



The Chairperson

07 October 2014

ICASA

Pinmill Farm, Block B

164 Katherine Street

SANDTON

“PER EMAIL”

Dear Dr Stephen Mncube,

SMILE COMMUNICATIONS (PTY) LTD – SUBMISSION – DRAFT IMT ROADMAP

1. On 27 August 2014 and in Government Gazette 37948, the Independent Communication Authority of South Africa (“ICASA”) published the Draft IMT Roadmap for public consultation, affording interested persons until 7 October 2014 to submit comments thereon.
2. Given that the roadmap appears to be a technical document only, and has not been aligned with policy considerations, we will restrict our comments to those of a mainly technical nature, as set out in Annexure A hereto.
3. Smile hopes you will find our comments useful and wishes to indicate that it shall not be presenting at the public hearings. However, we remain available to answer any questions ICASA may wish to put to Smile to clarify any aspects of our submission or any other related issues. Kindly acknowledge receipt of our submission.

Thank you and warm regards,

Thato Mahapa

Head: Regulatory Affairs

Smile Communications (Pty) Ltd

Reg. No. 2007/009879/07 VAT No. 4650237201

Directors: Irene Charnley **CEO**, Sharron Venessa Naidoo **CFO**, Thomas Anthony Allan **COO***, Sheikh Mohammedwajih H Sharbatly**

* British ** Saudi Arabian



SMILE'S SUBMISSION ON THE DRAFT IMT ROADMAP

Notice No. 729 issued under Government Gazette 37948

dated 27 August 2014

SUBMISSION DATE: 07 OCTOBER 2014



1. INTRODUCTION

- 1.1. In these representations, Smile Communications (Pty) Ltd (“Smile”) provides certain limited comments on the Draft IMT Roadmap published by ICASA in Government Notice 792 of 27 August 2014 contained in Government Gazette 37948.
- 1.2. Smile’s lawyers are in correspondence with ICASA regarding the failure of ICASA to properly deal with its application for assignment of spectrum submitted in 2009. Our submissions in this document are without prejudice to our rights in that matter. Smile is considering its legal position in this regard and will proceed as advised.
- 1.3. As a new entrant in the sector which, more importantly, has been waiting for the awarding of spectrum for well over 5 years, the assignment of spectrum is a critical matter to Smile.
- 1.4. Smile was awarded an ECNS and ECS licence in South Africa in 2007. Outside of South Africa, Smile associated companies are presently fully licensed to operate national networks and provide communications services in Uganda, Nigeria, Tanzania and the Democratic Republic of Congo. It has launched 4G LTE networks in these countries, with the exception of DRC where rollout will be commencing soon. Smile has deployed world-leading technology and developed class-leading software, systems and platforms to manage and operate its advanced networks.
- 1.5. Notwithstanding its achievements, Smile, founded by South African black entrepreneurs, is unable to apply its experience and technology in South Africa because it has no access to radio frequency spectrum. Similarly, South Africa’s long-suffering public languishes behind the populations of many countries in obtaining access to broadband.
- 1.6. ICASA is yet to pronounce on Smile’s application which was put in abeyance as far back as March 2009. Smile contends that the failure of ICASA to consider its application is unlawful and has resulted in significant prejudice to Smile.
- 1.7. Smile is accordingly of the view that the Roadmap is defective, in that it fails to take account of Smile’s unique position and pre-existing spectrum application, as articulated above.

2. GENERAL COMMENTS ON THE DRAFT IMT ROADMAP

- 2.1. At the outset, Smile wishes to confirm that its views are submitted in addition to those of the SACF and to the extent that there are any inconsistencies between the different submissions, Smile's views herein prevail in so far as Smile's position is concerned.
- 2.2. It is unclear what impact or influence the outcomes of ICASA's inquiry into "The State of Competition in the ICT Sector" will have on this Draft Roadmap, in light of the spectrum-centric issues raised therein. Firstly, the (then) Department of Communications published the results of a study it commissioned through Deloitte on the future licensing of the 700MHz band. In addition, the Department of Postal and Telecommunications is conducting an inquiry into Wholesale and Open Access Networks, which process is inextricably linked to this process in so far as recommendations relate to spectrum reservation (or absence thereof) for Wholesale networks. The Draft Roadmap does not take account of these various parallel processes and the final outcome should be harmonized therewith, to the extent possible.
- 2.3. Smile has also noted with concern, the absence of clarity about the intended outcomes of this process. The concern is exacerbated by ICASA's stated intention to shorten the consultation period for further spectrum licensing processes on the basis of this very broad and open consultative process. This Roadmap cannot be a substitute for proper consultation.
- 2.4. Whilst the Draft IMT Roadmap appears to be trying to establish an ideal framework for eventual licensing, it seems to be restricting itself to just technical principles which ought to be significantly influenced by other policy considerations. As an illustration, where engineering principles allow for multiple channelling arrangements for the same spectrum block, other policy considerations ought to be considered in arriving at the final decision. This includes the final channel plan for 700MHz and 800MHz and considerations regarding reservation of spectrum for new entrants, wholesale open access providers and subsequent economies of scale from a device perspective due to its positive impact on increasing mobile broadband. A balanced consideration of these issues ought to collectively influence the final decision, and not only the technical considerations. As such, the relationship between processes as identified in 2.2 above and the Roadmap become all the more important.
- 2.5. In addition and to supplement the concern regarding alignment with policy over and above technical choices, the Broadband Policy adopted by Government on 6 December 2013 in Government Gazette 37119, known as "*South Africa Connect – South Africa's Broadband*



Policy” established a four pronged approach to Broadband, being (i) Digital Readiness, (ii) Digital Development, (iii) Digital Future and (iv) Digital Opportunity. The Broadband strategy is meant to close the gaps identified by the policy, with one such pronounced gap being the policy and regulatory bottlenecks in spectrum allocation coupled with delays in migration, which cumulatively have stifled innovation, **new competition**, job creation and tax revenues associated with spectrum assignment and usage. **(our emphasis)**

2.6. A further material failure of the Roadmap is that it fails to properly cater for a spectrum assignment environment that is conducive to the introduction of new players in the market. It is clear that in formulating the Draft Roadmap, this aspect has not been considered and as such, the Draft Roadmap is not only contrary to the established policy principle of creating competition in the market, it fails to support the entry of new players. On the contrary, the Draft Roadmap will, if finalized in its current form, lead to a perpetuation of the incumbent oligopoly. This failure is wholly unreasonable and unjustifiable.

2.7. Policy considerations have a significant impact on the potential choices regarding final positions to be adopted by any roadmap. It is Smile’s understanding that the outcomes of this Draft Roadmap process ought to be a clear indication of how the Regulator plans to balance the various considerations and policy objectives to ascertain the appropriate choice in technical standards, sequencing of events to eventually achieve overall governmental objectives whilst ensuring support for industry growth, and not just an evaluation of engineering technical principles.

3. SPECIFIC COMMENTS ON THE ROADMAP

3.1. Smile aligns itself with the comments of the SACF regarding the options related to the 450-470MHz band, IMT700 and IMT800. Smile’s spectrum allocation in our other operations is similar to the proposal in Option 2/3, which applies to the Asian and European markets.

3.2. However, Smile wishes to raise a fundamental flaw experienced with collocation of LTE in the 800MHz band with CDMA technology. Due to the vastly differing nature of the technologies, a complete migration of CDMA out of this band is essential. Whilst there might be theoretical support for the continued collocation of the technologies, Smile’s experience in the field shows that the level of interference in this band requires a significantly wider guard band between the two technologies of at least 12 MHz or a minimum of 8MHz supplemented by the extensive deployment of filters. In any event, the deployment of filters has proven not to be a complete solution as there are other forms of interference that simply cannot be dealt with in



any way other than to migrate CDMA out of the 800MHz band. As it stands, the migration of CDMA to 2.6GHz is currently being considered as a more permanent solution in other countries which have opted to retain the CDMA technology. Smile is prepared to share a more detailed technical report to substantiate its views therein in confidence.

3.3. In relation to the final channelling plan for the IMT800 band, Smile can align itself with an amended Option 2, where SA can benefit from 3 licensed operators (benefiting from both the Region 1 and Region 2 band plans) where the band is further sub-divided into 3 blocks of 10x10MHz paired FDD assignments. Smile is aligned with Region 1 in the 800MHz band plan throughout its 4 operations, and notes that many commercial networks are operating in Europe on these bands. The 700MHz band and 800MHz band within option 2 also aligns itself to the same terminals being deployed for both bands, which will also impact on the affordability of the terminals through economies of scale.

3.4. In fact, an allocation of 10x10MHz of paired FDD spectrum in the 800MHz band would enable any operator, including Smile, to readily meet all the stated targets up to and including the 2020 targets. Smile has been able to achieve those targets elsewhere with such an allocation.