INTERNET SOLUTIONS SUBMISSION ON DRAFT CALL TERMINATION REGULATIONS ISSUED PURSUANT TO SECTION 67 (4) OF THE ECA.

22 November 2013

1. Introduction.

1.1 Internet Solutions (IS) welcomes the opportunity to comment on the draft call termination regulations issued pursuant to section 67 (4) of the ECA and published by ICASA under gazette number 36919 on 11 0ctober 2013.

1.2 This submission does not address the entirety of the issues raised in the draft regulations but rather focuses on certain key issues which IS believes are fundamental in defining and creating an enabling environment for the implementation of an effective wholesale call termination market.

2. The fixed/mobile CTR reduction and its impact on IS.

2.1 IS believes that the proposed rate reduction is pro-competitive and will prove favourable, as the asymmetric rates will promote additional investment and encourage fairer and more balanced competition between providers. The European Union has used this practice since 2007 to increase competition and making smaller operators sustainable. It is our hope that these changes will align the South African industry with existing international benchmarks and enable us to stay well-informed of pertinent future developments.

2.2 It is also our submission that infrastructure sharing is also vital to cost reduction. It is important to note therefore that if non-geographic number portability existed, the traditional VANS operators including IS and new entrants which are the main entities that operate in this space would easily achieve a higher average termination rate.

2.3 This is worth mentioning as it demonstrates to the Authority that enabling non-geographic number portability will allow for an increase in competitiveness.

3. The impact of differential CTR of WON and BON on new entrants.

3.1 The elimination of WON and BON and the introduction of a standard rate structure could negatively impact IS and other new entrants in the market. Our current operating expenses comprises, in part, of the infrastructure that has been built in all of our regions for the purposes of redundancy, to promote cheaper pricing and as a basis for some of our product offerings (example: VoIS Contact/ICC).

3.2 Therefore, it is our submission that IS and other new entrants in the market could thus lose these components as a competitive advantage over competitors and the resultant revenue generated from this. Additionally, how would the converged rate be determined should the distinction be eliminated?

3.3 Weighted averages were used in the past for the non-geographic numbering and it failed, resulting in the BON rate being used by most licensees. Our experience is that current termination rates favour far-end handover while a blended rate favours near-end handover. It is illogical therefore to look at current patterns to determine future ones, as the blending of the rate will lead to a change in traffic flows as licensees re-route in accordance with the most commercially favourable routing applicable to the rates.

3.4 However, from an industry and country perspective, operators with minimal regional infrastructure will benefit from a standard rate and

should the rate be affordable and provide the consumers with choice, the country may benefit from a more cost effective way of communicating.

3.5 Furthermore in the past, all operators charged their interconnect partners and clients based on the WON and BON differential. However, Telkom has recently updated their rates to charge a standard fee to their retail clients but have not done the same for their wholesale/IC partners.

4. The outlook for pricing for transit calls on the Telkom network.

4.1 Interconnect providers enter into agreements with Telkom in order to utilise Telkom as a means to terminate mobile and local calls at standard wholesale termination rates. However, Telkom is charging operators an additional 6c per minute transit fee for the conveyance of mobile calls.

4.2 To remove this transit fee, Telkom requires operators to establish an interconnection agreement directly with Telkom Mobile. This also requires additional equipment and networking costs, which is unnecessary and not required legally as Telkom Mobile is not a separate legal entity or separate licensee from Telkom.

4.3 It is therefore our submission that this current conduct of Telkom relating to transit fees is based on injection of unnecessary artificial pricing that serves to skew the market and increase the end prices which consumers have to pay. It is our submission that ICASA should use these draft regulations to create parity and an effective regime relating to trasnit fees.

5. Need for additional pro-competitive measures.

5.1 The Authority has determined that additional pro-competitive conditions and terms are necessary to correct market failures identified in regulation 7 (1). In this regard the Authority has determined that entities like Vodacom, MTN and Telkom who have historically benefited from economies of scale and from reciprocal treatment in allocation of spectrum should be subjected to additional pro-competitive measures like price control in relation to wholesale call termination rates.

5.2 It is IS submission that such pro-competitive measures imposed on these operators should extend beyond just wholesale call termination. We therefore support the call that such entities should be subjected to additional rigorous and transparent pricing requirements across all levels of their business whether wholesale or retail.

5.3 This will effectively ensure that the discriminatory pricing plans that these entities subject their competitors and new entrants alike is properly monitored and curbed wherever it arises. The provision of both voice and data services by these entities where retail rates are often cheaper than wholesale rates is a clear manifestation of the extent of abuse of market power that these entities enjoy.

6. Conclusion.

6.1 It is IS submission that the successful transformation of the South African telecommunications market from that which is dominated by a handful of operators to an effectively competitive market requires decisive regulatory intervention. Without it viable competition is not likely to emerge.

6.2 IS is confident that the interventions contemplated in the draft regulations are intended and will in the long run achieve such outcomes. However these interventions in isolation will have very little effect in the market. ICASA therefore needs to conduct a more comprehensive and holistic approach that will look into issues of infrastructure sharing, non geographic number portability, equitable spectrum sharing, effective wholesale access to the networks of mobile operators and rapid deployment of facilities.

6.3 Finally we wish to request an opportunity to address ICASA orally should any public hearings relating to these draft regulations be conducted.