

# ICASA's Findings and Draft Regulations



**Oral hearing**  
Vodacom presentation  
12 August 2021

Further together

# Overview



Regulatory uncertainty hampers investment. Vodacom therefore welcomes the conclusion of the market review. The market now needs the ITA to be completed and a period of certainty to enable investment

Vodacom is willing to accept some of ICASA's proposals (including the proposed remedies for site access). However, there are a number of areas which Vodacom cannot support



## Competition

- ICASA fails to recognise competition between operators has intensified substantially – it is wrong to characterise MTN and Vodacom as a duopoly
- The market is characterised by both intense pricing and network competition
- Telkom is a also formidable competitor



## Spectrum

- ICASA understates the impact of the spectrum auction and WOAN over the upcoming market review period
- Its analysis of the markets cannot be relied upon as it has failed to fully account for the impact of spectrum constraints on outcomes
- Telkom has significantly more spectrum in total and per customer



## Remedies

- ICASA's monitoring obligations are unwarranted
- However, if ICASA does decide to persist with such obligations for roaming services, then it should monitor margins at an aggregated level across the portfolio of rated retail products (excl MBB/FWA)

# Effectiveness of competition



## The market has evolved substantially

The ICT market is constantly evolving, which renders past competitive strategies redundant and requires operators to constantly adjust. Some are better placed than others to do so.

### “yesterday”

- **Uniform customer needs** and competition revolved around delivery of **voice and SMS**
- **Voice coverage** and availability the main driver of investment and differentiation
- **Limited sharing possibilities** and operators focused mainly on own network deployment
- **Microwave** was adequate to meet backhaul and backbone transmission requirements
- Licences were technology specific and **# of market participants limited**

### “tomorrow”

- **Diverse customer needs** and competition revolves around delivery of **data**
- **Data coverage, quality and speed** the main driver of investment and differentiation
- **Technical developments** enable **sharing at various levels** with huge benefits
- **High speed fibre** critical for transmission requirements
- Licences are technology neutral and the **# of market participants have tripled** (2 -> 4 -> 6)



## There is strong head-to-head competition on all fronts

ICASA is wrong to focus on the combined position of Vodacom and MTN, as this ignores the significant head-to-head competition between the two players, in addition to the strong competition imposed by Telkom, Cell-C and Rain



### Network

- There is intense competition on network quality
- Over the past financial year, Vodacom has spent over R10bn on its network in an attempt to keep pace with MTN



### Wholesale

- Vodacom and MTN compete strongly for wholesale contracts, as demonstrated by Telkom and Cell-C switching their roaming contracts between Vodacom and MTN
- Vodacom and MTN have also been competing on MVNO and APN contracts



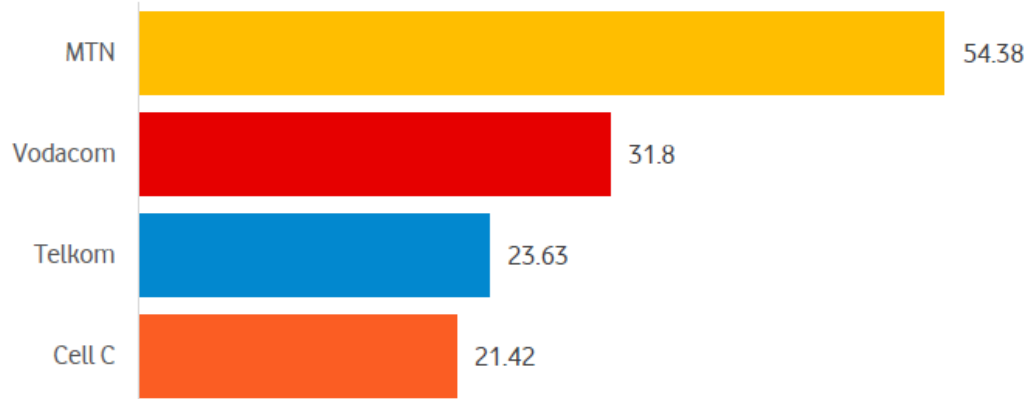
### Retail

- Effective competition delivered good retail market outcomes

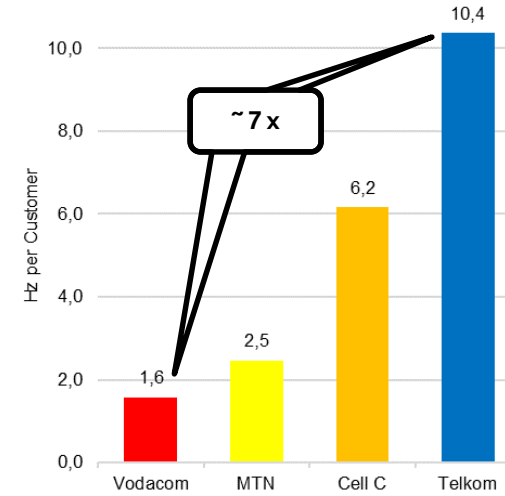
Vodacom faces strong competition from a range of operators, including MTN

# There is strong head-to-head competition on network quality

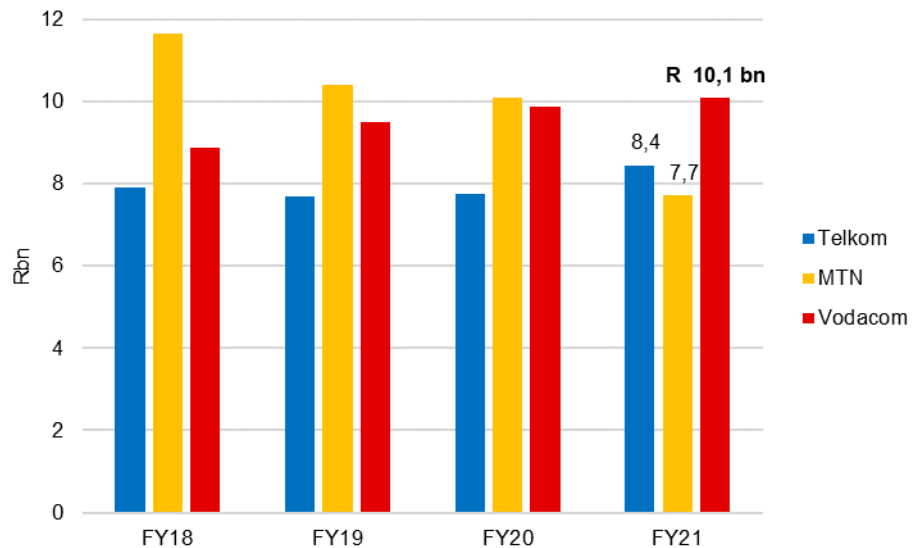
## Speed Score



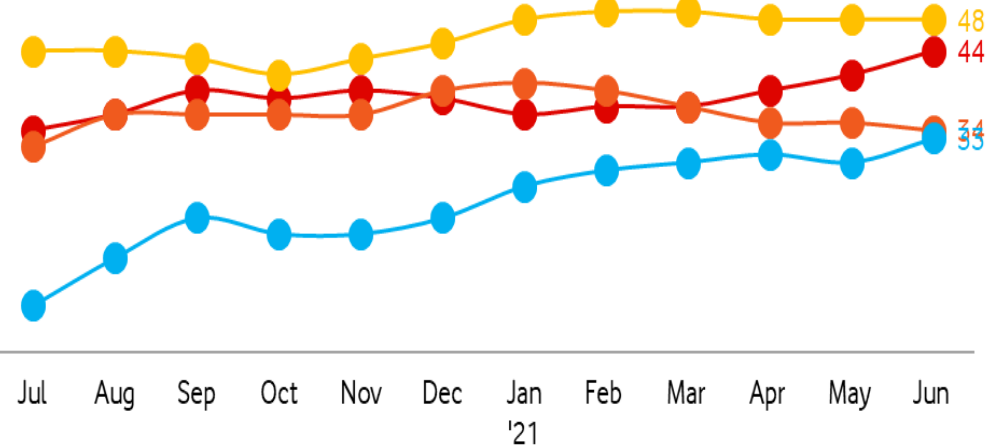
## Spectrum efficiency (Hz / Customer)



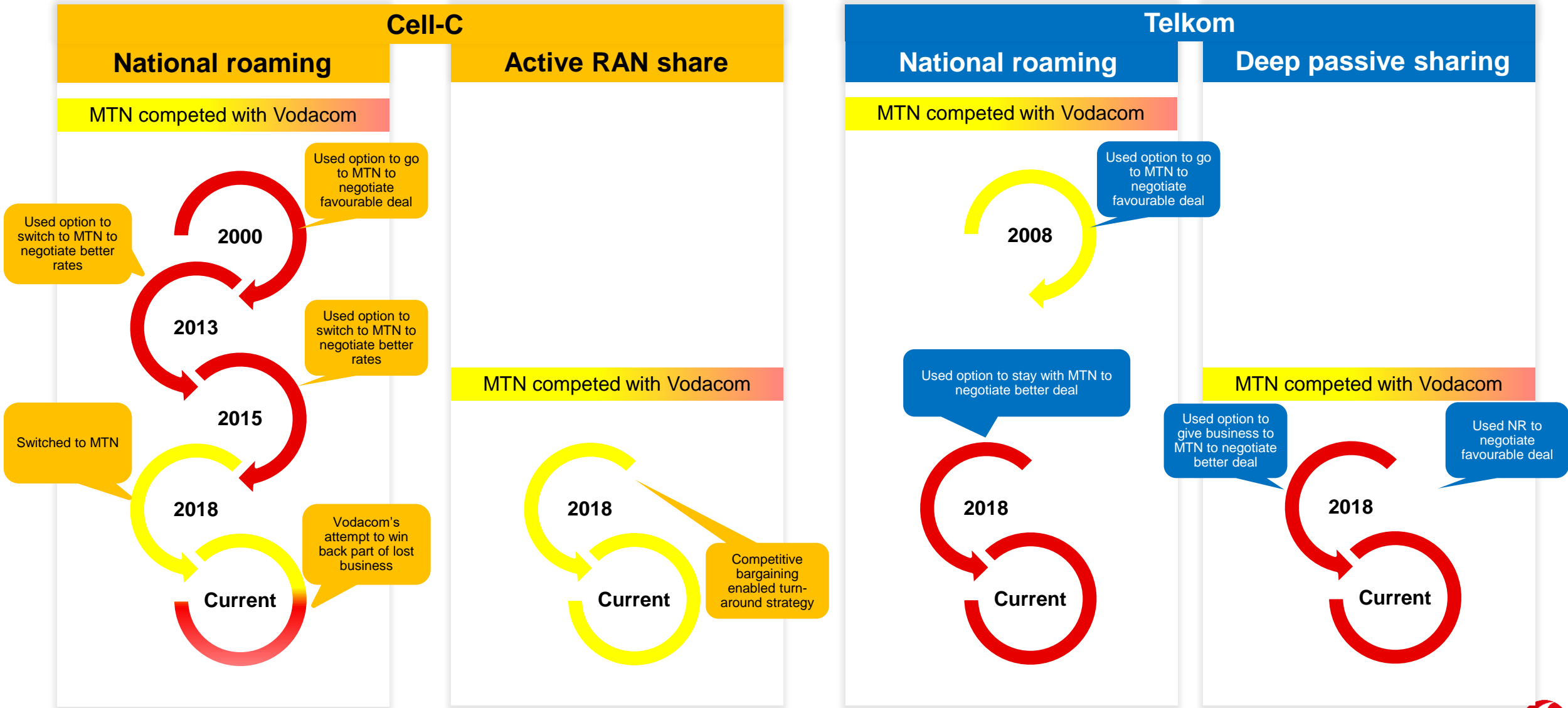
## Capital expenditure R billion



## Network NPS



# There is strong head-to-head competition in the wholesale market





There are a number of factors that make Telkom a significant competitive force



## Towers

- One of the **largest tower owners**
- More than **6200** towers
- More than **2000** additional sites in permitting phase



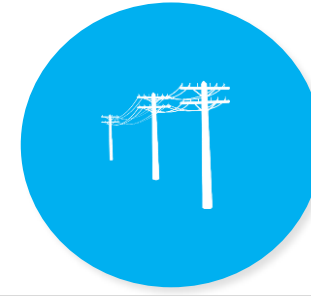
## Spectrum

- Highest overall share of spectrum
- More than double the amount of spectrum used for 4G relative to Vodacom
- Seven times more spectrum per customer than Vodacom



## Fibre backhaul

- More than **163,800km** fibre
- More than **80%** of its radio sites connected by fibre
- **Has not provided access** to its dark fibre which explains why Vodacom only has 48% of its sites connected with fibre
- This puts Telkom in a **better position to expand capacity** and address increasing demand



## Ducts & poles

- **Controls most** of SA's duct and pole network
- In a **better position to further self-supply fibre backhaul** in future
- **Has not provided access** to ducts and poles which explains why rivals will also be slower at deploying fibre backhaul in future



## Options

- A **number of options** to determine optimal business model for offering services in a given area
- **Option** to roll-out own network using **combination** of own extensive towers; standard and deep passive sharing
- **Option** to use NR in areas where it does not have own network coverage
- **Option** to roll-out own network in a more targeted way – guided by site traffic density observed via NR

# Telkom continues to grow at a fast rate

and is also gaining customers from Vodacom and MTN

Telkom's growth demonstrates that there are limited barriers to expansion

Source: Telkom SA SOC Ltd Annual Results Presentation For the year ended 31 March 2021

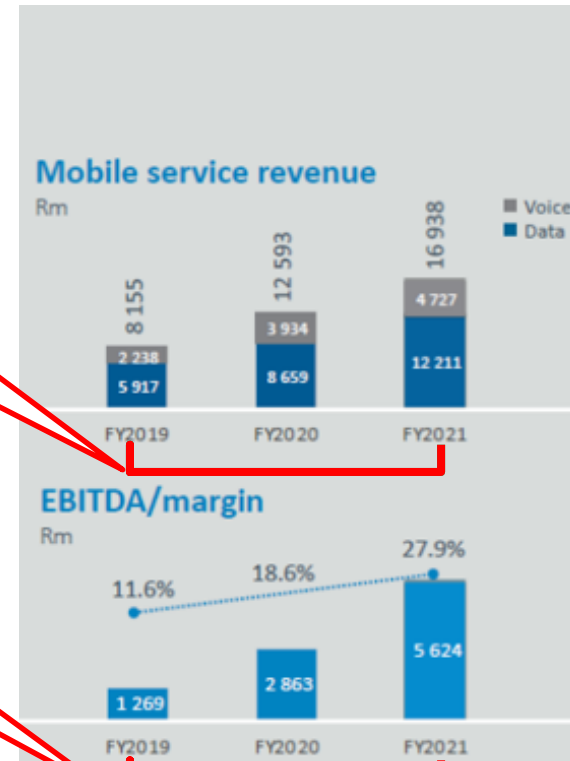


Subscribers  
**Up 58%**

Service revenue  
**Up 108%**

EBITDA  
**Up 343%**

EBITDA margin  
**Up 16,3pp**



58% of Telkom's net data subscriber additions came from Vodacom and 37% from MTN

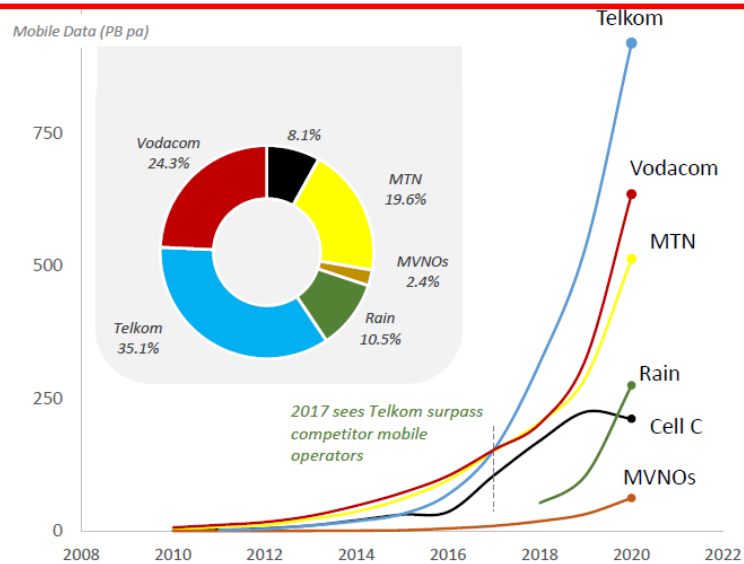
Source: Facebook Actionable Insights Trends for period 28 March 21 and 26 April 21



# Telkom is in a strong position on 4G services

## Mobile data volume per year

**35%+** data volume market share

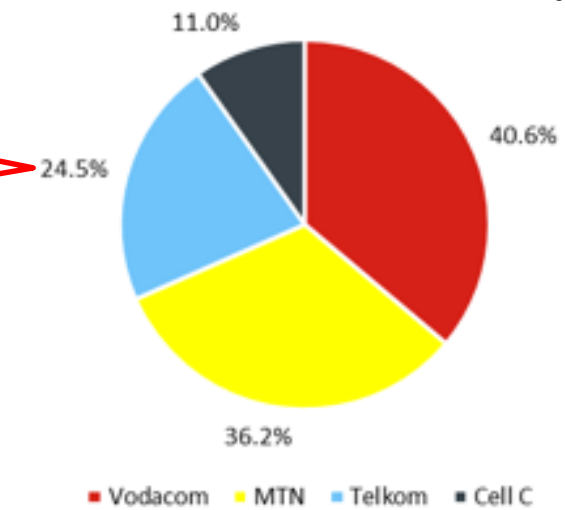


Source: South Africa 5G Market Outlook Report – Report prepared by Africa Analysis February 2021

## 4G subscriber market share

**24%+** 4G subscriber market share

Source: Facebook Actionable Insights Trends



More than **24%** 4G share in densely populated areas



## Cell-C

- Has implemented a business turnaround strategy
- Intends to bid in the spectrum auction, as per its ITA application
- Has decided to focus more on profitable subscribers rather than the size of its customer base
- There are signs that its profitability has improved considerably, with its EBITDA increasing by 27% and its EBIT increasing by 134% between H1 2020 and H2 2020

## Rain

- Continues to grow its subscriber base at a rapid pace
- Price very aggressively
- Has used its agreements with Vodacom, as a springboard for developing its retail presence
- Intends to bid in the spectrum auction, as per its ITA application. Has ambitions to keep expanding and to become a credible national operator, with at least 80% own network population coverage

NEWS

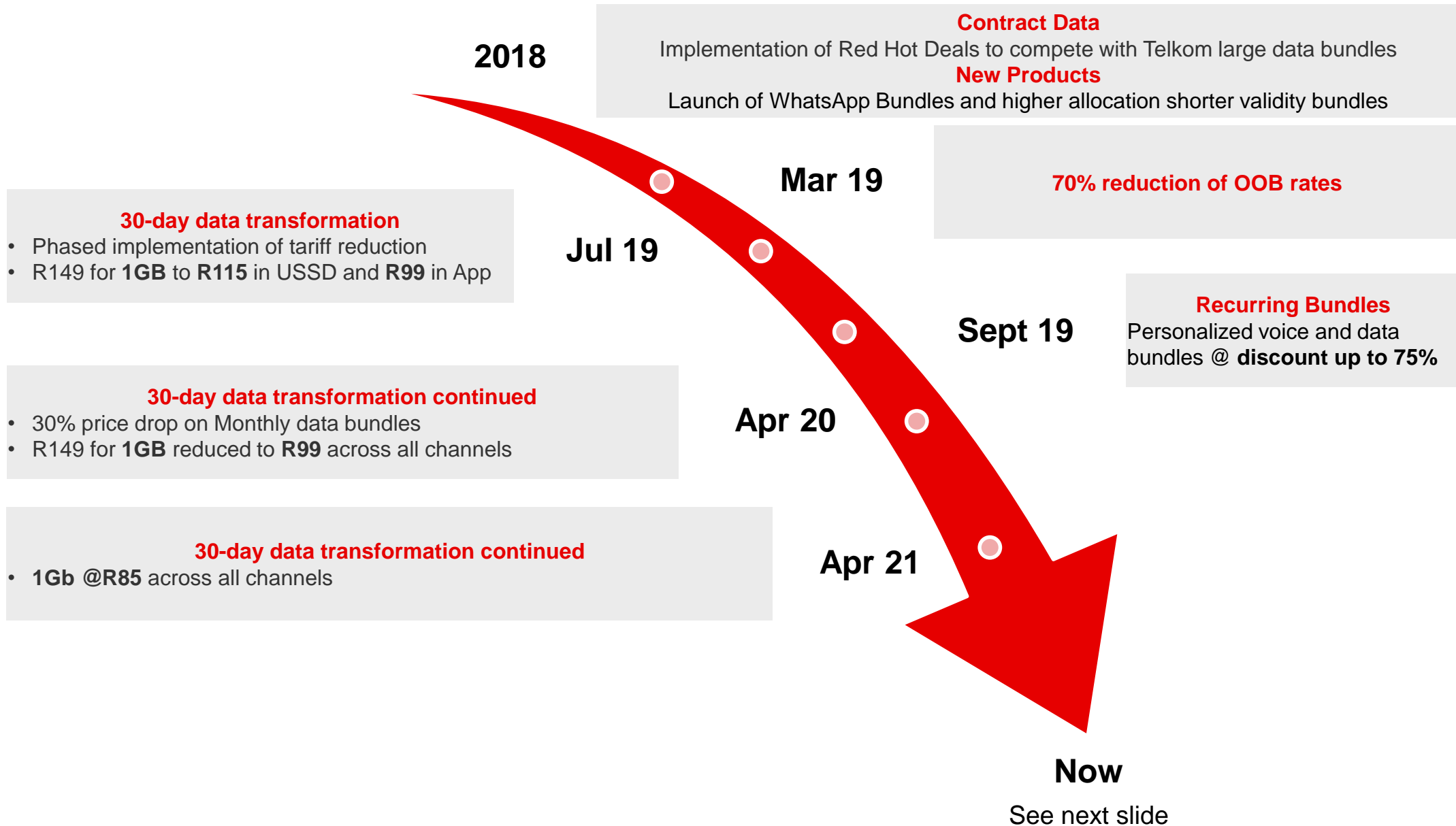
## Rain targets 2 000 5G towers as valuation hits R17.1-billion



By **DUNCAN MCLEOD** — 18 March 2021 [No Comments](#)



# Effective competition deliver good retail market outcomes



# Effective competition deliver good retail market outcomes

Now 10GB @ R99 (5Gb anytime + 5Gb night time)

**Telkom**

Prepaid LTE

# 10GB

5GB + 5GB = R99

Anytime data      Night surfer data

**MTN**

Welcome to MTN

Dial \*137# and move to MTN BozzaGigs LTE to get

# 10GB for only R99

(5GB Anytime Data + 5GB Night Express)

OR

**FREE** with every recharge of R10 or more

- 250MB WhatsApp bundle\*\*
- 60 MIN MTN Money Vuka Nombe
- oyoba 1GB Download the new oyoba instant messaging app

**MTN BozzaGigs LTE**

**MTN Bundle Bonanza**

*It's go time everywhere you go*

RECYCLE

**Cell-C**

Home Connecta Flexi 10GB

- 5GB Anytime Data
- 5GB Nite Data
- 30 Day Validity
- 30 Day Carry Over

**R59** VAT inc

Buy Now

**Vodacom**

NEW

Get a **7.5GB** EVERYDAY-TAI anytime data bundle for only **R99**

So you Get 250MB Anytime Data every single day for 30 days

Get a **15GB** EVERYDAY-TAI anytime data bundle for only **R169**

So you Get 500MB Anytime Data every single day for 30 days

Get a **30GB** EVERYDAY-TAI anytime data bundle for only **R299**

So you Get 1GB Anytime Data every single day for 30 days



# Effective competition deliver good retail market outcomes

Now further increased data and voice allocations which translates to direct value for customers

## Unbeatable SIM only deals designed especially for you

Power up your connection with just the right amount of everything, from gigs to voice and benefits, exclusive to Vodacom.

- 1 Bring your own device
- 2 Select a plan
- 3 Unlock more value

### RED FLEXI

<b>65</b> R65 Airtime Value R55 PM Z24	<b>125</b> R125 Airtime Value R99 PM Z24	<b>175</b> R175 Airtime Value R149 PM Z24	<b>230</b> R230 Airtime Value + 5GB PM x3 Months R199 PM Z24
<b>390</b> R390 Airtime Value R299 PM Z24	<b>550</b> R550 Airtime Value R429 PM Z24	<b>810</b> R810 Airtime Value R659 PM Z24	

### RED CORE

<b>1GB</b> 500MB Anytime + 300MB Night Owl Data 50 Minutes R149 PM Z24	<b>2GB</b> 1GB Anytime + 1GB Night Owl Data 100 Minutes R199 PM Z24	<b>4GB</b> 2GB Anytime + 2GB Night Owl Data 200 Minutes R299 PM Z24	
<b>6GB</b> 3GB Anytime + 3GB Night Owl Data 200 Minutes R349 PM Z24	<b>10GB</b> 5GB Anytime + 5GB Night Owl Data 200 Minutes R449 PM Z24	<b>20GB</b> 10GB Anytime + 10GB Night Owl Data 200 Minutes R549 PM Z24	
<b>200MIN</b> 1GB Anytime + 1GB Night Owl Data R249 PM Z24	<b>400MIN</b> 2GB Anytime + 2GB Night Owl Data R399 PM Z24	<b>600MIN</b> 3GB Anytime + 3GB Night Owl Data R549 PM Z24	<b>800MIN</b> 5GB Anytime + 5GB Night Owl Data R749 PM Z24

All Red Core plans include \*Gold Benefits

### RED VIP

<b>30GB</b> 15GB Anytime + 15GB Night Owl Data Unlimited Minutes* R1199 PM Z24	<b>80GB</b> 30GB Anytime + 30GB Night Owl Data Unlimited Minutes* R1599 PM Z24	<b>200GB</b> 100GB Anytime + 100GB Night Owl Data Unlimited Minutes* R2099 PM Z24
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Includes \*Platinum Benefits

Includes \*Diamond Benefits

### DATA PLANS

<b>20GB</b> 10GB Anytime + 10GB Night Owl Data R199 PM Z24	<b>40GB</b> 20GB Anytime + 20GB Night Owl Data R249 PM Z24	<b>60GB</b> 30GB Anytime + 30GB Night Owl Data R299 PM Z24	<b>100GB</b> 50GB Anytime + 50GB Night Owl Data R399 PM Z24
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All Red Core and Data Plans available on Top Up



On average **84%** more data

**More** voice



# Effective competition deliver good retail market outcomes

**1GB**

R per bundle

Then

**R149**

30 Days

**R79**

7 Days

**R29**

1 Day

**R12**

1 Hour

-43%

-38%

-35%

Now

**R85**

**R49**

**R19**

**83%** of sales





**Spectrum**



# Vodacom agrees that ITA impact will be formidable but disagrees with ICASA on timing

## ICASA position

**Main impact** of auction will be driven by **obligations** attached to the spectrum licences

The auction will ultimately have a formidable impact, but **not over the upcoming market review period**

The auction will **only have an impact on the MVNO / APN and site access** markets over the upcoming market review period

## Vodacom position

**Obligations are important, but ignores other important impacts**

- Will result in a large boost to network capacity
- Will allow operators to improve coverage – potentially further and faster than coverage obligations
- Significant support to smaller operators

**Formidable impact will be realised during market review period**

- In its parallel ITA process, ICASA itself highlighted the short-term impact
- High frequency spectrum will be available immediately
- Low frequency spectrum will be partially available in the short-term
- WOAN will have an impact

**The spectrum auction will impact all of the mobile markets defined by ICASA**

By March 2025, substantial



increase in 2600MHz sites



increase in 3500MHz sites



reduction in congested sites



Increase in capacity



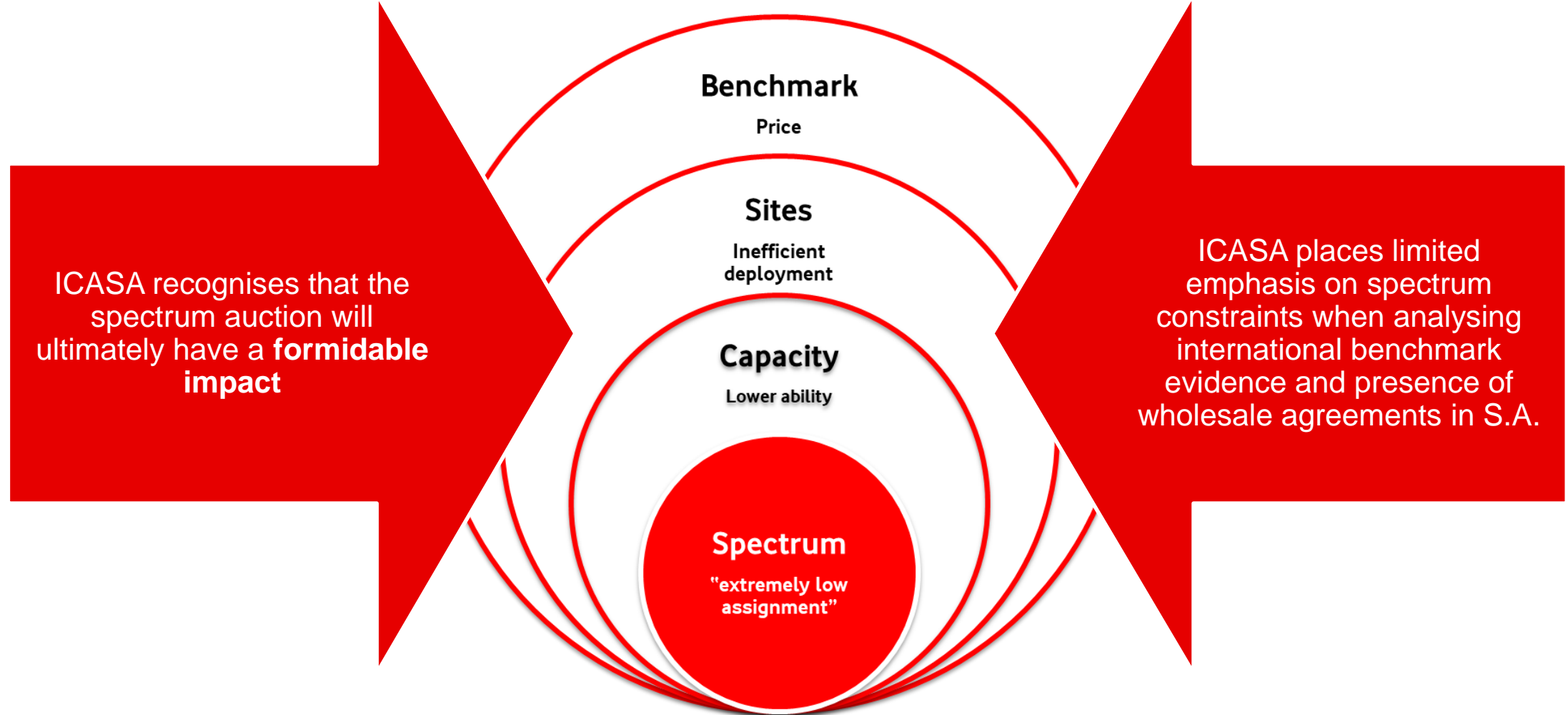
Increase in speed



Increase in coverage

Formidable impact will be realised during the market review period across all mobile markets

**ICASA's market analysis is contaminated** as it failed to account for impact of spectrum constraints



The spectrum constraints faced by S.A. MNOs are far more severe, and more longstanding than in other markets. Faced with this degree of constraint, it should be clear that not only will the award of this spectrum have a formidable impact on competition and market outcomes in the defined markets, but also that the failure to award this spectrum to date has also had a significantly detrimental impact on the market. This must be recognised.

# ICASA's proposed remedies

# Even if ICASA had clearly demonstrated SMP and ineffective competition, ...

... it would have been right to reject calls for intrusive regulatory remedies

1 

There should be no remedies at the retail level

- Retail remedies should be a last resort if wholesale intervention is insufficient
- This is not the case here
- Direct intervention in retail markets would reduce innovation and stifle competition

2 

ICASA is right not to impose price controls

- Would be disproportionate and not backed by evidence (e.g., roaming prices have declined without intervention)
- Very little precedent in mobile
- Could have a significant negative impact on investment

3 

Accounting separation would be overly burdensome

- Time consuming to develop
- Impractical to deliver at the level of markets defined by ICASA
- Limited precedent in mobile

4 

No grounds for reference offers or non-accounting forms of separation

- Disproportionate interventions, not justified by market failures
- Reference Offers could stifle innovations in wholesale markets
- Limited precedent in mobile



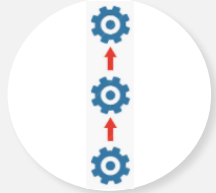
# ICASA's monitoring of margins is unwarranted

given effective competition / no SMP

“

*“margin squeeze” occurs when the margin between the price at which a vertically integrated firm, which is **dominant in an input market**, sells a downstream product, and the price at which it sells the key input to competitors, is too small to allow downstream competitors to participate effectively”* South African Competition Amendment Act 18 of 2018

1



Consider a vertically integrated operator which does not hold SMP upstream

2



Its wholesale customers have an option to buy the required wholesale inputs from competitors

3



So it does not have the ability to harm downstream competition by imposing a margin squeeze

4



It also has no incentive to attempt a margin squeeze, as it would lose wholesale revenues, without any increase in retail revenues

- ICASA has itself concluded that no operator has SMP for MVNO and APN services.
- ICASA is wrong to conclude that there is ineffective competition / SMP for national roaming services for coverage. Telkom has itself argued that national roaming deals have become more attractive.
- The purpose of ICASA collecting data on margins is to monitor for potential margin squeeze. But if margin squeeze cannot be a concern given the lack of ineffective competition/SMP, then ICASA has no justification for screening margins in the first place.

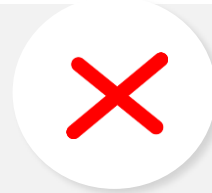
## If ICASA persists with monitoring roaming then ...

... it should monitor margins at an aggregated level across MNO's portfolio of rated retail products, including data, voice and messaging

because



- Consistent with MNO's business models
- ICASA did not find any concerns specific to any market segments
- Gives MNOs flexibility in how they recover common costs



- Granular tests could result in very low wholesale prices, which could undermine viability of the WOAN and/or deter investment
- Granular tests could make it more difficult to offer pro-poor pricing



- Competition authorities typically carry out margin squeeze tests at an aggregated level

## If ICASA persists with monitoring roaming then FWA/MBB should be excluded

### FWA/MBB used to fill gaps in fixed-wired broadband coverage

- S.A. has low fixed-wired (DSL, fibre) broadband coverage
- FWA/MBB is often used to fill in gaps in fixed-wired products
- FWA and MBB products have similar characteristics e.g. primarily used while stationary, have large data allowances, rely on a router or dongle, exclude voice services
- Vodacom's "MBB" product compete with Telkom's FWA offer

### Access seekers do not tend to use NR for FWA/MBB

- Given that mobility is less important for FWA/MBB services, access seekers typically don't use national roaming for FWA/MBB
- For many of Telkom's FWA products, it explicitly prohibits users from accessing national roaming services

## Free services should also be excluded

### Free services serve a number of important purposes

- Many free services relate to content that has a social benefit e.g. education, health, employment
- Some free services are related to the COVID-19 pandemic
- Free services help to make mobile usage more affordable for poorer consumers

### There is a strong case for excluding free services

- Including free services in margin screen could result in MNOs i) withdrawing free services and/or ii) increasing retail prices
- COVID-19 related traffic is temporary
- MNOs have a legal requirement to provide certain free services





# Monitoring of margins for national roaming need to ...

... take into account that access seekers primarily rely on their own network

## Small %

Operators, such as Telkom, only use national roaming for a very small percentage of their overall traffic. For the majority of their traffic they rely on their own network

## Cherry-pick

Where operators do rely on national roaming, they will have a strong incentive to cherry-pick i.e. use national roaming in areas with high costs

## Weighted average

So it would be misleading to draw any conclusions regarding margins based on a comparison of retail prices with national roaming prices. Instead, retail prices should be compared with a weighted average of own network costs (for an equally efficient operator) and national roaming costs.

## When estimating the degree of cherry-picking, ...

- ICASA should only include traffic that relates to remote areas where it would be unviable for the access seeker to roll-out own network.
- This would be consistent with ICASA's objective to promote infrastructure-based competition, as reflected by its ITA rules



Own network

# If ICASA persists with monitoring roaming then ...

## Regulation

### 7.1.2 – Wholesale prices

### 7.1.3 – Roaming volumes by site

### 7.1.4 – Retail prices

### 7.1.7 – Justification

### 7.2 – Referral

## Vodacom position

### ICASA should:

- Specify this is for roaming for coverage
- Include voice, SMS and data prices
- Specify time period over which prices are collected

**This information should only be provided if and when the SMP operator was required to justify a retail price above a wholesale price**

**Include voice, SMS and data prices**

**Should be required only if another party has made a formal complaint**

**Clarify circumstances in which ICASA will refer to the CC**



### 1

There is already effective competition for sites, notwithstanding existing regulations

### 2

- ICASA's market share analysis is not transparent
- It looks incorrect based on Vodacom's internal estimates, but it's difficult to know exactly why ICASA's results are different given the lack of transparency

### 3

Unused rooftops, micro sites, billboards and lampposts should also be included in the product market definition

### 4

- ICASA has understated the role of TowerCos
- And given that ICASA can only impose remedies on licensees, there is a risk of creating an uneven playing field if more intrusive remedies are imposed

### 5

Whilst Vodacom disagrees with ICASA's analysis of the market for site access, it is willing to accept ICASA's proposed remedies for sites, as long as ICASA takes into account the impact of such remedies on downstream markets

Vodacom agrees with some areas of ICASA's proposals

- No intervention in retail market
- No direct price regulation of wholesale markets

However, ICASA should reconsider a number of its proposals

- The justification for remedies is weak given that:
  - ✓ Competition is effective and has intensified
  - ✓ Spectrum auction will have a formidable impact over the market review period
- If ICASA decides to persist with monitoring of margins for roaming services, then this should be carried out at an aggregated level across MNOs portfolio of rated retail products (excluding FWA/MBB)



# Q&A

Please type your questions  
on the webcast portal

