SUBMISSION BY SENTECH LIMITED

ON THE

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA'S

AMENDMENTS TO THE DRAFT DIGITAL TERRESTRIAL TELIVISION REGULATIONS

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SUBMISSION ON DRAFT DIGITAL TERRESTRIAL TELEVISION REGULATIONS

1. Introduction

1.1 Sentech has noted the proposed changes by the Authority in the amendments to the DTT regulations in Government Gazette No. 35508 Notice 565 of 10 July 2012. (hereinafter 'the draft amended regulations').

1.2 Sentech recognizes the importance of completing these regulations in order to the country to stay on course for the launch of DTT and the final ASO. In this respect, Sentech will provide the Regulator with all the necessary support to ensure that the regulations are closed as soon as possible.

1.3 In it submission Sentech will detail its concerns regarding the proposed modifications in the draft amended regulations, namely;

1.3.1 The insufficient capacity allocation for Community Television Broadcasters in multiplex one (1);

1.3.2 The introduction of the third (3rd) multiplex with similar conditions as those of multiplex one (1) and two (2);

1.3.3 The coverage target requirement that is not supported by the Final Terrestrial Broadcasting Frequency Plan as published in Government Gazette No. 32728 under Notice 1538 of 18 November 2009;

1.4 Sentech thanks ICASA for the opportunity to make submissions on the draft amended regulations.

2. The draft amended regulations

2.1 Background and reasons

Sentech has noted that the Authority's intentions to make regulations that "are future proof and should at least last for the next five years". Sentech would like to remind the Authority that the purpose of the migration regulations is to ensure a smooth migration process. The Authority has already initiated a process of looking at the impact of digitisation of terrestrial television under the *Issues Paper: A Review of the Broadcasting Regulatory Framework towards a Digitally Converged Environment* published under Notice 891 in Government Gazette Number 34828 on 08 December 2011. Sentech believes that "future proof" regulations need to take into consideration the outcome of this process.

STB take-up can be stimulated by ensuring speedy resolution to the rules that will apply during the dual illumination and therefore minimising the possibilities of delaying the migration process. Sentech is of the view that uncertainty on the DTT Migration process has a negative effect on the success of the take up of the multichannel terrestrial platform.

Sentech is also in agreement with the authority that a high multichannel terrestrial environment will have a positive effect on the take up of set-top-boxes. But uncertainty of the DTT migration process also impacts negatively on this and therefore encouraging households to look at other alternatives.

It is therefore not in the best interest of the migration process to further delay the progression of the DTT project as additional interrupts will negatively impact on the following;

- Take-up of the DTT STBs;
- The cost of the dual illumination;
- The planning process required to make provision for removal of DTT assignments above 790 MHZ
- The ability of the Authority to proceed with licensing of the high demand spectrum (800 MHz and 2600 MHz); etc.

Sentech believes that the country has made sufficient progress to enable it to meet the December 2013 date with regard to the two (2) multiplexes initially planned.

In subsection 6 the Authority admits that the current broadcasting frequency plan is capable of only ensuring "eighty five percent (85%) population coverage". But in the main body of the regulation, specifically in regulation (14) 1b the Authority alludes to ninety five percent (95%) population coverage.

The Authority is correct to state that a "project of this scale" is "replete with dependencies and risks in its implementation". Sentech would like to reiterate that the achievable population coverage is limited by the Final Terrestrial Broadcasting Frequency Plan as published in Government Gazette No. 32728 under Notice 1538 of 18 November 2009. For Sentech to provide additional coverage, the Final Terrestrial Broadcasting Frequency Plan will need to be amended.

Sentech also acknowledges that the Amendments to the Broadcasting Digital Migration Policy as published in Government Gazette No. 35051 under Notice 124 of 17 February 2012 also states rollout population coverage target of "close to 95 percent by late 2013". The dependency on ensuring 95% population terrestrial coverage is with the final broadcasting frequency plan, which is the responsibility of the Authority.

During the finalisation process of the terrestrial broadcasting frequency plan the Authority concurred with the industry "that the broadcasting frequency plan and digital migration regulations must be supportive of each other". The Authority went further and promised to

strive "to ensure that" the "broadcasting frequency plan and digital migration regulations" are always "supportive of each other".

Before the Authority can be empowered to make future proof DTT regulations the following issues must be addressed first, *inter alia*;

- Self-help stations coverage requirements;
- Low power stations coverage requirements;
- Re-planning of the broadcasting frequency plan to ensure the migration of DTT assignment above 790 MHz;
- Effective Radiated Power (ERP) limitation of the current broadcasting frequency plan;

2.2 Title

As noted in previous submission by Sentech, the title Digital Migration Regulations should be retained and the remit of these confined to the dual illumination period pre analogue switch-off. ICASA should include an additional sub-regulation in amendments to existing regulations stipulating that the regulations apply only to the migration period and that the rules and requirements for broadcasters licensed under these are subject to change. No licensee therefore has any inherent rights under the regulations.

2.3 Purpose of the regulations

- Regulation 2(a) remains the same and still identifies the purpose as regulating the digital migration of television channels.

  In line with this submission, Sentech proposes that this clause be retained.

- Regulation 2(b);

  Sentech is concerned that the third (3rd) multiplex's conditions are the same as those of multiplex one (1) and two (2). Though Sentech agrees with the inclusion of a third (3rd) multiplex, it is quite difficult to see how the third (3rd) multiplex can be accommodated within the same period as those of multiplex one (1) and two (2).

- Regulation 2(c) remains the same (prescribe the procedure for authorisation of incentive channels).

- Regulation 2(d) remains the same (sets the time frames for migration)

- Regulation 2(e): *The proposed including of* Regulation *2(e) should not be made to the existing regulations. As stated earlier, before additional DTT Multiplexes can be created a number of activities must be completed*

2.4 Framework for Digital Migration

- Regulation 3(2): Sentech is in not certain if the Authority is addressing the phased roll-out process of the network or the actual channels. The Authority should note that only SABC has coverage obligation for "whole of the Republic".
- Regulation 3(4): Sentech's understanding of this regulation is that Community Broadcasters have the choice to either dual illuminate or not to dual illuminate
- Regulation 3(10): Sentech is proposing the removal of this regulation.

2.5 Multiplex Allocation: Multiplex 1

The amendments to the BDM Policy clearly states that the Authority needs to "ensure that Community TV services are accommodated in the existing multiplexes". Sentech is concerned that the proposed ten percent (10%) allocation in Multiplex 1 for licensed community television broadcasters is inadequate.

The Authority currently has licensed nine (9) Community Television broadcasters;

- Western Cape (1): Cape TV;
- Eastern Cape (3): TBN, Madiba Bay TV and Nelson Mandela Bay TV;
- Kwa-Zulu Natal (1): 1KZN;
- North West (2): Platinum TV and NW TV;
- Gauteng (2): Soweto TV and Tshwane TV;

It is imperative for the Authority to note that Community Broadcasters will not be empowered to offer HD services and therefore will likely be dependent on the capability to offer enhanced EPG services and radio services in order to remain competitive and thereby run a sustainable business. The proposed 10% Multiplex 1 allocation for Community Broadcasters will likely accommodate a maximum of only two (2) licensed broadcasters per multiplex without the capability to offer enhanced EPG and radio services.

Sentech proposes that the Authority should allocate 20% of multiplex one (1) to Community Broadcasters nationally with a maximum of three (3) broadcasters per province during the migration period. The Broadcasting Digital Migration Policy as

published in Government Gazette No. 31408 Notice 958 of 8 September 2008 and amendments to the Broadcasting Digital Migration Policy as published in Government Gazette No. 35051 Notice 124 of 17 February 2012, clearly states that Public, Commercial and Community Broadcasters should be prioritised and accommodated on multiplex one (1) and two (2) during the dual illumination period.

The ten percentage (10 %) capacity allocation for Community Broadcasters on multiplex one (1) is not sufficient. A case in point is the Eastern Cape Province which has three (3) licensed Community Broadcasters.

In regions where there are no community broadcasting services, Sentech is of the view that an allocation of the spare capacity should be assigned to any interested broadcaster at regional level (i.e. minimum provincial coverage) in the spirit of efficiency, fairness and enhancement of competition in the broadcasting industry.

2.6 Multiplex Allocation: Multiplex 2

Sentech is in agreement with the proposal.

2.7 Multiplex Allocation: Multiplex 3

SENTECH welcomes the inclusion of multiplex 3 during dual illumination as a competition stimulant.

2.8 Digital incentive channel authorisation

- Regulation 7(1): Sentech agrees with the inclusion of wording that states that Community Television Broadcasters should be not required applying for authorisation for digital incentive channels pre and during the dual illumination period.
- Regulation 7(4): Sentech agrees with the wording and the inclusion of this sub-regulation.

2.9 Signal Distribution of the DTT Services Broadcast in Multiplexes 1, 2 and 3

Regulation 13 (3): It will prove impossible to conclude an agreement "prior to the commencement of the dual illumination period" when the infrastructure and network for a third (3rd) multiplex is non-existent.

2.10 Roll out targets

- Regulation 14(1): The Authority is proposing that the coverage obligation for Multiplex 1 (PBS) must be imposed on the ECNS. Sentech believes that the coverage obligations should remain the requirement for broadcasters in line with regulations 2(d), 4, 5 and 6. The onus of an ECNS licensee is already covered under regulation 13. Sentech will also like to bring to the attention of the Regulator that ECNS licensees are also subject to the ICASA Spectrum Plan which regulates the ERP's to be used in the roll out of the network and this is also a limiting factor in achieving the required population coverage, 95%. Therefore the required population coverage stated under sub-regulation 14(1)(b) should also take into consideration the impact of the FTBFP 2008, the AGA Act requirements and also the importance of DTH (Direct-to-Home) Satellite platform. With the ERP limitations in the FTBFP only 85% population coverage is achievable.

- Sentech proposes that regulation 14 (3) should be amended as following;

An electronic communications network services licensee appointed in terms of regulation 13 must submit quarterly reports to the Authority on quality of service, including progress in meeting required technical standards and measures undertaken or to be undertaken to manage and prevent frequency interference within South Africa and in the Southern African region only in instances where the ECNS licensee operates outside the published broadcasting frequency plan. The quarterly report must be submitted to the Authority within one (1) month after the end of the electronic communications network services licensee's financial year and every six(6) months thereafter.

2.11 Joint Spectrum Advisory Group

- Just as JSAG's mandate with regard to spectrum matters is limited to the dual illumination period so shall the regulations constituting the JSAG.

2.12 Penalties

- Regulation 19(2): The current proposal, 95% terrestrial coverage, as stated in regulation 14(1) are impossible to be met with the current FTBFP 2008 and the limitations imposed by SKA Regulations. This will result in the ECNS licensee being exposed to possible penalties as a result in limitations of a spectrum plan published by the same entity imposing coverage penalties.

3. Conclusion and summary

3.1 Sentech thanks ICASA for the opportunity to make representations on the draft amendments to the DTT regulations.

3.2 Sentech would like to restate its commitment to working together with the Authority and all other stakeholders (including both existing and aspirant broadcasters) to ensure that public needs are met and that South Africa efficiently and effectively manages the transition from analogue to digital terrestrial television broadcasting.