STAKEHOLDER CLARITY SEEKING QUESTIONS AND RESPONSES DOCUMENT

I-ECNS AND RFS LICENCE FOR PROVISION OF WOAN

	STAKEHOLDER	QUESTION/S	RESPONSE/S
01	**South African Communications Forum (SACF)**	a. Definition of Historically Disadvantaged Individuals (HDIs)	Historically Disadvantaged Individuals (HDI) means South African citizens who are Black people, women and people with disability.[1] "Black people" is a generic term which means Africans, Coloureds and Indians- (a) who are citizens of the Republic of South Africa by birth or by decent; or (b) who became citizens of the Republic of South Africa by naturalisation- (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date"[2] The HDI requirements for the WOAN are outlined under mandatory/minimum requirements for consideration in paragraph 19 of the ITA under schedule B.
		b. Methodology for the calculation of HDI equity including assumptions	• The Authority will score the applicant based on diversity of ownership in terms of paragraph

[1] "Definition obtained from Individual Licensing Processes and Procedures Regulations for Individual Licences 2010 published in the Government Gazette No 33293 on 14 June 2010 as amended in 2016 .

[2] The Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) ("B-BBEE Act") , as amended.

			19.1 to 19.10 of the ITA under schedule B. The scoring weight is 10 points as indicated in Schedule D of the ITA. • The Applicant is expected to indicate all direct and indirect shareholders and their total number of shares and ownership percentages and indicate the percentage of equity ownership held by persons from historically disadvantaged groups, which must not be less than 30% voting share capital in the Applicant.
		c. What constitutes proof of HDI ownership including documents required?	• The Applicant must indicate all direct and indirect shareholders and their total number of shares and ownership percentages and indicate how the percentage of equity ownership held by persons from historically disadvantaged groups, which must not be less than 30% voting share capital in the Applicant, is calculated.

		d. Clause 12.4.1 of the ITA provides for a minimum uptake of 30% capacity from the WOAN for a period of five years, yet the ITA for the WOAN in clause 4.4.1 for 7 years.	• The required documents, based on the type of entity, are detailed in section 2 pg. 23 – 25 of the ITA and should be attached as Appendix 3.3 in the application. • The WOAN ITA does not impose an obligation on any licensee to "UPTAKE" a minimum of 30% capacity from the WOAN. It merely notes under schedule A paragraph 4.4.2 that an obligation for the uptake will be imposed on the IMT licence as part of its licence terms and conditions. • It is thus clear from the WOAN ITA that the 30% uptake obligation on licensees in the IMT licensing process will be stipulated in the IMT licence condition. The IMT ITA has imposed the obligation on the IMT licence for 5 years and will be applied through the IMT process accordingly this must not be confused with paragraph 4.4.1 of the WOAN ITA which imposes a separate obligation on the WOAN make "AVAILABLE" 30% of its capacity for a period of 7 years. • Paragraph 4.4.1 of the WOAN ITA imposes an obligation on the WOAN to make "AVAILABLE" a minimum of 30% National capacity to be procured by applicants assigned spectrum through the IMT licencing process for 7 years.

		e. Are current licensees entitled to participate in the ownership structures of the WOAN? If so, are there parameters for this participation?	• Yes, existing ECNS and ECS licence holders are allowed to participate. • Functional separation between the member's licensed services is required. The Applicant must be operated as an independent operating business entity.
002	**The Black Business Council (BBC)**	a. Digital dividend band (700/800 MHz) not included in WOAN spectrum	• 2 x 10 MHz in IMT700 is included in the WOAN ITA.
		b. Coverage Obligations for Licensees; we propose that the WOAN is not subjected to onerous coverage obligations	• For this current allocation, the WOAN is not subjected to any coverage obligations.
		c. No clear formula to price the 30% capacity that the other licensees must buy from WOAN	• The WOAN will need to enter into commercial agreements with licensees.
		d. BEE participation in consortium not sufficient!	• The Authority has imposed higher minimum BEE standards on the WOAN than any other licensee as can be seen in paragraphs 19.4 and 19.5 of the ITA.
003	**TELKOM**	a. How did the Authority determine the split between the spectrum for the auction and that reserved for the WOAN?	• The Authority set aside spectrum for the WOAN which it believes is sufficient for the WOAN to be a credible new wholesale national entrant into the mobile market alongside the existing four national wholesalers. The minimum 80 MHz of total spectrum is similar to the amount of spectrum each of the top three wholesalers currently hold prior to the licensing process which will be followed by the anticipated 2021 IMT spectrum auction. The minimum of 80MHz allocated for the WOAN is

			also consistent with all the options in the IM published on 01 of November 2019. The remainder of the available spectrum has been made available for the IMT spectrum auction process.
		b. Why is the capacity specified as a speed (Mbps) and not as capacity (GB)?	• The Authority has provided the following definition on the IMT ITA: Capacity = average data traffic speed (measured in megabits per second (Mbps)) per cell/base station at any given time offered by the WOAN using the high demand spectrum assigned to the WOAN. • Mbps/Gbps is generally used to describe the speed of a broadband connection, whereas Megabytes (MB) and Gigabytes (GB) usually refer to the size of a file or storage space, therefore the Authority saw it prudent to specify speed as Mbps.
		c. Where will the 30% available capacity be measured (core, RAN, etc.)?	• The measurement will be from Radio Access Network.
		d. Considering that the WOAN will expand its network over time, how will the 30% capacity be calculated? Will the capacity be calculated nationally, regionally, per base station or per sector?	• Following the definition provided for Capacity, which is the average data traffic speed (measured in megabits per second (Mbps) per cell/base station at any given time offered by the WOAN using the high demand spectrum assigned to the WOAN. National Capacity is therefore defined as the total capacity offered nationally irrespective of technology used. • The 30% national capacity to be procured from the WOAN will be shared proportionally to the

			amount of the spectrum acquired from the Auction amongst the successful licensees of the Auction. Consequently, the capacity measurement of the network will start from the day of operation of the WOAN and the availability will be of that point in time. The capacity will be measured per base station as defined in the ITA.
		e. How will the Authority ensure that the 30% capacity of the WOAN is made available at a reasonable/market related price?	• The Authority regards procurement of the 30% capacity as a commercial agreement. • The WOAN will need to enter into commercial agreements with other licensees.
		f. Will the capacity be calculated daily, weekly, monthly, quarterly or annually?	• This will be governed by the agreement between the WOAN and the MNOs.
		g. What model will be used to calculate the WOANs total national capacity and to determine the 30% off-take?	• This will be governed by the agreement between the WOAN and the MNOs.
		h. The Authority is requested to clarify the discrepancy between the ITA requirement that successful bidders will be required to obtain 30% of the WOAN capacity for a period of five (5) years (section 12.4.1) on the one hand and the WOAN ITA which refers to a period of 7 years.	• Paragraph 4.4.1 of the WOAN ITA imposes an obligation on the WOAN to make "AVAILABLE" a minimum of 30% National capacity to be procured by applicants assigned spectrum through the IMT licencing process for 7 years. • The WOAN ITA does not impose an obligation on any licensee to "UPTAKE" a minimum of 30% capacity from the WOAN. It merely notes under schedule A paragraph 4.4.2 that an

			obligation for the uptake will be imposed on the IMT licence as a licence term and condition. • It is thus clear from the WOAN ITA that the 30% uptake obligation on licensees in the IMT licensing process will be stipulated in the IMT spectrum licence condition. The IMT ITA has imposed the obligation on the IMT licence for 5 years and will be applied through the IMT process accordingly this must not be confused with paragraph 4.4.1 of the WOAN ITA which imposes a separate obligation on the WOAN.
004	**Vodacom**	When will the reasons document be published?	• The Reasons Document was published on 04 December 2020 in Government Gazette No. 43968.
		Will operators be afforded the opportunity to engage on the reasons?	• No. The Reasons document provides sufficient clarity on how the submissions received in response to the IM were considered when finalising the ITA.
		When will the Authority request enquiries on the composite WOAN ITA by the public?	• The WOAN ITA already allows for enquiries to be submitted on the WOAN ITA. The current enquiry is being submitted through that process. The Authority also conducted public workshops on the ITA from 9 to 11 December 2020. The Authority requested enquires relating to the finance section of the ITA to be submitted to the Authority in writing within 7 days. There will be no other process followed

			for enquires on the WOAN ITA outside of this process.
		Will the successful WOAN consortium be limited to providing wholesale services	• Yes, the WOAN will only be granted an I-ECNS licence and RFS licence.
		Is a single licence to be issued for the WOAN, to include all spectrum assignments? Or will there be multiple licences?	• The Authority will grant and issue only one I-ECNS licence and RFS licences to the successful consortium applicant.
		Is the intention to only issue the licences once the digital migration process has been finalised?	• No, A Licence is valid for twenty (20) years from the date of issue taking into consideration the residual analogue and digital television broadcasting service migration to below 694 MHz band timescales in South Africa.
		If the WOAN is to be linked to existing I-ECNS licences, will the validity period of existing I-ECNS licenses be aligned with the RFS licence issued pursuant to the award?	• The consortium which becomes the successful applicant will automatically be awarded an I-ECNS licence. The validity period of a consortium members existing I-ECNS licence remains the same and will have no link with the WOAN's I-ECNS licence.
		Are all licences to be granted to a single consortium?	• Yes, Both I-ECNS and RFS licences will be issued to 1 successful Applicant/consortium.
		Will the licence(s) be issued to the consortium? Will the consortium be required to form a single legal entity to whom the licence will be granted?	• Yes, The Applicant must at the time of application be registered under the laws of the Republic of South Africa and must have a principal place of business located within the Republic of South Africa in accordance with Section 5(8) of the ECA.

		Will the same requirements for renewal apply to the Licensee as those applicable to other I-ECNS licensees who apply for the renewal of their I-ECNS Licences?	• Yes, furthermore the Authority encourages applicants to familiarise themselves with section 11 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("ECA") and the Individual Licensing Processes and Procedures Regulations for Individual Licences 2010 published in the Government Gazette No 33293 on 14 June 2010 as amended in 2016 ("The Processes and Procedures Regulations")
		If not, what requirements will be applied? The heading to s12.1 reads: "Uplink and throughput obligation… Is it supposed to be Downlink instead of Uplink?	• Correct. The heading to s12.1 of the ITA should read "Downlink and throughput obligation" as the prescribed obligation is for a downlink speed.
		Please confirm if this obligation of "throughput of 5Mbps at the edge of the cell" is intended to apply to the WOAN licensee, given the reference to "all national wholesalers"?	• Correct.
		S4.2 of the Composite WOAN ITA Notice obliges the WOAN to provide access to wholesale services. We understand this means that the WOAN will only be licenced to offer wholesale services and in effect not allowed to offer retail services directly and/or through any ECN licenced or exempted entity controlled/owned by the WOAN. Is this understanding correct?	• The WOAN will only be licensed to provide wholesale services. • Existing ECNS and ECS licence holders who are part of the WOAN will be able to provide ECNS and ECS services. However, functional separation between the member's licensed services is required.
		s4.3.2 - Not "fully utilised": What does "not fully" utilised mean?	• Any unused spectrum from the assigned spectrum with related obligations.

		Is there a minimum geographical requirement for utilisation?	• The Minimum utilisations is the entire territory of South Africa as the spectrum will be assigned on a national basis.
		Is there a minimum throughput obligation for utilisation?	• There is a downlink throughput obligation of 5Mbps at the edge of the cell. The throughput obligation should be achieved with all the spectrum bands in this licensing process.
		Will utilisation be monitored during the 7-year period or only at the end of five years? When is the assessment of utilisation to be undertaken by the Authority?	• Utilisation will be monitored from the date of operation throughout the licence period.
		s4.3.3: Is the successful Applicant required to commence operations according to any predetermined roll-out plan, having regard to the Authority's classification of Batch 1, 2 and 3 municipalities?	• This obligation is not applicable to the WOAN. The Authority's classification of Batch 1, 2 and 3 municipalities is not applicable to the WOAN licensing process.
		A licensee that will be assigned spectrum through this process (WOAN) is required to make available a minimum of 30% national capacity to be procured by successful Applicants that will be assigned Radio Frequency spectrum through the IMT auction licensing process, as soon as the WOAN is operational, for a period of 7 years. When will the WOAN be considered "operational"?	• The successful Applicant must commence commercial operations within two (2) years of being issued a licence in accordance with the Regulations regarding Standard Terms and Conditions Regulations for Individual licences. • Where the WOAN intends to commence commercial operations outside of the prescribed period indicated above, such extended commencement period shall be approved by the Authority.
		s4.4 requires 30% collective WOAN capacity procurement by successful IMT Auction awardees. Please confirm that licensees	• The Authority regards the implementation of procurement of the 30% capacity as a commercial agreement.

		required to procure capacity from the WOAN as part of their IMT ITA obligations, would receive such capacity with, as a minimum, the same quality metrics as defined for the operators participating in the IMT ITA?	
		Can the "consortium of persons" include juristic persons (i.e. companies)?	• Yes, the Applicant must at the time of application be registered under the laws of the Republic of South Africa and must have a principal place of business located within the Republic of South Africa in accordance with Section 5(8) of the ECA.
		How do members of a consortium show their "equity ownership"?	• The Applicant must indicate all direct and indirect shareholders and their total number of shares and ownership percentages and indicate the percentage of equity ownership held by persons from historically disadvantaged groups, which must not be less than 30% voting share capital in the Applicant. • The required documents, based on the type of entity, are detailed in section 2 pg. 23 – 25 of the ITA and should be attached as Appendix 3.3 in the application.
		If it is incorporated, must the "consortium" be a public company (as is required in the case of Insurance companies and Banks)?	• The Applicant must at the time of application be registered under the laws of the Republic of South Africa and must have a principal place of business located within the Republic of South Africa in accordance with Section 5(8) of the ECA. • In terms of paragraph 19(8) of the ITA the applicant may include public entities as

			shareholders provided that the IECNS licensee is not a public entity under the Public Finance Management Act, 1999 (Act No. 1 of 1999).
		Can the "consortium of persons" be an incorporated company with shareholders?	• Yes, the Applicant must at the time of application be registered under the laws of the Republic of South Africa and must have a principal place of business located within the Republic of South Africa in accordance with Section 5(8) of the ECA.
		Will such equity ownership/ equity shareholding of historically disadvantaged groups (HDGs) be measured in terms of the applicable ownership measurement principles in the ICT Sector Codes?	• No, Principles of the ICT Sector Codes do not apply to the HDP because the Sector Codes do not deal with or define HDP. • S19.3 provides that an applicant must include the percentage of equity ownership to be held by persons from historically disadvantaged groups, which must not be less than 30% equity shareholding with an equivalent voting power in the Applicant.
		If it will not be measured in terms of the ICT Sector Code, please provide a detailed explanation of how it will be measured?	• The Authority has a specific way in which it measures HDP. If an applicant or entity states that it has got a Black female, or white female or person with disability, evidence of black and white females and a person with disability should be submitted such as: o Certified Identity Document; o A certified copy of founding documentation of the company with which the ownership is listed where applicable;

			○ Company Shares certificates where applicable; ○ A certified medical certificate from a medical doctor certifying the degree of disability as defined in the Employment Equity Act where applicable; ○ A trust deed as well as certified copies of the identity documents of the trustees and beneficiaries where applicable. • The principles of the ICT Sector Code will not be applied to the ITA. • The Applicant is referred to the findings document and position paper on inquiry into equity ownership by historically disadvantaged groups and the application of the ICT sector code in the ICT sector published under Government gazette number: 42234 on the 15th of February 2019.
		Will the voting power of HDGs in the Applicant be measured in terms of the applicable ownership measurement principles in the ICT Sector Codes?	• No.
		If it will not be measured in terms of the ICT Sector Code, please provide a detailed explanation of how it will be measured?	• The ICT Sector Codes do not apply for the purposes of this licensing process.
		Can the equity shareholding and voting power of HDGs in the applicant be made through direct and indirect shareholding into the applicant?	• The ICT Sector Codes do not apply for the purposes of this licensing process.
		Will such ownership and voting power be measured in terms of the applicable ownership	• No.

		measurement principles in the ICT Sector Codes	
		If it will not be measured in terms of the ICT Sector Code, please provide a detailed explanation of how it will be measured?	• The principles of the ICT Sector Code will not be applied to the ITA. • The Authority has a specific way in which it measures HDP. If an applicant or entity states that it has got a Black female, or white female or person with disability, evidence of black and white females and a person with disability should be submitted such as: o Certified Identity Document; o A certified copy of founding documentation of the company with which the ownership is listed where applicable; o Company Shares certificates where applicable; o A certified medical certificate from a medical doctor certifying the degree of disability as defined in the Employment Equity Act where applicable; o A trust deed as well as certified copies of the identity documents of the trustees and beneficiaries where applicable. • The HDI will be calculated based on the respective shareholding of the companies that have formed to make up the consortium. The Applicant is also referred to the findings document and positions paper on inquiry into equity

			ownership by historically disadvantaged groups and the application of the ICT sector code in the ICT sector published under Government gazette number: 42234 on the 15th of February 2019.
		aa. What is the reason for imposing an ownership threshold of not less than 50% by black people?	• The Authority has imposed empowerment obligations on the WOAN in order to ensure that it is a credible empowerment tool that will assist the Authority to achieve the objectives of the ECA as set out in section 2, namely: to encourage transformation in the industry, promote an environment of open, fair and non-discriminatory access to broadcasting service, electronic communication networks and to electronic communication services, as well as to promote the empowerment of historically disadvantaged persons including black people, with particular attention to the needs of women, opportunities for youth and challenges for people with disabilities.
		bb. Has approval been sought from the Minister of Trade, Industry and Competition for the imposition of the ownership threshold of not less than 50% by black people in terms of either section 9(6) or s10(3) of the BBBEE Act?	• ICASA is an independent authority which does not require approval from the Minister of Trade, Industry and Competition when exercising its mandate. • *Sections 3(3) and 3(4) of the ICASA Act[3] state as follows:* *"(3) The Authority is independent, and subject only to the Constitution and the law, and*

[3] Independent Communications Authority of South Africa Act, Act No 13 of 2000

			must be impartial and must perform its functions without fear, favour or prejudice. *(4) The Authority must function without any political or commercial interference."* • In addition to the above ICASA is empowered in terms of Section 8(3) and 9(6)(b) of the ECA Act to prescribe additional terms and conditions that may be applied to any individual licence or class licence taking into account the provisions of chapter 10.
		cc. Please confirm that lodging an application in terms of the IMT ITA process does not disqualify applications in terms of the WOAN ITA process?	• Correct.
		dd. S9.1 mention PESTEL analysis. Please clarify the meaning of PESTEL?	• Political, Economic, Social, Technological, Environmental and Legal. The analysis of the Macro (external) forces facing an organisation.
		ee. S9.2 refers to the products and services to be offered and description of pricing strategy. Vodacom request the Authority to confirm that this refers to wholesale products and services to be offered wholesale seekers, including MNOs obliged to buy 30% capacity from the WOAN?	• Correct.
		ff. s20.1 of Schedule 3 requires an independent competition analysis report detailing the impact of this application on the relevant market/s in the short and medium term. The report should be marked as Appendix 20.1. Vodacom request	• The independent competition analysis is the report regarding the impact of competition that will be introduced by the licensing of the WOAN. This report is prepared by the

		the Authority to define 'independent competition analyses', and indicate the requirement to be applied to meet the requirement of independence?	consultant or third party on behalf of the Applicant.
		gg. S20.3. of Schedule 3 requires that the application include detailed proposed commercial agreements to be made available. When referring to roaming, Vodacom requests confirmation that this refers to the roaming agreement to be negotiated between the WOAN and others buying wholesale services from the WOAN, including the agreement to govern the 30% capacity obligation?	• Correct.
		hh. Under point 6 of the HDI Requirements in respect of Companies / Close Corporations there is a requirement to provide a B-BBEE verification report by an approved verification agency. An approved verification agency is authorised to measure compliance in terms of the Codes of Good Practice issued under s9(1) of the BBBEE Act, including the ICT Sector Codes. Will a B-BBBEE verification report issued using the ICT Sector Codes be sufficient to meet this requirement?	• Yes. The B-BBBEE verification report issued using the ICT Sector Codes will be sufficient.

005	**CIVH**	**General Schedule A, paragraph 4.4.1**- The WOAN must ensure 30% of its capacity is available to successful applicants in the IMT ITA for a period of 7 years, although the off-take obligation on successful applicants in the IMT ITA is only for 5 years. Why is there a difference?	• The obligation included in the WOAN ITA is different from the obligation included in the IMT ITA. • Paragraph 4.4.1 of the WOAN ITA imposes an obligation on the WOAN to make "AVAILABLE" a minimum of 30% National capacity to be procured by applicants assigned spectrum through the IMT licencing process for 7 years. • The obligation on the IMT licensees in terms of the IMT ITA is imposed on them for 5 years. The WOAN will however still be expected to make available and offer its capacity for an additional 2 years to the IMT licensees who will at that point have a choice to continue with the uptake or not.
		The IMT ITA earmarks 326MHz of additional spectrum to the industry, which already has approximately 624MHz of spectrum assigned to it. Tier 1 operators have a significant direct assignment of spectrum as well as having access indirectly to additional spectrum via roaming arrangements (a possible total 200MHz between Vodacom and MTN). The WOAN will have access to only 80MHz of spectrum and will not be able to compete on performance, coverage nor have the economies of scale of the current operators. Has the Authority considered options for the WOAN to gain access to additional spectrum,	• The Authority believes that the portfolio for the WOAN provides enough capacity and coverage spectrum (80MHz in total) for the WOAN to be a credible new wholesale national entrant into the mobile market alongside the existing four national wholesalers. The minimum 80 MHz of total spectrum is similar to the amount of spectrum each of the top three wholesalers currently hold prior to the licensing process which will be followed by the anticipated 2021 IMT spectrum auction. The minimum of 80MHz allocated for the WOAN is also consistent with all the options in the IM published on 01 of November 2019.

		either in the short- or in the longer term? If so, what are these options?	
		Schedule A, paragraph 4.4.1- Capacity is defined as "average date speed (measured in megabits per second (Mbps)) per cell per base station …". Has the Authority given thought to how this capacity will be determined, that is, via measurements or via a theoretical calculation? If the Authority has given it further thought, could you please share insight into this.	• This will be determined by measurement. The measurement will be from the Radio Access Network.
		Schedule A, paragraph 4.1.1 If the capacity will be determined through a calculation, has the Authority done the calculations to determine the capacity for 2x10MHz of IMT700, 30MHz of IMT2600, and 30MHz of IMT3500? If so, could the Authority please share this?	• This will be determined by measurement. The measurement will be from the Radio Access Network.
		Schedule A, paragraph 4.1.1- What is meant by the following: "This obligation has to be achieved with other bands (i.e. IMT3500, IMT2600) assigned through this licensing process"? We understand (as per the table on page 6 of the WOAN ITA) that the WOAN will be assigned IMT700, IMT2600 and IMT3500 spectrum.	• It means that the throughput obligation should be achieved with all the spectrum bands in the WOAN licensing process.
		Schedule B, paragraphs 19.3 and 19.4- Given that separate ownership requirements	• The principles of the ICT Sector Code will not be applied to the ITA.

		are imposed for ownership by persons from historically disadvantaged groups (HDPs) and Black people as defined in the BBBEE Act we understand that these are two separate requirements. We assume that the 50% ownership by Black people should be calculated on the basis of the principles detailed in Statement 100 of the ICT Sector Code. Please could the Authority confirm this. Please could the Authority also confirm how the percentage ownership by HDPs should be calculated and which, if any, principles in Statement 100 of the ICT Sector Code should be used to determine ownership by HDPs (which category includes Black people).	• The Authority has a specific way in which it measures HDP. If an applicant or entity states that it has got a Black female, or white female or person with disability, evidence of black and white females and a person with disability should be submitted such as: o Certified Identity Document; o A certified copy of founding documentation of the company with which the ownership is listed where applicable; o Company Shares certificates where applicable; o A certified medical certificate from a medical doctor certifying the degree of disability as defined in the Employment Equity Act where applicable; o A trust deed as well as certified copies of the identity documents of the trustees and beneficiaries where applicable. • The HDI will be calculated based on the respective shareholding of the companies that have formed to make up the consortium. • The Applicant is also referred to the findings document and position paper on inquiry into equity ownership by historically disadvantaged groups and the application of the ICT sector code in the ICT sector published under

			Government gazette number: 42234 on the 15th of February 2019.
006	**ICT CHAMBER**	**Schedule A-** Can this form be replicated by the respondents for completion by relevant individuals?	• Yes, the form must capture all the information required in the ITA.
		Schedule A 1.1- What is the meaning of "taking into consideration the residual analogue and digital television broadcasting migration below 694 MHz band timescales"? What impact will this have on the license duration and/or date of issue?	• The 20-year licence term commences from the date of issuance of the Radio Frequency Spectrum Licence. • The Authority published the Radio Frequency Spectrum Assignment Plan for the band 470 to 694 MHz on 22 May 2020 in an effort to expedite the Analogue Switch-Off. The licensing and obligations set for IMT700 are synchronized with the Analogue Switch-Off.
		Schedule A- 4.4.- WOAN required to make available minimum 30% national capacity to spectrum licensees through the auction process, for 7 years However, section 12.4 of the ITA for the auction process, requires uptake of the 30% for 5 years.	• The WOAN ITA does not impose an obligation on any licensee to "UPTAKE" a minimum of 30% capacity from the WOAN. It merely notes under schedule A paragraph 4.4.2 that an obligation for the uptake will be imposed on the IMT licence as a licence term and condition. • It is thus clear from the WOAN ITA that the 30% uptake obligation on licensees in the IMT licensing process will be stipulated in the IMT licence condition. The IMT ITA has imposed the obligation on the IMT licence for 5 years and will be applied through the IMT process accordingly this must not be confused with paragraph 4.4.1 of the WOAN ITA which imposes a separate obligation on the WOAN.

			• Paragraph 4.4.1 of the WOAN ITA imposes an obligation on the WOAN to make "AVAILABLE" a minimum of 30% National capacity to be procured by applicants assigned spectrum through the IMT licencing process for 7 years.
		Schedule A 4.5- What provisions of the RFSR are referred to in this item?	• Section 14, 17 (1) and any breach in compliance and transgression of any provisions of the RFSR.
		Section 14 of the RFSR provides for the withdrawal of spectrum licences under certain circumstances and procedures, however, the RFSR does not provide for the cancellation of the issuance of licences	• Section 14 also addresses the withdrawal of an issued licence. The procedure is outlined in section 31 (8) to– (10) of the ECA. The withdrawal in this context has the same legal effect as the cancellation.
		Schedule B- 1- Applications to be made in writing – how many printed copies are required by ICASA?	• The Authority does not require any printed copies, all written applications must be submitted electronically to the email address provided in the ITA.
		Schedule B 19.6- What is meant by "meaningful participation" and how will this be measured by ICASA?	• Meaningful participation means that all individuals/entities involved including SMMEs must participate and have influence in the decisions of the company in all its operations. The Authority will measure meaningful participation from the information submitted by the Applicant, providing resolution giving powers to each individual/entity in the decisions of the company.

		Schedule B 19.7. What is meant by "effective participation" and how will this be measured by ICASA?	• Effective participation means ensuring that all persons in the company can participate in the decisions that will impact the company's operations/ including core operations. The Authority will measure effective participation from the information submitted by the Applicant, providing details on how it will ensure effective participation by targeted groups, including women, youth and persons with disabilities.
		Schedule D- Under the description of the functionality, there is reference to "functional efficiency" "as defined in the RFSR". The RFSR refers to functional efficiency defined in terms of the extent to which the use of spectrum meets the user's needs (evaluated by defined key performance indicators (KPI): the KPI for the particular band will be defined by the Authority and provided as part of the Invitation to Apply (ITA) as deemed necessary). However, the ITA does not contain KPIs. How will this be measured by ICASA in the absence of KPIs?	• The Authority will analyse the submission of each applicant to assess the functional efficiency in terms of speed and coverage.
		Schedule D 4.1- what is meant by business record?	• ISO 15489, the international standard on records management defines records as: "information created, received, and maintained as evidence and information by an organization or person, in pursuance of legal obligations or in the transaction of business." • From reading the schedule, the business record should provide sufficient detail on the

			business as well as the individuals in management capacity.
		Schedule D 4.5- Trust and candour – what is meant by "Trust and Candour", what report/s does ICASA require from applicants to fulfil this requirement?	• Trust and candour refer to the quality of being open and honest and being in a position where in which confidence is placed. The report should refer to incidents where individuals were placed in these situations and how same was handled.
		Schedule E 3.2- The resolution authorising signatories and/or representatives at hearings can it authorise alternative signatories and if so, do all of the listed signatories have to sign the application and/or other documents submitted to ICASA and/or appear before ICASA?	• All person(s) signing the applications, or any other official documents and/or who will represent the Applicant in hearings in respect of the application, need to be authorised by the Applicant to do so. The resolution needed will be for these authorised person(s).
		Schedule E 6.4 What is "each personnel" referring to? Is this the senior management?	• Each personnel refer to the Senior Management of the company.
		Schedule E 12.2- What is "each personnel" referring to? Is this the senior management?	• Each personnel refer to the Senior Management of the company.
		Schedule E 15.1- How is item 15.1 different from 3.3? **Schedule E 20.2**- How is item 20.2 different from what is to be included in respect of agreements for interconnection, etc to be included in item 21? Relook at the question?	• 3.3 refers to the "*Reasons for refusal of confidentiality by the Authority*". The Authority cannot grant confidentiality over any document that is in the public domain or required to be disclosed by law or court order. If the Authority refuses confidentiality on certain information, it is required to provide the applicant with reasons for making a determination to refuse confidentiality as

			contemplated in section 4D (2) of the ICASA Act. • 15.1 refers to the "*Proposed Investors*". The Applicant is required to provide shareholders' agreements signed by all shareholders and the share certificates of each shareholder where available." • Item 20.2 requires a project management approach in that it requires timeframes, roll-out targets, milestones, etc. • Item 21 focuses on the service to be offered and the location where this service will be provided. It furthermore refers to the technical planning, network design, and specifications of the system, etc.
		General 1 Can all templates (forms, etc.) be replicated by respondents for inclusion in the submission?	• Yes, however applicants must ensure that all sections are answered.
		General 2 Why did the Authority not consider the industry representations following its request of the first week of September up to 16 September 2020? The ITA confirms that the Authority did not consider these representations.	• The Authority did consider these submissions. This is evident in the IMT ITA.

CLARITY SEEKING QUESTIONS FROM PUBLIC WORKSHOPS HELD ON 09 – 11 DECEMBER 2020

	STAKEHOLDER	QUESTION/S	RESPONSE/S
01	Antonio Lopes	Future spectrum allocation: For existing spectrum up for renewal, will WOAN be eligible to bid for the spectrum? If so, would WOAN be treated equally as other applicants / existing spectrum holders?	• The WOAN will be eligible to bid for spectrum in future in line with the ECA and RFSR. All applicants will be treated equally when it comes to future spectrum assignment. • Regulation 10 of the RFSR permits licensees to renew their spectrum licences or surrender their licences. If spectrum licence is surrendered, such spectrum will be licensed in line with the provisions of the ECA, RFSR and/ or Radio Frequency Spectrum Assignment Plan ("RFSAP"). The Authority is empowered to impose further terms and conditions when licensing of such spectrum, which may include, inter alia, determining those eligible to bid. Such determination, if any, will be published by the Authority before or when inviting applications.

		For new spectrum bands, is WOAN eligible for additional spectrum allocations in the future? If so, would WOAN be treated equally as other applicants?	• The WOAN will be eligible to bid for additional spectrum in line with the ECA and RFSR. All applicants will be treated equally. • Additional spectrum assignments are licensed in line with the provisions of the ECA, RFSR (through a standard or an extended application procedures) and/ or RFSAP. The Authority is empowered to impose further terms and conditions when licensing of such spectrum, which may include, inter alia, determining those eligible to bid. Such determination, if any, will be published by the Authority before or when inviting applications.
		5Mbps throughput obligation: WOAN ITA 4.1.1 requires "A minimum downlink single user throughput of 5Mbps at the edge of the cell for all national wholesalers who are awarded radio frequency spectrum licences on spectrum band IMT700 within five (5) years of licence issue." However, as WOAN does not sell directly to end users, it might happen that the throughput obligation is not fulfilled because WOAN clients	• The WOAN will obtain I-ECNS and RFS licences. This obligation will form part of the WOAN licence conditions. The WOAN must therefore ensure that its network can support this obligation and that its wholesale services are offered at a minimum downlink single user throughput of 5Mbps at the edge of the cell.

		do not purchase enough capacity from WOAN, which WOAN has no control over. How will the Authority treat such violation to the obligation?	• The WOAN must ensure that its clients provide the minimum throughput of 5Mbps to the single user at the edge of the cell. • Section 17 A – H of the ICASA Act will be applicable to all violations or breach of licence terms and conditions.
02		What does the open access principle mean?	• The principles underlying open access principles are: ○ openness; transparency; non-discrimination; sharing and non-duplication; efficiency; standardisation; and reasonableness.
		Does it only mean licences that are authorised to provide services?	• The WOAN will be required to provide open access to wholesale services on open access principles to any other person licensed in terms of the ECA and to persons providing services pursuant to a licence exemption.
		Does it include the spectrum part or other network parts of the WOAN for example backhaul?	• The ECA provides that all facilities (i.e last mile infrastructure / networks / backhaul) must be shared upon request, this is expanded upon in the Facilities Leasing Regulations which set out the manner in

			which operators can access infrastructure providers' facilities, and the procedures and principles relating to such access.
03		What does "support" mean in Need Demand and Support?	• Support means that the applicant must be able to demonstrate that it has *support* of the service it intends to provide for example MVNO's and other licence holders in terms of the ECA, and any other interested party. This can be by means of, *inter alia*, a survey conducted, letters of support and signatures.
04		Re: Item 1 of the ITA, The Chamber requests an alternative online mechanism be considered for submission of voluminous documents	• The Authority notes the concerns and will communicate alternative arrangements, if any, in due course.
		Re: Item 4.4.1 of the ITA, The definition of national capacity – does this mean that the 30% Offtake refers to every WOAN base station (site)? Meaning the successful IMT Spectrum licence holders cannot dictate which geographical areas they will purchase the 30% from – that they will need to purchase 30% from every WOAN site / base station made available?	• Yes, it refers to every base station/cell/site. The successful Applicants from the Auction process will be required to collectively uptake 30% capacity from every WOAN base station/cell/site.

		Re: 15.1 of the ITA: How is item 15.1 different from 3.3?	• 3.3 refers to the "Reasons for refusal of confidentiality by the Authority". The Authority cannot grant confidentiality over any document that is in the public domain or required to be disclosed by law or court order. If the Authority refuse confidentiality on certain information, it is required to provide the applicant with reasons for making a determination to refuse confidentiality as contemplated in section 4D (2) of the ICASA Act. • 15.1 refers to the "Proposed Investors". The Applicant is required to provide shareholders' agreements signed by all shareholders and the share certificates of each shareholder where available."
		Re: 20 (b) of the ITA: Under the description of functionality, there is reference to "functional efficiency" "as defined in the RFSR". The RFSR refers to functional efficiency defined in terms of the extent to which the use of spectrum meets the user's needs (evaluated by defined key performance indicators (KPI): the KPI for the particular band will be defined	• The Authority will analyse the submission of each applicant to assess the functional efficiency in terms of speed and coverage.

		by the Authority and provided as part of the Invitation to Apply (ITA) as deemed necessary). However, the ITA does not contain KPIs. How will this be measured by ICASA in the absence of KPIs?	
		Re: 21 (III) 7.1-7.17 Does a form have to be completed for every site? What if the network design has 10,000 sites – this will equate to 10,000 forms – besides being time consuming, this document will be too large to email as part of the application. Is it possible to submit this in Excel format?	• The Authority has considered the question in further detail and will allow applicants to submit in Excel format where necessary. Furthermore, all the required information needs to be provided.