INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE 491 OF 2018

CONCLUSION OF THE INQUIRY INTO PRIORITY MARKETS IN THE ELECTRONIC COMMUNICATIONS SECTOR

The Independent Communications Authority of South Africa, hereby publishes the attached notice regarding the conclusion of the inquiry into priority markets in the electronic communications sector in terms of sections 4C (6) (b) of the Independent Communications Authority of South Africa Act, 2000, as amended (Act No. 13 of 2000).



Rubben Mohlaloga
Chairperson

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

SUMMARY OF THE FINDINGS ON THE INQUIRY INTO PRIORITY MARKETS IN THE ELECTRONIC COMMUNICATIONS SECTOR

1. On 25 August 2017, the Independent Communications Authority of South Africa ("the Authority") published a notice in the *Gazette*[1] indicating its intention to conduct an Inquiry in terms of section 4B (1)(a) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) as amended ("ICASA Act").

2. The purpose of the Inquiry was to identify markets and/ or market segments in the electronic communications sector that are susceptible to *ex ante* regulation, and determine which of these markets should be prioritised for market reviews and potential regulation in terms of section 67(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) , as amended ("ECA").

3. The Inquiry was conducted in four Phases (i.e. Phase I – Market study, Phase II - Discussion Document, Phase III – Public Hearings and Phase IV – Findings Document). As part of Phase I, the Authority published a

[1] *Gazette* No. 40945

questionnaire[2] requesting information and opinions from stakeholders (including the general public) to inform its market study.

4. The Authority received questions of clarification from Cell C, MTN and Vodacom on 13 July 2017 regarding the questionnaire and the Inquiry process and further questions from Internet Services Providers' Association ("ISPA") on 14 July 2017. Cell C, MTN and Vodacom further respectively requested an extension for the submission of responses to Phase I.

5. On 8 August 2017, the Authority published its responses to the questions of clarity raised by the aforementioned stakeholders on its website. In addition, the Authority granted an extension in the said Gazette to stakeholders in submitting responses to the Phase I questionnaire by twenty-five (25) working days from 4 September 2017 to 10 October 2017. On 10 October 2017, the Authority received responses to Phase I (the Market Study).

6. On 16 February 2018, the Authority published the Discussion Document on Priority Markets (Phase II) in the *Gazette*[3], preliminarily identifying the markets to be subjected for a market review. The Discussion Document invited comments from interested persons by 30 April 2018.

7. The Authority received written submissions on the 3rd, 25th, 26th and the 30th of April 2018 in relation to the Discussion Document, from the following stakeholders: Cell C, ISPA, Liquid Telecom, MTN, Project Isizwe, Telkom, Vodacom and The Wireless Access Providers' Association of South Africa (WAPA).

8. The Authority held public hearings on the Discussion Document (Phase III) on 7 June 2018 where the following stakeholders made oral representations to the Authority: Cell C, ISPA, Liquid Telecom Telkom, MTN and Vodacom.

9. The Authority has now concluded the Inquiry into Priority Markets in the electronic communications sector.

[2] The questionnaire was published on the Authority's website.
[3] *Gazette* No. 41446

10. In summary, the Authority's findings are that the following markets (not in order of importance) should be prioritised for potential market reviews in terms of section 4B of the ICASA Act read with section 67(4) of the ECA

10.1 Wholesale fixed access, which includes wholesale supply of asymmetric broadband origination, fixed access services and relevant facilities.

10.2 Upstream infrastructure markets incorporating national transmission services and metropolitan connectivity and relevant facilities.

10.3 Mobile services, which includes the retail market for mobile services and the wholesale supply of mobile network services, including relevant facilities.

11. A copy of the Authority's Findings Document on Priority Markets (Phase IV), which includes the reasons for the findings, is available on the Authority's website at www.icasa.org.za and at the Authority's head office library at address Pinmill Farm, Block D, 164 Katherine Street, Sandton, during office hours (Mon-Fri from 09:00 to 16:30).