

TITLE: RESPONSE TO GAZETTE ICASA NOTICE 238 OF 2020 DATED 06 APRIL 2020

TO: THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)
350 WITCH-HAZEL AVE, BLOCK B
ECO-PARK ESTATE
CENTURION
0169

ATTENTION: DR KEABETSWE MODIMOENG – ICASA ACTING CHAIRPERSON

COPY: MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES
DEPARTMENT OF TELECOMMUNICATIONS AND POSTAL SERVICES
OFFICE OF THE PRESIDENCY, REPUBLIC OF SOUTH AFRICA
MINISTER OF FINANCE, REPUBLIC OF SOUTH AFRICA
COMPETITION COMMISSION, REPUBLIC OF SOUTH AFRICA
HUMAN RIGHTS COMMISSION, REPUBLIC OF SOUTH AFRICA
INFORMATION REGULATOR, REPUBLIC OF SOUTH AFRICA
PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA
MEDIA

RE: TEMPORARY HDS ALLOCATION TO INDUSTRY | INFORMATION AND COMMUNICATIONS TECHNOLOGY (“ICT”) COVID-19 NATIONAL DISASTER REGULATIONS

DATE: 09 APRIL 2020

FROM: PROGRESSIVE BLACKS IN ICT (PBICT)
YOUTH ECONOMIC ALLIANCE (YEA)
SOUTH AFRICAN BLACK INTERNET SERVICE PROVIDERS’ ASSOCIATION (SABISPA)

DECLARATION STATEMENT RELATED TO ICASA NOTICE 238 OF 2020 FOR TEMPORARY ALLOCATION OF HIGH DEMAND SPECTRUM (HDS) AND PROCESSES RELATED TO THE LICENSING OF THE WOAN

MZANSIWOAN (PBICT, YEA, SABISPA) recognises and notes the ICASA Notice 238 of 2020 issued as an emergency measure as part of our country’s fight against the treacherous COVID-19 pandemic which represents the greatest risk to the health and economy of South Africa.

"Regulators should have the capability to conduct appropriate analysis of the economic and societal impact of spectrum decisions, in order to give priority to spectrum uses that deliver the greatest benefit to the society and its consumers."

The release of spectrum should allow an equal opportunity for all to compete for spectrum, under rules that foster competition and innovation".

GSMA SPECTRUM HANDBOOK – Understanding the Basics of Spectrum Policy for Mobile Telecommunications. December 2011

Our collective organisations wish to express our full support of all government intervention strategies which aim to safeguard and ensure the health and safety of the population of South Africa. Additionally, we fully support the need for our economy to remain functional (operational) as much as possible despite the challenges presented by COVID-19. Most importantly the need for our people to efficiently, conveniently access information and tools related to the prevention of COVID-19 through digitally (e-Health) means as well as the need for our children to continue their studies (e-Education) during the current critical lockdown period.

MzansiWOAN wishes to put it to public record that our non-profit organisations support the Minister and ICASA decision to open applications and allocate High Demand Spectrum (HDS) to industry on a temporary basis – for a period not exceeding 3 months after the termination or expiry of the National State of Disaster as per Notice 238.

We also recognise, note and support the comments attributed to ICASA Acting Chairperson as expressed in the article published at <https://techfinancials.co.za/2020/04/06/sas-telcos-to-have-temporary-access-to-high-demand-broadband-spectrum/>

“It is of critical importance to note that the emergency release of this spectrum does not, in any way whatsoever, negate the processes that are currently underway for permanent assignment of spectrum through an auction, the process which the Authority had committed to finalise by the end of 2020; as well as the assignment of spectrum to be set aside for the Wireless Open Access Network (WOAN) due for completion next year.

We intend to take the necessary care in this regard; and to ensure that there are no irreversible anti-competitive effects for the market. In addition, we really urge licensees to work with us for the benefit of all South Africans in a collaborative effort so that the emergency release of the spectrum can make a meaningful contribution to curb the spread and flatten the curve of the COVID-19 pandemic”, says ICASA Acting Chairperson, Dr. Keabetswe Modimoeng.

MzansiWOAN (PBICT, SABISPA, YEA) as an interested party in the licensing of the WOAN and allocation of HDS to industry SERVES this DECLARATION OF NOTICE to; ICASA, the Minister of Communications and Digital Technologies, the South African Government at large, TO STATE that we will be monitoring all activities related to allocation of HDS on a temporary basis very closely from this date forth. We further declare that at a future date our collective may come to both ICASA and the Ministry to request answers on all matters documented in this letter.

MzansiWOAN refers and reminds ICASA and the Minister about further declarations made in our response ([click here](#)) to ICASA NOTICE: GOVERNMENT GAZETTE NOTICE 597 OF 2019 (1 NOVEMBER 2019): ELECTRONIC COMMUNICATIONS ACT 2005, (ACT NO 36 OF 2005), NOTICE ON THE LICENSING PROCESS FOR INTERNATIONAL MOBILE TELECOMMUNICATIONS (IMT) SPECTRUM, INVITING COMMENTS IN RESPECT OF PROVISIONING OF MOBILE BROADBAND WIRELESS OPEN ACCESS SERVICES FOR URBAN AND RURAL AREAS USING COMPLIMENTARY BANDS, IMT700, IMT800, IMT2300, IMT2600 AND IMT3500.

In protection of the OBJECTIVES of ICASA NOTICE 597 of 2019, we wish to make the special requests to ICASA, and the MINISTER related to The ICT COVID-19 National Disaster Regulations and Temporary Allocation of HDS to industry;

1. **Full Transparency** must be exercised during this time, around allocation and usage of temporary HDS
 - a. All HDS applications and approvals must become public record and published on ICASA website as soon as possible or must be shared with MzansiWOAN and other interested parties.
 - b. Temporary HDS proposed usage information MUST be public record and disclosure
 - i. Basic details – Who, Where, When, Why, How must be publicized in the national interest and requested transparency.

2. **Audit Trail** – In the interest of fair competition and future interests of smaller ISP's, MVNO's and WOAN - we request that ICASA keeps a full audit trail of correspondence related to applications, email chains and approval of all activities related to allocation of temporary HDS.
3. ICASA, Minister, Presidency, Parliament, Competition Commission, Information Regulator as well as the Public must **reserve the right to request financial reports from industry** to check whether temporary HDS was used for financial gain or not during COVID-19 crisis period.
4. In principle we believe that **Temporary HDS** must be allocated and used on a **Non-Profit Basis** by all applicants, as gratitude service to South Africa and its People.

CHAPTER 10 of the Constitution of South Africa on Public Administration states basic values and principles governing public administration as follows:

195. (1) Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- (a) A high standard of professional ethics must be promoted and maintained.
- (b) Efficient, economic and effective use of resources must be promoted.
- (f) Public administration must be accountable.
- (g) Transparency must be fostered by providing the public with timely, accessible and accurate information

<https://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng-10.pdf>

We appreciate your consideration of our requests and also express that MzansiWOAN reserves constitutional rights in line with The Promotion of Access to Information Act 2 of 2000 (PAIA) legislation in the Republic of South Africa allowing access to any information held by the State, and any information held by private bodies that is required for the exercise and protection of any rights.

In conclusion, we declare our intension to safeguard and serve as custodians of the interest of SMME's, Black Business and smaller Telecommunications players as well as to serve as an instrument to prevent an irreversible monumental Spectrum Heist in the name of COVID-19 in South Africa.

Moreover, this period highlights the need for ICASA to accelerate the licensing and formation of the WOAN as well as speeding up allocation of HDS to the WOAN which could have been ideally used during this crisis period on a Non-Profit Basis for National Interest.

This period provides us with lessons and illustrates why the WOAN is a potentially important National Interest Institution and sets a good blueprint why all the power to solve national problems (crisis) should not reside in the hands of private entities who run oligopolies in RSA Telecommunications industry.

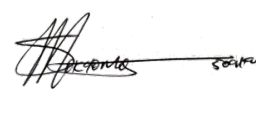
*"We must unleash spectrum and the opportunity of mobile broadband.
Spectrum is our invisible infrastructure; it's the oxygen that sustains our mobile communications."
US Federal Communications Commission Chairman
Julius Genachowski*

OUR SPOKESPERSON CONTACT DETAILS (ICASA & MEDIA ENQUIRIES)

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Yours in economic transformation of the South African telecommunications sector...

Kind Regards

For PBICT	For YEA	For SABISPA
		
Dr. Leon Rolls President	Afrika Mkhangala President	Motsamai Mokhomoto President

MZANSIWOAN is an Alliance Group of SMME and Black Business Interest Non-Profit Organizations (NPO)

MzansiWOAN is a collective of non-profit organizations including: • Progressive Blacks in ICT (PBICT) • Youth Economic Alliance (YEA) • South African Black Internet Service Providers' Association (SABISPA) We wish to tilt correctly the fair inclusion of Black People, Youth, Women, Communities and People with Disabilities in telecommunications in order to reverse the injustices and legacy of the cruel system of Apartheid that disadvantaged the majority of South Africans socially, politically and importantly economically. The MzansiWOAN collective represents and speaks on behalf of over 5 000 members who are Africans in general, Blacks and Designated Groups in particular, who operate in the ICT and telecommunications sectors. MZANSIWOAN aims to be the key voice as well as the main telecommunications and economic transformation partner to the South Africa population at large. As representatives of different SMME's, MVNO's ISP's, Black Youth, Black Business and Telecommunications and ICT Entrepreneurs organisations - we advocate for Access and Ownership of the Wireless Open Access Network (WOAN) and High Demand Spectrum (HDS) by Blacks who are the majority of South Africa. The WOAN and HDS are critical to an inclusive economy in this fourth industrialised (4IR) world driven by telecommunications. HDS serves as the perfect tool and the best opportunity for our government to address economic injustices currently experienced by Blacks in South Africa and to broaden competition for Mobile Network Operators (MNO) and telecommunications sector.	PROGRESSIVE BLACKS IN ICT (PBICT) The Progressive Blacks in Information and Communication Technology also known as PBICT is a group of persons who are active in the ICT and Communication sectors through employment, business and education. Our main objective is to open ACCESS and advocate for OWNERSHIP to ensure that black people fully benefit from these sectors. Through our radical economic transformation mantra, we aim to open-up a variety of opportunities for our members. For more info: www.pbict.co.za; YOUTH ECONOMIC ALLIANCE (YEA) The Youth Economic Alliance Non-profit Company (YEA) is an entity established to drive the development and advancement of youth entrepreneurship. YEA champions youth entrepreneurship through targeted programmes that collectively address the unemployment problem among youth by providing them with opportunities to develop their businesses, as well as providing access to resources and linkages needed to realize their potential as young social and economic entrepreneurs. For more info: https://yea.africa; SOUTH AFRICAN BLACK INTERNET SERVICE PROVIDERS ASSOCIATION (SABISPA) South African Black Internet Service Providers' Association (SABISPA) is a registered non-profit organisation representing the interests of Black ISPs within the telecommunications sector. Our mandate is to advocate, educate and support Black ISP's and maintain fair internet related policies in South Africa. Furthermore, we aim to enforce economic inclusion in the SA telecoms sector on behalf of our members. Our membership consists of ISP's, MVNO's, SMME, ICT & Telecommunications Professionals as well as Tertiary Students. For more info: https://www.sabispa.net
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