Presentation to the Competition Commission

“Data Services Market Inquiry”

19 October 2018
1. Overview of ICASA Mandate

2. Response to the Commission’s Questions
   2.1. Pricing Benchmarks
   2.2. Factors that drive costs / prices
   2.3. Policy and regulatory measures to address pricing concerns

3. Impact of high data prices (marginal and disadvantaged customers)

4. Concluding remarks
ICASA is established pursuant to section 192 of the Constitution and in terms of section 3 of the ICASA Act of 2000.

ICASA is mandated to:

- Regulate electronic communications, broadcasting and postal sectors in the public interest
- Ensure provision of a variety of quality electronic communications services at affordable prices

ICASA’s mandate is derived from:
- ICASA Act, 2000
- EC Act, 2005
- Broadcasting Act, 1999
- Postal Services Act, 1998
- ECT Act, 2002
Roles and functions of ICASA

Issuing of licences
Management of scare resources (i.e. spectrum, numbers)
Compliance monitoring and enforcement

Research and collation of industry statistics
Market reviews and regulation (incl price regulation)

Consumer protection
Dispute resolution

Setting of rules, guidelines and codes for regulation of ICT Sector
Determining conditions of supply and applicable standards

REGULATING THE ICT SECTOR IN THE PUBLIC INTEREST
Strategic Goals (2016-2020)

Investment in and access to broadband infrastructure
1. Facilitate investment in broadband infrastructure
2. Increase access to broadband spectrum from 566MHz to 958MHz by 2020

Promote Competition
1. Promote competition and reduce costs of electronic communications, electronic communications networks, postal and broadcasting services by 2019/20

Common National Identity and Social Cohesion
1. Increase television broadcasting platforms from three to seven Digital Terrestrial Television Multiplexers and develop a regulatory framework by 2020

Independent and credible regulator
1. Adherence to regulatory principles of transparency, accountability, independence, integrity and predictability in the public interest

Improve stakeholder and consumer experience
1. Monitoring of quality of services, and improve stakeholder engagement from 10% to 80% by 2020
Are data prices in South Africa (whether mobile, fixed or other) higher than they ought to be?
ICASA conducted international benchmarking exercise on the prices of 500MB, 1GB and 2GB data bundles offered by mobile operators in the SADC region and BRICS countries.

There is an inherent difficulty in choosing benchmark countries that are sufficiently similar to South Africa in terms of population density; number of operators; geography and topology; energy, labour and other input costs; network traffic volumes, etc.

Nonetheless, a benchmarking exercise which considered data prices and other relevant factors (e.g. market structure, legislative frameworks and spectrum assignment) which could potentially influence the prices was conducted.

This revealed that the South African data prices are not the highest in both SADC and BRICS countries.

However, South African MNOs (MTN and Vodacom) who have international footprint have some of the highest data prices in SA than in other countries in which they operate.
Botswana has the highest price for a 500MB data bundle at $26.95

SA’s highest price for 500MB data bundle is $7.90

Mozambique has the lowest price of $0.83 per 500MB

In terms of spectrum assignment, all three countries have released 900MHz, 1800MHz and 2100 MHz spectrum

Other factors e.g. economic conditions, market structure, infrastructure costs and legislative interventions could be the attributed basis for the price differentials

SA is in 6th place in terms of the cheapest 1GB data bundle offered ($4.89) among the 15 SADC countries

SA’s most expensive 1GB bundle (priced at $12.04) is lower than that of its neighbouring countries’ Zimbabwe and Swaziland which are $30 and $20.02 respectively
Figure across shows the difference between the lowest and the highest 2GB prepaid data bundle rates in the SADC region, converted in 20 Sept, 2017.

- In the highest price category, Zimbabwe has the most expensive 2GB data bundle at $50.

- This is 155.5% higher than SA’s highest price for a 2GB data bundle which is $19.57.

- DRC has the cheapest 2GB prepaid data bundle price at $1.03.

- Mozambique’s average price for a 2GB data bundle is the lowest across the average prices in the SADC region at $3.38.
MTN 2GB Data Bundle Prices (Other International Markets)

- The figure across shows the various prices MTN charges for a 2GB data bundle across some of the countries it operates in, converted on 15 Dec, 2017.

- MTN charges the highest rate for 2GB data bundle in Cyprus at $27.15, with MTN SA charging $19.42 (R260). This is followed by Botswana priced at $19.33 and Ghana at $7.10.

- The lowest rates charged for 2GB data bundles are in Liberia, Iran and Afghanistan, with the rates charged at, $0.04, $0.23 and $5.76, respectively.

- MTN SA charges 8343.5% more when compared to MTN Iran.

- Worth noting is that Iran has 2600MHz spectrum band allocated to the operators.
The figure across shows the various prices Vodacom charges for a 2GB data bundle across the countries it operates in, converted on 15 Dec, 2017.

- Vodacom charges the highest rate for 2GB data bundle in SA at $18.49. This is followed by Lesotho at $11.32.
- The lowest rates charged for 2GB data bundles are in Egypt at $2.02.
- Vodacom SA charges 815.4% more when compared in Egypt.
To the extent that data prices in South Africa are higher than they ought to be, what are the factors that drive these outcomes?
There are a variety of factors that drive or influence the cost and prices of data services. This inquiry by the Commission, as well as a detailed market review by ICASA must determine the exact factors. Other research indicates that such factors would include:

- Radio Frequency Spectrum availability
- Rights of way (way leaves)
- Topography (geographic factors)
- Access to network infrastructure (facilities leasing/sharing)
- Market Structure
- Market player behavior (abuse / anti-competitive??)
- Economic conditions: energy costs, access to (and cost of) capital, etc.
- Technological Factors (rapid changes)
- The policy & regulatory framework

Factors that drive data cost
How can these factors be effectively remedied?
Policy / regulatory measures

End-User & Subscriber Service Charter Regulations

Market Reviews
- Priority Markets Study
- Data Services Inquiry

Policy Direction on Rapid Deployment of Infrastructure
(rapid deployment regulations ...)

Policy Direction on High Demand Spectrum
(licensing process ...)

Cost to Communicate Programme for Data Services

Other measures:
1. The outcome of the current Inquiry
2. EC Amendment Bill, 2018
3. Consumer activism and moral suasion
Purpose of the prioritisation exercise:

- identify list of markets prone to *ex ante* regulation
- identify markets that will be subjected to market reviews and potential regulation

Why prioritisation?

- provide *regulatory predictability* and *certainty* in the market
- allocate resources *efficiently* and *effectively*
- focus on market reviews that will potentially yield *material impacts* on the competitive dynamics to the *benefit of consumers* and contribute to achievement of *public policy objectives*
Priority Markets Identified

Upstream Markets
- U1 – International transmission services
- U2 – National transmission service
- U3 – Metropolitan connectivity
- U4 – Fixed access services
- U5 – Mobile radio access network services

Wholesale markets
- W1 – Mobile termination services
- W2 – International roaming services
- W3 – Mobile network services
- W4 – Fixed termination services
- W5 – Fixed call access, origination and transit
- W6 – Asymmetric broadband origination
- W7 – Internet connectivity

Retail markets
- R1 – Mobile services
- R2 – Voice telephony at fixed locations
- R3 – Access to the internet from fixed connections
- R4 – Managed data network services
Planned Market Reviews (in order of priority)

1. Mobile services
   - High priority (material impact on consumers and in line with public policy directives, i.e. Policy Directive on Competition in Broadband Markets and Reduction of Data Costs, 2016)
   - Includes the retail market for mobile services and the wholesale supply of mobile network services (including relevant facilities)

2. Wholesale fixed access
   - Medium to low priority (low appetite for Telkom’s access network except access to Telkom’s ducts and poles)
   - Includes wholesale supply of asymmetric broadband origination, fixed access services (and relevant facilities)

3. Upstream infrastructure markets
   - Low priority (competition effective due to alternatives to Telkom and large operators are self providing)
   - Incorporate national transmission services and metropolitan connectivity (and relevant facilities)
1. Amendments were effected to the ESSC Regulations during 2018 in order to address the concerns regarding unfair data expiry and OOB business rules.

2. The Amendment Regulations introduced the following four key pro-consumer interventions:
   - **Usage notifications** – all licensees are required to send 50%, 80% and 100% usage depletion notifications. This will enable consumers to monitor their usage and control spend on communication services;
   - **Rollover of data** – all licensees are required to provide an option to consumers to rollover unused data. This is to ensure that consumers do not lose unused data;
   - **Transfer of data** – all licensees are required to provide an option to consumers to transfer data to other users on the same network. This is to ensure that consumers do not lose unused data; and
   - **Out-of-bundle billing** – all licensees are no longer allowed to charge consumers out-of-bundle rates for data when their data has run out without the consumers’ specific prior consent. This will ensure that consumers are not defaulted to high out-of-bundle data charges.

3. The Amendment Regulations are not yet in force as they are subject to legal review.
The Invitation to Apply (ITA) for the High Demand Spectrum (i.e. 700 MHz, 800 MHz and 2.6 GHz) published by ICASA on 15 July 2016 has been withdrawn. The ITA was the subject of litigation between ICASA and the Minister of Telecommunications and Postal Services (“the Minister”) which has since been settled.

The settlement of the litigation enables both the Minister and ICASA to make headway in the licensing of IMT spectrum for the purpose of promoting competition, incentivizing investment, facilitating transformation of the sector and ultimately ensuring universal provision of high quality broadband services to consumers at affordable prices.

The Minister has since published a Draft Policy Direction on the Licensing of Unassigned High Demand Spectrum for public consultation.
The Minister of Telecommunications and Postal Services has initiated a consultative process – in terms of section 21(1) of the ECA read with Chapter 9 of the National Integrated ICT White Paper, 2016 – for promulgation of policy and policy directions to enable and facilitate the rapid deployment of electronic communications infrastructure.

Network infrastructure deployment requires inter-governmental collaboration between national, provincial and local government (and various public entities). It is anticipated that the policy and policy direction and the consultative process currently underway is critical to ensure a coordinated approach across government.
What is the impact of data prices and access to data more broadly on lower-income customers, rural customers, small businesses and the unemployed?

How important are affordable data prices for these customers?
The future is Broadband

- Postal Services
- Telecommunications
- Broadcasting

EVERYTHING DIGITAL

BROADBAND

ICTs is the key driver for economic growth

- Email
- OTTs
- VOIP
- Digital TV
- Digital Radio
- IPTV
- VOD
- Streaming
- Internet of Things
Bigger Data Bundles cheaper per MB than smaller Data Bundles

Digital inclusion will enhance livelihoods of poor and allow them to participate in the social and economic development of their communities. [ITU]
ICASA and the Commission have recently reviewed their Memorandum of Agreement so as to strengthen collaborative efforts between the two agencies.

As indicated, ICASA will be embarking on a Market Review in terms of Chapter 10 of the ECA into the wholesale and retail mobile broadband market.

ICASA’s and the Commission’s processes are complimentary, with the former concerned with ex ante competition (thus may result in regulations) and the latter ex post regulation of competitive conduct.

ICASA is working closely with the DTPS to alleviate policy and regulatory constraints impacting on the costs to communicate.
Thank You