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Independent Communications Authority of South Africa
New Licensing Inquiry Project Manager
Block C, Eco Point Office Park
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Mr. Peter Mailula

By email: iecns-inquiry@icasa.org.za; pmailula@icasa.org.za

Dear Mr. Mailula,

NOTICE OF INTENTION TO CONDUCT AN INQUIRY INTO NEW INDIVIDUAL ELECTRONIC COMMUNICATIONS NETWORK SERVICE LICENCES – PHASE 1: COMMENCEMENT OF INQUIRY

On 25 November 2025, the Independent Communications Authority of South Africa (“**Authority**”) published a Notice of Intention to Conduct an Inquiry into New Individual Electronic Communications Network Service Licences (“**Inquiry**”) in Government Gazette: 53719 under Notice: 3644 of 2025 (“**Notice**”).

As part of its phased inquiry process, the Authority has sought written responses from stakeholders to an accompanying questionnaire published by the Authority in the Notice.

Telkom SA SOC Limited (“**Telkom**”) welcomes the opportunity to provide its responses to the questionnaire published in relation to the Inquiry, which responses are included below. For ease of reference, we have set out the questions posed by the Authority, followed by Telkom’s response in respect thereto.

We trust that our submission will be useful to the Authority and confirm our willingness to further engage with the Authority in relation to our submission or any aspect thereof, should the Authority deem it necessary.

Yours sincerely



Nozipho Mngomezulu

GROUP EXECUTIVE: REGULATORY AND LEGAL SERVICES

CONTACT DETAILS FOR RESPONDENT OR REPRESENTATIVE OR THE RESPONDENT

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SECTION 1: TRANSFER OF INDIVIDUAL I-ECNS AND I-ECS LICENCES FRAMEWORK

Question 1.1

What are your views on the current licensing framework in relation to the sale and transfer of I-ECNS and I-ECS licences (section 13 of the ECA)? In particular, does the current licensing framework hinder or promote competition? In providing your response, please provide reasons supported by evidence or case studies, where applicable.

Telkom's Response

Section 13 of the Electronic Communications Act 36 of 2005 ("ECA") prescribes the requirements for the transfer of and/or transfer of control of individual Electronic Communications Network Service ("I - ECNS") licences and individual Electronic Communications Service ("I - ECS") licences (collectively referred to as "Individual

Licences”). Importantly, section 13 of the ECA provides that any contemplated transfer of Individual Licences and/or control of Individual Licences must be done with the Authority’s prior written approval. It is Telkom’s view that the approval process and the mandated public consultation process contemplated in section 13 is necessary to – (i) ensure regulatory compliance with the provisions of the ECA and regulations made under the ECA, and (ii) address any anti-competitive issues that may arise as a result of the transfers contemplated in section 13 of the ECA. That being said, the secondary market created by the trading of Individual Licences has highlighted the barriers of entry into the market and the need to reform the current licensing framework. In this regard, Telkom notes certain provisions of the ECA and regulations made under the ECA that have had the unintended consequence of perhaps hindering competition in the electronic communications market. We set out these provisions and our concerns below.

Section 9(2) of the ECA which relates to applications for, and granting of Individual Licences (including commercial broadcasting licences) provides that:

“(2) [ICASA] must give notice of the application in the Gazette and -

(a) ...

(b) include the percentage of equity ownership to be held by persons from historically disadvantaged groups, which must not be less than 30%, or such other conditions or higher percentages as may be prescribed under section 4(3)(k) of the [Independent Communications Authority of South Africa Act 13 of 2000 (“ICASA Act”).”

Section 13(6) of the ECA which relates to applications for the transfer of, and transfer of control in, Individual Licences, renders the provisions of sections 9(2) to 9(6) of the ECA (i.e. provisions relating to applications for, and granting of Individual Licences) applicable to applications for the transfer of Individual Licences and the transfer of control of Individual Licences, with the necessary changes.

Although section 9 deals with applications for an Individual Licence(s), the High Court has held that the 30% equity ownership percentage stipulated in section 9(2) of the ECA is peremptory and applies equally to applications relating to the transfer of, or transfer of control in, a licensee¹. As such, the Authority is empowered to impose a minimum percentage of 30% equity ownership by historically disadvantaged groups (“**HDGs**”) or such other conditions or higher percentages as may be prescribed under Regulations made and published by the Authority in terms of section 4 (3) (k) of the ICASA Act.

On 31 March 2021, the Authority published the Regulations in respect of the Limitations of Control and Equity Ownership by Historically Disadvantaged Groups and the Application of the ICT Sector Code² (“**Equity Regulations**”). The Equity Regulations, read with sections 9 (2) (b) and section 13 of the ECA, introduced provisions which, amongst other things, mandate the holders of Individual Licences (including Telkom) (“**Individual Licensees**”) to have and maintain (for the term of their Individual Licences) a minimum percentage

¹ Telkom SA SOC Limited and Others v Dr Steven Mncube and Others (Case 55311/2015)

² Published in Government Gazette No: 44382

of 30% equity ownership by both HDGs (“**HDG Equity Requirement**”) and black people (“**Black Equity Requirement**”). In addition, the Equity Regulations require Individual Licensees, as well as holders of class electronic communications network service licences and class electronic communications service licences, to have a minimum B-BBEE Contributor Status Level of four. Telkom notes that while the finalized Equity Regulations have been published by the Authority, the application of the Black Equity Requirement has been suspended by the Authority until a later date to be announced by the Authority. Telkom further notes that the Minister of Telecommunications and Digital Technologies (“**Minister**”) has issued a final policy directive to the Authority requiring the Authority to urgently consider aligning the Equity Regulations with the Broad-Based Black Economic Empowerment Act, 2003 (“**B-BBEE Act**”) and the ICT Sector Code, 2012.³

At the outset, Telkom wishes to place it on record that it is in full support of the Authority’s mandate to promote broad based black economic empowerment in the licensing and transfer of Individual Licences. Telkom is aware that intervention by the Authority in this regard is necessary to ensure that the transformation objectives set out in the B-BBEE Act and the ICT Sector Code are achieved by all licensees. That being said, it is Telkom’s view that the Equity Regulations introduce B-BBEE requirements that go beyond what is envisaged in the B-BBEE Act and the ICT Sector Codes in that –

- (i) they prescribe minimum HDG Equity Requirements and Black Equity Requirements that are not contemplated in the ICT Sector Codes;
- (ii) they do not recognize other forms of ownership as contemplated in the ICT Sector Code; and
- (iii) they do not recognize other forms of compliance with broad based black economic empowerment objectives.

It is Telkom’s view that the Equity Regulations, applied within the context of section 13 of the ECA (and indeed, the broader licensing framework), have created regulatory and policy uncertainty. This policy uncertainty further increases the cost of compliance and in turn hinders competition in the market. In particular, this regulatory and policy uncertainty has potentially deterred much needed investment in the roll-out and expansion of digital infrastructure and electronic communication networks.

International best practice suggests that empowerment goals can be achieved through diverse mechanisms, including skills development, local supply chain participation, infrastructure investment, and research and innovation funding.

Telkom implores the Authority to ensure that the review of the Equity Regulations (once finalised) take into account the need to promote further investment in the market. In this regard, we recommend that the Authority adopt mechanisms to promote broad based black economic empowerment that are not overly burdensome on licensees, and that can be applied equally to all licensees (including any new licensees entering the market). It is Telkom’s view that any differentiation in the treatment of licensees may impact the competitive landscape as it would, in effect, disadvantage those operators who have devoted, and continue to devote, significant

³ Policy Direction to the Independent Communications Authority of South Africa on Broad Based Black Economic Empowerment, as published in Government Gazette No: 53855 on 12 December 2025, under notice number: 3692 of 2005

resources to ensuring compliance with South Africa's (sometimes onerous) legal, policy, and empowerment framework. Put differently, differential treatment of operators will, in our view, raise serious concerns about regulatory parity and may ultimately result in the creation of a dual regulatory regime.

Question 1.2

In your view, should the Authority intervene in the current sale and transfer market to facilitate the purchase of existing licences? If yes, to what extent should the Authority intervene? Please motivate your response by providing reasons and any supporting evidence or data.

Telkom's Response

No. The existing provisions governing the transfer of, and the transfer of control in, Individual Licences (with necessary amendments to the Equity Regulations) grant the Authority adequate oversight over matters relating to the transfer of, and transfer of control in, Individual Licences. It is Telkom's view that any further intervention by the Authority, beyond the existing framework governing the transfer of, and transfer of control in Individual Licences, will result in undue interference in the commercial activities of Individual Licensees.

Question 1.3

What other considerations or interventions would be useful for the Authority to consider regarding the effectiveness and efficiency of the current sale and transfer licensing framework so as to promote competition?

Telkom's response

None.

SECTION 2: THE DEMAND FOR NEW INDIVIDUAL ECNS LICENCES

Question 2.1

In your view, are there sufficient market opportunities to justify issuing new I-ECNS and I-ECS licences? Please motivate your response.

Telkom's response

The electronic communications market is characterised by rapid technological advancements, providing various market opportunities for existing operators and new entrants. Electronic communications services are enablers for economic development, with the potential to provide, *inter alia*, educational, health and employment opportunities and in so doing, address income and other socio - economic inequalities. The realization of any market opportunities is, however, largely dependent on the ability of operators to leverage access to significant capital, employ highly technical skills and deploy scalable networks. This can only be achieved through cost reductions realized through economies of scale. In recent years, the electronic communications market has

shifted towards consolidation as operators have sought to achieve efficiencies. In our view, the growing trend of consolidation in the market indicates that there may be less demand for new I-ECNS and I-ECS licences and limited market opportunities in a market that is already saturated with a large number of licensees.

Question 2.2

Have you, or are you aware of any licensee or interested party who has considered or is considering launching or expanding network infrastructure or providing services in South Africa? What technologies, network architecture and/or spectrum frequencies do you think would be appropriate for any new I-ECNS licensee? Please provide examples or evidence where possible.

Telkom's response

The current licensing framework is technology neutral, thus it would be improper to specify specific technologies of any new licences which may be issued by the Authority. Information pertaining to a new licensee(s) and its planned network infrastructure and services to be launched in South Africa will generally not be known until such service is launched and communicated to the market.

An individual licensee is able to provide services utilising any technology, with the understanding that where wireless services are provided, the necessary spectrum licence(s) is also required. The spectrum required will depend on the specific wireless technology that will be provided such as mobile, fixed, or satellite services.

It is well known through media reports that Starlink Services LLC (an international company based in the USA) has expressed interest in providing its Starlink broadband services directly to consumers in South Africa. Starlink provides internet access via a constellation of Low Earth Orbit (“LEO”) satellites. There are also several other satellite providers seeking to launch LEO and Geostationary Earth Orbit (“GEO”) satellites, which provide satellite capacity over South Africa. Examples include Amazon Leo (previously Amazon Kuiper), Spacesail, Eutelsat OneWeb, and Avanti Communications. These are in addition to existing GEO satellite services such as Intelsat/SES, Inmarsat (ViaSat). These satellites operate in a range of standard internationally harmonised frequency bands such as the L-band (1.5/1.6 GHz), S-band (2 GHz), Ku-band (11/14 GHz), Ka-band (20/28 GHz), Q/V-band (40/50 GHz), etc. The specific frequency bands are reflected in the South African Table of Frequency Allocations, which is prescribed by the Authority (and is currently being updated).

Frequency bands and orbital positions of all satellites are coordinated through the ITU Regulatory procedures. However, any satellite provider that wishes to provide electronic communications networks and services directly to customers in South Africa must be required to hold the requisite I-ECNS and I-ECS licences and spectrum licences issued by the Authority.

The same licence terms and conditions, including social obligations, applicable to current licensees should apply equally to any new I-ECNS and/or I-ECS licensee.

Question 2.3.

If you are an existing licensee, did you acquire your I-ECNS and / or I-ECS licence through the sale and transfer market? (i.e. bought from another licensee) or did you obtain them directly from the Authority (not through transfer or change of ownership) if acquired from the secondary market, please provide details of your experience.

Telkom's Response

Telkom was issued and granted a public telecommunications services (PSTS) license in May 1997. Telkom's PSTS licence was converted to I-ECNS and I-ECS Licences by the Authority in January 2009.

Question 2.4

If you have/had I-ECNS and/or I-ECS licences, have you been approached or have you received unsolicited or solicited interest from an interested buyer to acquire your licence? Please elaborate and provide as much information as possible, if applicable.

Telkom's Response

The I-ECNS and I-ECS licences previously held by Swiftnet SOC Limited (a former Telkom subsidiary) were transferred to an Actis-led Consortium in December 2024 when Telkom disposed of its Swiftnet business.

Question 2.5

If you have I-ECNS and/or I-ECS licences and are not intending to sell your licence(s) in the next 3 – 5 years, please describe the infrastructure used (mobile, fixed, satellite or combination). Provide a list of services that you currently provide and whether those are provided to private consumers and/or business /organisations (or both where applicable)?

Telkom's Response

Telkom and its subsidiary companies provide fixed, mobile and satellite communications services to private and corporate customers. Telkom uses a combination of varying fixed, mobile and satellite technologies to provide its services to customers.

Question 2.6

Are there any additional points that you think would be useful for the Authority to consider regarding the demand for I-ECNS and I-ECS licences.

Telkom's Response

The issuing of Individual Licences does not in itself facilitate market entry, nor is it an accurate reflection of the demand for I-ECNS and I-ECS licences. In a market where there is a plethora of individual licensees, but only a

few effective and efficient competitors, and where the market characterized by increasing consolidation, the marginal effect of issuing further licences will be negligible. This is evidenced by the shedding of non-essential infrastructure by electronic communications network operators, which, in our view, indicates a shift by operators when it comes to competing at the service layer. It is also likely that the acquisition of Individual Licences through secondary markets could satisfy any demand for effective entry by potential Individual Licences.

SECTION 3: WHETHER NEW I-ENCNS LICENCES WILL PROMOTE COMPETITION IN THE MARKET FOR I-ECNS

Question 3.1

In your view, do you believe that new I-ECNS licences will promote or improve competition in the market? Please substantiate your answer.

Telkom's response

No. At present, there are around 490 I-ECNS licensees. Notwithstanding the high number of licensees, only a limited number of licensees have been able to deploy infrastructure at scale. The failure and/or inability of a large number of licensees to provide electronic communications network services is largely due to the high capital and operational costs required to deploy and maintain electronic communications network services nationally, as well as the macro - economic and other external factors that have created barriers for entry into the market. We submit that these need to be addressed through fundamental macro-economic and regulatory reforms to address any competition concerns in the market rather than simply issuing new I-ECNS licences.

Question 3.2

If you answered yes to question 3.1. above, are there any competition issues or concerns that may hinder the effectiveness of such new I-ECNS licences in promoting or improving competition? Please provide evidence or examples.

Telkom's response

Telkom answered No to question 3.1. above, however, the concerns noted in our response above are equally relevant and applicable to this question.

Question 3.3

What regulatory measures, if any, should the Authority consider to remedy the competition concerns that you have identified in question 3.2. above, or to ensure that any I-ECNS licences complete effectively with the incumbents? Please provide examples of the kinds of remedies you would expect to see.

Telkom's response

In our view, the whole legislative framework needs to be reviewed, and even overhauled, to ensure that it remains fit for purpose and facilitates universal access and competition in the market. As far as any current regulations are concerned, we submit that the Authority should conclude its review of the Equity Regulations as a necessary regulatory reform to the address the uncertainties brought about by the Equity Regulations.

SECTION 4: POTENTIAL CONTRIBUTION OF NEW I-ECNS LICENCES TO UNIVERSAL ACCESS AND SERVICE

Question 4.1

In your view, will new I-ECNS and I-ECS licences contribute to the universal access and service within the current electronic communications network and services market? Please explain the mechanisms through which such contribution may occur. Provide any supporting data, case studies or examples.

Telkom's response

Yes. New I-ECNS and/or I-ECS licensees have the potential to contribute to universal access and service if they facilitate the deployment of services on a national scale, including in remote / rural areas. One way of addressing universal access and service objectives internationally is through contributions to a universal service fund. Generally, universal service funds have proven ineffective and have often failed to discharge their mandates. Studies by the ITU indicate that globally, more than half of the sums collected for universal service funds have not been utilised and over a third of the funds were not able to distribute any of the levies collected. In South Africa, it is common cause that the Universal Service and Access Agency of South Africa ("USAASA") has failed to deliver on its mandate. The inefficiencies of USAASA have raised calls for the re-evaluation of funding models to support universal service and access. This requires collaboration between the Department of Communications and Digital Technologies ("DCDT"), the Authority, National Planning Commission, and USAASA. In this regard, we submit that the responsibility for the distribution of the universal service and access fund should be transferred to the Authority because it is the Authority that has a more holistic view of the needs in the sector.

Telkom is also of the view that spectrum fees, such as those obtained through the recently held spectrum auction, should be ringfenced to extend rural networks and services rather than being paid into the national fiscus. Extending networks into rural areas will bridge the digital divide, bring more people online, and further support economic growth.

Alternative solutions to existing universal access and service models can, and should be, explored for the extension of communications to rural and remote areas, such as promoting network sharing between licensees, public-private partnerships and requiring OTT providers to contribute equivalently to achieving universal service objectives.

Question 4.2

In your view, how should the Authority incorporate universal access and service obligations into the terms and conditions of new I-ECNS licences and I-ECS licences to ensure equitable access to communications services across South Africa?

Telkom's response

Existing licensees have universal access and service obligations included in the terms and conditions of their Individual Licences and, in some cases, Individual Licensees are required to meet additional universal services obligations as part of their radio frequency spectrum licence terms and conditions.

Individual Licensees are also required to make monetary contributions towards the South African Universal Service Access Fund. We submit that all Individual Licensees should have the same obligations imposed on them. This will maintain regulatory parity across all licensed operators.

SECTION 5: BENEFITS OF NEW I-ECNS LICENCES VERSUS COSTS, INCLUDING THE COST TO THE AUTHORITY OR MONITORING AND ENFORCING COMPLIANCE WITH ANY SUCH LICENCES, AND THE BURDEN ON THE ENVIRONMENT

Question 5.1

Are there any potential negative consequences associated with the rollout of infrastructure by the new I-ECNS licensees that the Authority should consider?

Telkom's response

Theft and vandalism pose a significant threat to the rollout of infrastructure by both new and existing licensees. This results in service outages and financial losses for licensees who are faced with increased costs to secure their infrastructure and re-deploy their networks whilst continuously upgrading same to ensure resilience against cyber-attacks and sophisticated forms of intrusion.

Another issue is the lack of co-ordination between various authorities. We submit that there needs to be a simplification and uniformity of wayleave processes and prices. This requires the involvement and coordination of municipalities, South African Local Government Association, DCDT and the Authority.

Question 5.2

What new or additional benefits, if any, could new I-ECNS licences provide compared to existing licensees? Please provide examples or evidence of potential improvements such as service coverage, infrastructure rollout, technological innovation or other market and social benefits.

Telkom's response

As submitted above, the marginal effect of issuing further I-ECNS licences is likely to be negligible. The specific benefits that any new licensee could provide will need to be assessed on a case- by- case basis and on the merits of an applicant's business plan.

SECTION 6: ANY OTHER COMMENTS

Question 6.1. Do you have any additional comments regarding this inquiry process that you would like the Authority to consider?

Telkom's response

Telkom's notes that several questions have included the benefits of issuing new I-ECS licences in addition to I-ECNS licences. We note that whilst the Minister's policy direction is limited to consideration of I-ECNS licences, it would nevertheless be beneficial to extend the full scope of this inquiry into the need to issue both I-ECNS licences and I-ECS licences and to also assess the competitive landscape relating to the provision of electronic communications services.