

Overview of the Next Generation Radio Frequency Spectrum Policy 2024

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Introduction

Radio frequency spectrum is a critical input to the delivery of mobile and fixed wireless internet access, particularly for South Africans who are heavily reliant on the mobile network operators (MNOs) for connectivity.

The [Next Generation Radio Frequency Spectrum Policy for Economic Development](#) (“**the Policy**”) was published by the Minister of Communications and Digital Technologies (“**the Minister**”) on 28 May 2024. The Policy sets out in broad terms how government intends to manage spectrum to meet its broader objectives.

- *Text in italics is a direct quotation from the Policy*
- For the most part the Policy represents a continuation of existing policy, but there are some important additions and deviations which are **highlighted in bold**
- Deadlines are underlined

What is the Policy trying to achieve?

The Policy intends to ensure optimal use of South Africa's spectrum resources in order to:

- Enable affordable and accessible telecommunication services
- Develop digital infrastructure to stimulate growth and social development
- Promote competition
- Promote transparency and equitable and fair distribution of spectrum
- Enable technology optimization
- Generate *moderate revenue* for the government to serve the public interest

Spectrum management

The Policy calls for a legislative review given that the current framework came into effect in 2006 and there have been substantial developments in markets, technology and consumption which must be accommodated in the ECA.

Specific policy provisions include:

- Spectrum will continue to be licensed on a technology-neutral and service-neutral basis (the licensee determines the technology and use). The refarming of spectrum for use by a different technology is also permitted.
- However, there is a **shift away from licensees having an exclusive right to use spectrum assigned to them to a licensee having a right to protection from interference**. This is being done to facilitate spectrum sharing (which will always require ICASA's prior authorisation).
- Recognising the maturity and ageing of technology and the opportunity cost of not shutting down older networks, **a technology retirement roadmap is to be developed and maintained by the Minister**, informed by a regulatory impact assessment to be completed by 28 May 2025. A phased approach to the shutdown of older generation networks will be considered within 2 - 3 years publication of the Policy and finalised through a Ministerial policy direction. A preliminary date of 31 December 2027 has been set for the shut down of 2G and 3G networks.
In a situation where the network shutdown is not complete due to unforeseen circumstances but coincides with the expiry date(s) of individual license(s), the Authority will consult with the affected license holder(s) and further determine the best mechanism for use of the spectrum currently utilized by these older generation networks.
- **Clarification that existing IMT spectrum licences – other than those issued pursuant to the March 2022 spectrum auction – will expire when the holders' IECNS licences expire in 2028/29.**
The terms and conditions of these licences will need to be renegotiated
The spectrum used in line with individual licenses ... shall as determined by the Authority be returned on expiry for renewal or re-negotiate new licensing terms and conditions, or implement a new licensing approach while ensuring sustainability, stability, and consideration of investments in the sector.
- Spectrum inventories and licensee databases - *including a comprehensive mapping of all licensed and unlicensed spectrums* - should be publicly accessible on a continuous basis.

Spectrum assignment

The Policy requires that:

- ICASA should use a hybrid licensing approach that incorporates competitive processes such as auctions and traditional administrative assignments. **In determining the process to be used ICASA must conduct a regulatory impact assessment.**
- Where demand in a spectrum band exceeds supply, *such spectrum bands shall be deemed as “high-demand spectrum”*. All spectrum bands allocated to IMT in the National Radio Frequency Plan are also deemed to be high-demand bands, and **the Minister may after consultation with ICASA extend this classification to other bands.**
- Spectrum licenses are valid for a maximum of 20 years. ICASA may vary this after public consultation to give effect to national policy.
- ICASA must notify licensees of the upcoming expiry of a spectrum licence *at least twelve (12) months in advance of its plans to negotiate new spectrum license terms and conditions for renewal, reassignment, or re-award of the spectrum.*
- There is no automatic right of renewal or reassignment or re-award of a spectrum licence.
- Licenses must include a requirement to “use-or-share” assigned spectrum.
- ICASA put measures in place to prevent hoarding of spectrum *including mechanisms for the implementation of the “use it or lose it” principle* where spectrum is unused for more than 24 months.

Spectrum licence fees

All users of licensed spectrum are required to pay annual spectrum licence fees as determined by ICASA, unless exempted from this obligation by Ministerial policy direction captured into regulation. According to the Policy these fees are set to:

- Promote efficient use of spectrum
- Discourage spectrum hoarding and misuse
- Raise *moderate revenue* for government

For the purposes of fees, **a distinction is made between:**

- **Government use:** administrative pricing applies (i.e. ICASA sets a fee equivalent to its internal administrative cost), but ICASA must still take measures to prevent spectrum hoarding.
- **Private use** (i.e. where not used *for government purposes*): fees will continue to be set using the Administrative Incentive Pricing (AIP) formula, but ICASA must distinguish further between commercial and non-commercial use and ensure that non-commercials users *are not charged excessively*.

Spectrum sharing and spectrum trading

Under the Policy, *market-based approaches such as spectrum trading, spectrum sharing, dynamic spectrum access use, and spectrum ‘sub-letting’ and/or sharing between licensees which ensures public policy gains in the use of spectrum are permitted with prior approval of ICASA.*

This will be subject to a regulatory framework to be developed by ICASA encompassing:

- Standard operating rules, terms and conditions applicable for trading, sharing, and sub-letting of spectrum that promote efficient use of spectrum promotes while avoiding anti-competitive outcomes.
- Consideration by ICASA and the Competition Commission as to whether an individual license holder acquiring spectrum through trading or sharing will have a negative impact on competition.

All transactions involving high demand spectrum must be investigated, irrespective of how the transactions are characterised.

Spectrum for delivering free basic data

The Policy sets out measures to lower the cost to communicate and for **the provision of a monthly free data allocation for indigent households**. These include:

- The Minister must develop *a regulatory reform* to facilitate receipt of a monthly allocation of free basic data for indigent households and other qualifying beneficiaries. Determinations about who qualifies are to be set out in regulations.
- The free basic access data to be provisioned and the size of this allowance per household *are to be determined by the Minister through a regulatory framework/policy directive in consultation with the Authority.*

Spectrum for Wi-Fi

The Policy expresses support for the allocation of further spectrum for use in Wi-Fi networks and requires that:

- The Minister from time to time consider incentives to stimulate investment for Wi-Fi network deployments in poor areas that facilitate access to financing and funding.
- ICASA continuously evaluate measures and options to enhance the effectiveness of Wi-Fi.

Spectrum for community networks

The Policy **supports community networks** as a means to address universal service challenges. Specifically:

- By 28 May 2025, ICASA is required to report to the Minister on a new licensing framework for community networks which enables commercial viability and ensures geographic spread of participants. This report should cover *types of services, access and licensing fees or exemptions.*
- By 28 May 2025, ICASA is required to report to the Minister on a framework for the release of spectrum for community use and identify IMT spectrum that can be designated for transformation objectives of community networks, including conditions for the distribution of free basic data to the determined beneficiaries.

- Policy provisions relating to hoarding, unused spectrum and spectrum sharing or trading will apply to this spectrum.
- A community network committee is to be formed to provide resources to community networks, including a handbook.

Spectrum for government services

Recognising that broader societal benefits result from the use of spectrum for delivery of government services, spectrum identified by the Minister in consultation with ICASA is administratively issued (i.e. not part of a competitive process). Application and annual spectrum licence fees for this spectrum must be restricted to recovering ICASA's administrative costs.

Government spectrum users that hold spectrum must regularly report the value of their spectrum holdings to the Authority.

By 28 May 2025, ICASA, after consultation with government spectrum users, must make recommendations to the Minister on the options for consolidation of government user networks for the purposes of efficient spectrum usage.

Spectrum for Public Protection and Disaster Relief (PPDR)

To enable the provision of a secure, reliable, resilient, and dedicated radiocommunication network, the policy supports the allocation of spectrum for both narrowband and broadband PPDR services, including the necessary quality of service required for PPDR applications.

Spectrum for use by the State Digital Infrastructure Company

The Policy requires ICASA to set aside spectrum for the State Digital Infrastructure Company (SDIC) to enable it to play the role identified for it by government, which includes:

- Providing backhaul for state connectivity and the expand its network to rural, underserved, and remote areas as part of ensuring universal connectivity
- Utilising its digital infrastructure to support transformation objectives, enable participation of SMMEs in the industry on a transparent, reasonable, and favourable commercial terms as part of reducing barriers to entry to the industry

Under the Policy this will be deemed to be government use of spectrum and administrative fees will apply. Assignments to the SDIC will be subject to the policy provisions relating to spectrum hoarding.

Spectrum for broadcasting services

Under the Policy the current position of licensing broadcasting services without spectrum fees will continue. Noting technology evolution and convergence, the Policy supports *the non-exclusive use of spectrum bands reserved for broadcasting*.

Universal Service Obligations

By 28 May 2025 ICASA must review or develop a universal service obligations (USOs) regulatory framework which will ensure that the state and the society at large fully realize the intended positive outcomes from USOs given to mobile network operators.

USOs must:

- be designed to support national objectives and initiatives aimed at facilitating the achievement of South Africa's developmental agenda
- support government's efforts to bridge the digital divide and connectivity divide
- be strictly enforced.

Institutional framework

The Policy seeks to clarify the spectrum-related roles of the Minister, ICASA and sector-specific agencies with an interest in spectrum management (e.g. the Civil Aviation Authority (CAA)).

The Minister of Communications and Digital Technologies:

- Acts as custodian of SA's spectrum and responsible for developing national policies, policy directions and goals for spectrum use and ensuring effective management of the spectrum resource.
- Represents SA at international level, develops country contributions to international forums dealing with spectrum and is responsible for international frequency coordination and harmonization obligations.
- Develops, updates and approves the National Radio Frequency Plan (NRFP), which is the top-level legal authority on services that can be provided in specific spectrum bands.
- Must consult with ICASA on regional and sub-regional spectrum planning and cross-border interference, to assist the Minister in fulfilling South Africa's responsibilities.

ICASA:

- Issues licences and performs its functions in accordance with government policy and the regulatory framework.
- Controls, monitors, evaluates, coordinates and licenses spectrum and audits spectrum usage at a national level. This is to be done through, *inter alia*:
 - Adjusting the radio regulations and regulatory frameworks to align with the NRFP
 - Conducting periodic spectrum audits and developing SA's spectrum outlook
 - Maintaining a high-quality and easily accessible database of frequency spectrum assignments, excluding assignments to security services
- Advising the Minister on current and future spectrum research and development, including developing national positions and plans to advance them at regional regulatory fora.

- Provides a spectrum outlook for SA setting out market trends and other developments which should be considered for future spectrum allocations and assignments (to be reviewed every five years).

Sector-specific agencies:

The Policy covers ICASA signing memoranda of understanding with government sector-specific agencies which are then allowed to:

- Maintain databases of frequencies and spectrum users in their respective industries while ensuring that their database corresponds with that of the Authority.
- Ensure accurate and well-maintained information related to spectrum assignments, licensing, and utilization.

What happens next?

The Policy must be enacted into legislation and/or regulation before it will have a real-world impact on licensees, and this will be a lengthy process. An assessment will need to be made as to the extent that amendments will need to be made to the Electronic Communications Act, 2005, which by itself could take 2-3 years.
