

21 January 2014

**Independent Communications Authority of South Africa**

**Attention: Mr Godfree Maulana**

Per email: [gmaulana@icasa.org.za](mailto:gmaulana@icasa.org.za)

**WAPA SUBMISSION – DRAFT AMENDMENTS: UNIVERSAL SERVICE AND ACCESS OBLIGATIONS**

Introduction

1. We refer to the Draft Amendment to Universal Service and Access Licence Obligations published as General Notice 1173 in Government Gazette 37071 of 27 November 2013 (“the Draft Amendments”) and to the Authority’s invitation to comment thereon, and we set out the WAPA submission below.
2. WAPA members have not previously been required to comply with specific universal service and access obligations (USAOs), but have been required to comply with general obligations such as the annual contribution to the Universal Service and Access Fund (USAF). WAPA members do however have a clear and direct interest in the USAO framework in their capacity as holders of service licences and potential future subjects of USAOs.

General Remarks

3. The issues faced with implementation of USAOs to date have been outlined in the USAO Findings Document and the USAO Compliance Report. The Draft Amendments do not seek to address any of these issues, including how the Authority intends to monitor and enforce the USAOs or address non-compliance with the imposed obligations.
4. Instead, the obligations – which had been initially imposed as part of a contractual relationship following the issuing of radio frequency spectrum licences – have been reduced following the failure to meet such obligations. The Draft Amendments fail to provide sufficient information to justify the reduced obligations set out therein.
5. WAPA members are also concerned that the Draft Amendments will in no way seek to address the lack of adequate access to electronic communications networks or electronic communications services in specifically identified areas.

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### Broader Strategy

6. The Draft Amendments do not indicate any attempt to situate this process within other initiatives currently in consideration to address universal service and access challenges. In addition, the Draft Amendments fail to make any reference to the review process embodied in the ICT Policy Process initiated by the Minister of Communications.
7. Any revision of the USAOs should consider other initiatives, and should fit into the overall strategy for the provision of electronic communications in those areas where there is a lack of adequate access.

### Suggestions

8. It is not certain what mechanisms are employed by the Authority currently to determine actual delivery of the stated obligations. WAPA members recommend that these operators should be obligated to report back to the Authority on their levels of compliance at least annually, and the progress made should also be publicly stated. This will ensure greater accountability.
9. WAPA members have also considered the lack of any sanctions on those who have failed to observe their obligations, and that the Authority does not seem to have initiated any disciplinary or other procedures in this regard. With this in mind, WAPA members are of the view that it might be wise to rather offer incentives to those who meet the imposed obligations within the specified timelines – this will serve to motivate the operators to meet these obligations.
10. It is of course not the intention of such incentives to distort the industry against new entrants or other operators, but to provide these operators with the encouragement to proactively take steps towards fulfilling the stated objectives. The Authority would best be able to determine what form this incentive should take – among the suggestions received from WAPA members is that the incentive could take the form of a reduction of fees that may be payable where a certain minimum annual threshold has been met.
11. WAPA members are also of the view that providing access without ensuring that the recipient is in a position to make use of that connectivity does not further the spirit of the imposed obligations. Using schools as an example, there is no benefit to the school where the school has been connected but the teachers and learners are unable to access the internet due to lack of equipment, knowledge or training.
12. It is suggested that the Authority consider this aspect, in order to ensure that the obligations are not met in word only. Operators should be engaged in meaningful fulfilment of stated obligations in order to ensure a successful outcome of this process.



Conclusion

13. WAPA confirms its desire to participate in any oral hearings or other events scheduled in respect of the Draft Amendments.

Regards,

**Wireless Access Providers' Association**