Standard Terms and Conditions regulations and the End-User and Subscriber Service Charter regulations to include the 1 day filing requirement. Cell C has observed that this approach has been efficient, improved time to market and both Cell C and the Authority have not experienced any challenges hereof.

6. Zero-rating services

6.1. ***“Further considerations the Authority should take into account with respect to zero-rating.”***

6.1.1. Cell C has connected and zero-rated approximately over 500 sites in terms of zero-rate Universities and Covid-19 regulations. These sites are the Department of Health (DoH) COVID news and information portals, public schooling platforms, Higher Education and Training institutions and universities (public and private). The zero-rating of sites will progress in line with Department of Communications and Digital Technologies approval.

- 6.1.2. Cell C recommends that the number of zero-rated sites required from a licensee should be reasonable and affordable taking into account a licensee's ability to sustain such obligation for the duration of the COVID-19 pandemic.