



ICT SMME CHAMBER SUBMISSION TO ICASA On the Draft Regulations on Dynamic Spectrum Access and Opportunistic Spectrum Management (Innovation Spectrum: 3800–4200 MHz and 5925–6425 MHz)

Date: 30 May 2025

To: Ms. Pumla Ntshalintshali
Independent Communications Authority of South Africa (ICASA)
Email: DSA2023@icasa.org.za
CC: PNtshalintshali@icasa.org.za; makgotlho@icasa.org.za

1. Introduction

The ICT SMME Chamber welcomes the opportunity to make this submission on the Draft Regulations on Dynamic Spectrum Access (DSA) and Opportunistic Spectrum Management, published in Government Gazette No. 52415 on 28 March 2025. We commend ICASA for this progressive initiative, which has the potential to significantly lower barriers to entry in the communications sector and expand connectivity to underserved communities.

We further note that this regulatory intervention arrives in the wake of the formal cancellation of the Wireless Open Access Network (WOAN), a policy instrument that was once positioned as a structural intervention to address historic exclusion and stimulate inclusive ownership in the ICT sector. While the DSA framework offers some **consolation for the disempowerment and lost opportunity** caused by the abandonment of the WOAN, we must register that it **does not match the scale or ambition** of the WOAN's transformation potential, particularly in relation to driving local black ownership and structural reform of the telecommunications industry.

This submission is therefore made in the spirit of ensuring that the DSA framework does not become another missed opportunity, but rather a bold step towards real transformation, inclusive participation and the advancement of innovation and socio-economic development through equitable spectrum access.

2. General Position

The Chamber fully supports the objectives of the draft regulations and notes that the success of this framework will be judged by the degree to which it enables inclusive participation, local innovation and economic transformation.



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We provide comments and proposals aligned to the objectives as outlined in the draft regulations:

3. Comments on Objectives

Objective 1: Expand Broadband Access to Underserved Areas

We support the intent to expand connectivity in rural, remote and underserved areas. These communities have long been excluded from meaningful digital participation due to the underutilization of spectrum by incumbent operators. The DSA framework, if implemented correctly, offers a rare opportunity to reverse this inequity.

Primary Proposal: Appointment of Broadband Infraco (BBI) as USSP

The ICT SMME Chamber strongly recommends that **Broadband Infraco (BBI)** be appointed as the **Unified Spectrum Switch Provider (USSP)**. As a state-owned entity with an open access mandate, BBI is uniquely positioned to provide neutral, wholesale infrastructure services in a non-discriminatory manner to support SMMEs and community networks.

Appointing BBI as the USSP would, in effect, **recreate the functionality of an open access network**, fulfilling many of the public interest objectives originally envisioned under the now-cancelled **Wireless Open Access Network (WOAN)** policy. These include:

- Wholesale access to high-capacity broadband infrastructure,
- Cost-effective rural deployment,
- Enabling service-based competition and
- Expanding market access for SMMEs.

While this structure would not fully deliver on the **ownership transformation ambitions of the WOAN**, it would **substantially advance its functional goals**, especially if coupled with strong SMME participation and regulatory oversight by ICASA.

Alternative Proposal: Issue an ITA for a Black-Owned SMME-Led Consortium

Should ICASA opt not to designate BBI as the USSP, the alternative must be to **issue a new Invitation to Apply (ITA)** for the role of USSP, structured **exclusively for black-owned SMME-based consortiums**. This ITA should mirror the **transformational intent and conditions of the former WOAN**, including:

- Ownership and control thresholds ensuring substantive black participation,
- Clear obligations for MNOs who benefited from the 2022 high-demand spectrum auction to provide roaming, wholesale access, and active infrastructure support, and
- Guaranteed access to the spectrum switch infrastructure by qualifying SMMEs.

Objective 2: Reduce Barriers to Entry

We support this objective. The exclusion of SMMEs in the 2022 spectrum auction and the financial and regulatory burdens imposed by traditional licensing models necessitate a more inclusive, enabling framework.

Proposal:

- Limit participation in the innovation spectrum to **black-owned SMMEs and community networks**.
- **Exclude dominant players** who already hold significant spectrum assets.
- Institute **zero-fee licensing** for Exempted Micro Enterprises (EMEs) and capped fees for Qualifying Small Enterprises (QSEs).

Objective 3: Foster Innovation

We support the objective to foster innovation in network deployment, use cases and services.

Proposal:

- Prioritise **sovereign technology development** through public-private innovation programs.
- Leverage the Technology Innovation Agency (TIA) to support the **development of locally designed and manufactured ISDs**, routers and geolocation databases.
- Create incentives for **South African-developed hardware and software solutions** in the innovation spectrum ecosystems

Objective 4: Promote Socio-Economic Development

We support this objective and affirm that the participation of SMMEs in delivering broadband services to underserved areas will have exponential socio-economic benefits.

Proposal:

- Introduce measurable **impact indicators** (jobs created, enterprises developed, community services enabled).
- Encourage integration with broader national digital transformation programs (e.g., SA Connect).

Objective 5: Establish a Technology-Agnostic Framework

We support a technology-neutral approach and request emphasis on **local certification and procurement**.

Proposal:

- Expedite **type approval processes** for SMMEs developing compliant ISDs.
- Encourage **local content procurement policies** in the equipment and systems ecosystem.

Objective 6: Encourage Spectrum Sharing

We support the principle of dynamic and opportunistic spectrum sharing.

Proposal:

- Ensure **transparent and equitable assignment rules**, favouring first-mile/last-mile solutions.
- Implement a **real-time spectrum visualization portal** to minimize conflict and support collaborative network planning.

Objective 7: Non-Market-Based Pricing

We support the non-competitive pricing principle to reduce barriers.

Proposal:

- **Zero-fee model for EMEs.**
- **Capped, flat-rate fees for QSEs.**
- Consultative process for USS operational fee determination involving SMME stakeholders.

4. Additional Objective: Economic Transformation

We propose the inclusion of an explicit transformation objective in the final regulations.

Proposal:

- Limit eligibility for innovation spectrum access to **100% black-owned or majority black-owned entities.**
- Collaborate with the ICT Sector Council, Black Business Council, and ICT SMME Chamber to co-develop a **transformation charter** for the innovation spectrum.
- Leverage this framework to **monitor and enforce B-BBEE outcomes.**

5. Technical and Legal Observations

- Clarify the role, rights, and protections of primary vs secondary users.
- Require transparent rules for spectrum reassignment where incumbents underutilize spectrum.
- Entrust USS database management to public-interest entities (e.g., BBI or black SMME consortiums) with audit oversight.

6. Conclusion

The ICT SMME Chamber thanks ICASA for the opportunity to contribute to this important regulatory framework. We believe this intervention can catalyse inclusive growth, digital access, and transformation in South Africa's communications landscape.

We urge ICASA to adopt a bold and principled approach that enables meaningful participation by those historically left out of the ICT economy.

Yours sincerely,

Loyiso Tyira

Managing Director, ICT SMME Chamber

Email: Loyiso@ictchamber.org.za

MEMORANDUM OF UNDERSTANDING (“MOU”)

entered into by and between

ICT SMME CHAMBER

Herein represented by **Siphokazi Simandla** his/her capacity as the Non-Executive Director of the
ICT SMME Chamber and being duly authorised thereto

and

BROADBAND INFRACO SoC LIMITED

Herein represented by **Mr Gift Zowa** in his capacity as the **Chief Executive Officer** and being duly
authorised thereto

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1. PARTIES

The parties to this **MOU** are:

1.1 ICT SMME CHAMBER

(Hereinafter referred to as “**the Chamber**”)

1.2 BROADBAND INFRACO SOC LIMITED

(Hereinafter referred to as “**Broadband Infraco** ”)

2. DEFINITIONS AND INTERPRETATION

2.1 In this Agreement a word importing:

2.1.1 any one gender includes the other gender;

2.1.2 the singular includes the plural and vice versa; and

2.1.3 the singular includes created entities (corporate and unincorporated) and the state and vice versa.

2.2 Unless the context otherwise indicates, the following words or expressions used in this Agreement shall have the meanings given to them hereunder and cognate words or expressions shall have corresponding meanings:

2.2.1 “**Affiliate**” means, the holding company, subsidiary, associated and/or related company of Broadband Infraco, including their successors and permitted assigns;

2.2.2 “**Broadband Infraco**” means Broadband Infraco SOC Limited, a company duly registered under the company laws of the Republic of South Africa with registration number 1989/001763/30 and having its principal place of business at Sender Technology Park, Octave Street, Radiokop, Honeydew 2040;

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- 2.2.3 “**Business Day**” means any day other than Saturday, Sunday or a public holiday officially recognized as such in the Republic of South Africa;
- 2.2.4 “**Confidential Information**” means all information which is confidential or proprietary in nature to a Party including, to the extent that it is not freely and publicly available, commercial, financial, technical, scientific and research information, trade secrets, passwords, or other secret codes, information disclosed with the permission of third parties in which third parties have confidential rights, information legally protected from public disclosure, any information the unauthorized disclosure of which could reasonably be expected to cause harm or risk to the owner of the information and any other information designated by the disclosing Party as confidential or which is manifestly confidential;
- 2.2.5 “**Effective Date**” means the date of signature of this MOU by the Party signing last in time;
- 2.2.6 “**ICT SMME Chamber**” means a non-profit company registered as such in accordance with the company laws of the Republic of South Africa, with registration number 2018/035084/08, and having its principal place of business at Ground Floor, 35 Ferguson Road, Illovo, Sandton Gauteng 2196, and hereinafter referred to as “the Chamber”
- 2.2.7 “**Party**” means either of the signatories to this Agreement and “Parties” means both of them collectively, and shall be deemed to include their respective successors and permitted assigns;

3. BACKGROUND

It is hereby recorded that:

- 3.1 ICASA issued a draft regulation (“the draft regulation”) pertaining to Dynamic Spectrum Allocation. Public comment on the draft regulations is due on the 30th of May 2025. One of the objectives of the draft regulation is to establish an entity that will serve as an agent of ICASA (“the switch operator”) to manage the assignment of innovative spectrum to ISPs and SMMEs in an effort to enable them to provide 4G and 5G services.

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- 3.2 Broadband Infraco and the Chamber intend filing submissions to the draft regulation, in which Broadband Infraco will be appointed by ICASA as the switch operator to service the needs of the ICT Chamber in an open access and non-exclusive manner
- 3.3 The parties agree to enter into this MOU to demonstrate their bona fides in cooperating together in matters as laid out in this MOU.
- 3.4 The Parties will conclude an MOU within two (2) months of signing this MoU, which MOU will be filed with ICASA if required.

4. BROADBAND INFRACO'S VALUE PROPOSITION

- 4.1 Broadband Infraco holds an I-ECNS licence that permits it to apply for and use radio frequency spectrum.
- 4.2 Broadband Infraco has established strategic and long-term relationships with ISPs through its implementation and management of the SA Connect and BAF rural wireless broadband projects.
 - 4.2.1 Broadband Infraco also provides high-capacity national long distance and international network services to licensed telecommunications operators and other value-added network service providers licensed in terms of the Electronic Communications Act, No. 36 of 2005, as amended; including:
 - 4.2.1.1 Ethernet Services;
 - 4.2.1.2 Synchronous Digital Hierarchy (SDH) Services;
 - 4.2.1.3 Dense Wavelength Digital Multiplexing (DWDM) Services;
 - 4.2.1.4 Network Co-location;
 - 4.2.1.5 Mast Co-location;
 - 4.2.1.6 Remote Peering; and

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4.2.1.7 A Network Operations Centre for SLA Management.

5. ICT CHAMBER'S VALUE PROPOSITION

- 5.1 **Collaborative Compliance:** Align with ICASA's objectives and regulatory framework, demonstrating commitment to the industry stands and public interest.
- 5.2 **Open Access Model:** Ensure an open an non-exclusive approach to spectrum management, promoting fair competition and innovation.
- 5.3 **Support for SMME's:** Empower small, medium and micro enterprises (SMMEs) in the ICT Sector by providing them with the access to necessary spectrum resources.
- 5.4 **Regulatory Compliance:** Align with ICASA's objectives and regulatory framework, demonstrating commitment to the industry standards and public interest.

6. THE OBJECTIVE OF THE MOU

- 6.1 This MOU seeks to formalise the cooperation between the Parties by determining the scope and extent of such collaboration as it will pertain to them being the switch operator in terms of the draft regulation.
- 6.2 This MOU records the principal terms and conditions of the agreement reached between the Parties.

7. AREAS OF COOPERATION AND COLLABORATION

- 7.1 The Parties shall provide relevant personnel, technology, systems and capital for the establishment, management and operation of the MOU;
- 7.2 The Parties shall provide planning and materials to the MOU.
- 7.3 The Parties shall agree their respective roles, capital and in-kind contributions and equity interests in the MOU prior to submitting their MOU Agreement to government for approval.

- 7.4 The Parties shall jointly do everything in their capacity to ensure that government approves the establishment of the MOU.

8. SCOPE OF THIS MOU

This MOU sets out the basis on which the Parties shall negotiate in good faith with regard to the identification and implementation of a MOU that they intend to be appointed as the switch operator in terms of the draft regulation.

9. PRINCIPLES OF COLLABORATION

- 9.1 As envisaged in clause 3.4 above, it is the intention of both the Parties to enter into a formal written MOU Agreement which agreement will incorporate the terms of this MOU as well as such other terms as the Parties may subsequently considered desirable or necessary by the Parties.
- 9.2 The Parties record by their signature hereto that this document is intended to promote a partnership in good faith, for the benefit of both the Parties.
- 9.3 No Party shall present itself as the Representative or Agent of the other Party for any business, legal or any other reason, nor shall it have the power of authority to commit the other Party, unless it receives the other Party's prior written consent.

10. COMMENCEMENT AND DURATION

This MOU shall operate as from the date of signature hereof, and shall remain binding for a period of one (1) year;

11. INSTITUTIONAL ARRANGEMENTS

- 11.1 Each Party shall designate a contact person responsible for the management of such Party's obligations in terms of this MOU and such contact person shall be the official point of contact between the Parties in respect of matters incidental to or arising from this MOU.

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11.2 The Parties shall, after concluding the MOU, establish a Project Steering Committee (“PSC”) whose responsibility shall be:

11.2.1 To guide compliance with the overall objectives of this MOU;

11.2.2 To ensure compliance with detailed agreements reached by both Parties on identified projects;

11.2.3 To evaluate progress of projects under implementation; and

11.2.4 To review commitments on a continuous basis.

11.3 The PSC shall develop the Terms of Reference and an Implementation Plan to guide the implementation of clause 6 of this MOU.

12. FINANCIAL ARRANGEMENTS

12.1 Each Party shall be responsible for its own costs incurred in the execution of its duties in terms of this MOU.

12.2 The Parties agree that the financial contribution of each Party to the MOU, shall be stipulated clearly in the MOU Agreement.

13. LIABILITY

Neither Party shall be liable against each other merely as a result of premature cancellation or termination of this MOU, unless otherwise agreed upon in the MOU Agreement.

14. ADMINISTRATION OF THE MOU

14.1 Neither of the Parties shall publish, nor permit the publishing of any announcement of this relationship in or through any media unless the other Party has approved the proposed announcement, which approval may not be withheld unreasonably.

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14.2 The provisions of clause 14.1 shall not apply to any announcement or statement which any of the Parties are obliged to make under any applicable law or regulation, provided the Party in question has consulted with the other Parties before any such announcement or statement is made.

15. AMENDMENTS

15.1 No alteration, variation, addition or agreed cancellation of this MOU shall be of any force or effect unless reduced to writing as an addendum to this MOU and signed by the Parties or their duly authorized signatories.

15.2 No failure or delay on the part of either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which the Parties would otherwise have.

15.3 If any clause or term of this MOU should be invalid, unenforceable or illegal, then the remaining terms and provisions of this MOU shall be deemed to be severable therefrom and shall continue in full force and effect unless such invalidity, unenforceability or illegality goes to the root of this MOU.

16. DISPUTE RESOLUTION

Should any difference of interpretation or dispute at any time arise between the Parties, the duly authorized representatives of each Party shall meet within seven (7) days, or within such shorter period as the Parties may agree on, from the date on which the dispute arose to resolve such dispute amicably.

17. GOOD FAITH

The Parties undertake to act in good faith at all times in pursuance of their respective roles in terms of this MOU as well as to give effect to the spirit and intent of this MOU.

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18. **CONFIDENTIALITY**

18.1 Any information shared pursuant to this MOU shall be used only for purposes of giving effect to the MOU.

18.2 To the extent permitted by applicable legislation, the Parties shall hold confidential all information received from each other pursuant to this MOU and shall not otherwise disclose such information than is necessary to carry out their regulatory or statutory responsibilities or otherwise in accordance with applicable legislation.

18.3 The Parties shall, prior to disclosing such confidential information or any part thereof, consult each other for direction and advice on such disclosure.

19. **DOMICILIUM CITANDI ET EXECUTANDI**

20. The Parties choose as their *domicilium citandi et executandi* for all purposes arising out of this MOU for service of notices and legal documents, the following addresses:

For **ICT Chamber:**

Ground Floor, 35 Ferguson Road
Illovo, Sandton
Gauteng
2196

Tel: +27(0)84 444 8181

Email: Siphokazi.Simandla@ictchamber.org.za

For: **Broadband Infraco:**

Sender Technology Park
Octave Street
Radiokop
Honeydew
Roodepoort
South Africa

Tel: +27 235 1721

Email: phatang.nkhereanye@infraco.co.za

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21. GENERAL

21.1 No Commitment to Invest:

No provision of this MOU shall be construed as creating an obligation or a firm undertaking by either Party to invest equity capital into any partnership, corporation or other business association; and no such commitment shall arise except after approval of the Board of Directors of both Parties and after receipt of required regulatory approvals.

21.2 No Assignment and Transfer:

No Party may assign or transfer any or all of its rights and obligations, under this MOU without the written consent of the other Party, whose consent shall not be unreasonably withheld.

21.3 Choice of Governing Law:

The validity, interpretation and interpretation of this MOU shall be governed by and construed in accordance with the laws of the Republic of South Africa.

21.4 Severability:

Should one or more provisions of this MOU be found to be invalid, illegal or unenforceable, in any respect, the validity, legality and enforceability of the remaining provisions of this MOU shall remain in full force and effect as if such provision had not made a part hereof.

21.5 Limitation of Liability:

No Party shall be liable to another, in contract, for any damages (whether arising from omission or negligence) or any special, consequential, indirect or punitive damages, including, but not limited to, any loss of revenue, loss of profit, loss of business opportunity, pollution or environmental damages.

21.6 Third Party Beneficiaries:

This MOU is intended solely for the benefit of the Parties. Nothing herein shall be construed to create any duty to, standard of care with reference to, or any liability to, any party other than the Parties to this MOU.

21.7 Indemnification:

Each Party shall indemnify, defend and hold harmless the other Party from and against all actions, legal or any administrative proceedings, claims, demands, costs (including reasonable attorney's fees) and expenses of any nature for bodily injury, death, or physical damage to any property whether same arises out of the negligence or fault of such Party.

21.8 No Partnership:

No provision of this MOU shall be construed as creating a partnership or any other type of a formal business association between the Parties.

21.9 Waivers:

21.9.1 The failure of either Party at any time to perform in terms of any provision of this MOU, shall in no way affect the right of such Party, at any time to enforce same.

21.9.2 No waiver by either Party of a breach of any term, covenant, representation or warranty contained in this MOU, whether by conduct or otherwise, in any one or more instances, shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation or warranty contained in this MOU.

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21.9.3 No Agency:

No provision of this MOU shall be construed as authorizing either Party to act as an agent of the other Party; and no Party shall represent, through words or conduct, that it is an agent of the other Party.

21.9.4 Entire Agreement:

This MOU contains the entire understanding between the Parties and supersedes all prior written or oral agreements between them.

21.9.5 Modification:

No modification or alteration of this MOU shall be effective except made in writing and signed by both Parties, duly authorised.

21.9.6 Counterparts:

This MOU may be executed in counterparts and all such counterparts, when taken together, shall constitute one and the same document.

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MEMORANDUM OF UNDERSTANDING: BBI + ICT CHAMBER

SIGNED at MIDRAND on this 30TH day of MAY 2025

For: **ICT Chamber**
Siphokazi Simandla
Non-Executive Director



In the presence of the undersigned witnesses:

1. Witness:

NAME	SURNAME	SIGNATURE
<u>DUDUZILE</u>	<u>COKOTO</u>	<u>DCokoto</u>

2. Witness:

NAME	SURNAME	SIGNATURE
_____	_____	_____

SIGNED at Radiokop on this 28th day of May 2025


For **Broadband Infracore SOC Limited**



Mr Gift Zowa
Chief Executive Officer

In the presence of the undersigned witnesses:

1. Witness:

NAME	SURNAME	SIGNATURE
<u>Phatang</u>	<u>Nkhereanye</u>	

2 Witnesses:

NAME	SURNAME	SIGNATURE
<u></u>	<u></u>	<u></u>