SUBMISSION BY MWEB CONNECT (PTY) LTD ("MWEB") ON THE DRAFT CALL TERMINATION REGULATIONS

1. INTRODUCTION

1.1 MWEB thanks the Independent Communications Authority of South Africa ("the Authority") for providing us the opportunity to submit our comments on the draft Call Termination Regulations ("the draft Regulations").

2. COMMENTS

2.1 We are uncertain about the rationale behind the change from a higher MTR to a higher FTR in 2016. The mobile termination rate ("MTR") is currently twice as expensive as the fixed termination rate ("FTR"), however decreases to almost half the higher (Between ON area code) FTR and still less than the lower (Within ON area code) FTR in 2016. MWEB submits that there should be a complete convergence of the MTR and FTR to 15 cents in 2015 with the converged rate then decreasing to 10 cents in 2016. The rationale for this submission is that it is becoming increasingly difficult to distinguish between mobile and fixed (geographic, non-geographic, Between ON and Within ON) services as these services rapidly converge across a variety of platforms, access networks and user devices in the drive for unified communications. Therefore, MWEB submits that by 2015 it will be largely meaningless to persist with an increasingly artificial distinction between these services and, consequently, their termination rates.

2.2 In addition to recognising the increasing difficulty in distinguishing between various fixed and mobile services, a converged termination rate will also level the playing fields, promote true competition and alleviate an unnecessarily complex administrative burden in managing a variety of termination rates, particularly in the transit scenario.

2.3 Regarding termination rate asymmetry, MWEB submits that only licensees with less than 10 years' presence in the market should be afforded an asymmetry rate of not more than 15%.

2.4 Although the above submission is considered the plain and short solution for call termination rates, we will proceed to discuss the draft Regulations further.

2.5 The maximum allowable MTR asymmetry started at 20% on 1 March 2011 and decreased to 10% on 1 March 2013, which is in keeping with practices in Europe. However, the draft Regulations now increase that MTR asymmetry to 95% in 2014 with:

2015 at 120%,

2016 at 160%,

2017 at 100%,

2018 at 40%, and continuing at 40%

We are unclear as to the rationale for this significant spike in MTR asymmetry after the gradual decrease of the MTR asymmetry since 2011.

2.6 A study in Europe indicated "In average, MTRs of operators having between 3 and 5 years of entry delay are 17% higher than the lowest MTR in their country, and MTRs of operators having between 6 and 11 years of entry delay are 35% higher than the lowest MTR in their country."[1] That same document notes that the European Commission states "the fact that a MNO entered the market later and has therefore a smaller market share can only justify higher termination rates for a limited transitory period." The European Commission promotes convergence of the rate. "The Commission considers that termination rates should normally be symmetric and that asymmetry, acceptable in number of cases, requires an adequate justification".

2.7 In the absence of any valid justification, the exorbitant MTR asymmetry proposed in the draft Regulations is unreasonable and, considering practices in Europe to decrease the asymmetric rate gradually and move toward convergence, we are uncertain that the approach suggested in the draft

[1] European Regulators Group's Common Position on symmetry of fixed call termination rates and symmetry of mobile call termination rates

Regulations will benefit the consumer and we submit that the MTR asymmetry for new market entrants should be no more than 15% for a period of 10 years.

2.8 An unreasonably inflated asymmetry makes it difficult for operators to offer a single, low tariff to either all fixed or all mobile destinations. The resulting retail price difference introduces unnecessary complexity into retail pricing plans and, consequently, erodes consumer certainty and transparency.

2.9 We seek clarity as to why the MTR asymmetry was increased to such a large extent and the FTR asymmetry remains unchanged, whereas the Explanatory Note to the Draft Call Termination Regulations issued by the Authority clearly indicates that those operators qualifying for MTR asymmetry have a combined 17% concentration in the market (Termination Revenue Share) as at December 2012, while those operators qualifying for FTR asymmetry have a combined 6% concentration in the market (Termination Revenue Share). Those fixed line operators have not received any further benefit via these draft Regulations, even though they, together, make up only 6% of the market concentration and Telkom makes up 94% of the market concentration. We submit that the FTR asymmetry should be increased to at least 15%.

2.10 Further, MWEB submits there should not be a differentiation between the "Within ON area code" and "Between ON area code". The differentiation leads to higher costs and inefficiencies resulting from having to interconnect in five different billing zones. This is unnecessary, increases costs as redundancy is required in each zone, causes complicated pricing, especially in the transit scenario and causes technical difficulties. Smaller operators cannot interconnect in all zones and they are charged if they interconnect at a point in another zone. This is prohibitive to smaller operators. There should therefore be one termination rate.

3. CONCLUSION

3.1 We are confident that our submission will be considered and we are eager to be a part of any related consultative process.

3.2 For any further information please contact Prishnee Singh at psingh2@mweb.com.