



13 June 2013

**Mr Mandla Mchunu**

Independent Communications Authority of South Africa  
Block A, Pinmill Farm  
164 Katherine Street  
Sandton

**Delivered via email to:- [mmchunu@icasa.org.za](mailto:mmchunu@icasa.org.za)**

Dear Mr Mchunu,

**RE: SUBMISSION ON THE PUBLISHED APPLICATION FOR ADDITIONAL SPECTRUM BY MTN.**

- 1 Smile Communications (Pty) Ltd ("Smile") welcomes the opportunity to comment on the Published "Notice Of Radio Frequency Spectrum Application For An Additional Five (5) MHz TDD Block in the 2100 MHz Band (2010-2015 MHz) by Mobile Telephone Networks (PTY) LTD" as contained in Government Notice 579 of 06 June 2013 contained in Government Gazette 36540. As a licensee with a pending Spectrum application, Smile takes a very keen interest in this process and in particular, this application.
- 2 Should there be any further consultative process which the Authority may undertake including the convening of public hearings, Smile confirms that it would like to participate in such a process. At the outset, Smile notes the rather short comment period afforded for submission of comments. At our count, only 6 working days have been provided for the submission of comments. What is the Authority's justification for such an abbreviated process?
- 3 In the notice under "Introduction" and in the second paragraph, the spectrum applied for is identified as suitable for providing "*last mile access in areas where LTE and Fibre are*



*not feasible*". In addition, ICASA goes on to confirm that MTN already holds 5MHz of a total available 15MHz, with the other 5MHz held by Vodacom, and the remaining 5MHz being unassigned and the subject matter of MTNs application. In Smile's view, the application evidences and supports the view that the spectrum being applied for is ideal to supplement the already high demand spectrum suitable for LTE in areas where such LTE spectrum will not be sufficient, hence the application by MTN. Consequently, any entity which may eventually successfully be assigned LTE spectrum will then be prejudiced as the last supplementary spectrum portion in this band would have been given away to MTN prior to the completion of the licensing processes for the high demand spectrum. As a result, Smile is of the view that, if the main reason for the assignment is to supplement LTE and fibre, this assignment is premature and should not be made until the 800MHz and 2.5 GHz bands have been assigned, and until the broadband strategy setting out the implementation plan for fibre rollout out, has been clarified.

- 4 Further, Smile points out that MTN already has spectrum in the 2100 MHz band and this additional assignment would not be the most efficient and equitable usage of broadband spectrum, as it would concentrate spectrum in the hands of one company.
- 5 Another important consideration for Smile is that ICASA is yet to process Smile's application for spectrum submitted as far back as March 2009. At the time of its application, the spectrum applied for was not classified as high demand spectrum, but Smile respected ICASA's process. Smile submits that the same principles that brought the licensing of other bands to a halt are equally applicable to this portion of the frequency band.
- 6 Lastly, the published Council decision as regards the application appears to indicate that a decision has already been taken to award the spectrum to MTN. It also refers to a twenty one (21) day period for publication of the Gazette. Smile reiterates its comments under paragraph 2 above and points out that the Gazette did not adhere to Council's

decision for a 21 day publication/notice period. Further, if the decision has already been taken to grant the application, then why subject it to a public process?

**7** In conclusion, Smile is thankful to the Authority for affording it the opportunity to submit comment on the Application and confirms its objection at the awarding of this broadband spectrum on the basis of principle and process as argued in its submission.

**8** We trust you find this order. Kindly acknowledge receipt of our submission.

Thank you and warm regards,

A handwritten signature in blue ink, appearing to read 'Thato Mahapa', is written over a faint, tilted rectangular line.

**Thato Mahapa**

**Senior Manager: Legal and Regulatory**