



# **Draft Signal Distribution Services Regulations, 2025**

**11 July 2025**

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## **1. Introduction**

- 1.1. SENTECH thanks the Independent Communications Authority of South Africa (ICASA) (“Authority”) for the opportunity to submit on the *Draft Signal Distribution Services Regulations 2025*, published in Government Gazette No.52622 on 08 May 2025 (“Draft SDSR”).

## **2. Principle Understanding**

- 2.1. SENTECH understands that the *Signal Distribution Service Regulation* will NOT apply retroactively, considering the current impasse on analogue switch-off (ASO), existing agreements on signal distribution services, existing facilities leasing agreements, and section 2(y) of the Electronic Communications Act of 2006 (as amended) (“ECA”).
- 2.2. The SDSR process must take into consideration and accommodate the developments initiated and affected by the *Discussion Document on the Review of the Digital Migration Regulations, 2012*, Government No. 50329, published on 22 March 2024.
- 2.3. The Authority must be acquainted with the new licensing process introduced in sub-regulation 5 of the *Digital Sound Broadcasting Services Regulations, 2021*, Government No. 44469, as published on 23 April 2021 (“DSB”).

## **3. Pro-Competitive Terms and Conditions**

- 3.1. SENTECH in principle, is not opposed to the Authority’s proposal, but several nuances must be taken into consideration and included in the final regulations.
- 3.2. Concerning sub-regulation 8(a)(iv), We would like to clarify to the Authority that the satellite portion accommodating both DTH and Contribution Feed requirements will always form part of the costs of service provision. Satellite is part of the terrestrial value chain and is the main contributing feed to the terrestrial sites. Refer to *Figure 1*.

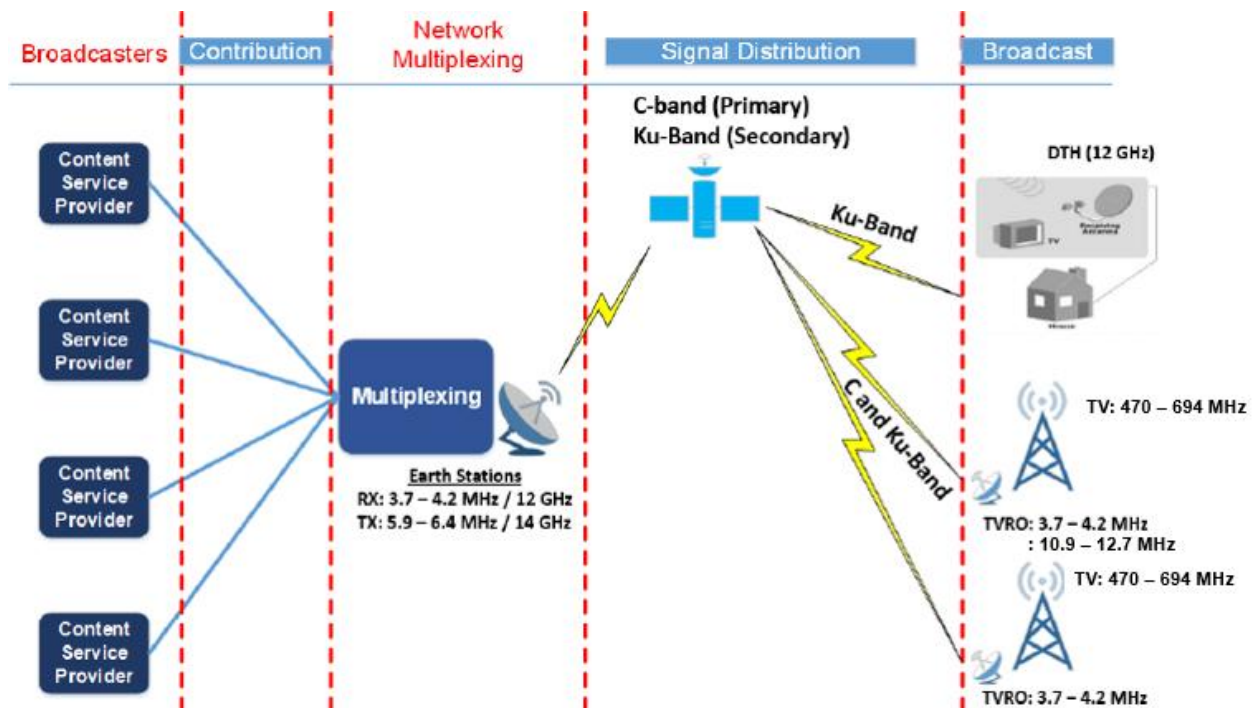


Figure 1: Terrestrial Broadcasting Value Chain

- 3.3. SENTECH argued during the Discussion Document that the market for managed transmission service (MTS) (which is an end-to-end service) is distinct from the market for access to facilities (which are access to parts of a service or infrastructure).
- 3.4. With respect to sub-regulation 8(b) on network access, it is not clear for SENTECH how to navigate the request of the Draft SDSR within the context of the existing *Electronic Communications Facilities Leasing Regulations*, Government No. 33252 of 31 May 2010 ("Facilities Leasing Regulations).
- 3.5. It is SENTECH's understanding that network access relates to physical infrastructure and facilities (e.g., masts, buildings, power, security, etc.) that enable the transmission of TV or radio services. That is, passive infrastructure.
- 3.6. SENTECH, therefore, presents that network access should not form part of the Draft SDSR, and sub-regulation 8(b) should read as follows:
 

(b) Submit a Reference Offer ("RO") concerning the provision of terrestrial signal distribution services for approval by the Authority. The RO must include at least the following:
- 3.7. SENTECH argues that sub-regulation 8(b)(vii) is not required and should be removed to ensure compliance with Section (2) (y) of the ECA.

- 3.8. SENTECH requires the revision of sub-regulation 8(c) to accommodate the inclusion of confidentiality in the event the information submitted to the Authority has any aspect requiring consideration of Section 4D of the ICASA Act. This is also necessary to ensure that confidentiality obligations contained in the parties' transmission agreements are not violated

#### **4. Methodology for determining the extent of reasonableness or unreasonableness**

- 4.1. SENTECH requires the inclusion of a methodology for determining the extent of reasonableness or unreasonableness in the final Signal Distribution Services Regulations, 2025. This is necessary to ensure objectivity in the process.
- 4.2. The Authority can draw directly on the purpose, structure, and rationale already provided in Regulations 8 to 10.
- 4.3. The Authority must embed the methodology directly into the regulations.
- 4.4. The inclusion of a methodology for assessing the reasonableness or unreasonableness of tariffs: 1) Is aligned with the purpose and content of Regulations 8–10; 2) Empowers the Authority to enforce transparency and fair pricing; 3) Enables effective monitoring and enforcement; and 4) Ensures regulatory certainty for Sentech and affected licensees.

#### **5. Monitoring and Investigation**

- 5.1. SENTECH is not comfortable with sub-regulation 9(1)(e) as proposed, due to the broadness of the ask.
- 5.2. To ensure that the request is not excessive or burdensome, sub-regulation 9(1)(e) must be revised as follows:

(e) related sources of data

- 5.3. The Authority has proposed the inclusion of dispute resolution procedures as part of the RO agreement. It is, therefore, only fair for the Authority to ensure transparency by including a review process linked to the proposed sub-regulation 9(2).
- 5.4. The CCC or review through PAJA should not be the first avenue for a licensee to pursue an appeal or a review concerning the proposed sub-regulation 9(2).

#### **6. Compliance with the Signal Distribution Services Regulations**

- 6.1. It should be acknowledged that the SDSR will introduce additional compliance obligations, which, in turn, are likely to increase the cost of compliance, particularly for SENTECH.
- 6.2. However, the SENTECH interprets the increased compliance burden as a deliberate regulatory trade-off.

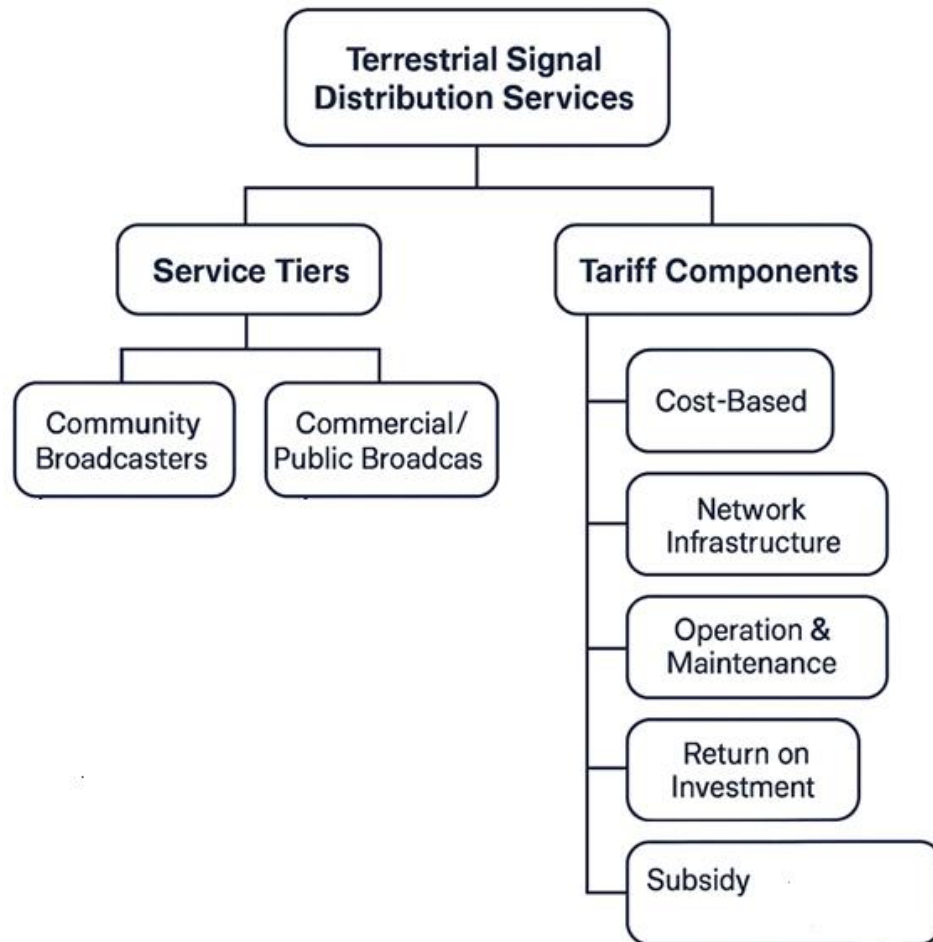
### 6.3. Issues to consider

- 6.3.1. Mandatory Cost-Based Tariff Justification, such as Regulation 8(a) requires tariffs to be: 1) cost-based, with clearly defined components (direct, common costs, return on capital); and 2) segregated to avoid cross-subsidisation between unrelated services (e.g., satellite and terrestrial).
  - 6.3.1.1. SENTECH expects cost-related implications concerning the financial models, internal cost allocation systems, and possibly external audits.
- 6.3.2. Submission and Publication of a Reference Offer (RO) concerning Regulation 8(b) demands detailed documentation covering service definitions, pricing, QoS, billing, and dispute resolution.
  - 6.3.2.1. The cost impact relates to legal drafting, stakeholder review, system alignment, web publication.
- 6.3.3. Ongoing Data Disclosure and Monitoring in reference to regulation 9 includes the following, inter alia: 1) Detailed tariff assumptions; 2) Cost attribution methodology; 3) Asset valuation techniques; and 4) Evidence of cross-subsidisation
  - 6.3.3.1. The cost impact is on regular reporting, system audits, administrative overhead, potentially third-party consultancy, etc.
- 6.3.4. Public Accountability Measures proposed relate to, among others: 1) Imposing pricing remedies under Regulation 9(2); and 2) Requirement of regular market reviews under Regulation 10.
  - 6.3.4.1. The cost implication relates to long-term operational planning and ongoing regulatory engagement.

## 7. **Section 62(3)(b)(i) and (ii) of the Electronic Communications Act**

- 7.1. SENTECH, as a common carrier, a state-owned commercial enterprise and a provider of public interest infrastructure, requires the involvement of the Authority to reconcile the requirements of section 62(3)(b)(i) and (ii).
- 7.2. The requirements necessitate careful regulatory and operational balancing.
- 7.3. In the main section 62(3)(b) of the ECA demands for the common carrier to: 1) Charge all broadcasting service licensees the same rate for the same service at a particular site; and 2) Ensure that the tariffs are structured in a manner that does not discourage or disadvantage community broadcasting licensees.
- 7.4. The tension between 62(3)(b)(i) and (ii): 1) 62(3)(b)(i) demands equality of treatment and pricing fairness: no discriminatory pricing for licensees receiving identical services; and 2) 62(3)(b)(ii) introduces an element of affirmative support or leniency for community broadcasters, who often have limited revenue and public interest mandates.

- 7.5. The challenge for SENTECH is that section 62(3)(b)(i) and (ii) creates a potential conflict, especially when commercial and public broadcasters feel they are paying full or above-cost tariffs, while community broadcasters pay less for similar services, amounting to perceived cross-subsidisation.
- 7.6. Taking into consideration the Draft SDSR, for a common carrier signal distributor to comply with both section 62(3)(b)(i) and (ii), SENTECH seeks the assistance of the Authority on how the Terrestrial Distribution Services, *Figure 2*, should be considered.



*Figure 2: Terrestrial Signal Distribution Services*

## **8. Schedule for review of markets**

- 8.1. Given the protracted timelines required to license, deploy and stabilise new terrestrial broadcasters, a three-year review cycle under Regulation 10 may be premature and could result in a regulatory review without the benefit of adequate market activity or data.
- 8.2. A more appropriate review window might be 5 years, unless triggered earlier by material changes such as the licensing of additional multiplexes or entry of new operators into the market.
- 8.3. Suggested amendment:

*“The Authority will review the market conditions, pro-competitive remedies, and effectiveness of competition as and when deemed necessary, but no later than five (5) years from the publication of these Regulations, or earlier if significant changes occur in spectrum assignments or market participation.”*

8.4. Justification for a five (5) year review cycle

8.4.1. Market Entry Is Slow. The licensing process for new broadcasters (e.g., community TV like Platinum TV) took more than 24 months. Even after licensing, implementation takes 12 to 18 months.

8.5. It may take 3+ years before new entrants are fully operational and generating measurable market impact.

8.6. Spectrum Utilisation Is Still Limited

8.6.1. Only MUX 1 and MUX 2 are in use; MUX 3–7 remain unassigned or partially utilised.

8.6.2. There is no imminent surge of new entrants into the terrestrial broadcasting market that would rapidly alter competition dynamics.

8.7. Data Collection Lags

8.7.1. Effective market review requires data from operational broadcasters — quality of service, costs, tariffs, and uptake.

8.7.2. If licensees are still building or testing, the Authority may not have sufficient data to conduct a meaningful review.

## **9. Conclusion**

9.1. SENTECH thanks the Authority for the opportunity to submit on the Draft Signal Distribution Services Regulations 2025, published in Government Gazette No.52622 on 08 May 2025.

9.2. SENTECH is of the understanding that the SDSR will NOT apply retroactively.

9.3. The SDSR process must take into consideration and accommodate the developments initiated and affected by the Discussion Document on the Review of the Digital Migration Regulations, 2012.

9.4. The Authority must be acquainted with the new licensing process introduced in sub-regulation 5 of the Digital Sound Broadcasting Services Regulations.