



**SUBMISSION BY SENTECH SOC LIMITED**

**ON THE**

**DRAFT UPDATE TERRESTRIAL FREQUENCY PLAN 2013**

**AS PUBLISHED ON 4 FEBRUARY 2013 IN GOVERNMENT GAZETTE NO. 36129**

**NOTICE 55**

**SUBMISSION DATE**

**18 MARCH 2013**

**SENTECH SOC LIMITED WRITTEN COMMENTS ON THE DRAFT UPDATE OF THE TERRESTRIAL BROADCASTING FREQUENCY PLAN 2013 AS PUBLISHED ON 4 FEBRUARY 2013 IN GOVERNMENT GAZETTE NO. 36129 NOTICE 55**

**1. Introduction**

- 1.1. Sentech thanks the Independent Communications Authority of South Africa (“Authority”) for the opportunity presented to make written comments on the Draft Update of the Terrestrial Broadcasting Frequency Plan 2013, (“Draft Update TBFP”).
- 1.2. Sentech agrees with the Authority that there is a need to re-plan the Terrestrial Broadcasting Frequency Plan taking into consideration spectrum requirements beyond Analogue Switch Off (“ASO”).
- 1.3. However, Sentech does not in principle agree with the current process followed by the Authority.
- 1.4. In addition, the time provided by the Authority for the public/industry to provide comments and inputs on the Draft Terrestrial Broadcasting Frequency Plan 2013 falls way short of the acceptable time for the industry to provide well thought and/or properly analysed submissions.
- 1.5. Of concern to Sentech is that the Authority has three (3) other linked processes that are yet to be finalised:
  - 1.5.1. Draft Update of the National Radio Frequency Plan;
  - 1.5.2. Draft Promotion of Diversity and Competition on Digital Terrestrial Television Regulations; and
  - 1.5.3. 2<sup>nd</sup> Draft Frequency Migration Regulation and Radio Frequency Migration Plan.
- 1.6. Sentech would also like to indicate to the Authority that the current National Radio Frequency Plan as published on 30 July 2010 in Government Gazette No. 33409 Notice 727 does not cater for the proposals as stated in the 2<sup>nd</sup> Draft Frequency Migration Regulation and Radio Frequency Migration Plan and Draft Update TBFP.
- 1.7. In terms of s34(2) of the EC Act the proposals in the Draft Update of the National Radio Frequency Plan must still be approved by the Minister of Communications (“Minister”).
- 1.8. Therefore in terms of s34(3) of the EC Act the digital proposals in reference to the spectrum band 694 – 790 MHz is not consistent with the existing National Radio Frequency Plan.
- 1.9. Industry cannot take into consideration the Draft Update of the National Radio Frequency Plan as it is yet to be approved by the Minister.

## **2. Comments on the Draft Update TBFP**

- 2.1. Sentech would like to bring to the attention of the Authority that the existing National Radio Frequency Plan (NRFP) does not deal with the main issues as stated in the Draft Update TBFP. For example, the current NRFP does not have mobile allocation between 694 – 790 MHz.
- 2.2. Sentech therefore finds it challenging to analyse the Draft Update TBFP whilst referencing to the existing NRFP as the two documents are not aligned in time.
- 2.3. The proposed changes in the Draft Update TBFP are not consistent with the existing NRFP as required in terms of s34(2) of the EC Act.
- 2.4. On 21 December 2012 the Authority published a Draft Update of the National Frequency Plan in terms of s34 (5) – (8) of the EC Act for public comments.
- 2.5. Once this process has been finalised, the Authority is required to submit to the Minister of Communications (“Minister”) the proposed NRFP for approval in terms of the s34 (2) of the EC Act.
- 2.6. It is only once that process has been finalised and the updated NRFP gazetted can the Draft Update TBFP refer to the updated NRFP.
- 2.7. Currently, the Authority is referencing to a document that is either outdated or still under review.
- 2.8. It is on this basis that Sentech believes that it is incorrect to reference the Draft Update TBFP to an outdated NRFP or to reference the Draft Update TBFP to a document that has not been approved by the Minister in line with s34 (2) of the EC Act.

## **3. Draft Policy Directions**

- 3.1. On 14 December 2011 the Minister gazetted a notice, *Government Gazette No. 34848 Notice 898*, to make “Policy Directions to the Independent Communications Authority of South Africa (ICASA) on Exploitation of the Digital Dividend Spectrum and Radio-Frequency Spectrum for Electronic Communications Services”.
- 3.2. Section 2.2 of the Draft Policy Directions on Exploiting the Digital Dividend directs the Authority to undertake an inquiry to determine future spectrum requirements for broadcasting and mobile broadband services and then table the report to the Minister.
- 3.3. As the final Policy Directions are yet to be gazetted and the Minister must still approve the Draft Update of the National Radio Frequency Plan; it is not clear on what basis the Authority is publishing the Draft Update TBFP?

#### **4. Workshop**

- 4.1. Sentech proposes that ICASA should host an industry workshop before seeking to finalise the Draft Update TBFP.
- 4.2. The workshop should deal mainly with principles of Frequency and Network Planning characteristics post ASO.

#### **5. Conclusion**

- 5.1. Sentech believes that the Authority has not provided sufficient time for the proper analysis of the proposals in the Draft Update TBFP.
- 5.2. Sentech also believes that there should be finalisation and ministerial approval of the proposals in the Draft Update of the National Radio Frequency Plan before the industry commences with the analysis of the Draft Update TBFP.
- 5.3. Sentech is proposing that the Authority suspend the current activity until all due processes are finalised.
- 5.4. Sentech supports NAB 'submission particularly the following;
  - 5.4.1. Procedural issues; and
  - 5.4.2. The interpretation of Resolution 232.
- 5.5. Sentech thanks the Authority again for the opportunity presented to make written comments on the Draft Update TBFP.
- 5.6. Should the Authority hold public hearings, Sentech would like the opportunity to make an oral presentation.