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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA
NOTICE 598 OF 2019****REQUEST FOR SUBMISSIONS WITH RESPECT TO THE INTERNATIONAL
TELECOMMUNICATIONS REGULATIONS REVIEW**

The Independent Communications Authority of South Africa ("the Authority") hereby publishes a notice requesting submissions from stakeholders with respect to the review of the International Telecommunications Regulations, 2012 ("ITRs") as reflected in the attached Schedule. Stakeholders are requested conduct a provision by provision examination of the ITRs in accordance with Examination Table.

A handwritten signature in black ink, appearing to read 'Dr. Keabetswe Modimoeng', written over a horizontal line.

DR KEABETSWE MODIMOENG
ACTING CHAIRPERSON
Date: 01 / 11 / 2019



Independent Communications Authority of South Africa

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REQUEST FOR SUBMISSIONS WITH RESPECT TO THE INTERNATIONAL TELECOMMUNICATIONS REGULATIONS REVIEW

BACKGROUND

1. The International Telecommunications Union ("ITU"/ "Union") is governed by the Plenipotentiary (PP) Conference and the Administrative Council ("ITU Council"). The PP Conference is the supreme organ of the Union. It is the decision-making body which determines the direction of the Union and its activities.
2. The ITU Council, on the other hand, acts as the Union's governing body in the interval between the PP Conferences. Its role is to consider broad telecommunication policy issues to ensure that the Union's activities, policies and strategies fully respond to today's dynamic, rapidly changing telecommunications environment.
3. ITU Council also prepares a report on the policy and strategic planning of the ITU and responsible for ensuring the smooth day-to-day running of the Union, coordinating work programmes, approving budgets and controlling finances and expenditure.
4. The ITU Council also takes all steps to facilitate the implementation of the provisions of the ITU Constitution, the ITU Convention, the Administrative Regulations (International Telecommunications Regulations and Radio

Dr. K Modimoeng (Acting Chairperson), N Gongxeka-Seopa, P Kadi, P Mashile, BC Mokhele,
Adv. D Qocha, T Semane, PJ Zimri (Councillors), WA Ngwepe (CEO)

Regulations), and the decisions of PP Conferences and; where appropriate, the decisions of other conferences and meetings of the Union.

5. Prior to any meeting of the ITU, various Council Working/Expert Groups (CWG) reconvene to prepare a report to Council with respect to tasks allocated to it to enable the latter to make decisions. The following are the CWGs:

- (a) CWG – Financial and Human Resources;
- (b) CWG - International Internet-related public policy issues;
- (c) CWG – World Summit on the Information Society (WSIS) & Sustainable Development Goals (SDG);
- (d) CWG - Child Online Protection;
- (e) CWG - Use of the Six Official Languages of the Union;
- (f) CWG - Decision 482: Relating to Cost Recovery for Satellite Network Filings;
- (g) EG – International Telecommunications Regulations (ITRs); and
- (h) EG – World Telecommunication Policy Forum (WTPF).

ITU COUNCIL 2019

6. The 2019 Session of Council was held in Geneva from 10 - 20 June 2019. The Session had 375 participants – representing the 48 Member States of Council, 27 Member State Observers, the State of Palestine, 5 Sector Member Observers, and 3 Regional Telecommunication Organizations.
7. This was the first Council Session since the conclusion of Plenipotentiary Conference 2018 (PP-18). PP-18 resulted in a new ITU Council, with the following countries as new Councillors Members or re-joining Council, the Bahamas, the Czech Republic, Côte d'Ivoire, El Salvador, Hungary, the Islamic Republic of Iran, and South Africa.
8. Important decisions were made at the 2019 Session of Council, including the approval of the Terms of Reference of the Expert Group on International Telecommunications Regulations (ITRs).

INTERNATIONAL TELECOMMUNICATIONS REGULATIONS

9. The International Telecommunications Regulations (ITRs) and Radio Regulations (RR), in terms of Article 4 of the ITU Constitution are Administrative Regulations complementing the ITU Constitution and Convention.
10. ITRs is a treaty that was developed at the 1988 World Administrative Telegraph and Telephone Conference (WATTC-88) and later reviewed and revised by the 2012 World Conference on International Telecommunication (WCIT-12).
11. The changes introduced with the adoption of the 2012 ITRs were meant to update the previous 1988 version and to include issues of concern to Member States that had not existed in 1988, e.g. Internet and IP-based networks, convergence, etc. The new provisions were adopted with a view to amplifying and complementing the articles contained in the 1988 version.
12. The ITRs are intended to facilitate "global interconnection and interoperability" of telecommunications traffic across national borders.
13. In 2016 ITU Council created an Expert Group on the International Telecommunication Regulations (EG-ITRs) that pursuant to its terms of reference prepared a final report on the review of the 2012 ITRs subsequently submitted to the 2018 Plenipotentiary Conference.
14. It was noted in PP-18 that the Expert Group was unable to execute its terms of reference due to divergent views of member states and the ambiguity of the terms of reference, as alleged by other member states.
15. In this session of Council, the Expert Group on ITRs was requested to meet and agree on the terms of reference in order to ensure that there is a comprehensive review of the 2012 Regulations in order to ensure that all the member states are in a position to sign one set of ITRs. The Expert

Group was able to agree on the new terms of reference and same was submitted to Council for noting and approval.

16. Council resolved *“that an Expert Group on the International Telecommunication Regulations (EG-ITRs), open to all Member States and Sector Members, be reconvened to conduct a comprehensive review of the [2012] ITRs with a view to achieving consensus on the way forward in respect of the ITRs ...”*.

17. During 16 – 17 September 2019, EG-ITRs met for its first meeting subsequent the above 2019 ITU Council session. The outcome of the aforementioned meeting of the EG-ITRs is the following:

- (a) Member states agreed on a work plan; and
- (b) The provision by provision examination, as depicted in the work plan, must be done in accordance with Examination Table.

ICASA PARTICIPATION IN THE EG-ITRs IN COLLABORATION WITH THE DEPARTMENT OF TELECOMMUNICATIONS AND POSTAL SERVICES

18. In terms of section 34(1) of the Electronic Communications Act, 2005 (“the ECA”), the Minister of Telecommunications and Postal Services (“The Minister”) is mandated to represent the Republic of South Africa (“the Republic”) in international fora in accordance with international treaties and multinational and bilateral agreements entered into by the Republic, which includes the ITU.

19. Further to the above, the Authority is enjoined, in terms 4(3)(i) of the ICASA Act to attend conferences convened by the relevant United Nations specialised agencies, in this case the ITU, and where applicable, must implement any decisions adopted by such agencies to which the Republic is a party. The Authority is also empowered, in terms of the regulations

governing the terms and conditions for licensees¹, in the course of carrying out its obligation under the ICASA Act,² to require a licensee to provide any information not ordinarily required, so as to enable it to collect and compile information to be used for research, planning and reporting purposes.

20. It is on the above premise that the Independent Communications Authority of South Africa seek submissions/inputs with respect to the second meeting of the EG-ITRs scheduled to take place from 12 – 13 February 2020, which will deal with the provision by provision examination of the preamble and articles 1 – 4 of the 2012 ITRs. Stakeholders are requested to complete the Examination Table, during their analysis of the provision by provision, and also respond to questions posed. The requested information will assist the Department of Telecommunications and Postal Services, and the Authority to formulate informed contributions which take into account the commercial and regulatory ICT landscape of South Africa in the next meeting of the EG-ITRs.
21. The deadline to submit the requested information is **13 December 2019, 16:00**. The requested information must be forwarded or submitted to the following email address: BMakola@icasa.org.za.
22. The deadline to submit information with respect to the second and third meeting of the EG-ITRs shall be published in the Government Gazette.
23. Any clarity sought herein may be directed to:

The Independent Communications Authority of South Africa

For Attention:

Mr. Bethuel Makola

Tel: (012) 568 3609

Email: BMakola@icasa.org.za

¹ Regulation 9 of the Standard Terms and Conditions for Individual Broadcasting Services, 2010 as amended, and regulation 9 of the Standard Terms and Conditions for Class Broadcasting Services Regulations as amended.

² Including ICASA's obligation to implement decisions adopted by the ITU.

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Annexures:

- Resolution 146 (Rev. Dubai, 2018);
- Resolution 1379;
- 1988 ITRs;
- 2012 ITRs; and
- Examination Table.

These annexures will be made available on the Authority's website at <https://www.icasa.org.za/>

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