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## Contents

| No. | | Gazette No. | Page No. |
|---|---|---|---|
| GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS | | | |
| **Communications and Digital Technologies, Department of / Kommunikasie en Digitale Tegnologieë, Departement van** | | | |
| 1853 | Electronic Communications Act (36/2005): Proposed Amendment of Policy on High Demand Spectrum and Policy Direction on the Licensing of a Wireless Open Access Network ..... | 46031 | 3 |

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

**DEPARTMENT OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES**

**NO. 1853** **11 March 2022**

**ELECTRONIC COMMUNICATIONS ACT, 2005**
**(ACT NO. 36 OF 2005)**

**PROPOSED AMENDMENT OF POLICY ON HIGH DEMAND SPECTRUM AND POLICY DIRECTION ON THE LICENSING OF A WIRELESS OPEN ACCESS NETWORK**

1. The Minister of Communications and Digital Technologies intends to amend the Policy on High Demand Spectrum and Policy Direction on the Licensing of a Wireless Open Access Network (WOAN) issued in Government *Gazette* No. 42597 on 26 July 2019 (the Policy), in terms of section 3 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), to the extent indicated in the Schedule.

2. The available spectrum for licensing on the WOAN does not meet the viability threshold as determined in the Study conducted by the CSIR on behalf of the Department of Communications and Digital Technologies. The policy objectives that were intended to be achieved by the WOAN, will be realised using the Next Generations Radio Frequency Spectrum policy that is currently being finalised for public consultations.

3. Interested persons are invited to provide written comments on the proposed amendments of the Policy on High Demand Spectrum and Policy Direction on the Licensing of a WOAN, within 30 working days of the date of publication, addressed to-

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|---|
| The Director-General, Department of Communications and Digital Technologies;<br>For attention: Mr. T Ngobeni, Deputy Director-General: ICT Infrastructure Support |
| Private Bag X860, Pretoria, 0001 |
| mrathokolo@dtps.gov.za; 0736585717; 0829900967 |

4. Comments received after the closing date will be disregarded.

**Khumbudzo Ntshavheni, MP**
**Minister of Communications and Digital Technologies**

## SCHEDULE

## PROPOSED AMENDMENT OF POLICY ON HIGH DEMAND SPECTRUM AND POLICY DIRECTION ON THE LICENSING OF A WIRELESS OPEN ACCESS NETWORK

**1. Substitution of title of the Policy**

The title of the Policy is substituted by the following title:

"**POLICY ON HIGH DEMAND SPECTRUM**".

**2. Amendment of paragraph 1 of the Policy**

Paragraph 1 of the Policy is amended –

*(a)* by the substitution for paragraph 1.1 of the following paragraph:

"1.1 Chapter nine (9) of the National Integrated ICT Policy White Paper, 2016 (the White Paper) sets out the open access policy, spectrum policy and a policy framework to address the assignment of spectrum where there is insufficient spectrum to accommodate demand (hereinafter referred to as high demand spectrum).";

*(b)* by the deletion of paragraphs 1.2 to 1.5;

*(c)* by the substitution in paragraph 1.6 for the words preceding paragraph (a) of the following words:

"The Minister consulted the Authority and interested persons as required by section 3(5) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) (ECA). The Minister duly considered and reviewed the Authority's views, representations received from interested persons and objects of the ECA. When reviewing the above, the Minister considered the public interest and policy objectives that include to -";

*(d)* by the deletion in paragraph 1.6 of subparagraph (a);

*(e)* by the substitution in paragraph 1.6 for subparagraph (e) of the following subparagraph:

"(e) promote competition within the ICT sector;";

*(f)* by the substitution for paragraph 1.7 of the following paragraph:

"1.7 Following the review of representations as described in paragraph 1.6 above, the following policy is issued.".

**3. Amendment of paragraph 2 of the Policy**

Paragraph 2 of the Policy is amended –

*(a)* by the substitution for paragraphs 2.1.1 and 2.1.2 of the following paragraphs:

“2.1.1 The Minister recognises that there are over four hundred players that hold electronic communications network service licenses but cannot access spectrum, due to its scarcity. This has an adverse effect on competition, contributes to the high costs to communicate and serves as a barrier to entry for new entrants and SMMEs. Government is committed to maximising the socio-economic benefits derived from the use of the spectrum.

2.1.2 High demand spectrum in the 700 MHz, 800 MHz and the 2600 MHz bands may be assigned to electronic communications network service licensees.”;

*(b)* by the deletion of paragraph 2.1.3;

*(c)* by the substitution in paragraph 2.1.4 for the words preceding paragraph (a)

of the following words:

"The assignment of high demand spectrum must ensure that the following policy objectives are achieved:";

*(d)* by the substitution in paragraph 2.1.4 for subparagraph (a) of the following subparagraph:

"(a) leasing of electronic communications networks and electronic communications facilities and provision of wholesale capacity to other licensees. The Authority must perform strict regulatory oversight to ensure compliance with this network and facilities leasing requirement;";

*(e)* by the deletion in paragraph 2.1.4 of subparagraph (b).

**4. Deletion of paragraph 3 of the Policy**

Paragraph 3 of the Policy is deleted.

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