

AFRICAN NATIONAL CONGRESS

**Presentation to Competition Commission on
DATA COST Market Inquiry on the 19th
October 2018**



Introduction

Submission into the Competition Commission Data Market Inquiry

- ANC concerned about the digital divide in Democratic SA.
- In this context specifically negative impact by high cost of data services; this impedes on wider participation of the broader nation – workers, students, women and rural communities – thereby disadvantaging their benefit from the digital economy.
- Notwithstanding some operators have taken the first step to lower data prices since the popular call for lowering data costs, through the ‘#datamustfall’ campaign led by civil society, this however is not enough.
- The ANC is not involved in the direct delivery of data services, however, its policy making function is paramount in providing direction for the interest of all South African citizens.

Context

Data Services Market Enquiry

- ANC is of the view that the release of spectrum in line with the International Mobile Telecommunications-Advanced (IMT-Advance) requirements will inevitably lessen the network burden of operators, reduce the cost of capital and resolve most of the constraints experienced by mobile operators and also accelerate the roll-out of broadband networks in rural areas, particularly the wholesale Wireless Open Access Network ('WOAN') earmarked in the policy.
- The Competition Commission's (CC) initiated the **data services market inquiry** into this Information Communications Technology sector. The Call for Submissions which was issued on 20 September 2017 to focus on a various markets and competition of related issues.

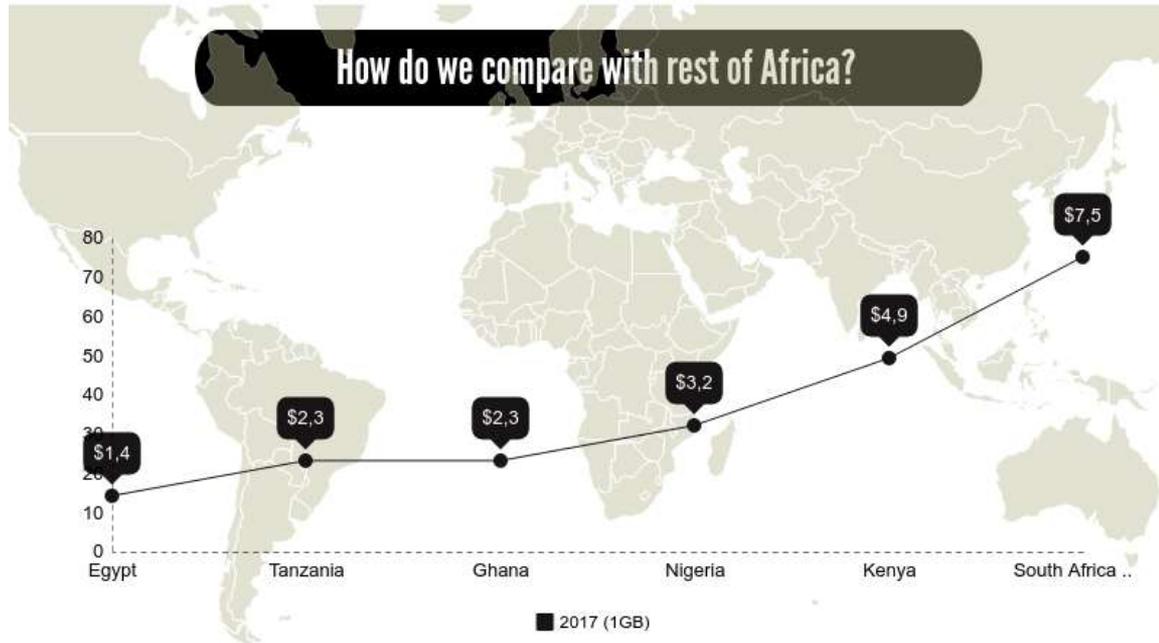
Context...(cont.)

Terms of Reference for the Inquiry

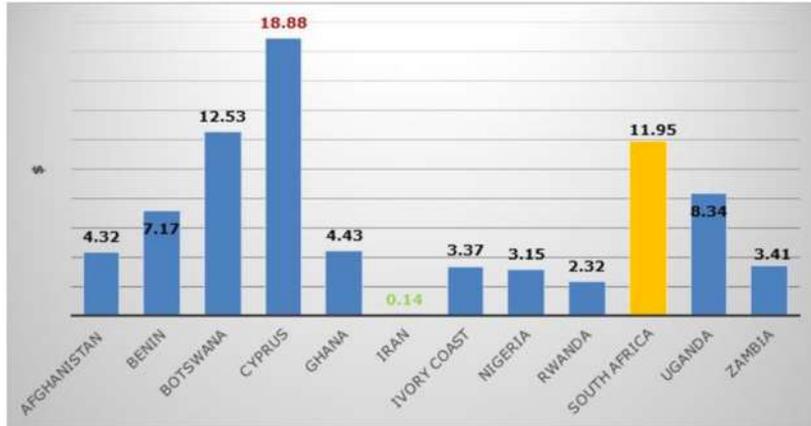
- To understand factors/features of the electronic communications market(s) and value chain that may cause high data prices;
- To assess the state of competition in the market at every stage of the value chain for the provision of data services in order to;
 - Identify areas of market power where consumers may be exploited/excluded by firms;
 - Identify any structural, behavioural or regulatory factors that may influence competition in pricing.
- Amongst the areas identified by the commission include:
 - The market structure; the behaviour by large fixed and mobile incumbents; and
 - Adequacy of regulation to promote new South African entrants particularly the historical disadvantaged individuals

Data Costs in SA

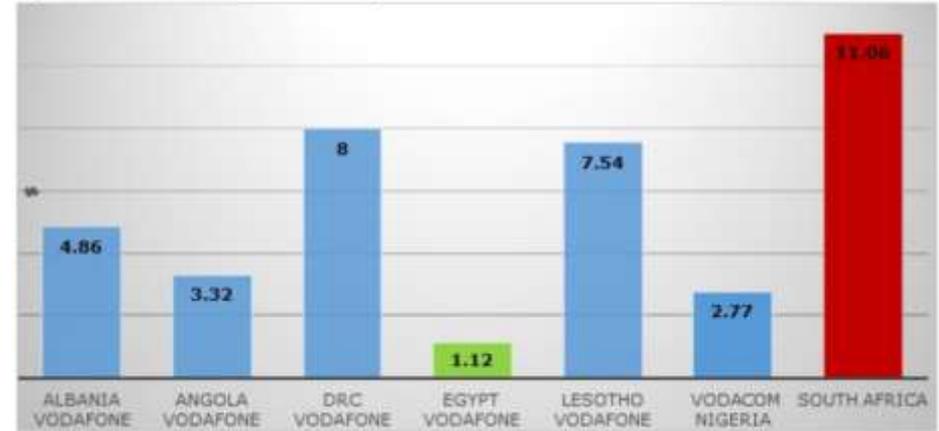
Cost of Data in SA is significantly higher than in other African countries



Data Costs in SA



MTN International Footprint Prices for 1GB Data Bundle



Vodacom International Footprint Prices for 1GB Data Bundle

The prices for the data bundles for Vodacom and MTN in SA are expensive when compared those which they offer in other countries in which they operate

Context...(cont.)

- The proper public policy context in this regard is probably neither data nor broadband, but rather the Connectivity.
- A broader debate on Connectivity enables the society to look into different forms of relevant technology deployments for different connectivity needs beyond just broadband.
 - Connectivity between Government to Government (G2G) exchanging citizens data for better public service delivery.
 - Government to Citizens (G2C) for universal access of public services
 - Government to Business (G2B) for creating channels of public services away from traditional institutions using citizens data.

Background

Historic Overview

- Historically, the telecoms market was dominated by fixed network infrastructure which was rolled out by Telkom, a wholly-owned State Entity.
- In 1994, Vodacom and MTN launched to provide what was then, an unknown new services, 'mobile telephony and mobile messaging services', as well as the related infrastructure. To date these have given the two mobile giants market dominance in what is also referred as the duopoly in the market.
- Currently, the ICT sector market has digitalized in its mode of providing electronic communications underpinned by mobile and fibre networks which have enabled the transmission of data services to both business and individuals consumers.

Landscape & Challenges

ICT Sector Challenges

- The ANC has a policy of Universal Access to ICT services by all South Africans.
- According to the International Telecommunications Union (ITU) 'We Are Social' 2018 Report, South Africa's internet penetration is estimated at around 54 percent.
- Most rural areas & towns lack access to broadband due to supply-side infrastructure network limitations.
- Access to broadband is primarily in the main metropolitan areas of the country.
- On the other hand, demand for data services has increased exponentially over the last few years, underpinned by the introduction of over-the-top services and applications such as Facebook, WhatsApp and Twitter social-media platforms.
- A majority of South Africans access the internet through their mobile devices, the most common mode of communications amongst South African households.

Landscape & Challenges... (Cont.)

ICT Sector Challenges

The ANC has identified some of the challenges in the ICT sector to be as follows:

- Untransformed market structure – market is dominated by two large operators (Vodacom and MTN), with two smaller operators (Telkom and Cell C) struggling to make an impact in the drive for equitable and fair competition.
- This is classified at the level of policy failure to strengthen competition. There is an important lesson to be learned from the imposition of pro-competitive remedies which has resulted in the significant reduction of voice call services.
- A weak Regulator who is unable to address barriers to entry as well as existing market bottlenecks.
- Furthermore, the regulator is not sufficiently resourced to take key decisions which will impact on the behaviour of industry operators.

Landscape & Challenges... (Cont.)

ICT Sector Challenges

The ANC has identified some of the challenges in the ICT sector to be as follows:

- Licensing of the radio frequency spectrum to new entrants in order to change market ownership structure. The sector could have benefited from a licensing of the scarce radio frequency resources.
- There is failure to compliance with the Black Economic Empowerment Act in this sector.

Policy/Regulatory Framework Recap

ANC Policy Background

The ANC 54th National Conference on the Commission's work in recognition of the public outcry regarding the high cost of data services:

- The ICT Sector has a significant and growing impact on the GDP and is a central part of SA's macro-economic growth levers, as it provides opportunities for SA to get out of the current economic challenges.
- Solutions must be practical given the huge investments needed to rollout broadband and prepare for the Internet of Things (IoT), in such a constrained economy.
- Many of the ICT sector challenges have been previously raised. SA's high cost of ICT and communication needs to be addressed through policy and regulatory systems.
- In addition there is a need to increase the rollout of broadband infrastructure especially in rural areas.

Policy/Regulatory Framework Recap...(Cont.)

ANC Policy Background

The ANC 54th National Conference on the Commission's work in recognition of the public outcry regarding the high cost of data services:

- The ICT sector needs to be transformed at all levels.
- There must be a strong regulatory intervention to deal with the question of the high cost to communicate and the ANC must support the campaign for data to fall and the monopolization of data. This is regarded as stifling economic inclusion.
- The need to optimize the ICT opportunities through the use of SMMEs in ICT to drive the economy is critical.
- The ANC has resolved that the government must put in efforts to ensure that SMME opportunities are created in the whole ICT value chain, and further encourage black industrialists participation in the country.

Policy/Regulatory Framework Recap...(Cont.)

ANC Policy Background

The ANC 54th National Conference on the Commission's work in recognition of the public outcry regarding the high cost of data services:

- There must be a deliberate legislative intervention to promote local content, production, hardware, and further create an enabling environment for innovation in areas of software development, applications development in the black industrialists programme to ensure SMMEs development.

Broadband Internet Services

Broadband Internet Services

- The ANC has long called for the government to adopt a comprehensive policy on ICT Policy Framework to ensure that policy certainty is attained and that investment in the sector is achieved for the growth and development of the South African economy.
- These policies have since been adopted, with the adoption of the White Paper on Integrated ICT Policy in 2015, and the National Broadband Policy (SA Connect) in 2013.
- However, it is also self-evident that with limited access to infrastructure networks especially in rural towns and peripheral areas, consumers are not able to access data services particularly 3G and faster broadband services such as LTE standards.

Broadband Internet Services...(Cont.)

Broadband Internet Services

- The National Broadband Policy (SA Connect) has provided a framework for priority target areas for the rollout of broadband services, amongst them schools, health facilities, universities, government offices and facilities such as police stations, post offices, etc.
- To deliver quality services in these areas, broadband networks have become the primary necessities, similar to electricity and water.
- Funding for ICT needs of government has also been discussed in the SA Connect policy, with the realization that unless a solution for the integrated delivery of ICT services is found, the ICT services funding remains inefficient and sometimes wasteful, resulting in poor service delivery.

Broadband Internet Services...(Cont.)

Broadband Internet Services

- Another market related challenge relates to the unequal scale of the existing networks provided by the existing operators such as Vodacom, MTN, Cell C and Telkom Mobile in the mobile services segment; and Telkom and Liquid Telecoms in the fixed segment of the market.
- The point to underscore is that there has been extensive investment made by the industry over the past 5 years of not less than R18 Billion year on year.
- This investment has largely been focused on improving network performance, whilst also preparing the infrastructure for high speed broadband services through 4G networks and LTE standards.

Broadband Internet Services...(Cont.)

Broadband Internet Services

- In addition, logic also dictates that the first mover advantage of MTN and Vodacom will consistently enable them to enjoy economies of scale at every level of the value chain, with smaller operators such as Cell C and Telkom struggling to compete based on the limited capacity to gain scale benefits, including level of investment in the networks, and competing on services offerings.
- In this context, in comparison, Vodacom and MTN are far larger than their peers with revenue market share of 83 percent between them. The same is also true when comparing subscriber base numbers, it is clear that Vodacom and MTN are also significantly enjoying market power in the data services market.
- The Data services market alone has grown to reach above 50 percent of the telecommunications business, showing significant signs of surpassing voice call market in the near future.

ICASA Regulations

ICASA Regulations

- The ANC support the ongoing work conducted by ICASA, the Industry Regulator who has recently adopted regulations for End User Subscriber Service Charter Regulations which interventions we hope will direct the industry conduct in the manner that ensures the consumers are protected from excessive data costs, as well as limit the excessive profit maximization by these operators from consumers in the data market inquiry.
- In its statement, the ANC has called upon ICASA and the Industry to work together to urgently resolve the regulatory bottlenecks prevalent with the introduction of the regulations referred earlier.
- In particular for the industry to implement the regulations for reducing data prices and protect consumers from bill shock which has been experienced by many South Africans. ICASA should improve its internal technical capacity so that they are able to undertake market studies in order to improve competition.

ICASA Regulations...(Cont.)

ICASA Regulations

- The ANC has taken note of the ICASA findings document on the market inquiry which prioritizes three key markets for investigation in terms of the Electronic Communications Act of 2005 as amended. The markets identified are the following:
 - Wholesale fixed access, which includes wholesale supply of asymmetric broadband origination, fixed access services and relevant facilities;
 - Upstream infrastructure markets incorporating national transmission services and metropolitan connectivity and relevant facilities;
 - Mobile services, which include the retail market for mobile services and the wholesale supply of mobile network services, including relevant facilities.

ICASA Regulations...(Cont.)

ICASA Regulations

- The ANC is encouraged by the steps taken by ICASA since 2010 to date not only in reducing cost of communications through the Call Termination Regulations, but also in undertaking the priority markets studies and the End User Subscriber Service Charter regulations.

Recommendations

ANC Recommendations

- The ANC, having considered the scope of this inquiry in terms of the published terms of reference, and recognizing that internet is the basis within which most people access ICT services, the ANC submit the following recommendations:
- The dominance of operators in the data services market should be curtailed particularly where abusive of dominance market position has been identified through imposition of pro-competitive remedies.
- The policy measures recommended for improving competition in the market including the licensing of new operators in the sector.
- Implement the policy framework including Broadband Policy to ensure universal access to broadband by all.

Recommendations...(Cont.)

ANC Recommendations

- Recommend measures to promote black economic empowerment (historical disadvantaged individuals) in line with the ICT sector Code.
- Investigate any abuse of market dominance in the sector as a way of promoting real competition and limit price collusion where prevalent.