

**COMPETITION COMMISSION**  
**DATA SERVICES MARKET INQUIRY.**

5

10

**VENUE:**

**Venue: The DTI Campus, Block D, Boardroom DG16 & DG20**  
**77 Meintjies Street, Sunnyside,**  
**Pretoria**

15

**DATE: 19<sup>th</sup> October 2018.**

## Contents

Introduction.....	3
Afrihost .....	4
5 Internet Solutions .....	30
African National congress .....	41
Alliance for Affordable Internet .....	58
Department of Telecommunications and Postal Services .....	74
ICASA .....	104

10

15

## Introduction.

**CHAIRMAN (MR MAJENGE):** Morning everyone, welcome to the Competition Commission's data market public hearings. Today is the 19th of October 2018. My name is Bakhe Majenge. I'm the chief legal counsel at the Competition Commission. On my left, we have Mr Jason Aproskie who is an Economist at the Competition Commission, he will be acting as an Evidence Leader in this hearing. On my right is Doctor Liberty Mncube who is the Chief Economist at the Competition Commission and on my extreme right, it's Mr Arthur Mahuma who is an Economist at the Competition Commission, he will also be acting as an Evidence Leader in this hearing.

Just before we start, I would just like to recap the rules that will be applicable to this hearing. The first is that the inquiry is open to the public at all times except when the chairperson rules, that part of the proceedings may be closed on grounds related to confidentiality or for any other reason deemed justifiable in terms of the competition act, but we will try as much as possible to keep the hearing open. All sessions will be recorded and will be streamed live on YouTube [unclear: 00:02:13] part of the sessions that may be confidential. In order to allow for the proper ventilation of issues, the chairperson as well as Doctor Mncube, together with evidence leaders may pose questions to any person making oral submissions. No questions will be permitted from any other person neither personally nor through legal representatives. In the event that there is any stakeholder that has an objection, a comment or question in respect of any submission made in these proceedings, that stakeholder must submit such an objection, comment or question to the inquiry in writing and then the inquiry will attend to such an objection, comment or question as soon as

possible, at an appropriate time. We will receive the first submission from, this morning from Afrihost. Welcome sir and thank you very much for coming.

Afrihost

**MR SUCHARD:** Thank you.

5 **CHAIRMAN (MR MAJENGE):** If you could please state your full name and surname for the record and then proceed to take the oath or the affirmation. There should be a document on the table with the oath or affirmation.

**MR SUCHARD:** Thank you. My name is Dean Suchard, and I'm the Financial Director of Afrihost. I, Dean Suchard affirm that the evidence that I shall give  
10 shall be the truth, the whole truth and nothing but the truth.

**CHAIRMAN (MR MAJENGE):** Thank you very much Mr Suchard. You may proceed to take us through your presentation that will be followed by questions from ourselves.

**MR SUCHARD:** Okay, well thank you for the opportunity to speak and to  
15 present this morning. We've taken a slightly different approach I think to what you've seen in the last two days where there's been a large focus on mobile. Our focus today or my focus is more on fixed line, where we believe there is excessive pricing still in the fixed line market. And that's not to say that we don't believe that mobile is overpriced but it's not as much our area of expertise and  
20 experience, so we've focused on fixed line for today. I'll start off just by trying to address some of the key questions that the Commission posed in the invitation to attend and then I'll get on to a little bit more detail regarding where and why we say that the fixed line price and ADSL, VDSL and fibre, in particular, is excessive in the market. In terms of the key questions posed, the first question

was, are data prices in South Africa higher than they ought to be? I think the simple answer to there is yes, yes they are. As I say, we're going to be focusing on fixed data prices particularly ADSL, VDSL and fibre and in particular the IP Connect charge from Openserve which is the fundamental reason that fixed data remains excessively priced in South Africa. Just to maybe add briefly that we do believe that mobile data is also overpriced, but we haven't, as I say prepared today to respond to mobile. We think there are a lot of other people addressing that issue. The one thing I would like to say on mobile as a reseller of mobile, we do often see in the market that the retail price that the mobile operators are charging to the market is below the wholesale rate that we get from the mobile operators. So it is very difficult for an [unclear: 00:06: 27] or reseller to compete in the mobile market presently. The next question was how can these factors be effectively remedied? So going back to our focus on fixed line, I think this IP Connect issue is relatively easy to remedy. Not to say anything is easy in this environment but, we believe that by just looking at the 2013 agreement that Telkom signed with the Commission, the spirit and principles in that agreement should be upheld and if one looks at that one can see the opportunity to manage down the IP Connect pricing. And in terms of remedying it, it's one line item, its one factor, and we just need to understand. The right people need to understand what is the actual cost of IP Connect and revert to a cost plus reasonable margin model and impose that on Openserve so that the IP Connect is not excessive which in turn will bring down pricing in the market. In terms of how we would recommend remedy in that, we believe that the current price of R175 per megabyte, per second, is excessive and we believe that the price of as little as R10 per megabyte, per second, would be

reasonable but obviously we also need to be reasonable we couldn't expect Openseve overnight to go from R175 down to R10. So we think a gliding [unclear: 00: 08:05] path would be reasonable over a couple of years, obviously a shorter time as possible. So we've proposed that effective immediately or still

5 in this financial year or this calendar year, the price should drop by R55 at least to R120 and then a further R55 per annum so that by 2020 we get to a R10 per megabyte, per second price for IP Connect. I think we're also reasonably straightforward to remedy the IP Connect is that Openseve have actually defined the IP Connect product. So there's not too much confusion as to what

10 exactly is IP Connect, what does it cover? There's definitions in some of their agreements; their website contains a diagram which sets out what IP Connect covers. So once one obtains the costing model, one can then see whether or not what would be a reasonable price. There's also a good benchmark competitor. I think in the days of ADSL it was very difficult to know what IP

15 Connect should be charged at, but now you've got a good benchmark in Vumatel in particular where you can compare their wholesale pricing to that of Openseve. The key thing obviously is that once IP Connect is reduced the complete [unclear: 00: 09:34] landscape in the country will naturally lead to price decreases in both fibre and in ADSL and that has to be good for the end

20 user, for SMME's and for the economy in general. As much as there's been a focus on mobile, I think sometimes we tend to forget how important fixed is because when you look at things like looking for employment, education maybe kids doing school projects, even entertainment a lot of your data is consumed at home or in the office, in your small business. So it's not just about mobile it's

25 also about fixed line. The next question posed was regarding the impact of data

prices and access to data on lower-income customers, rural customers and small businesses and the unemployed? As I mentioned many SMME's use fixed line services to run their business and in order to be competitive, in order to grow their businesses which obviously has a knock on effect through the economy in terms of employment, in terms of growth, their costs need to be reasonable and that includes their costs of communication. From a lower income and rural earner perspective, a lot of people just simply cannot afford the high price of ADSL fibre, and as much as mobile's more expensive, the difference is mobile can be bought in small increments. So for example, if somebody is expected to pay say, R600 a month to get an ADSL service at home, that can be more than 10% of their earnings which is just not feasible. So, in the end, they are forced to buy what's in their budget which let's say it's a R100, means that they can get 1 gig on mobile. So those lower income and rural earners really need to be able to be offered affordable Connectivity at home, in their communities and SMMEs in their businesses. I think I've largely answered the further question, how important are affordable data prices for these customers? I think it's very important. I think we know that this is a major issue and I don't think anybody's disputing that. I'm just looking at the importance; there are a lot of research reports out on this. The one that we've seen is an interesting one from McKinsey where they say that public sector leaders ought to be promoting broad access to the internet since internet usage, quality of infrastructure and internet expenditure are correlated with higher growth in per capita, GDP. So essentially, if we want people to be better off, we need to make sure that they have affordable Connectivity. So I hope I've been able to answer some of the questions posed, to some extent. I'm now going to

get into a little more detail regarding the Openserve fixed line services, and the costing of our IP Connect in particular. As I mentioned, the IP Connect service is excessively priced. It's exorbitant both in relation to what its competitors are charging and in relation to its input costs. And this manifests in two markets, in fibre and in ADSL specifically. In the fibre market, the pain is currently felt in the ISP market; it's a downstream where ISPs are currently providing Openserve fibre at retail prices which are below their costs. So that's obviously not sustainable. At some point in time either the IP Connect has to drop, or ISPs are going to be having to increase the prices they charge for fibre which is in nobody's interest. In the case of ADSL, the impact felt primarily at the end user level where end users are paying too much for a service that is sometimes an average service. Often with ADSL it's a lower speed, it's capped, there's some throttling or [unclear: 00:13:40] of bandwidth and the amount that the end user is paying for ADSL is either excessive if it is a good service or for an affordable service, then they're not really getting the throughput and speed and capacity that they should be. I think the other point; just to add regarding this is does it matter? Are Openserve free to charge what they like for their IP Connect? We believe not. We believe they're clearly a dominant player still in the fixed line market and we believe that by charging these excessive prices they are abusing their power and their position of dominance. So as I mentioned, I'm the Financial Director so I'm always a bit nervous to put out technical diagrams but I, not being technical but I think the point that needs to be made, just from this diagram which is from Openserve's website is where IPC, IP Connect starts and ends because often the argument is made that the last mile is expensive to run, it's expensive to maintain. So from the home to the aggregation point, but it

needs to be clear that that is not an IP Connect issue, that is a last mile, an ADSL line rental or a fibre line rental, so that's covered by a different product. IP Connect simply runs from the BRAS or the BNG, the broadband network gateway to Connect to the ISP's network. And there's not a huge amount of costs in that, to recovering that. There's obviously some severs, some intelligence built into the routing and there's some fibre access links but I think as I mentioned earlier, now that we clearly can see what IP Connect covers, we should be getting hold of the Openserve costing models and making sure that all that's costed [?: 00:15:43] is these items. And I think we'll quickly see that the price they charge in the market is excessive. I think I have discussed this on the previous slide just in terms of what IP Connect is. The only other point I want to make from this is just a point of comparison; you look at international bandwidth pricing. Here you're talking about bandwidth that traverses huge distances, thousands of kilometres, it involves complex undersea installations and maintenance and yet international bandwidth can come in at approximately R30 per megabyte, per second, which is fully redundant solution. That's roughly six times cheaper than IP Connect. How's it possible that a service that runs over maybe tens of kilometres can be six times more expensive than a service that traverses the globe? It just cannot be justified. Another important point of comparison which we now have in the fibre market is Openserve's largest competitor being Vumatel when we talk about FTTH. Vumatel's IP Connect equivalent to Connect the ISP network to their network is outsourced or managed by a company called Automation Exchange. They charge approximately R6 or R7 per megabyte, per second, per month. So again, we're in a situation where a similar servicer, a comparative is 30 times cheaper than

Openserve, again, no justification for charging R175 per megabyte, per second. I've used Vumatel as the comparison here because they are the other major player in the FTTH market, but there are a number of other fibre operators that actually don't even charge for IP Connect equivalent. They simply recover their

5 costs in the line rental charge, and it's important to note that Openserve also charge for line rentals. So the IP Connect is in addition to their line rental. So I just want to illustrate how this excessive pricing, IP Connect creates a margin squeeze, a sort of classic margin squeeze situation for the ISPs. I've used Afrihost as an example because obviously, I know Afrihost's figures, but this

10 principle would apply to all ISPs selling Openserve fibre in the market. So in our case, our monthly loss is at least 10% of our revenue on Openserve fibre, and that's just taking into account what we pay Openserve. That's before one considers that there are overheads, there's staff costs, there's international bandwidth costs, there's subsidies that we pay to help consumers to be able to

15 afford the upfront installation and activation fees. So again just to add at a higher level [unclear: 00:18:57], for every R1 million that we get in revenue, we are paying Openserve R1.1 million in costs. Roughly half of which is going to their line rental which we believe is reasonable and we're not uncomfortable with, but the other R550 000 per million that goes to IP Connect is grossly

20 excessive in our view. Suppose the question would be why do you do it then if you're making a loss why would you sell Openserve fibre at a loss? And there are a couple of reasons. The main one is that's where the ISP market is moving to. ADSL is churning [unclear: 00:19:34], fibre is a very important part of the ISP landscape. So in order to be in the market and to remain relevant, we have to

25 be selling Openserve fibre, and we have to be competitive, consumers and

SMEs, its very price sensitive. So if we're not able to compete with other ISPs, then we're not going to grow our market share or maintain our market share.

And also, very important to note is that one of those ISPs is Telkom retail itself, so if Telkom retail is selling Openserve Fibre at a certain rate in the market, the other ISPs need to be in that ball park if they're going to get any business. The other reason that we've sold the below cost on Openserve Fibre is that we believe that IP Connect pricing has to come down, and it will come down. We are in a sense selling in anticipation of that. And to be fair to Openserve, for a while, pricing did come down, but it has just been too little too late. The last decrease was in July or August of 2017. For over a year, that IP Connect pricing has remained at an excessive level. One more point that I can make on IP Connect is that it is actually possible for an ISP to some extent to control that IP Connect cost, and that is by contending the bandwidth and by throttling the end user to an extent that they're getting a poor service. We just don't believe that that's the behaviour that we want. At the end of the day, you're charging a client for a service, it must be a decent service. I think all ISPs would agree with that comment. That covered the margin squeeze and why IP Connect is a major problem in the Fibre market. It's a slightly different scenario in ADSL. In ADSL, I believe the ISPs are making margin, I don't think it's a margin squeeze issue so much as it's an end user issue regarding the price that consumers and businesses are having to pay for ADSL. The main problem there is that there are three cost components, you pay for your landline rental, you pay for your ADSL line and then you pay your ISP fee. I've used two scenarios here, just as an example. One is a relatively lower end solution, 4 megabit per second line speed with 100 gig cap and the second scenario is a business scenario at 20

megabit per second, which is a decent speed, and uncapped. In the lower scenario, an end user is having to pay R620 for an ADSL service. It's a lot of money per month if you're a low earner. And the ISP in this scenario is only getting R109 of that R620, so in this particular case, of which 80% of that R109

5 is going back to Openserve anyway in the form of IP Connect. If you look at the uncapped scenario, where it's a fairly decent service at 20 meg per second, the end user is having to pay in the region of R2500 for an ADSL service. Which is basically too much, one shouldn't have to pay that much for an ADSL service. You're left with a situation where you can either get a reasonably affordable

10 solution, but not a great service. Or a reasonably decent service but you're paying an excessive price. Sorry, some more numbers, but I think that this slide is very important because it illustrates what we believe is happening in the market and how Telkom are behaving. This is Telkom's segmental report as taken from their Group provisional annual results for the latest financial year,

15 which ended March 2018. What I just want to point out in this slide is that if you look down at the EBITDA line item, second from bottom, your Openserve division, your wholesale division is reporting profits of R5.9 billion at a 34% EBITDA margin. Then you look at their consumer division, or Telkom retail, and they are making losses, in this case they're reporting R183 million loss. The

20 point we're making here is that an ISP who has to operate on the consumer side of the market is having to compete with a division that is able to suffer losses, because they're safe in the knowledge that their upstream division, Openserve, is making huge margins and huge profit. It's not to say that this is all related to IP Connect, there's not enough information in the annual results to

25 see that, but certainly IP Connect would be a factor where Openserve are

reaping profits and it shows in their results at the expense of the downstream providers. I'm not a Lawyer and I'm not going to sit here and say that Telkom have contravened their agreement, but certainly, they may have. Certainly, the spirit of the agreement seems to have not been upheld. The idea was to bring  
5 down prices of the services mentioned, IP Connect being one of them and to behave in a non-discriminatory manner. We believe that by pricing IP Connect as they have, it has been discriminatory in the sense that as much as an ISP is paying the same as Telkom retail for their IP Connect, Telkom retail is in a position where they can afford to suffer losses downstream. ISP can't suffer  
10 losses because then they go out of business. Naturally, that's bad for competition and ultimately bad for the economy, bad for end users if there's not competition in the market. Just to reiterate on this point, if one looks at their annual results there's also commentary that the mobile division made a profit of R1.7 billion, and that is included in the consumer division. If that's the case, if  
15 there's a loss of R183 million overall, yet included in that is a mobile profit of R1.7 billion, that means that it's possible that Telkom have lost R1.9 billion in their consumer fixed line business. Again, it is difficult to tell from the segmental reporting and the way they report it, if that's exactly what's happened, but certainly, the consumer division is operating at a loss while the profits sit up  
20 stream in Openserve. This is anti-competitive in our view, because ISPs are having to compete with a business that is able to operate as loss making. In terms of Openserve's response, I'm sure that they would contend that they have reduced IPC and the IP Connect pricing over the years. Going back, looking at in November 2016 the price was R322 per megabit per second, today they've  
25 dropped it to R175. It has come down, in this scenario it's a price decrease of

46%, but using Afrihost as an example, our IP Connect usage is up by more than the price decrease. Even though the per unit pricing has come down, the actual cost to the ISP, the cost that gets passed on into the economy, the revenue that Openserve earns on IP Connect, is actually not coming down and may even be going up. Certainly, in our scenario, if we look at what we spend on IP Connect today compared to a year ago, we're spending 30% more on IP Connect, even though the per unit pricing has come down. Just to make the point again, the unit price may have decreased, but because of the huge increases in volumes, the IP Connect revenue remains excessive in relation to the input costs. As I mentioned before, it's one thing to say that the price is excessive, we also I think have to show that Openserve is dominant. We believe that Openserve has approximately 75% of the fixed line market when you combine ADSL, BDSL and Fibre. I don't think there will be any doubt in the ADSL or BDSL market that there is dominance, approaching probably 100% market share because of the legacy monopoly in copper. The Fibre market is a little more complex and you can look at it in different ways. We believe that the best way to look at whether or not a provider is dominant in the Fibre market is to look at each suburb as a market, or each geographical location. The reason we say that is, once the Fibre provider goes into a suburb, there is only space maybe for one more Fibre provider to enter. In some cases, you have one Fibre provider only in a suburb, because a second provider doesn't see the opportunity, the commercial opportunity to go into that market. There're just not enough customers, not enough revenue to be made. Typically, in Fibre, you'll either have one provider or two providers. In that scenario, then if Openserve is the only provider in a market, then by definition they have 100% of that market

and where a second provider enters, or where they enter as a second provider, then on average each provider has 50% of that market. We believe that in both ADSL and in Fibre, Openserve remains dominant and is abusing that position of power in terms of the IP Connect pricing. Just to conclude, and make a recommendation, we believe that the principles of the 2013 agreement in terms of a cost-plus reasonable margin methodology should be adhered to. We believe that the IP Connect costing must be looked at and understood and a reasonable margin added to that. We believe Openserve are pricing excessively and are engaging in margin squeeze. We think that the price could come down to as little as R10 per megabit per second over a period of time and we believe that the ISP market is very competitive. Once IP Connect costs decrease, it will inevitably lead to decreases in the retail market, both in ADSL, BDSL and in Fibre and that can only be good for small and medium sized enterprises, for end users and for the economy in general. Thank you.

15 **CHAIRMAN (MR MAJENGE):** Thank you very much, Mr Suchard. Mr Mahuma.

**MR. MAHUMA:** Thank you very much. The first point that I would like to maybe get your view on is that the IP Connect issue, we did raise it with Telkom yesterday. We did say that there is a view that the service is expensive and there were two comments, the one that I remember that came from Telkom. One is to say, comparing the two-automation exchange is not really compatible because the services are not the same. And two, they have a national legacy infrastructure. And three, comparing it to another operator such as Vumatel is not fair, because they have a national network, while Vumatel, for example, might be regional. What's your response And then the other one is that they believe that there has been so much entry in this market as well, so this almost

to them doesn't fit with the notion that the service is expensive. Can we just get a thought on that?

**MR. SUCHARD:** I think, in my view, at the end of the day, the end user, the consumer, the business is buying Fibre from a provider, either Vumatel or  
5 Openserve. It's essentially the same service, so I believe it is a fair comparison. I think to make the point that one is a national network and the other is not, I don't believe that is valid. Vumatel do operate throughout the country. I don't think, as far as I know, that Openserve have any obligation to be installing Fibre in rural areas, I think they choose the suburbs they want to operate in. I think  
10 the best way, I suppose, to further understand this is to get their costing model and understand if they're saying that their IP Connect costing is different and can't be compared. Let's look at the detail and see what it actually costs them to Connect a BRAS to an ISP. I would say, I disagree, I do think Vumatel is a fair comparison, maybe it's not 100% like for like but certainly I think it's similar.  
15 Sorry, if you can just repeat the other part of the question?

**MR MAHUMA:** The other part is the issue that they are using a national legacy infrastructure, Telkom.

**MR SUCHARD:** If they're referring to the ADSL network on the national legacy infrastructure, then possibly they have a point. But again, I think that the  
20 expensive part of running the ADSL network is in the last mile. It's in Connecting the copper to the exchanges where they did have obligations. If that is the case, then perhaps they need to look at their last mile pricing, I can't really comment on that. But they can't be recovering last mile infrastructure costs through IP Connect, because that's not what IP Connect is. I also, again, I

think you need to look at the detail, they can say it's expensive. I guess we don't know, that infrastructure was probably paid off many times over because it has been there for a long time. Whether or not it costs that much to maintain, I can't really comment on and whether or not they maintain it efficiently, I can't really comment on.

**MR MAHUMA:** Okay, that's fine. Then can I take you to your slide, I've got it as slide five, point number two. I can read it for you. I think we've got different slides, I think it might be your slide three, let's look at slide three. So, the heading is Openserve fixed line services introduction. Yes, the second point. On the second point you say that this is as a result of IP Connect services which remains exorbitant in relation to competitors and in relation to input costs. So, there's two questions stemming from that statement. The first one is that when you speak about competitors, either than Vumatel, is there anyone else that you are referring to? And two, the input cost that you reference there, can you perhaps give us a breakdown of those input costs?

**MR SUCHARD:** In terms of the competitors, Vumatel is the primary competitor, but there are a lot of other Fibre operators in the market, so there's, to name a few, Octotel and TT Connect. We've had a look at all the Fibre operators and all of them have to Connect their network to the ISP network. None of them are charging exorbitant rates, many of them don't even charge an IP Connect equivalent. We've used Vumatel and automation exchanges as one example, but there are others that don't charge at all. The competitors that I am referring to here are all the FTTH providers and IP Connect is exorbitant in relation to any of those providers. The second part of the question in relation to the input costs. Again, I suppose they keep that reasonably close to their chest but going

back to that technical diagram it is clear what the IP Connect covers and that is a Connection from their aggregation nodes, their BRAS to their ISP network. Those ISP networks are generally housed in Teraco in one of three locations around Durban, Johannesburg or Cape Town. A big part of the cost component to Connect the networks is Fibre access links and we know that in the market, that's not expensive. I can't tell you an exact amount, but I think for 10 megabit per second access link you'll pay about R10 000. That part of it is really not expensive. Sure, service and equipment costs money, but there are no ways that, as I mentioned, international bandwidth can cost what it does, that competitor FTTH providers can build networks and get away with not having an IP Connect equivalent charge. Again, one needs to understand what those input costs are by asking Openserve for their costing models which, in terms of the 2013 agreement, you're entitled to do obviously, and interrogate those costing models and then I think you will see that the cost inputs are very small in relation to the revenue.

**MR MAHUMA:** Okay, that's fine. Can I take you to the slide where you speak about margin squeeze? Where you say you sell Fibre below cost in some instances. The question there is to say, why are you not charging more in areas where Openserve is the infrastructure provider, because you're telling us that because of this higher price, in some instances you are selling these services below cost? The question is, why are you not selling, in those areas, why are you not charging more for the service?

**MR SUCHARD:** We've taken a more medium to long term view that over time we believe the IP Connect cost will come down and we will be able to make margin on these services. We don't want to be in a situation where two or three

years down the line, the cost is reasonable. Or maybe it's three or four years down the line, the cost is reasonable. But now we've lost that market share to our competitors. We believe that Fibre is hugely important for an ISP and therefore we have to offer our clients a Fibre solution as widely as possible, across as many operators as possible. Maybe I can give you some information on that and I don't know the detail of it but, one of the new entries in the ISP market is Cool Ideas and they're only a Fibre operator. When they entered the market for quite some time, I can't tell you exactly, they didn't sell Openserve Fibre, they only sold Fibre of other operators. I would assume that their reason for that was that they didn't want to come into a market and sell below cost. We are fortunate in that we've been operating for roughly 18 years, so we do have some other solutions and products where we do have margin and we can afford for a period of time to absorb some losses on Openserve Fibre in the hope and in the expectation that it will become commercially viable in future.

15 **MR MAHUMA:** And then, in your view, is this practice common amongst all ISPs? This practice of selling Fibre below cost?

**MR SUCHARD:** I believe it's common in relation to Openserve, just to clarify, I don't believe Fibre is being sold below cost for the other operators, the Vumatels etc, because they don't have the IP Connect charge. On average, ISPs should be and probably are making margin on Fibre, but I do believe that when it comes to Openserve, that ISPs are selling Openserve Fibre at a loss. It is possible that some of them contend their IP Connect bandwidth to an extent that they're able to make a small margin, but in that case the service that the end user gets would be worse.

**MR MAHUMA:** Okay, just one question of clarity. If I can take you to a slide where you show Telkom segmented reporting, yes that one. The figure of R5.9 billion and I think you might have touched on it; does it only include IP Connect or are there other services that are included within that particular figure?

5 **MR SUCHARD:** No, this is the Openserve division as per their annual report. Definitely, that wouldn't all be IP Connect. I'm not entirely sure what else is in there, but Openserve has a big business so IP Connect would only be a proportion of that.

**MR MAHUMA:** Okay, that's fine. Then the slides where you say evidence  
10 regarding Openserve being a dominant provider, and then the last bullet point. Where you said, just the one before that, yes this one, where you said the result is that Openserve has 100% of Fibre markets, we are the only provider. Perhaps maybe just explain this to us. Is it possible... Any ISPs where there are other Fibre providers, Vumatel, are they in any way dependant on Openserve or  
15 can they provide their services without relying on Openserve?

**MR SUCHARD:** From an ISP perspective, the ISPs are always reliant on their BNA Fibre provider to put your services on. There has to be a Fibre provider. In the case of a particular suburb where Openserve are the only Fibre provider, then ISP has no choice, they either sell Openserve Fibre, or they don't sell Fibre  
20 at all. What is likely in a scenario like that is that a second Fibre provider probably would enter the market. I think in most cases, there is space for a second Fibre operator. So, in that scenario the market share would drop from 100% down to 50%. I think the point I'm making is that, you can't look at the market and say there's 30 Fibre operators, therefore it's competitive, because

it's a first to market situation. The Fibre operator that gets to that particular suburb first will be dominant in that suburb and yes, you may get a second operator entering, but then you'll have two and maybe at most three. But it's not going to make sense for ten Fibre operators to all go into one suburb, because  
5 then the cost of infrastructure will never be recovered. Typically, I would say, on average, you'll see two Fibre operators per suburb.

**MR MAHUMA:** Okay, that's fine. Then my last question, you stated that you consider a price R10 per megabit to be a reasonable price point for IP Connect. Maybe just explain to us how was that price derived and is it, two, besides the  
10 high cost of IP Connect, are there any other factors that are keeping data prices high in the fixed market? Three, if that's the case then how do we remedy those factors?

**MR SUCHARD:** Okay, I think in terms of the R10 per megabit per second, I've got to that figure really by looking at the Vumatel and other Fibre operators who  
15 charge R6 or R7 and in some cases don't charge at all. I do think it's quite aggressive in that it assumes that Openserve would be operating efficiently. I think if you operated inefficiently it would be hard to get it down to R10 per megabit per second and perhaps R10 per megabit per second will prove to be too aggressive if one gets into the detail and obtains the costing model. Even if  
20 it was R20 per megabit per second, it would still be eight times less than what it is today. I think the point is that R175 is grossly excessive. We think R10 could be reasonable. We could be proven wrong and perhaps it's R20 or even R30. That you'll only know once you're able to get into the detail. The other part of the question just around whether or not the other components of fixed line that  
25 are causing prices to be high. I just think that in terms of the fibre market,

nothing comes to mind. There are line rentals that the fibre operators charge. I'm not in a position to say whether that's reasonable or not reasonable. I don't know their cost models well enough. It doesn't seem unreasonable. Similarly, in an ADSL market, I do feel for consumers who are having to pay for example a  
5 line rental charge when they may not even want to use their telephone line and they're paying an ADSL line rental and they're paying an ISP charge. The last mile ADSL pricing appears to me to be quite expensive, but I can't say that it is because again, I don't know the input costs on last mile and I don't know what it costs to maintain copper. It may be that that is reasonable or it may be that in  
10 that case Openserve are not efficient and they are incurring those costs. In short, I'm not sure if there are other factors in fixed line, but I am sure that IP Connect is a major factor and a major problem.

**CHAIRMAN (MR MAJENGE):** : Mr Aproskie

**MR APROSKIE:** Hi. Thanks. Good morning. I just wanted to drill down into this  
15 below cost pricing aspect and on that slide if you just want to go to it, here are three points on why price is below cost in Openserve areas. Yes, that one. The first reason there is you talk about the fact that you have to compete against Telkom Retail. I suppose your follow-on slide suggests that Telkom Retail might be operating below cost potentially, but don't you face Telkom Retail in all your  
20 areas because they're not only operating in Openserve areas, they're operating in any fibre areas as an ISP?

**MR SUCHARD:** If I understand correctly, you're saying that Telkom Retail also sells on Vumatel and other providers. We have to compete against them in that scenario and that's fine because the price that we compete against in that

scenario is sufficient for us to make margin. When it comes to, again, Vumatel as an example, we don't have an IP Connect cost to absorb. The price in the market is fairly consistent. It's difficult to explain to consumers and end users and businesses why would be charging 30% more for Openserve, as an  
5 example. The industry has more or less taken a view that there is a kind of set price that the market can afford for fibre and we're selling at that price. What that means is that on most operators, we do make some margin as an ISP and I'm sure Telkom Retail would as well. When it comes to Openserve, it's not possible to provide a good fibre service at a market related price and make a  
10 margin.

**MR APROSKIE:** Thanks, but I suppose my point is that in a Vumatel area, both you and Telkom Retail don't face the IP Connect charge, whereas in an Openserve area, both you and Telkom or the Telkom consumer face the ISP Connect charge. From your answer now, it seems like it's more a product of a  
15 policy to price the same in different areas, whether it's Openserve or not. Is that perhaps more the driver of why you're making losses in an Openserve area versus a Vumatel area?

**MR SUCHARD:** I think, I'm not sure if I'm understanding 100%. We have no issue with Telkom Retail in a sense of what they price and we don't believe that  
20 they as a division are anti-competitive or are under-cutting us. We think the market's pricing, whether it's Telkom Retail or another ISP is fine. There's no issue outside of the Openserve area. In an Openserve fibre area, the point is that if we did differentiate our pricing and we charged more, we wouldn't get any business because the rest of the market is charging the same, whether it's an  
25 Openserve area or a different suburb. I'm not sure if I've answered.

**MR APROSKIE:** I think we're getting closer to each other. What I'm hearing from you, is that you're saying in an Openserve area, you have to compete against a lot of ISP's who are pricing the same, whether it's in or it's out of an Openserve area. You're saying that other ISP's are also taking a loss on those sales. My question, or I suppose my point is that there's nothing specific about 5 Telkom Retail in those Openserve areas that makes them more competitive against you because they face the same costs. They face the same IP Connect charge when they deal with their consumers.

**MR SUCHARD:** Correct, so as I said, we have no issue with Telkom Retail and 10 how they are behaving in a fibre market. I suppose the only issue we have with them is that they're making a loss and if we were all to compete on their level, then we'd all be making losses and then there wouldn't be competition.

**MR APROSKIE:** Okay, thanks. Then just my last point is you've made the point in your presentation that this IP Connect charge has decreased substantially. I 15 think you had a number of R300 and something and now it's R175 and Telkom also made submissions yesterday, if I understood them correctly that there was another price decrease for IP Connect in the pipeline. In view of that and in view of the fact that prices do seem to be coming down substantially, but not perhaps to the aggressive glide path that you suggest, is this an area where you think 20 regulators need to intervene or is it a case that Telkom's going to end up where you want, or that Openserve is going to end up where you want, but it might just not be as aggressive as you want?

**MR SUCHARD:** I believe regulators will need to intervene and the reason I say that is that pricing has come down a lot, but that was because of an intervention

prior to 2013 that forced Openserve's hand and that resulted in a settlement agreement between the Competition Commission and Telkom, at the time. I think that was a five-year agreement, which is coming to an end, so they've to some extent been regulated and that's why they've dropped their prices. As  
5 much as they've come down a lot, if for example, R5 per megabit per second is a fair cost, then the fact that they started at a couple of thousand Rand doesn't mean that it's okay to come down to a couple of hundred Rand. They need to get down to a reasonable cost plus basis. Just the last point is the pricing was coming down and Openserve have told us repeatedly that it will continue to  
10 come down, but the last decrease we had was in July or August of 2017, so we've been very patient and we've been having conversations at other ISP's, so when is the price decrease coming? It's always imminent. The last thing they did was introduce an IPC Burst solution, which they sold as if it was a price decrease, which it wasn't and even now they are talking about a decrease of  
15 9%, which we believe is not enough and even the nature of this decrease is that you don't just get the price decrease, they're going to 10% more capacity on ISP Connect. They're going to maintain their revenue and your unit price will go down, but you're still spending the same.

**MR APROSKIE:** Okay, thank you.

20 **CHAIRMAN (MR MAJENGE):** Just two more questions from my side. Your peers in the Internet Service Providers Association have painted a slightly different picture in terms of this IP product. They say that consumers have seen the prices falling from R70 to the current pricing, which is as low as R250 per gigabyte. They say at the same time, competition from aggressive ISP's has  
25 seen the explosion of uncapped broadband product with an uncapped one per

megabytes accounts now accounting for as little as R199 per month excluding line rental costs charged by Telkom. They have painted a slightly different picture about what market outcomes have been arising from the vertical separation of Telkom.

5 **MR SUCHARD:** I think experts to come extent are focussing on mobile and they are trying to making the point that fixed line has seen some improvement, whereas mobile is hugely excessive compared to fixed line, but they are different markets and different services. I think when we talk about our peers and other ISP's, you'll be hearing from Internet Solutions after this who are I  
10 think the largest independent ISP and who manage networks of some other ISP's. I think you'll hear their view. We have another ISP in our group of companies called Access, who feel the same as we do. We have had conversations with some other ISP's, so I think that Espra have looked at this engagement very much from a mobile perspective and I guess from their point  
15 of view, they're not paying tens of millions of Rands out of their earnings to Openserve every month, so maybe they don't feel it quite as hard as we do as an operating ISP.

**CHAIRMAN (MR MAJENGE):** My last question related to the submission that you made on 8<sup>th</sup> August this year. I'm not sure whether you have it in front of  
20 you.

**MR SUCHARD:** I think I have it here. Was that in response to your questions regarding mobile?

**CHAIRMAN (MR MAJENGE):** That's right.

**MR SUCHARD:** I have it here.

**CHAIRMAN (MR MAJENGE):** Paragraph 7, on the second page of the submission. The last sentence of that paragraph, you say that MVNO's are generally small and less competitive. If you could just elaborate as to what the  
5 constraints are, which are currently facing MVNO's generally, which makes them to be anti-competitive. Is it the issue of the wholesale rates?

**MR SUCHARD:** Actually, that really is the issue. It's the wholesale rates. When a mobile operator offers you a wholesale rate, that is above of a lot of their retail rates, you can't compete against them. It really does come down to the  
10 wholesale rates that operators are prepared to offer on mobile.

**CHAIRMAN (MR MAJENGE):** You say on, although there are no page numbers, but it's paragraph 13 of the submission, you say there that the future of this market, that is MVNO's, it's really precarious in the sense that it's completely dependent on MNO's and what their strategic intent are in enabling  
15 MNO's. If you could just elaborate on this submission.

**MR SUCHARD:** Again, it comes down to the rates. What I mean by that is that if the mobile operators are trying to protect their revenue and their view is that MVNO's just create competition for them and will cannibalise their revenue, then they will continue to charge high rates to retailers and that's the situation  
20 we're in. They don't want to enable competitors coming in and taking their revenue, so they'll keep the rates as high as they can get away with. Other MVNO's will get a couple of niche markets, but won't be able to make any real tangible inroads into the mobile operators revenue share.

**CHAIRMAN (MR MAJENGE):** I'm asking this question, because when we raised with MNO's, the issue of wholesale access, open access to wholesale, the MVNO model was raised as a response that there is wholesale access in terms of this model.

5 **MR SUCHARD:** If I understand correctly, the mobile operators are saying that there are MVNO models and there are wholesale options. That's true to some extent. We have had some of the operators prepared to sit down and talk to us and offer us a rate. Others haven't. The rate that they have offered is not a rate that we feel we can meaningfully compete with them. We do have mobile  
10 offerings and they're not too bad, but we don't have huge uptake and we don't make much margin because our rate is just too high for us to be able to really compete meaningfully at this stage.

**CHAIRMAN (MR MAJENGE):** What other alternatives are there, viable alternatives, to enabling wholesale access? There are more radical proposals  
15 which have been made by ISPA. What other alternatives are there which are feasible, which are reasonable and can be accommodated within the current framework to enable wholesale access?

**MR SUCHARD:** I'm not sure if I can answer that. I mean the obvious one is regulating the rate and decreasing it. I'm not sure whether there are viable  
20 alternatives. I know there's talk of the [inaudible: 00:62:48]. I'm not sure. I can't really comment as to whether or not that would work or wouldn't work. Obviously, allocation of spectrum could be a factor, but again, a smaller operator, and ISP even with spectrum isn't necessarily going to have the resources to build out infrastructure. Then you get into tower sharing and things

like that and that could then be another stronghold that the operators have to prevent competition. I'm not saying there aren't other options, I just can't put forward any. For me, the easy alternative and the one that make the most sense is to have a wholesale rate that allows for meaningful competition.

- 5 **CHAIRMAN (MR MAJENGE):** Thank you very much, we have run out of time. Thank you very much for your time and for your submission. You are excused. We will now take the next presentation from Internet Solutions.

**MR SUCHARD:** Thank you.

## Internet Solutions

**CHAIRMAN (MR MAJENGE):** Welcome gentlemen, thank you very much for your time and for coming. Let's just start with the formalities, if you could please just state your full name and surname for the record. And thereafter you may  
5 just proceed to take the oath or the affirmation.

**MR COX:** Good morning panel, my name is Martin Cox from Internet Solutions, I'll take the oath. I Martin Cox swear that the evidence I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

**CHAIRMAN (MR MAJENGE):** Thank you, your colleagues if they will be  
10 making submissions can also do likewise.

**MR COX:** Chair, my colleague is on the far right is Tony Walt the Chief Solution Officer and the Chief Operations Officer at Internet Solutions and I have Ryan Hawthorne, an Advisor to Internet solutions on my immediate right.

**CHAIRMAN (MR MAJENGE):** Alright, thank you, you may proceed with your  
15 submission.

**MR COX:** Ok, thank you panel. Similar to the previous presentation, the purpose of Internet Solutions being here is to make a submission around IP Connect, we do believe the many submissions on the mobile data market prices and market, we do believe that a significant amount of internet services and  
20 data services are provided in the home environment and in the business, the office environment, schools, educational facilities, medical facilities etc. Often these are near WI-FI routers and it's increasing the importance of being able to consume data in a fixed location; means that the importance of low data prices

is more than ever before. So hence we are restricting this submission to IP Connect and the fixed line data. So we are ready to acknowledge that the IP Connect prices have come down over the last few years, they were at just over R300, they have come down and are currently at R175 per megabit per second currently. We do understand that the prices, Openserve is proposing to reduce prices in the near future; however we believe that this still warrants an inquiry into the current cost of the R175 per megs per month. The importance of IP Connect is to really access the ADSL network of Openserve, the IP Connect bandwidth charge is an enormous charge for ISPs and it's the only way that we can access the ADSL network. So in that way it acts like a toll fee and a toll charge and it's also one of the errr, the important thing is that the ADSL network is prevalent across South Africa, it's probably the widest network across South Africa and for us to really to compete on other networks it really would constrain and constrict the ability of the internet solutions to provide services according to where those other networks are. So really the national network and the coverage of the ADSL we believe is vitally important. The other networks are being built in largely urban areas which means that we restricted into providing affordable services into those urban areas and essentially than getting into the provincial and rural areas. Then again the IP Connect charge becomes; you know, incredibly important and for us a barrier to get into those markets. The IP Connect charge and the bandwidth charges that we incur, we do believe is reducing the growth of the internet across South Africa, and again it is important to import cost. So what is IP Connect? So we clear that it is about the links and the through for bandwidth that allows you to ISPs like internet solutions to Connect to the ADSL network. The IP Connect bandwidth is the only means

that we have to Connect to this ADSL network and in that way we do see it like a toll charge. We Connect through three centres in Johannesburg, Cape Town and Durban and the IP Connect charge is the single largest cost that we have in terms of providing those services to our clients. The issue I think was raised by

5 you earlier about that there are alternative carriers or infrastructure providers that is correct; however our contention is that those networks are fairly new, they are very restricted geographically and they don't compete in terms of the coverage of the ADSL network. So whilst there are areas of competition particularly over the last few years, the likes of the Vumatel, the Optitel and the

10 other providers we believe that the competitive pressures are only seen in the more affluent urban areas but we do not believe that those competitive pressures are equally distributed across the country. And in that case, the IP Connect charge and the ADSL fees still remain very high and very relevant outside of those affluent areas in the cities. Similar to the previous presentation

15 we believe that the comparable charges usurp R10 per megabits per second per month versus the R175 and the submission from Internet Solutions is really for the panel is that this needs to be investigated, we do need to understand the cost of Openserve in providing these services. There costing model is not available to us, we haven't seen it but we do approach their services from

20 comparable companies even though they are geographically limited in their coverage. But we do believe that the difference in the input cost for our Internet Solutions is something that is worthy of investigation and in that way we do believe that it does warrant a reduction in the IPC charges to something that is more bench-markable with the market where there are alternatives today. In

25 terms of the market impact we believe that the current high prices via being

Connect does negatively affect the cost of data to the consumers. We do believe that this provides a barrier to internet solutions, that this does set a minimum price that we are allowed, we are able to charge in the market. Should the IP Connect data prices drop including the bandwidth prices that we charge

5 for our end user consumers being individuals, home users, business users can also drop and that's the importance of our submission today. The high input prices of the IP Connect, we believe is hindering the speed of the rollout of broadband services; if the input costs drop we could be providing more broadband services to the wider sections of the community and particularly the

10 poor section of community because as our cost would drop, our prices could also drop and ultimately that is why we are here today, is we believe that we are being forced to levy higher prices unnecessarily due to the input costs that are being regulated by Openserve. And I think it really comes down to the availability of alternative networks, Openserve does for historical reasons have

15 a far wider network than newer networks, the reach of their geographical reach is far greater and it's that reach with the high prices that is restricting the business that we do today and the prices that we can offer and as said we would like to reduce our pricing in the market and ultimately what we are requesting the panel is to investigate the IP Connect. So just in conclusion it's

20 really that we do believe that this input pricing is to be investigated, we do believe that it has a detrimental effect on consumers and we do believe that should the IP Connect prices drop, that more consumers can have access to better ADSL services; cheaper prices and it could be more in frequencies across the country than it is today. Thank you.

25 **CHAIRMAN (MR MAJENGE):** Thank you Mr Cox, err Mr Mahuma.

**MR MAHUMA:** Ok, I think similar questions to the ones that we asked to Afrihost and I think we were here when we were asking them the questions. So Telkom's response with regards to this issue was that it is not comparable to compare their prices to another competitor in Vumatel and then also they are  
5 auto exchange the product that they offer, they are not really the same and it's also not comparable to compare the price for the under-sea cable as well because the differences are vast, so what's your view in that regard?

**MR COX:** So I think we have a different view, we do think that the IP Connect charges are comparable and I think that you know the likes of the Vumatel, the  
10 new operators I think the services are comparable and I think that the input costs can be comparable. I haven't made any comments in this presentation about the subsea cable costs but we have seen massive reductions in subsea cable costs of national long distance bandwidth and we just not seeing the drop in the IP Connect as quickly as we'd like it and I think we do believe that you  
15 can compare the Vumatel with the likes of the IP Connect charges but actually we would need to see the costing models and we do believe that its worthy of investigation.

**MR MAHUMA:** Can I take you to your submission, on paragraph 3.8, page 6. So the first statement reads; "increased internet usage results in Internet  
20 Solutions having the biggest IP Connect bandwidth, which should result in falling costs per megabit per second". Can you just explain that sentence to us, why will increased usage lead to lower costs per megabit per second? Just expand on that statement because I'm not sure whether I'm following

**MR COX:** Yes, the point we are trying to make there is ultimately as we see increased internet usage, volumes increase and I think that was referred to in the previous presentation, it was mentioned as high as 50% over the last year is that we would expect to see the per unit cost reducing equivalently and that's the cost per meg should be coming down, however the IP Connect charge we have a set fee on a per megabit per second irrespective of the volumes and ultimately I think that is something we expect to change. Is that the higher volumes we should be getting lower per unit rates.

**MR MAHUMA:** Ok that's fine and then paragraph 4.1 page 7, the second sentence; it states that "Telkom is the only operator with last mile infrastructure and does not allow any other company direct access to its network". So the question there is; in the event that Telkom allowed other companies the direct access to its infrastructure, explain to us how will this affect the cost and the price of data in the fixed market?

**MR COX:** Ok the point we are making there is that really the only access we have is through the IP Connect charges, ultimately there are different models globally about accessing the incumbents network and ultimately those go into discussion such as local bundling etc, so at the moment the only way we can access the network is through the IP Connect charges levied on us.

**MR MAHUMA:** Ok, and then do you also in areas where you buy IP Connect offer the end product at below cost? As it was stated by Afrihost previously

**MR COX:** I don't have the answer obviously we try the best to breakeven, obviously there's pressures on the IP Connect, we are being asked by our business and our home users possibly to reduce our pricing and that we try to

do, ultimately we can't reduce our pricing until our input costs are reduced. And hence why we here trying to reduce our input costs so that the whole society from the business, the economy and the consumers can access lower prices as internet becomes really a human rights and a basic part of people's daily lives.

5 You know I think the internet is becoming more and more important and one of the things we need to see is that the costs come down so that more innovation can happen; more learning can happen, more access to the internet can happen but we are not seeing that as fast as we would like.

**MR MAHUMA:** That's fine and then the next point; sorry to take you back, its  
10 paragraph 3.4 on page 5, so it's the first sentence and it says "the elements of IP Connect are important to understand as in our view it illustrates that the components of IP Connect are likely virtual and not particularly expensive" so maybe perhaps explain that last point that the components of IP Connect are likely virtual and not particularly expensive?

15 **MR COX:** Yeah and I think this is the point made again in the other presentation that we believe that the more expensive part of the Openserve network is maintaining the last mile copper infrastructure and those separate fees are met on a monthly basis for line rental and ADSL fees where the IP  
20 Connect portion of the network which is shown in the diagram and it's also on Openserve's website, we don't believe that component of the network the input cost warrants the R175 per megabit per second per month charge that is currently levied. So we do understand that a large access network has maintenance fees and maybe could be expensive to run but we haven't seen the costing model. But the IPC is a separate charge, those line rentals unless  
25 there is some type of subsidy, but I don't see subsidisation happening but again

we would need to understand the cost breakdown of managing that network, of managing the IPC portion of the services that are charged.

**MR MAHUMA:** And my second last question is, given that you have indicated that the price has decreased overtime, and Telkom has also indicated that they  
5 are going to decrease the price as well this year; is it something that the Regulators need to get involved with, there's still scope for regulation intervention or do you think what Telkom is saying will then fix the issues that you have?

**MR COX:** It's I guess the question of whether the Regulator should get  
10 involved is how important we all believe that access to cheap data pricing is important to this economy that we have in South Africa. Internet Solutions is firmly of the opinion that the lower data prices are incredibly important to the growth of this economy as a stimulus and that up until we have cheaper data prices we are going to struggle to grow as an economy and we have many parts  
15 of our society that really have a huge struggle on ability to pay on the affordability index. So I think should Regulators get involved? I think it depends on how important they see lower data prices. We believe it's incredibly important, we believe that we can have a very different situation in this country with lower data prices. And ultimately the reduction in those data prices is too  
20 slow in our opinion and so we do believe that there needs to be some kind of intervention.

**MR MAHUMA:** And my last question is besides IP Connect, is there any other issue you would like us to be aware of or maybe just expand on that issue.

**MR COX:** Ok, this inquiry as from what we have seen over the last couple of days really focused a lot on mobile data and I think it's really finesse for this inquiry to look at how internet services are consumed and where they are consumed so it's our contention that a lot of internet services are consumed at home, or in a fixed environment, at home, it could be at a school, at a college, at a place of work and a lot of that has to be done on some kind of Wi-Fi routers but ultimately it's a fixed data charge. Obviously between as you more mobile and between those locations and the mobile data becomes very important. We do believe that at least half of the issue is around the fixed data cost and so the request is not to ignore that and it's also not just to have a view that the IP Connect charges have reduced over the last few years, of which they have; but what we are saying is irrespective of that they remain very high relative to what we understand is happening in other economies. We believe that the high charges have a detrimental effect to the overall access to the internet that the population of South Africa is afforded.

**CHAIRMAN (MR MAJENGE):** Mr Aproskie

**MR APROSKIE:** Just one last, this is more of a big picture question flowing from what you just said in response to the question from Mr Mahuma. Mr Carl from the Internet Service Providers Association submitted that South Africa seems to be, and these were his words "A mobile centric country in terms of data services" which presupposes that fixed data is a very small component of data services. I just want to get your broad reflection as to where exactly the failure in competition is in relation to data. Is it mobile or is it really fixed in respect of fixed, where exactly is, just from a more big picture perspective, where is the competition failing?

**MR WALT:** Will it be ok if I responded to that Chair, or must I take the oath?

**CHAIRMAN (MR MAJENGE):** You have to take the oath sir

**MR WALT:** I Tony Walt affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth. Just in response to as you say the big  
5 picture when you talk about mobile centricity, ultimately there is many ways of looking at it, one of them is the way in which it manifests itself in the device that you interact with, which is a mobile device but the underlying infrastructure required in order for the data to manifest itself on that mobile device is not always exclusively provided over the MNOs networks and as such if one  
10 considers by way of example the tremendous increase in data provided to mobile devices over Wi-Fi hotspots, those rely almost completely on fixed land hole to provide that Wi-Fi data which ultimately as I say manifests itself on the mobile devices, so you can't in my view necessarily single out or split the fixed market from the mobile market and have a view that because mobile centricity  
15 is approximately on the rise and that's possibly the future, the underlying infrastructure to support that requires fixed infrastructure as well and a lot of loading by way of example, Wi-Fi offloading happening in MNOs networks onto traditional Wi-Fi infrastructure and that Wi-Fi infrastructure is provided by fixed underlying infrastructure and that's ultimately where the high cost of data is  
20 coming through; so the one bleeds over to the other.

**CHAIRMAN (MR MAJENGE):** Ya thank you very much for your submission and for your time, you are excused. We will take a short break and we will resume at quarter to 10 to take the next submission from the African National Congress.

**THE END!!!!!!**

## African National congress

**CHAIRMAN (MR MAJENGE):** We will now resume, with the hearing. We will receive the next submission from the African National Congress. Welcome ladies and gentlemen, thank you very much for coming and for your time. We  
5 will just start with the formalities, if you may please place your full name and surname for the record and there after proceed to take the oath or the affirmation and please switch on the mic as you do so.

**MR MABE:** I, Pule Mabe [?: 00:00:43], swear that the evidence that I shall give shall be truth, the whole truth and nothing else but the truth, so help me  
10 God.

**CHAIRMAN (MR MAJENGE):** Thank you Mr Mabe [?: 00:00:59].

**MS NKOMO:** I, Miss Phelisa Nkomo [?: 00: 01:02] affirm that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth, thank  
you.

15 **CHAIRMAN (MR MAJENGE):** Thank you Miss Nkomo [?: 00:01:12]. , if you could just start by indicating what your current role or position is within the African National Congress and thereafter, you can proceed to take us through your submission or presentation.

**MR MABE:** Thanks, my name is Pule Mabe [?: 00:01:39]. I'm the Head of  
20 Communications in the African National Congress; I am also the national Spokesperson of the ANC, elected at its 54<sup>th</sup> National Conference. With me here its, introduce yourself.

**MS NKOMO:** Yes, My name is Phelisa Nkomo [?: 00:01:57]. I am one of the ANC congregation team, national congregation team.

**CHAIRMAN (MR MAJENGE):** You may proceed with your presentation Mr Mabe [?: 00:02:12] and Miss Nkomo [?: 00:02:13].

5 **MR MABE:** Thanks, before I hand over to, my colleagues, just wanted to make some opening remarks. The importance of technology as an enabler or catalyst for economic development is indisputable. Technology is attributed for enabling underdeveloped countries to catch up and even surpass developed economies. The Asian[unclear: 00:02: 37] Tiger's located technology at the centre of the

10 industrialization and expedited technological diffusion in key economic sectors. Technology also enabled the population to tag along in the process of economic development, through strategic use of instruments like internet Connectivity, affordable data emanating from targeted investment in ICT sector. This country's developed policies which enabled total access to data at lower cost. In

15 Africa, countries like Rwanda and Kenya have invested wisely in the Information and Communications Technology sector, residing in broader access and use by the general population. This had opened great opportunities for techpreneurs as evidenced by innovative digital products coming out of East Africa. Secondly, the lower cost of data has had multiple socioeconomic impact by enabling semi-

20 rural communities to access educational and health related information, through mobile money and many digital applications available through mobile applications. You know countries like Kenya they still use, Mpesa. The ANC's concerned by the impact of high data costs to ordinary citizens, in particular youth, students, women and rural communities, including cost of doing business

25 in South Africa. High cost of communication can be an inhibitor to investment

and growth. SMME's perspective on the cost of data, internet Connectivity has become an indisputable sensible business tool for most entrepreneurs in South Africa, but the high cost of data is hurting many small and medium enterprises. Data Connectivity and digitization will be vital in levelling the playing field for SMME's allowing them to compete with larger, more established companies in their industry wide. Impact of data costs on households, township and rural communities. The expensive data price limits the poor's ability to access the internet, which is needed to keep in touch with their loved ones, Facebook, YouTube, Twitter, WhatsApp, Google Map Navigation, Email and etcetera. Find opportunities like applying for available jobs, participating in supply chain opportunities, since companies are using internet to save the cost of advertising, register a business and in provinces like Gauteng, you know Gauteng is already using the internet for instance to apply for public schools. Moreover, government services increasingly have an online component, the convenience of which is not being experienced by low income users. The role of infrastructure as a contributor to cost data as well as enabler for access. What the cost of data, when the cost of data is high, the business tends to suffer from the following, engaging with customers on their mobile devices which is easy because of sheer amount of personal data they freely hand over, furthermore app or mobile sites to create a new experience that is specifically tailored to unique customers, promote new services and increasing sales, marketing campaigns to promote higher visibility of your new services and is relatively simple formulae and cheap. Furthermore, the way of doing business communications sometimes play an important role in attracting investment foreign direct investment, from foreign investors. The high concentration in the

broadband market resulting in high cost of communication as well as limited accessibility of ICT products. The lower cost of data does ensure that all citizens have equal opportunities to liberate the internet to improve their lives by accessing information to opportunities that are available. I'm now going to hand  
5 over to, my colleague Phelisa Nkomo [?: 00:06:11] to just go through some of the details and interventions that we the ANC believe should be considered going forward.

**MS NKOMO:** Thank you. , the presentation before you will focus on several issues, I think we, we pay a little bit of attention around what is the structure of  
10 the sector but as well as I think you will see throughout the presentation that we elevate what are the key issues that the African National Congress is concerned with and broadly our presentation will focus as well specifically actually on the politically economic questions we may not have the specific suggestion around the technical issues, but we'll certainly share with you some  
15 of the thinking that we have. The ANC's concerned about the digital divide in South Africa and I think , the point is actually made from , Mr Pule's [?: 00:07:01] opening remarks that in this context, it, it's, it has a negative impact , the high cost, sorry, of data has a negative impact. This impedes wider parts [unclear: 00:07:14] of broader nation which is worker, student, women, rural  
20 communities thereby disadvantaging their benefits from the digital economy but not withstanding that some operators have taken the first step to lower the data prices since the popular call for lowering the data and I think we've seen last year the data must fall movement, that was led by the civil society organisation. However, the ANC believe that this is not enough and we want to, put a  
25 disclaimer upfront that the ANC is not involved in the direct delivery of data

services, however it's policy making function is paramount in providing direction for the interest of all South Africans. The ANC's of the view that the [unclear: 00: 07:59] spectrum in line with the international mobile, telecommunications advance requirements will inevitably lessen the network burden of operators, 5 reduce the cost of capital, resolve the [unclear: 00:08:09] constrained experienced by mobile operators and [unclear: 00:08: 13] and I think this came out very well in the last two days in particular, yesterday from the mobile operators and we participate in this data service marketing inquiry to make it sure that we present some of the key issues. So I will skip the next slide which 10 really speaks to on whether, what are the terms of reference of the inquiry. I think that's a well-known issue. I think one of the key issues we, what we'd like to present here, is that the data cost in South Africa is significantly higher than in other African countries. So if you look at the graph before you, we, part of the research we've done is that, if you look at Egypt is the lowest and South Africa 15 is the highest and including other , , developing countries within the continent. Tanzania is the second, Ghana, Nigeria and we, 7.5; I mean we had \$7.5. Now, I mean, I think the issue, the point that was made by mobile operators in particular yesterday was that even though in other countries, the data cost must be cheaper, but there is less penetration but also there's a huge problem about 20 quality, but I think that's not the point but the point is that we would like to see the data costs being reduced so that poor South Africans are able to communicate with each other, but also engage in the mainstream economy. This is the report that was, these two slides are actually presented, are taken from the ICASA report, which actually demonstrate that data costs in South 25 Africa remains the highest and this is coming from, particularly from MTN and

Vodacom. So the public policy context in this regard is probably the neither the data nor broadband, rather on Connectivity. A broader debate on Connectivity enables the society to look into different forms of relevant technology deployments for different Connectivity needs to beyond just the broadband. I think the several points, the three points that we raised, there is that Connectivity between government to government exchanging citizen's data for better public services, better public service delivery. So obviously if you have the higher data costs it means that government will not be able to use digital platforms to communicate with its citizens. So it means that citizens will have to walk into the doors and also this will have obviously huge impact for government in terms of delivering the service, from a cost perspective. Governments to citizens for universal access of public services. Government to business for creating channels of public service away from traditional institutions using, using citizen's data. So, the historical context here that took place is that the telecoms market was, has, was and has always been dominated by fixed infrastructure which was rolled up by Telkom, a wholly owned State Enterprise, not anymore of course. So in 1994, Vodacom and MTN launched to provide what was then an unknown new services, mobile telephone and mobile messaging services as well as related infrastructure. To date this has given the two mobile giants market dominance in what is also referred to as duopoly in the market. Currently the ICT sector has digitised and in this mode of providing electronic communication underpinned by mobile and fibre networks which have enabled the transmission of data services to both businesses and, and individuals. These are some of the challenges. We're highlighting this area the challenges, in the ICT sector is that the ANC has a policy of universal

access to ICT services by whole citizens according to the international telecommunications union we are social 28 and report South Africa's internet penetration is estimated at around 54%. Most well areas in town lack access to broadband due to supply side infrastructure networks and I think one of the key

5 rationales why we thought we needed to participate in the Commission was particularly to underscore the point and say that there needs to be an increase supply side infrastructure for rural communities and townships. Access to broadband is primarily in the main metropolitan areas of the country on the other hand demand for direct services increased exponentially over the last few

10 years, underpinned by introduction of over the top services applications such as Facebook, WhatsApp, Twitter, social media platforms. Majority of South Africans access the internet through their mobile devices, the most common mode of communication amongst South African households. Just to continue around the challenges. The ANC has identified some of the challenges in the

15 ICT sector as follows untransformed market structure, I think that was part of the presentation that was raised by Telkom yesterday on structuring completion that needs to be resolved as part of these hearings, that market is dominated by too large operators which is Vodacom and MTN, with two other smaller operators Telkom and Cell C struggling to make an impact in the drive to

20 equitable and fair competition. This is classified by the policy; this is classified by policy level to, the fail of the policy level to strengthen competition. There is an important lesson to be learned from the imposition of pro-competitive remedies which has resulted in significant reduction of voice calls and services. A weaker regulator who is unable to address barrier to entry as well as existing

25 market bottle necks. Furthermore, the regulator is not sufficiently resourced to

make key decisions which will make an impact on the behaviour of the industry. The licensing of radio frequencies spectrum to new entrants in order to change market ownership, the sector could have benefited from a licensing of scarce radio frequency resources, there is a failure, to compliance, to comply with the

5 black economic empowerment act, in the sector as well. So, we would like to also use the opportunity to make the point around the decision of the 54<sup>th</sup> national conference of the ANC with regards to the ICT sector and then the, the first point we make an emphasis that the ICT sector has a huge impact on the GDP because it's a platform and conduit unto which South Africans use to

10 communicate but as well as, it has, it's a critical macro-economic growth lever[unclear: 00: 14:40], that solutions must be practical given the huge investment needed to roll out broadband and prepare the internet of things in such a constrained economy. I think at the point the implicit points that we made in here is that who would like when the commission makes recommendation at

15 what needs to be required that they must be as practical as possible so that we know where we're going, forward from here. Many of the ICT sector challenges have been previously raised as S. A's high cost of ICT and communication needs to be addressed through policy regulatory system and decision. There's a need to increase the roll out of broadband infrastructure, especially in the, in

20 rural areas. The ICT sector needs to transformed and I think we made the point even earlier that this is a serious binding constraint, that there must be strong regulatory intervention to deal with the questions of high cost to communicate and ANC must support the campaign for, data costs and ensuring that there needs to be an end of monopolisation of data, this is regarded as stifling

25 economic inclusion. The need to optimise the ICT opportunities through use of

SMME in the ICT to drive the economy is critical. The ANC has also resolving  
it's 54<sup>th</sup>, national conference that the government must put its efforts to ensure  
that the SMME opportunities are created in the whole ICT value chain and  
further encourage the participation of black industrialists in the sector. There  
5 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, application developments and support of black  
industrialists program to ensure that there is much more participation of SMME  
development. I think on the broadband internet service the ANC has long called  
10 for government to adopt a comprehensive policy on ICT policy framework to  
ensure that policy certainty is attained and the investment in the sector is  
achieved for growth and development in South Africa. So these policies have I  
since been adopted which the adoption of the, white paper on integrated ICT in  
2015 and national broadband policy which is S.A Connect in 2013. However, it  
15 is self-evident with limited access to infrastructure network, especially in rural  
towns and peripheral areas, consumers are not able to access data services,  
particularly 2G and faster broadband service as LTE standards. The national  
broadband policy has provided a framework for priority targets areas for the roll  
out of broadband services amongst the schools, healthcare facilities,  
20 universities, government offices and facilities such as police and post office and  
I think the point we're making is around, how do we make it easy for  
government to communities to provide service delivery much easier so we  
believe that access to broadband infrastructure in the social policy sector or in  
sectors that falls under social policy, it will actually be easy for the citizens to  
25 access those services. To deliver quality services in these areas, broadband

network have become the primary necessity similar to electricity and water. So, I think the argument here we're making is that this must be treated as part of primary rights and hence we're calling for, cheaper data costs. Funding for ICT needs [unclear: 00: 18:18] government has also been discussed in the S.A

5 economy policy with realisation that unless a solution for integrated delivery of ICT services is found, the ICT services funding remains inefficient and sometimes wasteful resulting in poor service delivery. So, I think you can see we're quite consistent around the need to ensure that ICT services are actually available for the poor working class community and, including young people,

10 youth and rural communities. Another market related challenge to unequal scale up of existing networks provided by existing operators such as Vodacom, MTN, Cell C and Telkom mobile in the mobile services segment. The Telkom and Liquid Telecom in the fixed segment, of the markets. The point to underscore is that there has been an extensive investment made by the industry over the past

15 five years of not less than 18 billion year on year. I think we heard yesterday where the mobile operators were talking about the infrastructure partnerships that they've been, they've entered into in the last, few years. This investment has largely been focused on improving network performance while also preparing for infrastructure for higher speed broadband services through 4G

20 networks and LTE standards. 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 similar, 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 sector

25 and competing services offered. In this context, in comparison to Vodacom and

MTN are far larger than their peers with revenue market share of 83, of more than 80% between them. The same is also true when comparing to subscriber base numbers. It is clear that Vodacom and MTN are also significantly enjoying market power in the data service market and I think both companies have actually confirmed that yesterday. The data services market alone has grown to reach about 50% of the telecommunications business showing significant signs of surpassing voice call in the near future. On regulation, the ANC supports 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 direction the industry conduct in a manner that ensures that consumers are protected from excessive data costs as well as limit the excessive profit maximisation by these operators from consumer in the data market inquiry. In its statement the ANC called upon ICASA and the industry to work together to urgently resolve the regulatory bottle necks prevalent with the introduction of regulation referred to earlier. In particular for the industry to implement the regulation for reducing data prices and protect consumers from bill sharks which has been experienced by many South Africans. I think, the IP Association on Monday, they did raise a similar issue. ICASA should improve its internet technical capacity so that they are able to undertake market studies in order to improve competition in the industry. The ANC has taken note of ICASA findings document on the market inquiry which prioritised three key markets for investigation in terms of electronic communications act of 2005 as amended. The markets identified the following, wholesale fixed access which includes wholesale supply of asymmetric broadband origination, fixed access services and relevant facilities upstream infrastructure [?: 00: 22:18] markets and

corporate 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 networks including the relevant facilities. The ANC's encouraged by the steps taken by ICASA since 2010 to date, not only in reducing the costs of communication through the Call Termination Regulation but also in undertaking the priority markets studies that is the End User Subscriber Service Charter, regulation and we're of the view that part of this hearing will start augmenting the work that ICASA has already started in, with regards to the competition in this sector. The recommendation, ANC have considered the scope of this inquiry in terms of published terms of reference and recognised that the, recognising that the internet is the base within which most people access ICT services. The ANC submits that the dominance of operators in the data services market should be curtailed particularly where abusive dominance market position has been identified through imposition of pro-competitive remedies. The policy measures recommended for improving competition in the market, including the licenses of new operators in the sector, implement the policy framework including broadband policy to ensure universal access to broadband by all. Recommend measures to promote black economic empowerment in line with the ICT sector codes, investigate any abuse of market dominance and sector is a way of promoting red [?: 00:24:00] competition and limit price collusion where it's found to be prevalent. Thank you.

**CHAIRMAN (MR MAJENGE):** Thank you very much Mr Mabe and Miss Nkomo [?: 00:24:10]. Mr Aproskie.

**MR APROSKIE:** Hi. Thanks very much. I don't know if you can go to your 9<sup>th</sup> slide. It's the one that said challenges or, Slide nine; I think it said something to do with challenges, landscape and challenges. So I think the one before that, I don't know I think, two earlier, two slides earlier. Keep going, one more, yes the  
5 other direction yes, keep going. No it's still earlier, still earlier and again, no still earlier. Next slide, no, no, no, the other direction and again, yes, yes that one. No sorry it's one more slide, my apologies, I don't know if it's matching the presentation I have, I think, its fine. Let me, let me just talk to the point. On that slide and on a few slides you make the point that rural areas and towns lack  
10 access to broadband due to supply site infrastructure. , so, we heard from MTN and Vodacom yesterday who were saying that there's 99% or more than 99% coverage of a population in terms of 2G and 99% in terms of 3G and then soon to be around 80% to 90% of 4G coverage. So I just wanted to get your comment on that because that seems to be saying that less than 1% of the  
15 population is not covered by broadband service, but here, we're saying that most rural areas and towns are lacking access to broadband so I just want to get your perspective on that point, given what MTN and Vodacom have submitted.

**MS NKOMO:** Okay, I must , declare upfront that obviously we're not , we may  
20 not have technical nuisances and I think that's why we had said that our presentation is really going to focus on the political economy of broadband and access to infrastructure. Perhaps at a technical level, yes, they would say that they have deployed infrastructure networks but I think the issue is around price. So if you have, even if you've declared sufficient infrastructure but if the  
25 cost is an inhibitor to actually access, broadband infrastructure most certainly

the value of that infrastructure will be very minimal, for the rural communities. In fact, I think there's a research that was undertaken by Unilever at UCT which was actually saying that almost, SMME's spend about R75 on data costs for them to be able to run their business on a daily basis. So it means that if you

5 have such high cost for you to run and you're an SMME and you might have not secured the business, so the likelihood is that issues of cost is an inhibitor but if SMME's would have had, cheaper data cost, they would be able to actually contribute, or build their businesses much more with less transactional cost involved in the business itself.

10 **MR APROSKIE:** Okay, thank you. , Then one final question from my side, I'm not sure if you were here on the first day, but there are a few submissions around the cost of data for the poor, for low volume consumers and there were proposals such as offering free data allocation to consumers in the same way as water and electricity would be dealt with or having systems whereby zero

15 rated content or apps are funded either through, SED [?: 00: 28:41] obligations of operators or by government. , I'm not sure if you want to make any comment on those proposals or those types of proposals.

**MS NKOMO:** Yes. I think, I mean certainly if there's a call for free data for the lower band users. I mean certainly. I think we'll support that in the same way the

20 ANC's been supporting , free basic services on water as well as electricity and I think increasingly the point we're making as well in our presentation is the fact that , , technology platforms have become , so critical for government to be able to interact with its citizens so that free access would also enable citizens to be able to interact with with government but also undertake their own social justice

works, social activism work in any other activities they would like to pursue in society.

**MR APROSKIE:** Thank you.

**CHAIRMAN (MR MAJENGE):** Doctor Mncube?

5 **DR MNCUBE:** I would like to invite a comment from you, on something that has been raised several times and, it is a concern that data is a basic right and the concern is that mobile data is very expensive for low or lower income groups; do you have a comment on that?

**MR MABE:** Thanks, my colleague will also add. It is true, actually to the point  
10 that was made earlier that, to be able to access numerous other services today, such access is made through data, whether it jobs. The point we're make when we make our opening remark that, people use mobile, mobile data now to apply for jobs, to get information on government services to now, even in Gauteng its worse to now apply for, is it for schools, to apply for schools' registration,  
15 they've got to go through internet Connectivity as well which now begins to say without access to data, our people are further marginalised and pushed to the extreme. So it is important that these costs are lowered so that our people could be able to enjoy those basic rights as well, because access to information, especially now in a growing economy, it's a very important, issue. Actually  
20 information can be a divider between the rich and the poor. You know, you are more wealthier when you are more informed, when you are less informed you could also not know, what else is happening in the public sector and all of that. I mean just talking about information, a few weeks ago our own President launched the economic stimulus package, you'll understand. If government

wanted to use various other platforms to be able to communicate for citizens whether in townships and rural areas to be able to access such information they will need to have, they will need to have access to data as well. So, this makes it an important right. I don't know if you want to?

5 **MS NKOMO:** Yes, yes. I think absolutely, I think perhaps just to underscore the two points I want to raise is that in fact , if you, if people want to lead productive life in society one of the critical issues is that they need to have access information and the first issues is that students at universities for example, for them to undertake their own studies, they need to actually have access to , , to 10 information and that information is actually tagged into, into internet so it will mean that they need to have access to WI-FI services. Second issue, is that people openly, I mean you would know the issues around unemployment in South Africa and where young people are actually saying that one of the key inhibitors for them is that they don't have access to information around 15 government services and where they could get, either opportunities but also assistance from the public sector. So actually, it is, it is, we need to consider it as a basic right.

**CHAIRMAN (MR MAJENGE):** Mr Mahuma.

**MR MAHUMA:** In your slide, just, just one last question from my side,, in your 20 slide, but you don't have to go there, setting out the context you clearly made the point that the ANC's of the view that, the release of spectrum in line with the international mobile telecommunication funds requirements will inevitably lessen the network burden on operators and resolve the constrains that the operators are facing and also enhance the acceleration of the roll of broadband in the

rural areas. A constant [inaudible: 00: 34:08], was that the prices would be lower if the operators were not spectrum constrained a point that at least you acknowledged the spectrum constrained point in your presentation. I will also like to invite your comment on, the reframe that if mobile operators in South Africa were not spectrum constrained, that will have had a strategic impact on pricing of mobile data services. So broadly what are your views on this?

**MS NKOMO:** I think the, perhaps the starting point is that the ANC welcomes the announcement by the Minister of Telecoms that there would be a release of spectrum, next year in April. I think for me, I think for us that's the, the step in the right direction. I think the issues; the two issues we need to make perhaps to support partly the mobile operators is that the point that is made is that the cost of the station is much higher which in essence would end up being transferred to consumers. So if you would release the spectrum, it would mean that you lessen the capital costs for mobile operators so then in essence it would mean that they don't have to transfer the prices to the consumers. So it would be they will invest less capital cost, than they currently do so in essence the value for the consumers and poor South Africans would be that then they pay cheaper data costs.

**CHAIRMAN (MR MAJENGE):** Yes, thank you very much for your time as well as for your submission. Thank you, you are excused. We will now take the next presentation from the Alliance for Affordable Internet. Ma'am are you flying solo? If you could please just switch on your mic and state your full name and surname for the record and then take an oath or the affirmation.

## Alliance for Affordable Internet

**MS MAKWAKWA:** My name is Onica Nonhlanhla Makwakwa. I Onica Nonhlanhla Makwakwa swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

- 5 **CHAIRMAN (MR MAJENGE):** Thank you very much Ms Makwakwa, if you could just start by introducing your organization and what your current role is within the organization and then you can proceed to take us through your presentation.

**MS MAKWAKWA:** Ok, I am here to represent the Alliance for Affordable  
10 Internet and my role is the Head of Africa for AFAl; the Alliance for Affordable Internet is actually an initiative of the Worldwide Web Foundation, which is the foundation that was founded by the inventor of the Web Settings League. AFOI as we call it is the world's broadest technology sector alliance that is working strictly to drive down the price of broadband by transforming policy and  
15 regulatory frameworks. We work throughout the continent and mainly in the global south, our primary focus; we work through international advocacy efforts as well as country engagements in several countries. In Africa, we are mainly West Africa as well as some work in Mozambique too. The state of data prices in South Africa has been a conversation for at least the last two (2) to three (3)  
20 years, both publicly and in the public sector. The reality that brings us here is also that the income inequality is very high in South Africa; 55% of the population lives in poverty, predominantly black women, children and the elderly and those living in rural areas. The poorest 20% of South Africans have to spend 19% of their monthly income for just 1 gig of data and the top 20% of the

income earners spend less than 1% of their income for the same 1 gig of data. This reference of the percentage to income is important because the United Nations Broadband Council recently adopted an affordability target which we had developed through our affordability index. This target says that affordability

5 for the access to the internet, no one should spend more than 2% of average GNI for 1 gig of data per month. So it's called the 1 for 2 target; 1 gig of data for no more than 2% GNI. For South Africa this target requires a little bit more nuance because of the income inequalities; because if you look at it on the surface it would actually seem as though South Africa long met the target but

10 when you look at the income quintiles you realise that the target has not been met by people at the lower 20 percentile and actually even levels lower than that. We conduct an annual index called the Affordability Drivers Index, unfortunately the 2018 one is only coming out next week so I have to rely on 2017; there isn't a whole lot of difference there so far. The Affordability Drivers

15 Index basically looks at measuring policy and regulation in places that have proven to be able to help drive the cost of the internet down. So we look at scores such as the Access Policy Score which you normally find in your National Broadband Plan as well as the Infrastructure Policy Score, looking at things like whether our policy speaks to infrastructure sharing; spectrum

20 management and the like. So in terms of the top 10 African countries, South Africa ranks at number seven (7) as you can see, with an average ADI globally at number twenty-two (22); however for South Africa this is far lower than what its peers should be, if you look at South Africa's economy and other Indices, we think that South Africa should be placing far better than it is placing right now on

25 the ADI. And I will go a little bit later into some of the things that we recommend

for fixing that. In Africa, only 5 countries out of 27 actually meet the affordability target as set by the United Nations, which is the 2% average monthly income. In terms of our older population we still lag far behind in broadband penetration, because as you can also see in internet gender gap which again in South Africa

5 on the surface looks like it has closed but we need to actually go beyond just access and how people are accessing the web to look at how are they actually utilising it in a way that is transformative; and I will go more specifically in it later. So this is how South Africa scores on the ADI, the Affordability Drivers Index, we are number 22 globally; that is our ADI ranking is at 22 and that's the

10 global ranking. Our score at 51.20 out of a 100 not very impressive; our access score is a lot better, 61, it could even be better because we are at that 50% tipping point which requires doubling down to Connect even more people; and our infrastructure is really lagging behind in terms of the ADI and the policies and regulations that could help us leap frog. And when you look at some of the

15 countries that are ahead of us, you know are countries that we hear for example a lot about Botswana, yesterday there was a lot of examples comparing with area countries that are within the SADC region and I hear a lot of resistance towards making comparisons especially on a pricing point of view but I find it quite amusing also that it's ok for us to compare ourselves when we are doing

20 well to say we have the best quality in Africa but we can't compare prices with the other African countries. You know, that comparison is quite important because access to the internet is about the digital economy as well, which also means that it is about our global competitiveness as a nation. So being able to make those comparisons is really important. In terms of internet use for South

25 Africa, according to IT use 2016 stats we were at 54% internet penetration;

however mobile broadband penetration according to GSMA most recent, which is 2018, we are at 47% and what that 47% means is that these are people who have a mobile broadband subscription as opposed to people who have access to the internet. You know, internet penetration covers a little broader area than

5 actually focusing on the penetration of mobile broadband subscribers. And our target in terms of affordability we are 2.5% which is still not affordable but seems like we are closer to meeting the target. However, again this is not a good picture for those who are the lower income quintile for South Africa. So in terms of beginning to address some of these issues, I think it's important for us

10 to understand that the income inequalities that exist in our country did not just happen on their own; they are income inequalities that...it's a legacy that was actually designed to keep certain populations below a certain level. So it requires taking equally strategic steps to begin to correct some of those, uhmm the United Nations has actually declared access to the internet as a basic right.

15 So it's no longer a privilege for people to have access, which means that even the 50% penetration is no longer something that we can celebrate; it is not good enough and we need to move beyond the half a loaf is better than nothing rhetoric especially when it comes to giving people access. You know, we need to promote infrastructure and resource sharing in order to reduce the industry

20 cost because we hear a lot about how costly deployment is for the industry and you know, GSMA has over and over again told us that over 60% of the cost is on trenching for example. So focusing on public access solutions including community networks and the allocation of spectrum for such networks is one way that we can begin to close the gaps for the unConnected right now in South

25 Africa; because I think when we look at our income inequalities we can agree

that there are people whom it's going to take us much longer to get them to a point where they can have affordable; where access can be affordable for them . And for those people, I think we need to begin to look at innovative solutions such as community networks; and government should be proactive in collecting  
5 gender segregated data so that we can actually know for sure what the digital gender gap is. We know that there is a digital gap that is income based but the gender gap is not a clear one because of the fact that the data that is collected is not data segregated. We need to remove the bottlenecks on the roll out of broadband infrastructure so that we can implement a one stop shop or single  
10 window for all applications. So for example, we recently did some work with the policy in Liberia, where they are looking at something similar to a 1 dig policy, so when a new development, a new housing development comes through; when they dig to lay down the electric wires, or they are digging for water pipes they can also coordinate that to fall in place with laying down the fibre. Because  
15 if we are saying that over 60% of the deployment cost is on trenching then being able to look at dig once policies where it's feasible, it's not always going to be the best solution but where it's feasible including in road works when we are laying down new roads; electrification projects doing area fibre in areas where it's feasible to have stable area fibre is one of the ways that we are  
20 recommending we begin to look at some smart infrastructure management policies. Spectrum is an essential resource and underpinning the operations of the mobile industry and I won't belabour this, there has been a lot of conversation around the release of spectrum for operators to be able to have access to that but I think what we will speak to is that lately we have been  
25 seeing really high costs of spectrum that just kind of have made it difficult in the

market as well for operators to be able to deploy in a way that is affordable. So looking at the auctions and the sales to be able to make sure that we are managing that cost; we understand that spectrum is a national asset but we need to be able to deploy it and release it in such a way that it serves as an enabler for the sector as opposed to a disabler. So operators need to prioritise specific areas that remain unconnected but the way it is now they tend to prioritise those areas where they can make a quick cost recovery from as opposed to rural areas where financially the market might not be as viable. Hence the consideration and recommendation to consider community networks as an example, and I am not sure if the community networks have had an opportunity to speak here but the village of Mankosi village in the Eastern Cape is one model that actually has a community network that is very stable and has actually done tremendous work in terms of being able to Connect that particular community and create jobs also, in the rural area as the young people are the ones who are running the community network and no longer have a need to migrate to the city for those types of opportunities. We need to develop strategies to encourage innovation in how spectrum is used. We heard a lot yesterday when the operators were having conversations about downtimes and it seems the only thing I was hearing about is how the low congestion periods were used, the most popular things seems to be bonuses and you know, you get bonuses for using your data this time but perhaps it is time for us to look at some reasonable and fair market pricing of spectrum and encourage innovative use including dynamic spectrum sharing during those off hours, not off hours but low peak hours; but also encouraging use of unlicensed spectrum to be able to focus on covering the gaps and to advance affordability for people who are

not able to access the internet. So tv wide spaces is one example of how we could be taking a look at how we are utilising the spectrum and supporting development of new technologies like what the community networks are bringing to the fold and setting priorities for coverage with focus on marginalised communities. We hear a lot about market viability but I think that like I said earlier we need to strategically as policy, go out of our way to Connect those other areas where it may not be viable for the operators to Connect them, if we are to follow the guidelines that access is a right and not so much a privilege; and we are hearing more and more that people need to be able to have access.

10 South Africa maintains an average international internet speed of 4.8 megabits per second, compared to the global average of 6.1 megabits; we are second in the Continent with Kenya having the fastest, so globally we are still ranking fairly low and we could do a lot better especially given some of the infrastructure investment that has happened around sea-line cables and the likes. Disparities in speed, availability of affordable data and poor Connectivity however still affects townships due to the congestion, old and inadequate investments on infrastructure. What's troubling here is that people in those townships pay the exact same amount as the people in the nearby urban areas, for example, a consumer in Sandton pays the same amount for their data Connection on prepaid for example and the one in Soweto; whereas one in Soweto their network may not be as high quality as the one of the person let's say in Rosebank or Sandton. So we need to begin to address also the disparities in quality especially where the price is actually the same. Those consumers in the townships pay equally and I think if we did a study to look at just how much they contribute and spend we would actually find that they are contributing quite a

25

significant amount to the MNOs and therefore we need to pay attention to quality issues for them that is due to congestion as well. Making mobile data affordable is one key part of the affordability puzzle however and I think we began to hear a little bit of that yesterday that another important component is

5 making devices affordable and accessible for people to be able to come online and we actually did a paper in Mozambique around looking at the import duty that is put on importing hand held devices; and how rolling back that 20% duty would actually help add to the GDP by people being able to acquire more devices and being able to conduct more businesses that way and I'd be happy

10 to direct you to that study. We have done a similar one for Ghana and in fact Ghana has begun to roll back because they were realising that Ghanaians were actually going to Nigeria to purchase their devices then coming back to Ghana to Connect them because that 20% makes a huge difference especially for low income consumers. Looking at taxes alone is not the only way to deal with the

15 cost of devices but perhaps also beginning to look at developing industries locally, for an initiative for a locally assembled device would be another way of beginning to kill some of that cost. In conclusion, it is important to ensure that the policies that we adopt around affordability are in line with our recommendations on policy and regulatory good practices and those are mainly

20 around UN Broadband Council's affordability targets, working towards a target of making sure that: 1. We are Connecting everyone; 2. Not more than 2% is spent on 1 Gig of data and when you think about it 1 Gig of data per month is also not sufficient, it's just sufficient enough to kind of get you online in terms of being able to bring people on board but if we actually talk about the kind of

25 meaningful use of the internet and in a way that can really unleash the potential

of the internet for people to be able to transform their lives, we need to be able to begin to look at this universal standard of what is universal standard of just bare minimum access for everyone in the country and prioritizing public access programmes we are also working on reducing the price, it's really important. We

5 are seeing more and more governments adopting, adjusting their universal service funds for example to actually pay for public access so that individuals who are not able to afford Connecting themselves at home can still go to a public hall, can still go the mall, can still go to the train station, the bus stops and be able to have access to WI-FI; sort of in the way the City of Tshwane at

10 some point pioneered the whole public Wi-Fi through the municipality. We need to take urgent action to really promote infrastructure resource sharing in the sector because there is an urgency to drive the costs down and we cannot stop at continuously hearing that it is expensive to deploy broadband. If we agree that broadband is access to the internet is a basic human right, I think it really

15 behoves us to find the solution and one of the opportunities is around the management of the infrastructure costs as well as encouraging more resource sharing within the sector; with some clear guidelines that hopefully the different parties involved can agree to. We need to investigate innovative solutions like community owned networks and TV white spaces so that we are able to utilise

20 our internet access and bring affordability to everyone; and ensure that gender equality is considered in all processes because we cannot really afford to live half of the population behind in this digital economy. And I just conclude this by saying that I think we are pass the stage where we can argue about whether access to the internet is important or meaningful and I will share a story of a

25 young boy from Atteridgeville who used to get into trouble a lot when the

Tshwane Wi-Fi first started in Pretoria because he used to walk about 3 miles away from his home to the closest hotspot in order to Connect and that what does is he came home late and his mother is worried, its dark and is getting concerned about his safety as well. And when he was interviewed, I saw this on  
5 a YouTube video; he was asked, why do you like to be on the internet so much? And he's response was I live in a shack and when I'm online I no longer live in a shack, that's the opportunity we are keeping a million South Africans from. The opportunity to be able to dream a life beyond the opportunity to participate in the digital economy and the opportunity to help us unlock Africa's digital future.  
10 Thank you.

**CHAIRMAN (MR MAJENGE):** Thank you very much Ms Makwakwa, Mr Aproskie.

**MR APROSKIE:** Thank you and thanks for your submissions, it's clear as the AFOI you do have a lot of experience across the globe and across Africa and it  
15 certainly came out of your submissions that you made to us before. Based on that experience I wanted to probe on a couple of issues, the first issue in what we have heard on the first day of the hearings is a lot of focus on the cost of data for low volume consumers, the poor and the claim that low volume consumers pay more on the per megabyte or per GIG than large volume  
20 consumers; what I wanted to ask you is to get your perspective particularly from your experience across Africa is; have you encountered any innovative pro poor regulations or strategies in the data of the internet space? I suppose that's the first question, have you encountered anything innovative or something that we can learn from; the 2<sup>nd</sup> question is around those disparities between low income  
25 and high income or low volume and high volume users, is that something you

observe across countries or is it something that is more pronounced in South Africa?

**MS MAKWAKWA:** Certainly, so yes, we do see this low use and high use and the differences in the pricing. I think one of the bigger problems that we have not found a good model for is that there is a lack of pricing transparency in the sector; you know what is the unit cost of data? It shifts so much but I think that transparency to the consumer is really important especially for a country like South Africa that has a very extensive Consumer Protection Act that would require that level of transparency on the pricing side. I think that is what is mainly keeping us even from being able to conduct the kind of research that would help us to give recommendations on what is the best way to mitigate some of those challenges. One of the things that we are seeing in markets like Ghana actually is a good example that recently regulated the rollover of data including prepaid data for up to 90 days and with that is part of the challenge with the cost is not just how much the consumers are paying. It's a litany of other consumer related issues within the sector. That has made this kind of a painful point; and that is from whether it is data disappearing. I think last July, South Africa had disappearing data, it was a data eating bug or something of that sorts with Vodacom, that's what they called it, it was a bug. But consumers have been calling radio stations for years now saying they are loading and the data is disappearing. So there is that issue and there is also the issue of the rollover where in a market like Ghana for example where Vodacom and MTN do operate in those markets and data does rollover. And while we hear why we can't compare South Africa and Ghana at a basic consumer rights point of view especially with the Act that South Africa has. A consumer has paid for data, how

do you spend a 1 gig in 1 hour; perhaps you could if you just download something quickly but if you really want meaningful use and access; we begin to look at those issues around data rollover. To be able to find a mid-point so that consumers are able to either rollover their data or even pause it, you know  
5 pause your account. I'm travelling out of the country, I still have a Gig left for 2 weeks can I pause it until I return, so I think it's going to take more than looking at pricing alone it's also the industry practices related to how you consume what you have purchased.

**MR APROSKIE:** Thank you then you also talk in your submissions and in your  
10 presentation today about the big issue that is spectrum, do you have any views just from your experience on the approach that has been taken in South Africa in terms of the wireless open access network and the allocation of spectrum the One and the remaining spectrum to licenses and the basis on which that has been done; what can be your comments on that?

**MS MAKWAKWA:** Yes we have actually commented specifically on the  
15 proposed one in the proposed Telecommunications Amendment Act and we do support the one position, we do support the WOAN but we do believe that it's important to have a multi-stakeholder consultations and bring everyone aboard; because what we have seen in different countries is that when that doesn't  
20 happen in a way that engages the sector and I'm pleased to hear that operators are engaging with the Ministry on this issue. We find that it doesn't help to kind of move forward with it without that open consultation with both the private sector as well as civil society organisations that are working in the space. So we are optimistically open to seeing WOAN being able to make some changes in  
25 the sector. South Africa is a really unique market and the thing that makes it

unique is this challenge of income inequality so it doesn't really fit any one particular model that we have seen, but we think that the One may actually provide an opportunity to begin to address some of those issues.

**MR APROSKIE:** Thank You.

5 **CHAIRMAN (MR MAJENGE):** Mr Mahuma, Dr Mncube

**DR MNCUBE:** I just want to get back to your example of the community based networks because in your recommendations you suggest that community based or community owned networks should be investigated as one of the innovative interventions or solutions which could enhance access and you also referenced  
10 an example of I think, you said is it Makhosi?

**MS MAKWAKWA:** Mankosi village, it's a Zenzeleni project.

**DR MNCUBE:** If you can just elaborate on how the project actually achieves these objectives.

**MS MAKWAKWA:** Ok, so a community owned network is basically a co-op  
15 model where the community comes together to apply for the licence to operate a network and every household in the Mankosi village is actually considered a shareholder or a member. I guess in co-op terms it's called a member of the co-op, and they actually are trained to be able to run the project and provide Connectivity. So every household has a line Connecting them, they have a  
20 telephone line and they also have access to Wi-Fi. The village has a challenge obviously with electricity so they have containers that operate on solar power and the villagers use that container to come and recharge their devices, which is a source of income for the network. Each household pays something just a little under R300 monthly to give them access to the internet and unlimited

calling amongst each other within that network. So they can call each other unlimited within that network and they have access to the internet as well through Wi-Fi. It helps employ young people and keep them in the village, if there is profit that's made from how much they are collecting after they have

5 paid for their operating costs; the salaries of their people running the network then they can decide because they are all owners. They can decide if the profit goes to lowering their monthly subscription fee or to invest on the network expansion or any such thing. At first glance you might think that it might not be a strong network as the ones that we seem to enjoy but recently right before the

10 ITU Conference they hosted a workshop for people to learn about community networks; and during that time it stopped in the Eastern Cape and everyone was knocked out, no Connectivity and the only network that was still live was the community network. So it is serving, it is working and it's a good model, it may not necessarily work everywhere but in areas where it can work; I mean if

15 we talking about 3000 homes, obviously I understand when the operators say it's not commission viable for them but if there is a nearest town that they can be Connected through in an investment of about a R100 000 and get a community network up and going I think that it's an opportunity we need to explore. We need to explore also how to get them to develop and assemble

20 their boxes locally, I think that should be the next level but it ticks so many boxes including creating jobs in the village, let alone the jobs that will be created by them being able to be online and Connected thereafter. So we haven't even assessed the human impact of everyone being able to have access let alone just the physical that we see at the moment.

**CHAIRMAN (MR MAJENGE):** And maybe just broadly what are the levels of pricing in these networks because I would imagine that affordability then becomes a key issue?

**MS MAKWAKWA:** Of being able to set one up?

5 **CHAIRMAN (MR MAJENGE):** Yes

**MS MAKWAKWA:** I would say the last time I asked, I was told about \$10 000. I'm sure our Universal Service Fund can make an investment of that much so, but I guess the last time I looked into the pricing it was about \$10 000 and let me just say that one of the things that we should really pay attention to is that  
10 South Africa; this is a model that is happening in our backyard. I just came from Ghana last week where I was leading an Africa Summit for Women and Girls in Technology and there was a community networks workshop that was being run for people there and South Africa is being used an example of the model and yet we here at home are not taking the advantage and they have also done this  
15 for Kenya; they have done this for Nigeria as well, so other countries are adopting this model from some small village in the Eastern Cape and we have been not been able to harvest that wealth within our own country to see how we send it to Limpopo or the North-West or other regions that may be able to benefit from this. So this is home grown innovation where we have an  
20 opportunity to actually lead in setting up community networks.

**CHAIRMAN (MR MAJENGE):** I think we will request a further submission from you just to outline how the model works and possibly how it can be replicated across the board because the issue of rural Connectivity is one of the issues

that arose quite sharply in the various presentations especially the presentations which were made by consumer groups.

**MS MAKWAKWA:** Ok

**CHAIRMAN (MR MAJENGE):** Ya, thank you very much Ms Makwakwa for your  
5 very illuminating and helpful submission, and you are excused.

**MS MAKWAKWA:** Thank you.

**CHAIRMAN (MR MAJENGE):** We are running ahead of schedule, we will  
err...unfortunately we are constrained to take an early lunch and we will be  
back at half past twelve (12:30) to take the next submission from the  
10 Department of Communication and Postal Services, they were initially  
scheduled to make their presentation at quarter past one (13:15) but we have  
made a request to them to present earlier at half past twelve (12:30) so we will  
take lunch adjournment and commence at 12:30. Thank you!!!!

## Department of Telecommunications and Postal Services

**CHAIRMAN (MR MAJENGE):** Gentlemen thanks very much for your time and for coming ahead of schedule, we really appreciate that. We will just start with  
5 the formalities, if you may just state your name and surname for the record and please switch on your mic as you do so and then take the oath or the affirmation.

**MS MASEMOLA:** Good afternoon colleagues; my name is Mameetse Masemola. I am the Acting Deputy Director-General responsible for ICT policy  
10 development at the Department of Telecommunications and Postal Services..ehmm Chair, do I just say the words that are stated here?

**CHAIRMAN (MR MAJENGE):** Just take the oath or the affirmation and not both.

**MS MASEMOLA:** I Mameetse Masemola swear that the evidence I shall give  
15 shall be the truth, the whole truth and nothing but the truth, so help me God.

**CHAIRMAN (MR MAJENGE):** Thank you very much Ms Masemola.

**MR NKUNA:** Good afternoon, my name is Robert Nkuna and I am the Director-General, I will take an affirmation. I Robert Nkuna affirm that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help  
20 me God.

**CHAIRMAN (MR MAJENGE):** Thank you Mr Nkuna.

**MR WILTZ:** Good afternoon, Alf Wiltz. I Alf Wiltz swear that the evidence I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

**CHAIRMAN (MR MAJENGE):** Thank you Mr Wilt. You may proceed to take us  
5 through your presentation that will then be followed by questions from our side.

**MR NKUNA:** Once again thanks colleagues for giving us this opportunity as the Department of Telecommunications and Postal Services, as it is pretty obvious we have a set interest in this process and we are happy that the process is moving forward and we have reached this stage. Now, I cannot  
10 overlay the importance of this process, I think it's foregone that this is a very critical issue and many South Africans are looking forward to what comes out of this process. Chair in a few minutes let me by way of opening raise a few pertinent issues related to how the Department has dealt with the evolution of the ICT policy so that we can situate this discussion in its proper context. Chair  
15 I need to start with the Telecommunications Act of 1996, what actually happened in that process. Colleagues will know that when the Telecommunications Act of 1996 came about we had by then 3 operators, that is Telkom; Vodacom and MTN, now in 2001 there was an Amendment to that Act. The reason why we had to amend that Act is because we wanted to allow  
20 Vodacom and MTN to build their own infrastructure because up until that period, Vodacom and MTN were dependent on Telkom. So Vodacom and MTN made representations at the time that the environment was no longer conducive for them to survive and as a result government needed to undertake certain measures to create an enabling environment; the same happened with the  
25 licensing of Cell C around 2003. Government had to introduce certain measures

to ensure that the 3<sup>rd</sup> network operator can survive the market and fast forward we had to do the same with the licensing on Neotel, so you realise that every interval government had to make certain interventions for the successive licences to survive. And every time we did that, the incumbents always

5 complained that we are going to destroy our market value. So in the first instance we had Telkom arguing that any intervention was going to destroy its market proposition, when we moved to Cell C others said the same and so on and so on. This narrative is very important to appreciate that any given point when policy is introduced those who exist at that point in time are going to cry

10 foul and say please don't introduce further interventions, the market is fine, its working well and all those kind of things. So we have been in this game for quite a long time including at the time when Thintana then which at some point owned 30% of Telkom complained that any intervention was going to lead to divesture by SBC Communications and Telkom Malaysia. Now quickly

15 Chairperson coming as dealing with another highlight of this exercise is the spectrum licensing; we hear everyone saying that the prices in South Africa are possibly high and that is due to the delay in the licensing of the radio frequency spectrum, perhaps true in some respects, perhaps not in other respects and I will explain quickly why this is the case. It is not for the first time that we are

20 licensing spectrum, we have licensed spectrum before and the big question is: in the timeline of the licensing of the previous bands whether prices went down because of the licensing of the Radio Frequency Spectrum, to the best of my knowledge that did not happen as it is currently implied that once spectrum is issued then everything is just going to crumble down. We are going to see the

25 reduction in prices and will ask this process to really interrogate that because

history has not supported the fact that MTN and Vodacom previously reduced prices because they got additional spectrum, so we will ask that this matter be interrogated further. Lastly, in my way of opening from my side Chairperson; what is actually happening; what is the nature of the South African market? In the last 2 years we saw a situation whereby there were attempts by Cell C and Telkom to reduce the data price, they were offering a whole lot of packages but the reality of the situation is that there was no reaction from the 2 main operators. Now if you have that situation whereby 2 small operators attempt to stimulate some kind of price war in the market and the 2 players just ignore that suggests that there is a problem in the industry; there is no doubt about that. So what we going to do we just going to run through our presentation, I understand we have an hour for that, I think we can kill it within an hour. I will ask the ADDGs to start first and Mr Wilt will complete by dealing with the spectrum issues and I will assist in taking the questions. Thank you.

**MS MASEMOLA:** Thank you DG, colleagues, chairperson; so the presentation we going to make this afternoon is essentially in two parts. The first part is just the context and the work that we have been doing as the Department in terms of the cost to communicate programme, some of the interventions that we are overseeing or we making sure that we are keeping tab on that to drive down the cost to communicate. We also do some kind of a deep dive into the sector, to just highlight the key trends of what is really happening; the key statistics, the data, what is happening in the ICT sector. And then, the second part of the presentation we tried as much as possible to respond to the report that we received from the Competition Commission in so far as the issues that are being raised by the operators on the matters related to policy essentially so we

will touch on the content of the policy direction that has been gazetted for public consultation as well as the main issues, as they relate to the establishment of the wireless open access network as well as the spectrum issues in the Electronic Communications and Amendment Bill, so that is what is going to happen in terms of this presentation. So we just need to do a quick recap around the organizational mandate of the Department, so we do ICT policy and legislation development as well as strategies as well as policy directions to ICASA and so on. We focus in the main on modernizing the economy and economic infrastructure; we look at issues of the roll out of asset infrastructure, applications and services, the roll out of postal and banking services; and some aspects of the demand side stimulation such as the e-strategies to roll out e-government and e-sectoral services as well as promoting cyber security and the security of the network. So that is in the main our organizational mandate, now in terms of the context for ICT facilitated development of the country and particularly as it related to the issues of high cost to communicate in South Africa we are well aware that Chapter 4 of the National Development Plan actually does talk about the need to reduce the cost to communicate as part of addressing the triple challenge that we are facing; the issues around inequality, the issues around joblessness and the issues around reducing poverty. That communications technologies in particular broadband and the services and content carried on the ICT networks are an important means of promoting growth. Now, the Medium Term Strategic Framework of government also talks to that and there it identifies the high domestic cost of broadband internet Connectivity as a major hindrance to socio-economic development in the country. Now in 2013, we had the Cabinet approve SA Connect, that's our

national broadband policy and that policy also highlights one of the primary factors that is hampering the country's competitiveness is the high prices charged for communications services. Now in 2016, we submitted to Cabinet the National Integrated ICT Policy White Paper and that white paper was

5 approved by Cabinet. The White Paper essentially, its vision is to make sure that everyone in South Africa, regardless of their socio-economic status, regardless of where they live, regardless of their gender or educational attainment they are able to access ICT services that are affordable and we must be able to achieve universal service and universal access to all ICT

10 infrastructure and services to all South Africans. So that's quite key as part of that contextualization as it relates to the matter that we are dealing with today. Now, the linkage between ICT development and broader socio-economic development in the country is widely accepted. We know that increases in effective consumption of ICT can improve the life of South Africans and drive

15 job creation as well as investment opportunities. But to realise these opportunities or gains we must address the issues as they relate to affordable access, as they relate to skills development and the entire policy and regulatory environment. So when you look at this slide we just showing that the ICT sector is part of those top 10 sectors of the economy, we are just a little bit above

20 agriculture but below tourism in terms of the ICT contribution to growth development product in South Africa. Now on an annual basis the regulator, in this case the authority ICASA, they publish the ICT sector performance report and that shows that there has been a significant exponential growth in the use of smart phones or smart phone subscriptions in South Africa. That is also

25 correlating with the rise in the use of mobile data by South Africans. At the

moment we are standing in terms of coverage for 3G at 99%, and for 4G and LTE we are standing at 77%; the total number of jobs in the country in terms of those operators that are licensed with ICASA, that's the trend in so far as the jobs are concerned, so we passed that. The other key data documents that will also make reference to is from Stats SA Household survey of 2016, that document shows that the national household internet usage at the moment is standing in at 59% and access to the internet using mobile devices by households nationally, that is standing in at 53.9%. As we have previously mentioned, in terms of the ICT satellite account for South Africa, the contribution of the ICT sector to the economy is at 2.7%. When it comes to the actual revenues and will zoom specifically into the telecommunications sector and postal sector in this case excluding broadcasting, the revenue by broadcasting telecommunications and postal is R204 billion up from R187 billion in the previous years. And there has been the investments as recorded by ICASA which includes infrastructure expansion maintenance and so on, that totals to R47.6 billion in terms of the year under review. Now in terms of the white paper, there is a chapter 9 that talks about supply side measures and in the White Paper there are critical challenges that have been identified and actually noted in the white paper policy document. The challenges that the current infrastructure market particularly in relation to broadband is characterised by fundamental market problems of ineffective competition, infrastructure sharing bottlenecks, unnecessary duplication of infrastructure and inefficient use of scarce resources. This is quite important because it lays the foundation to the key provisions that are in the Electronic Communications Amendment Bill as well as the Draft Policy direction that has been gazetted for

public consultation. From where we are sitting as a Department as articulated as well in the National Integrated Policy White Paper is that multiple networks have been rolled out across the country but the deployment of that infrastructure is skewed towards urban areas where infrastructure duplication is prevalent therefore duplication of infrastructure means the costs also rise and that cost is invariably passed onto the consumer. There are also issues around competition in particular in the broadband market where there are limited players that have access to spectrum resource. What does this mean? This is highlighted as well in the explanatory memorandum of the current Competition Amendment Bill, that there is a high concentration of markets in the space, in fact the HHI index shows that number that is on your screens. There are high barriers to entry as it relates to capital costs and as it relates to access to spectrum, there is ineffective competition and that results in limited consumer choice. There are persistently high communication costs and this is evidenced by different international indices such as the IDI or the World Economic Forum's benchmarking when it comes to costs. So what is key I think from this slide Chairperson is that if you look at the SA Poverty Report done by Stats SA it shows that the average monthly income of South African households is R722. Now, the SA Connect as our Broadband Policy, we say in that document that in terms of disposable income, South Africans should be spending or less of that total disposable income on ICT services. Now if you contextualise it within the SA poverty report of Stats SA it means that R39, most South Africans have that R39 as part of their disposable income that they must spend on ICT services. Now how does that R39, how do we ensure that the R39 actually buys a basket of services of ICT services that would enable children to learn; that would

enable people to look for jobs and so on and so forth. That is quite key from this slide, now we have talked a little bit about the international indexes and what's important in terms of this slide is that the ranking for South Africa as it relates to affordability appears to have a slight improvement, however there is a decline in usage and the main obstacle to achieving the actual usage is the affordability of services rather than the technical availability. So we have used the rankings as articulated in the Global Information Technology report of 2016 as well as the International Telecommunications Report that measures the information society of 2017. But in both these international benchmarking the issues are around skills and the issues around affordability. These are some of the highlights of the documents that has been in the ICASA of course the authority's coming through directly after the Department's presentation and they talk more about the bi-annual report that they publish as well as the benchmark report on the prices. But suffice to say that in terms of the data market, the poor people in South Africa are mainly in the prepaid market segment and they pay more than people that are in the post-paid market and the burden of costs of communication in this country still resides on the poor, that's quite key. And one of the things that the authority was able to do was to benchmark just Vodacom's prices, what they charge South Africans versus what they charge their own customers in other countries and in terms of that information; or in terms of that report for the 1Gig data bundle prices for instance, Vodacom in South Africa charges more than they charge people in Egypt, more than they charge people in Nigeria and in terms of the 2 Gig as well South African consumers are still charged more than what the operator charges its customers in those other countries. Form our side Chairperson, I think in terms of our

communicate programme we look at the work that 1. The Competition Commission is doing on this very market inquiry but we also monitor the developments in so far as the ICASA is concerned. In terms of the ECA, the Minister issues policy direction to ICASA to address certain matters and one of those is the high cost of communication in South Africa. Currently what we are monitoring is the implementation of the policy direction that the Minister issued to ICASA to address the ineffective competition in broadband markets; that work is underway and I am sure the authority will speak to it immediately after this. One of those issues now as I have mentioned earlier on is the data services market inquiry that brings us to this session today; also the call termination market review as well as the implementation and finalization of the end user and subscriber service charter that regulates that addresses issues of price transparency; what they call disappearance of data and general consumer protection and as you can see in terms of the status of this is that the work is not being implemented, its halted due to the court interdict. We now move to the policy direction Chairperson as well as the key provisions as articulated in the Electronic Communications Amendment Bill, and I will hand over to my colleague Alf who will speak to those issues, thank you.

**MR WILTZ:** Thank you, so starting with the White Paper it really gives a cross government leadership by facilitating more of a multi-stakeholder participation approach across government and then with various interventions to reinforce fair competition and facilitate innovation and a conducive environment to address horizontal and vertical integration across the value chain. Some of the interventions provided in the White Paper include policies to address the digital divide to ensure affordable access by all to ICTs, approaches to address supply

side issues and infrastructure roll out including the management of scarce resources especially spectrum and to facilitate open access including rapid deployment. On the demand side the issues include facilitating inclusive digital transformation across South Africa. The White Paper also provides for the

5 licensing of a Wireless Open Access Network which is really a new concept under the legislative and regulatory regime we've had so far and that's really an ECNA type provider that provides services at wholesale level with emphasis on wireless, then the establishment of the WOAN and the assignment of high demand spectrum to the WOAN is seen by us in the White Paper as a

10 mechanism to ensure that this scarce resource is shared among many licensees. We have clarified before that the WOAN is not intended to be government owned but to be a private sector led, managed and owned initiative, operated on commercial basis. The creation of an efficient, uniform, competitive and responsive open access networks are critical to enable players

15 to compete on equal terms in our move towards a more effective competition and to promote transparency and non-discrimination across the broadband value chain. To open high demand spectrum for use by multiple operators, we've seen due to the market liberalisation and court judgements that opened the market to many licences that do not have open access to spectrum as the

20 main incumbent operators and to encourage service based competition that will increase consumer choice and lead to the reduction of costs. To reduce market entry barriers and enable sharing of infrastructure and scarce resources thereby reducing duplication of infrastructure, government also supports the wireless open access as a means to meet some of the policy objectives we have the

25 cost of communication being critical for this hearing; duplication of the

infrastructure that is not required encouraging service based competition, the wireless open access network should be implemented in such a way that increases investment and encourages effective and efficient use of resources. I think it is well known that the Minister then following the agreement with industry

5 commissioned a CSIR study to determine the spectrum requirements of a WOAN study focused on the high demand spectrum bands at 7 and 8 mega gig heads, in view of those recommendations made by the CSIR the matter was taken to Cabinet that really approved in principle that spectrum can be assigned simultaneously to both a WOAN and 2 other interested parties. The Minister

10 and ICASA also reached a settlement following the Court case and that paves the way for us and for ICASA to sign the spectrum going forward. Following the ICASA consultation, the Minister also proposed policy directions that were out for public comment at the moment that suggest how the high demand spectrum can be assigned. Then Chairperson, pertaining to the policy direction itself on

15 slide 17 and 18 so it really consists of 2 parts, the first dealing with licensing and ECNS licensee that provides wholesale services, we have pointed to the WOAN in the policy direction just because its commonly known under that name, the ECA do not specifically have such terminology and then the 2<sup>nd</sup> part provides for the assignment of spectrum to other licenses, now in the first part we are

20 proposing to direct ICASA to issue an ITA and accept and consider applications for an IECNS licence and to consider the licensing of spectrum for the WOAN. We say that the WOAN must provide wholesale open access to its networks and facilities and charge regulated wholesale rates to ensure reasonability thereof. The WOAN is not a public entity as indicated; some requirements have

25 been inserted to mitigate the effects of a potential monopoly WOAN in future

and to ensure that the firms in the Consortium are limited in their ability to engage and do competitive conduct in line with recommendations we have received from the competition authorities. The authority must perform strict regulatory oversight, it's one of the conditions set and consider imposing

5 regulatory remedies on the WOAN to ensure effective competition and really to ensure that remedies and safeguards are built in to ensure that there are no anti-competitive effects. ICASA was also requested to consider incentives for the WOAN such as reduced spectrum application fee only covering administrative costs reduced way of radio spectrum licence fees for a period of

10 5 years; immediate facility leasing of networks and facilities of the incumbents or rather the successful licensees that are assigned the additional or remaining high demand spectrum. Another significant incentive is that the spectrum licensees that are currently unassigned high demand spectrum must procure a minimum of 30% capacity from the WOAN as soon as the WOAN is licensed for

15 a period of not more than 3 years. So this would be an individual obligation per licensee and then the percentage to be procured by each licensee may be proportionate to the amount of spectrum received by such licensee. So that's the first period as indicated as individualised procurement but then there is a second period, the authority may determine that after the expiry of the period

20 contemplated after the expiry of the first period really; then a minimum of 30% capacity can be procured but it's now a collective by those licensees who were successful in getting the remainder of the spectrum. Of course these periods are set to also assist the WOAN to become viable, but it can't be an infinite term there has to be an end period as well but at the same time enabling off take.

25 The Authority should also consider delaying the imposition of wholesale rates

although we put a requirement that rate regulation must happen, we say as an incentive at least determine a period within which regulatory forbearance takes place. The Authority should also ensure that the applicants for the WOAN have a viable business plan and are able to build and operate the WOAN. Going to 5 the second part of this is the spectrum not assigned to the WOAN but that's available for other interested parties. It enables the authority to urgently consider the licensing of spectrum for such other parties, the assignment of additional spectrum must ensure that government achieves its policy objectives and therefore there are also obligations imposed in return for such spectrum. 10 These include the successful applicants or recipients must lease its networks if they have such networks upon request to the WOAN; really using the existing facilities leasing framework but strengthened by ICASA to ensure that it's working and through access is given. And the licensee must procure capacity in the WOAN and we have spoken to that under part one, the spectrum must be 15 assigned subject to chapters 8 and 10 on the facilities leasing and 10 on competition. And the USO obligations are imposed on the licensees, and importantly those obligations must be complied with rural under serviced areas before it can be used in other areas so that we dot repeat history. This will ensure the achievement of one of the key policy objectives to ensure rural 20 coverage. Of course bringing in compliance with the empowerment requirements as set out in the ECA. A decision has also be taken to open the process to both existing ECNS licensees but also any other potential applicants for an IECNS licence. To ensure regulatory certainty, the terms and conditions imposed by the Authority should also remain in force; that's because of the 25 parallel legislation proposed to Parliament that some assurance must be given

to licensees that the terms and conditions would not change halfway through the process. Then Chair, the ECA Bill I've spoken about the White paper that provides the overarching policy framework; there are various policy interventions and this particular bill does not cover all policy provisions in the

5 White paper, it merely tackles a few important ones. In Parliament, the Chair of the Portfolio Committee said that is this not too much in one go because of the number of provisions in the Amendment that is quite difficult to process but in any event so the reinforcement of competition regulation, supply side issues, infrastructure roll out including open access to infrastructure, rapid deployment

10 and then spectrum are some of the issues from the White paper carried over into the Bill. I have a few slides on problem statement so when it comes to rapid deployment there's a lack of balancing of rights between the ECNA licensees to enter property and deploy infrastructure versus those of other land owners and municipalities depending who you talk to of course; there are different interests

15 involved. Then infrastructure is duplicated, we all experience that with multiple trenching; lack of coordination between large numbers of stakeholders even just among municipalities but also might be among operators, and there is no consistent, simple and well co-ordinated approach among government departments and agencies in processing various types of approvals which we

20 must find a solution to. There is no dispute resolution mechanism leading to many disputes going through the Courts with many judgements following and even more uncertainty arising in the end. In terms of spectrum there is an opportunity to improve the description of the role of the municipality and ICASA to avoid misunderstandings in future and also gaps in the spectrum

25 management review with regards to the alignment between universal service

obligations and spectrum. And the spectrum regime is exclusive at the moment, it promotes economic growth for a few strong incumbent players which I am told have already presented here. But that results in inequitable assignment of spectrum which we must address in the interest of potentially 400 other  
5 licensees that can't get access to spectrum. Then open access again the infrastructure market especially now that it's about broadband, we see ineffective competition, there is infrastructure sharing bottle necks, there's sharing which suits the access provider and where it doesn't suit the access provider such providers can actually abuse the system and through the  
10 facilities leasing process and court processes prevent sharing. The broadband infrastructure market is concentrated as I have said on a few strong and vertically integrated players, then the cost to communicate is high and one of the reasons there's been a duplication of infrastructure in our view which costs may be passed on to the consumers. We also say that although there were  
15 successes in the competition chapter of the ECA, more can be done in this regard. Regular reviews of the effectiveness of competition must take place and it requires an ongoing assessment of the relevance of the traditional market definitions, the interests of consumers must be paramount in weighing up options and determining if competition related interventions remain relevant or  
20 necessary. But critically we will come to the solutions under the ECA, then of course we believe that there could be synergy between ICASA and the Competition Commission at least where the parties can draw on their respective expertise. On rapid deployment, the Bill seeks to introduce a governance framework where a rapid deployment national coordination centre is planned  
25 and has already been piloted and that coordination centre being overseen by

reputable deployment Steering Committee and the Steering Committee comprising of representatives of various stakeholders that play a role in the space especially from approval and government process side. It makes provision for the rights and obligations of licensees when deploying networks to expedite all applications and related processes for the approval, authorization licenses, permission, exemption and processes relating to participation required by various laws. It also deals with access to buildings and high sites, regulations on processes and procedures for single trenching, initially we put a lot of proposed policy provisions in the law, we've deferred a bit on that and enabled due to some of the complexities pointed out enables ICASA through regulations to prescribe the detail of that in due course. And the RDNCC must provide support, promote and encourage so it was a bit forceful in the first versions of the Bill but it now plays more of a collaboration, cooperation and supportive and promoting role. In regards to spectrum, although this is not new but we clarify that the Minister does the spectrum planning and allocation and will in future develop the National Radio Frequency Plan where the Minister currently really approves it and ICASA to continue doing the assignment and licensing role. Then there are lots of new provisions emanating from the White paper; we start dealing in more detail with spectrum trading sharing and re-farming, we deal with the user to loser principle with some exceptions being inserted for SMMEs that may have longer periods for example the prescribed 2 year period. The Bill allows simultaneous assignment then of spectrum to the WOAN and other licensees, it also provides for the currently assigned dynamo on spectrum should not have to be returned. So the initial provision said that by the end of term of license spectrum must be returned. We were following some public

comment in this respect and our own public hearings held incline then to change that provision and ensure that rather towards the end of the licensing period ICASA can conduct a process or a type of an inquiry where they then make recommendations on the terms and conditions that must be applied to

5 such spectrum prior to renewal of such licenses. Of course this paradigm shift is necessary because we changing spectrum from the way it's currently being used to an open use of spectrum and therefore the situation just can't perpetuate in the future. The nature of the status of the spectrum and its use must change going into the future. Turning to roaming over the past few years

10 we have started with a national roaming study and later made a number of commitments especially at SADC level and though some progress have been made I don't think we are where we want to be and then that necessitates some intervention in the nature of the framework so we are inserting a new chapter 7A to make provision for international roaming though our key focus is SADC

15 roaming at this point in time; it places an obligation on the Authority to then make regulations in this regard but we also ensure that the economy won't be hurt in the process and one of the conditions is that a reciprocal application of such or any obligation resulting from international roaming regulations imposed on our operators. The section also enables the Authority to obtain information

20 from operators and to share that with the appropriate Authorities. Then on Open Access, the proposed section 19A then deals with the licensing of the WOAN, I think I have covered it reasonably well under the proposed policy direction. On Open Access we then convert, noting that the whole new open access framework it doesn't exist except for the reference to the word open access is

25 once under the current ECA, the true framework doesn't exist, we have a limited

form thereof in the form of facilities leasing with its own shortcomings but we have to now convert that whole framework into something new and then start building in all the new obligations for sharing on electronic communication network service licenses, so it seeks to oblige ECNS licenses to provide open access upon request really the same thing you find in the facilities leasing chapter open access agreements and that direct access must be provided on effective, transparent and non-discriminatory terms. So that's just the general open access principles that will apply to anyone with an ECNS licence, and then the role provides that open licence does not apply in the case of technical inability so we've limited the reasonability test to include only technical inability which is a factual consideration that can be easily be resolved as opposed to the economic and financial reasonability test that's abused by access providers. The Bill also broadcasting signal distributors that were not really intended for open access and really a different legal process exists for them. The competition chapter is amended to ensure that ICASA must define all the relevant markets upfront. We set a time frame there because a lot of other processes under the ECA are dependent on this market definition and it's therefore critical that it happens as quickly as possible. It requires the Authority to then publish a schedule; it's very similar I think to what ICASA is doing even at the moment but to publish a schedule then shows which market would be prioritised for review going forward and then to update those processes regularly and then importantly provide for the cooperation between ICASA and the Competition Commission. Our initial drafts really wanted even some of the decisions per the White Paper to be at least be considered for alignment between ICASA and the Competition Commission decisions but we have

realised that those would infringe on the respective mandates and jurisdictions under the enabling legislation so we have toned that down with recommendations from both those Authorities focused on strengthening the MoU that exists between the regulators. Chair in conclusion, this Bill does not  
5 address all the aspects of the White Paper but it's in our view certainly a good start, as the Executive and the Government we are satisfied with the Bill as introduced in Parliament and we look forward to Parliament's consideration of Bill but it's obviously within the hands of the Legislative for now. With regards to perhaps the outcome of this inquiry it could also assist the Department when we  
10 do our 2<sup>nd</sup> round of amendments our legislation especially to the ECA. We will certainly benefit from recommendations of this inquiry also for purposes of our legislation. Thank you Chair!!!

**CHAIRMAN (MR MAJENGE):** Ya, thank you Mr Nkuna, Ms Masemola, and Mr Wiltz. Mr Aproskie...

15 **MR APROSKIE:** Thanks very much, perhaps the first question, I have a very few specific questions I'm sure we all do. Maybe the first question as you understand that this is the data service market inquiry for the Commission and the obvious question is how can data costs be reduced. In terms of the policy and legislative environment that you have laid out; the policy directive and the  
20 ECA Bill how do you see that impacting data costs; what mechanism do you think will impact data costs? When I say data costs I mean prices.

**MR WILTZ:** Oh well, thank you for the question, so it's a combination of things, I think the majority of provisions under the ECA for example in one way or another in our view contributes to the reduction of costs in general. If one really

takes the presentation chapter by chapter, the ECA, you can probably identify a related intervention in each of those but starting with rapid deployment for example, I mean on the argument of operators if there is less infrastructure and there is less infrastructure duplication then surely there must be a cost saving that in turn can theoretically be passed on to consumers. Similarly, if we talk about, well just under rapid deployment for example we make provision for adequate reserves again to avoid duplication of infrastructure. Under rapid deployment we are trying to move towards cost-based pricing where municipalities and others that must provide forms of approval must strive towards rendering those services and those relevant approvals at cost. To cover their administrative costs as opposed to a money making scenario or income generating mechanism. WOAN can probably identify more issues just under the rapid deployment chapter; if one turns to the wireless open network again here because it's a mechanism to share firstly spectrum and a mechanism to create one network that can be accessed by potentially other 100s other licensees to render services, it creates the opportunity to improve competition for example and to enable wholesale services at reasonable cost provision. If you link that to the regulation of the wholesale cost of such WOAN it in turn can certainly address the cost to communicate. Jumping to spectrum I think if one reads into the spectrum, the various obligations imposed on the operators, a number of policy objectives can be achieved in the whole spectrum allocation and assignment process. We have gone through them, and then on the open access framework, it will take time to establish and make it fully functional but as you create the new open access regime there would be different categories of licences under that regime including the so called

vertically integrated entities and what is termed deemed entities under the ECA. So the deemed entities, once they are deemed following due process will attract the full bouquet of open access obligations and those obligations would include rate regulation, so that's certainly is a direct intervention to ensure a reduction of costs. Then by lastly just improving, well not lastly if we turn to SADC roaming, again it's because of complaints especially against South Africa on some of the SADC roaming costs, then it forces an intervention to ensure that roaming costs are regulated and are reasonable starting off in the SADC region based on the decisions taken at SADC level. Then perhaps lastly on the competition chapter that we have seen some of the successes of ICASA under the competition chapter with the wholesale domination and mobile domination rates and the inquiry on that and the rates imposed subsequently that it has arguably reduced the costs and we believe that improving the competition chapter and performing more market reviews and market definitions that more successes can follow because of course one of the pro-competitive measures that are possible under section 67 of the ECA is the imposition of rates and rate regulation so we not there yet but it's an existing mechanism; it's been around but if better implemented I think it's another mechanism that can reduce costs overall. Thank you Chair.

20 **MR NKUNA:** If I may comment, we have done an analysis of the market both the supply side and the demand side, now our own observation is that on the demand side there is a lot of innovation that is taking place. I mean we have got so many innovations that are being done even by young people because in our environment for a person to come with a software they don't need to build a building like this you know; you can just innovate so there are thousands of

25

innovations that are coming up especially from young people. But we have realised that the supply side makes it very difficult for those innovations to take up and we are trying to tinker with the supply side so that we can drive more innovation on the demand side and ensure that those innovations contribute to the reduction in the cost to communications. We know of so many OTTs over the top initiatives by young South Africans which will benefit from this intervention that we are proposing in the policy and in the amendments to legislation.

**MR APROSKIE:** Thanks very much, so one of the statements in your problem statement that you mention a few times is the concept of infrastructure duplication which you trying to guard against. I suppose my question maybe a bit conceptual but a couple of the submissions made on these hearings was the example of the undersea cables, where you have now got 6 cables landing in South Africa and this is pointed to as a reason for undersea or international subscription prices to have come down substantially. How do you know and how do you think about the concept of infrastructure duplication when is it competition that results in a low price; when is a duplication that results in higher costs, because I would think we have to be careful about... you could fall into 2 sides, you can get too much infrastructure is there is a duplication issue or if you so weary of infrastructure duplication that you actually cut out infrastructure competition; how do we provide for that and how do we provide for that through the amendments that you are making or planning to make?

**MR NKUNA:** Thanks for that, you are right that it can achieve both ends depending on what it is that you are doing; on one side it can help you to deal with the high cost of infrastructure but there may be unintended consequences

and the question is how do we mitigate the unintended consequences. One of the issues that we beginning to consider now is a self-regulatory model perhaps when it comes to the sharing of infrastructure but with clear guidelines to ensure that to a large extent you allow the market mechanism to facilitate that but at the

5 same time ensure that where we need to assist and intervene we do that. Why is government intervention also necessary, it's because of the kinds of approval that you go through because you have to go to local government, the current fee structure of local government is unsustainable for the sector. Now if we are going to make an intervention go to local government and ask them to allow us

10 to deploy infrastructure without hindrance, obviously even from that point of view you will need some kind of coordination amongst the players, so this is bundled also to take into consideration the requirements of the owners of land and other rights, I mean just yesterday I was talking to Water Affairs, when you cross rivers you have to apply every time you cross a river with broadband

15 infrastructure and those kinds of things impose serious constraints and high costs in the industry. We are trying to do it on a positive note but I take the point that there may be unintended consequences and to a large extent you need to include a self-regulatory part so that industry itself can mitigate such issues.

**MR APROSKIE:** Ok thank you. The last couple of questions from me, there

20 has been a concern expressed to us and I suppose you can respond to it sincere, you think it's reasonable or not but there has been a concern expressed to us that what happens if the WOAN licence is not taken up so effectively if the WOAN Licensee doesn't apply for it or doesn't meet the criteria. Is there legislation that you proposing flexible enough to provide for an

25 alternative?

**MR NKUNA:** You see what I think is important is that to overstate time and again that WOAN is not going to be formed by people who are not involved in the sector, now the WOAN is going to be formed by people who are already active in the sector, who are doing something as we speak but the only thing  
5 they don't have is spectrum, so there is this narrative in South Africa that the WOAN would be open sesame, come one come all. I think what needs to be clarified is the WOAN is going to be formed by in the main duly licensed entities which are licensed as we speak. And they have been saying to us to a large extent that they have been doing something, going to the big operators but that  
10 has not assisted the situation. Now the alternative would have been to break that spectrum into so many smaller licenses which was not going to work. What is envisaged now is that different licensed entities will come together and pull their resources so that they can work together with the guaranteed demand side. So besides the off take that would come from the big companies, the  
15 companies that are going to form the WOAN on their own they are already active in one way or another so there is also guaranteed demand from that point of view. And they will do what everyone does, they will go to the capital markets to borrow money to build the WOAN, there is no rocket science in terms of how that can be realised.

20 **MR APROSKIE:** Ok thank you, and the last thing from our side my reading of the Electronic Communications Amendment Bill and you have mentioned some of it in your presentation is that ICASA will be required to do a lot more things like the market reviews every 24 months, the assessment of spectrum for renewal the year before. So one of the submissions we've received in these  
25 Hearings on a number of occasions is that a feeling or sense that ICASA is

under-resourced and my reading of the Amendment Bill is that there's a significant additional burden potentially to be placed on ICASA through these regular requirements they need to meet. Is there also a plan alongside this in terms of how ICASA will be resourced or what will be done in terms of  
5 implementing those requirements of the legislation?

**MR NKUNA:** I will give the view of our Department considering that ICASA also reports to another Department. Our view is that the cost recovery model will work better for ICASA to come with this dispensation that will allow ICASA to recover the costs of regulation and our understanding is that Industry over a  
10 long period of time has recommended for this approach to be financing ICASA. So to an extent possible we will support any measure, any means that will ensure that ICASA is adequately resourced and we will take this issue up with the Department of Communications because when you look at the 2 Departments, 75% of the work that ICASA does is with us and not with the  
15 mainstream Department that oversees ICASA, so it's always incumbent on us to bring to the other Department's attention that the amendment is going to increase the mandate of ICASA and as a result we have to do something about the capacity of the Regulator, so we take that point as the TPS.

**MR APROSKIE:** Ok thank you, that's all from me.

20 **CHAIRMAN (MR MAJENGE):** Mr Mahuma

**MR MAHUMA:** Thank you Chair, so one of the issues that was raised by the MNOs yesterday around the WOAN is that constant investment in infrastructure is important in the ecosystem of this particular market, so there was a sense that with the WOAN and them being required to take some of the capacity of the

WOAN it might just hamper that investment incentive. What's your view on that particular point?

**MR NKUNA:** I think that's the complexity of competition or economic regulation by and large because when you make interventions you always come with the  
5 intervention in a market that already exists and there will be some kind of give and take but we do not agree that this is going to collapse the industry. Quite predictably, when I started, I gave although in brief the roadmap that we have travelled up to now to have Vodacom and MTN as in 1996 Vodacom and MTN were faced with serious challenges and Government had to do something and  
10 as Government was beginning to intervene around 2001 to create an enabling environment for MTN and Vodacom to build their own infrastructure and also to regulate the Telecoms infrastructure, Telkom said what is being said today. The dilemma of policy making in this space is that every time when you come with new interventions those entities that exist will tell you that if you do this we  
15 going to collapse so when it suited Vodacom and MTN that Government must make interventions against what Telkom wanted it made sense at the time and even with the licensing of Cell C, when Government was creating an enabling environment there was a push back. So this push back is naturally acceptable, is possible but we can assure you that there is nothing reckless in what we are  
20 doing. If we are to drive this industry into the digital economy, we have to make the right decisions but I don't think the kind of decisions that are being proposed are neck breaking kind of decisions. I don't think that is the case but obviously we take the point that we must always be product when we make new interventions but we will not agree that these are going to result in doom and  
25 gloom necessarily. There will be changes, there will be some loses perhaps

from the point of view of the big operators but what we must be careful about is whether those loses will result in the collapse of the 2 companies in the main, and we do not think that is the case.

**MR MAHUMA:** My last question is with regards to roaming, I think there was a slide that touched on that there will now be regulation around roaming specifically on the SADC region and I'm not sure whether it's only on the SADC region or is it also encompassing national roaming because what we've also heard especially from Cell C and Telkom is that although they are roaming on both Vodacom and MTN, there tends to be issue there specifically on seamless and roving of calls and the feeling is that it's because there was no regulation to the service and the quality that tends to be an issue. Is there something that the legislation will address or is it only specifically on SADC?

**MR WILTZ:** Well thank you, though the clause that we presented focuses on international roaming, the matter of national roaming is addressed in another way and that is in the Open Access chapter. So it is the open access chapter that creates the framework of the different types of entities with different types of obligations. So one of the obligations that will fall on deemed entities would be in addition to price regulation, it would be infrastructure sharing with a particular focus on active infrastructure sharing. So that's where RAN sharing and roaming and those things come in. So the intention is surely to regulate it through that mechanism.

**CHAIRMAN (MR MAJENGE):** Dr Mncube

**DR MNCUBE:** I just want to confirm one last question from my side. There is one central issue that has been mentioned in the submissions that we have

received, and there are contrasting views around this issue and the issue relates to the wholesale market; the wholesale layer of the market. On the one hand we have mobile network operators who are saying that we have made enormous investments into developing the network and currently we are  
5 constrained because of spectrum and on the other hand we have the internet service providers who are saying that you need to create competition at wholesale layer in order to bring prices down; once you create competition at wholesale level. So we are sitting with those two contrasting perspectives on this issue of wholesale, I will broadly call it wholesale access because currently  
10 there are some instruments on a very limited basis such as the MVNO model which provides I'll call it in inverted commas " a form of access" but on a very limited basis. So is your intervention in the Bill in terms of enabling whole sale open access directed at this aspect that is to create competition at wholesale level, is that the key strategic objective of the intervention?

15 **MR NKUNA:** Yes and I think ICASA has done a deal with this issue in more detail because up to now we have been regulating the wholesale market, it could be about a turnaround because between now and 2006 when the Act came into being ICASA has only dealt with one market, the Wholesale Voice market, which is called the call determination and of course we can debate the  
20 actual impact of that so up to now we have been regulating the wholesale market but focusing only on voice. We have not regulated data markets to actually know what will transpire and I'd ask that ICASA deal with that question in some more detail. But what we see happening is that having a dedicated wholesaler and an enterprise that is operating on wholesale basis will go in a  
25 long way because in helping us deal with the structural issues in the industry.

You know that when you go to a vertical integrated company and impose wholesale remedies there will always be information asymmetry so it's inevitable that you can do as much as you want. So regulation as a tool for correcting the behaviour of companies has its own limitations and one of its  
5 limitations is the agency problem, now if you come with a new model to complement the agency problem that is very feasible and very inherent; then we think that the complementarities will then assist us in mitigating the problems that we have seen of information asymmetry between ICASA and the regulated firms.

10 **MR WILTZ**: Thank you, if we again take the issue into consideration I mean its common cause that local bundling and the policy objectives around that have received significant challenges over the years. If we turn access to mobile networks, similarly we understand that there are lots of concerns there; when we investigated the national roaming we encountered a lot of complaints but all  
15 of it also covered under non-disclosure agreements so the access providers though they are complaining or they actually see as though they are complaining it's difficult for them to divulge the exact nature of problems, but certainly there are lots of problems on the mobile access wholesale space and therefore that's exactly what the ECA does, it focuses a lot on the improvement  
20 of and certainly it's one of the key areas being addressed; that is competition at the wholesale level. I mean if we look at section 67 as indicated the primary objective is to ensure effective competition and it's also commonly known that once it starts at the wholesale level and it's only in very exceptional circumstances that one goes down to retail level including for rate regulation for  
25 example; that's why we have the emphasis there on improving that particular

chapter and ensuring better competition regulation. So that's what the WOAN is trying to do, isn't it, its creating another infrastructure provider in the market that would overtime have the scale to compete with large incumbents that then in effect provide competition at the wholesale level and forces some of the  
5 incumbents to revisit their models and drop their prices and ensure better services to the potential clients. And similarly it's done through the open access chapter because that's the objective of teaming entities and opening up access to networks to ensure competition is improved at the wholesale level and a whole lot of this done as a result of concerns around scarcity of resources such  
10 as the spectrum and so on. Thank you!

**CHAIRMAN (MR MAJENGE):** Ya thank you, thank you very much Mr Nkuna and your team, we appreciate your time and thank you for your submissions. You are excused. We will take the next presentation from ICASA. Welcome gentlemen, thank you very much for your time and for coming; you will have the  
15 last word, so you are the last to present but let's just do the formalities if you may just state your full names and surname for the record and thereafter take the oath or the affirmation.

ICASA

**MR NGWEPE:** Thank you Chair, good afternoon to you and to the members of  
20 your panel. My name is Willington Ngwepe, I'm the Chief Executive Officer at ICASA, I'll take the oath. I Willington Ngwepe swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

**CHAIRMAN (MR MAJENGE):** Thank you Mr Ngwepe

**MR GIDI:** Good afternoon Chair and your panel, my name is Nkhetheleni Norman Gidi, I am the Executive for Legal in ICASA. I swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

5 **CHAIRMAN (MR MAJENGE):** Thank you

**MR KHUMALO:** Afternoon Chair, my name is Junior Khumalo, I am the General Manager for Policy, Research and Analysis at ICASA. I Junior Khumalo swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

10 **CHAIRMAN (MR MAJENGE):** Thank you Mr Khumalo.

**MR MOLEFE:** Good Afternoon Chair, thank you. My name is Philemon Molefe, I'm a Senior Manager Spectrum Licensing at ICASA; I'll take the affirmation. I Philemon Molefe affirm that the evidence I shall give shall be the truth, the whole truth and nothing but the truth, thank you Chair.

15 **CHAIRMAN (MR MAJENGE):** Thank you Mr Molefe, Mr Ngwepe you may proceed to take us through your submission or presentation.

**MR NGWEPE:** Thank you once again Chair, we appreciate that you had a long day, I think in your case it's been a long 3 days; so we won't take too much of your time and I think the other advantage of being last is that most of the ground  
20 would have been covered. So we don't have to really repeat what has been already said and the further advantage of coming after the Department is that they have done a very good work in setting the scene and giving you the context of where we come from. So we've decided to structure our presentation

in a manner that responds to the questions that the Commission has posed to us but there maybe one or two instances where we may deal with some of the issues that have come up over the past day or two. And then as we get to the end we will then deal with the questions that the panel may raise, that's the

5 outline of our presentation as I said it's quite brief and just talks primarily to the questions that the Commission has raised. Just by way of introduction in terms of who we are as everybody in the room is familiar with who we are; we were established in pursuance to the constitution, we were basically established in terms of section 3 of the ICASA Act; our mandate is what brings us here.

10 Primarily we were established to regulate the electronic communications sector as well as the postal and the broadcasting sector and I think one of the key reasons we are in this inquiry is that we are the people that are tasked with ensuring that there is provision of a variety of quality electronic communication services at affordable prices. So there are a number of pieces of legislation that

15 we have to take guidance from and those are listed on that slide. But the primary Act in that slide is really the Electronic Communications Act as read with the ICASA Act from which we draw our mandate. The next slide summarises our roles and functions and the key part of that slide is the fact that we responsible for issuing licenses to industry players; we manage the scarce

20 resources essentially the radio frequency spectrum and we also assign numbers; we monitor compliance and we also enforce compliance. We also responsible for consumer protection and dispute resolution; overall it our duty and responsibility to regulate the sector in the public interest. I won't spend a lot of time on this slide, suffice to say that the very first block talks to investment in

25 broadband infrastructure and increasing access to broadband spectrum as

probably the most relevant part of our strategic goals for the purposes your Inquiry as well as the 2<sup>nd</sup> which talks to the promotion of competition. I guess if there was effective competition one could argue that we wouldn't probably be having this conversation and we can have a debate about that. So that

5 concludes the introductory part Chair, this is really the crux of our presentation. So the first question that was asked was whether or not data prices in South Africa are higher than they ought to be. And this is a very difficult question to answer because I think one must then ask the question with reference to what. So we then took the liberty to then make reference to some of the studies that

10 we have conducted as part of our mandate and in exercising our duties. We do a lot of comparisons to compare how the sector performs to a whole lot of other countries; and the Department made reference to some of the reports that we have published over the past couple of months and years. And I think one of the things we wanted to highlight here is that there is always an inherent difficulty

15 with benchmarks, because it's always never easy to decide which countries one should compare themselves to because no 2 or 3 countries are ever the same so there will always differences in population density; there will always be differences in the number of operators, the geography and topography will never be the same. There'll always be differences in economic conditions and

20 the energy and labour costs and other input costs will never be the same. So it's never an easy exercise to decide and the factors that we consider to be important may not necessarily be considered to be important by other people, so that's the caviar that we want to put out there. Nonetheless we embarked on a benchmark exercise and we opted for the SADC countries, we also opted for

25 the BRICS countries and we also opted for the countries in which some of the

operators that are licensed in South Africa have operations. Then in conducting the benchmarks we decided to look at the different packages so we looked at the 500 megabytes, the 1 Gig and the 2 Gig data bundles. This slide shows some of the results that we found, so this is the first part, this section here I don't know if people can see it. This section here is the SADC prices for prepaid data bundles, these are the prices converted into US\$, as of September 2017 and we sort of give you the key highlights and key outcomes at the bottom outlining that Botswana has the highest price for that 500meg, and that price is \$26 then we have South Africa at \$7, then Mozambique having the lowest and the other factors that are obviously being raised when these conversations are held is around spectrum then we thought that we should just emphasise that the 3 countries that we have outlined are Botswana, South Africa and Mozambique, all of them have assigned those bands the 900, the 1800 and the 2100 megahertz bands. But there may be other factors that may account for those differences other than spectrum, which is why I think Chair as I started I then outlined that no countries will ever be the same. Even if everybody assigns the spectrum there may still be other factors that may account for why the prices will still be different; I think that's an important point to highlight. And we looked at the 1 Gig again looking at the same period, looking again at the SADC prices and we found that South Africa was in the 6th place in terms of the price comparison. Again in that space we then also found that South Africa's most expensive 1 Gig bundle is obviously lower than that of Zimbabwe and Swaziland. And one can argue that perhaps that might not be the best countries to compare ourselves to, but that's what the results show. Again moving to the 2 Gig for the same period, for the same group of countries, the results again show

that in the highest price category you have Zimbabwe, you then have South Africa, then you have the DRC being the cheapest at \$1. Then Mozambique's average price for a 2 Gig data bundle is at \$3, we then concluded the exercise by looking at both MTN and Vodacom other operations to assess how the pricing looks in those other markets. So for MTN and this is not all of their operations so we just selected a few for which we could easily find the data. We looked at Afghanistan, Benin, Botswana, Cyprus, Ghana, Iran, Ivory Coast, Liberia, Nigeria and Zambia. Again that data is as of December 2017, so the highest rate across those countries we found to be Cyprus, followed by Botswana, and Ghana. We found the lowest being Liberia, Iran and Afghanistan. So when we compare South Africa to Iran that percentage is a bit too high, being a lawyer I'm not very good with numbers so but that what it says. That's the differential between what is being charged in South Africa and Iran again spectrum being a key issue, you will note that in Iran the 2 gigahertz spectrum has been assigned, in South Africa it hasn't. For Vodacom we looked at not just the Vodacom operations but we included Vodafone as well, obviously Vodafone being the majority shareholder in the Vodacom group. So the results are as shown there, I think this was highlighted in the Department's presentation as well, cause I think they got this from our previous release report. So the results I think there the key highlight or the key takeaway there was that if you look at South Africa and Egypt there is that percentage differential in the pricing of the 2 gig bundle and the 2 Gig bundle offering there. So that's the information that we thought we should check in responding to the question about are the prices higher than they ought to be. But you will see Chair that a number of factors come into play in accounting for the differentials

and maybe with the information and the data that might be shared over the past 2 days; the Commission might be able to determine whether are the prices higher than they ought to be or are they where they are supposed to be given our conditions and constraints that might have been highlighted. Are the

5 differentials that we see reasonable and will those differentials come down once we have alleviated the constraints and the other factors that might account for the differentials. The second question that was put to us was to the extent that the prices are higher than they ought to be, what are the factors that drive these outcomes? And again in even with this question, one does not want to be

10 presumptive of the outcome of this process or even of the outcome of the processes that ICASA ought to undertake because I think the exact factors ought to be determined through this Inquiry and through the market reviews that ICASA must undertake. However there has been a lot of discussions and research that's been undertaken from the anecdotal research; there are number

15 of issues that have been highlighted and even in this forum's for the past 2 days a number of them has been highlighted, one that comes straight to mind is the issue around spectrum availability, a whole lot has been said about that. The other issue that has been raised and I think the Department has highlighted it as well to a greater extent in discussing the amendments that are contained in the

20 Bill relates to the issue of rapid deployment of infrastructure. So we framed it there as rights of way and the fact that when operators have to deploy infrastructure they have to jump a number of loops, there is a lot of Government entities and national, provincial and local government level as well as state entities that are involved in granting all manner of approvals. And different

25 authorities have different standards or different fees or different processes and

all of those may contribute significantly to the costs that operators have to bear in making sure that there is infrastructure that enables them to provide the services that they are required to be providing. There is the issue of the market structure, I think a lot was said yesterday by some of the presenters about the market structure possibly being duopoly and not really being conducive to prices coming down but I think there is also a factor around the behaviour of market players and you know you can look at behaviour in 2 ways; the one way is to say perhaps those that are perceived to be dominant might abuse their position but there is also the factor that perhaps those that are supposed to be challenging the established players are not necessarily doing a good job at it. And I don't run businesses, it's not for me to say, so there's always two sides to the story, but there is also the reality of economic conditions that also have a bearing on the costs and the prices that ultimately people pay for services. A couple of examples there are issues of the energy costs, access to capital lending and the cost of that capital. In the previous slide I highlighted the labour costs as an example. This is also a very technologically intense sector, technology changes all the time and that might also come with a lot of cost which perhaps might be a contributing factor to some of the issues that we see translating into the prices that are paid. The last issue on that slide talks to the policy and regulatory environment, I think some presenters raised issues on that one as well yesterday. And if you could just allow me Chair to digress a bit from the script, I think on the policy and regulatory framework I think the DG has already made some comments about how every time there is a shift in policy, there'll always be perhaps concerns and protestations by those who are in the sector who may be affected by those shifts, that the shifts will pose a risk but

what I want to comment on is specifically around whether or not the regulatory environment is such that it enables smaller players in particular to compete and one of the things I want to specifically mention is that I think that the criticism that is being levelled at the Regulator is to a very reasonable extent very fair.

5 From where I am sitting I think in terms of ensuring that there is effective competition in the market to advance consumer welfare and make sure that prices do come down; from an ICASA perspective we should and can do and we must do more; and we will do more. But I also think it's important to highlight that there are a whole lot of other measures that the Regulator has taken to  
10 support or to enable competition and I will give an example let's take the call termination regulations that have been just promulgated in September, so when the draft regulations came out I think there was a whole lot of noise about how those regulations are going to kill small players then we had the consultation process; we came out with the final regulations and somehow the noise died  
15 down. And I think if we were to look at the final regulations that came out we can really see that the Regulator has gone to a greater extent to try and create an environment that gives what I would call the regulatory prop up to the smaller players to really shake up the competitive landscape. So as the criticism is levelled I think it ought to be balanced and it ought to be fair; and a number of  
20 examples that one could highlight about the measures that are available, that are being implemented. What I wanted to highlight though is that the regulatory environment is not perfect, it certainly could be improved but it works in a lot of respects. And I think we are doing the best that we can to make sure that we continuously improve it. The next question Chair that was highlighted to us is:  
25 how can these factors be effectively remedied; the factors that have been

highlighted as being the cause of high costs of data. And in responding to this I thought we should just highlight the 4 key interventions some of which the Department has spoken to, that are currently underway from a regulatory perspective that we are implementing. So I thought I would also highlight some

5 on the other measures at the corner there, these are more long term; the first one is your current inquiry oh this is something that is not necessarily long term that will help us in getting some relief in the immediate to medium term, the EC Amendment Bill is also another one that might; depending on the timelines that the Legislature takes, that might take a bit of a while. The last one we have

10 seen moral switch at some point when the initial call termination rates were dropped, perhaps there is also room for that, for those who are engaged in that space there is room for moral switch to be applied for operators to drop their prices but from where we are sitting the matters that are within our control are all in that realm. So I will start with the priority markets and inquiry, so we

15 recently concluded an inquiry or an exercise through which we identified markets that are prone to anti regulation. So that report was published about 2 or 3 months ago and we embarked on this exercise primarily to provide certainty to the market and also to enable us to allocate our resources effectively and efficiently. And we also wanted to make sure that we focus on

20 the market reviews that will yield material impacts for consumers and that will also drive the achievement of public policy objectives. The outcome of that inquiry as set out in the report is that we have identified a number of markets for prioritization and the market have been categorized into wholesale markets and retail markets and we have listed all the markets that have been prioritised

25 according to that categorization, but what i think is important to that highlights is

that if you look at the markets that have been prioritised you will see that they include at the upstream level, that have been identified you will see that they include the mobile radio network services market, they include the wholesale termination services, they include the international roaming services, they include mobile network services, fixed termination services, include fixed access, origination and transit, they include mobile services. But what I think what's more important to note is that from that prioritization we have then decided to outline our plan of how we going to conduct market reviews in order of priority. So the first area of priority for us will be the mobile services market, that will be the high priority and the reason why that is high priority is because we think that is the one market review through which we will deliver the material impact for consumers. And again it's in response to the public policy directives that we have had to respond to. There was a Ministerial policy directive in 2016 that we still need to address and then in that order we will look at wholesale fixed access then up stream infrastructure markets. So that prioritization we hoping that as soon as, depending on the timeline of this process of the Inquiry, we hoping that we will then initiate that process towards the conclusion of your Inquiry because we see our processes as very complementary to yours so we do not create unnecessary duplications. The second area that I wanted to talk to relates to the area of end user subscriber charter regulations; this is the regulations that were published again in April, May this year. The aim of the regulations was really to provide transparency and some relief to consumers, the 4 main pro consumer interventions that were introduced relates to usage notifications in terms of which all licenses are required to send a usage depletion notification to users; we introduce measures for roll-over of data,

transfer of data and also protection against out of bundle billing. These regulations are not yet in force because they are subject to legal review and the fight against these regulations is really camouflaged around the need to provide adequate time for licenses to rearrange their system for compliance. If you were

5 to look at it, and we will make it practical and I will draw again from the DTPS presentation around the poverty statistics, so if you look at the requirement for roll-over of data, transfer of data and out of bundle billing, the practical level for an operator if a consumer cannot have their data expire but have an option to roll it over or to transfer it, it means that; I don't know if I'm getting my

10 terminology right, this is not a pricing regulation but it would have an impact on how licensees recognise or generate revenue from consumers. So in my practical world if I am an operator and a consumer pays for data ,they don't use it, I expire it, it means I have made free money so when I say it is camouflaged around timelines I actually mean that if I am an operator and I am able to delay

15 these provisions I am able to continue to make free money; so again to the point around the regulatory framework being unable to deliver results we are able to come out with regulations such as these under the regulatory framework and they can be enforced. I'm just hoping that we will overcome the legal hurdle and deliver the kinds of benefits that these regulations can deliver. On spectrum

20 I think the Department has spoken to this so we have finally overcome the impasse that arouse when we issues the ITA in 2016, soothe litigation between us and the Department has been settled, the Minister has issued a policy direction for the assignment of spectrum; that's open for public consultation and once the public consultation is done the Minister will then issue the final policy

25 direction. The consultations on policy direction includes us in ICASA so we are

also being consulted by the Minister and then we will also be preparing ourselves to initiate the licensing process as soon as the policy direction process is completed. The last initiative on this one again the Department spoke to it in the context of the amendment to the Bill is the fact that we need to clear

5 the hurdles around the rapid deployment of infrastructure, so parallel to the amendment to the Bill the Minister has also initiated a consultation process on the policy direction for rapid deployment of infrastructure and that consultation process includes not just ICASA but the other Government departments that are also playing a role in that space and we hoping that once that policy direction

10 consultative process is concluded we will have a bit more of a coordinated approach across government to enable operators to be able to roll out infrastructure in a more seamless and coordinated manner without the bureaucratic hurdles that are currently hampering the process. The last question was, what is the impact of data prices more broadly on marginal

15 consumers and how important are the data prices for these customers. I think the last presentation before lunch answered this question and the presenter gave an example of someone who stays in a shack in the township, who is always on their phone and surfing the net and when they were asked what is it about the internet, and them always on the phone and surfing the internet, they

20 said when they do that they feel like they no longer stay in the shack. I think that really is what's it about, it opens the world for those low income customers and rural customers and the unemployed. And the fact that they are not able to access data for whatever reason, whether the lack of service or access or it might be affordability really keeps them outside of the mainstream of the

25 economy and keeps them marginalised. So I think there is no better answer

than that illustration but ultimately it's really about the fact that everything is going digital and ICT is a driver for economic growth and there is no better way for economic inclusion and participation than through ICT and then I think that this was spoken to earlier about the fact that the pricing model almost  
5 perpetuate the divide in the sense that if you are able to buy a bigger bundle your effective price per meg is lower than someone who can only afford a small bundle. So that is really the essence of the story, the exclusion gets perpetuated on the basis of how far you are in the LSM levels. Chair this is our last slide and I think on this slide we just wanted to just emphasize the fact that  
10 we will be embarking on a market review in terms of prioritization that we have outlined and we see that process as complementary to your process and obviously we will be working closely with you as per the MoU that we have with the Commission and then finally we also working closely with the Department to alleviate all the policy and related regulatory constraints that are there, whether  
15 you are talking spectrum or rapid deployment or any other regulatory and policy constraints that we have to deal with and that process is underway and hopefully it should bear fruits in the next couple of months. That concludes our presentation Chair; my colleagues will then deal with all the questions, thank you Chair.

20 **CHAIRMAN (MR MAJENGE):** Thank you very much Mr Ngwepe. I think we can also confirm from our side that behind the scenes there is a lot of co-operation between ourselves as well as ICASA and we also similarly remain committed to that collaboration. I think we just have one before you close the presentation, just one it's really a clarity seeking question on the first slide  
25 relating to the study that you did in terms of benchmarking data prices. I think it

was the very first slide oh this is the, I think if you can just go back a bit, I think this is the slide that concludes by stating that in comparison with the, there is a concluding statement in that slide, it concludes by stating that data prices in comparison and I'm para-phrasing yes, yes this is the slide; I think that we have  
5 noted that this is the conclusion of the study that South Africa's data countries are not the highest in both SADC countries as well as BRIC countries. The clarification relates to only one aspect, the conclusion is of course using countries as a comparative so what I want to find out or to clarify is whether if one uses a different comparator, for instance a comparator that references the  
10 costs of MNOs, whether one could arrive at a different conclusion and whether there are studies that are available and using different comparators?

**MR NGWEPE:** I think I would let JK deal with that question.

**MR KHUMALO:** I think the response to that is, Chair that it is probably possible but I don't think we have got that data so when you say if we were to go into any  
15 of the SADC countries and choose an operator or look at all of them and look at their underlying costs or maybe clarify the question

**CHAIRMAN (MR MAJENGE):** Yah let me clarify the question. Ok fine, the price cost benchmark referring to is the price cost benchmark that uses the cost of the MNOs in South Africa against data prices that's the data cost that is the  
20 benchmark that I am referencing.

**MR KHUMALO:** Thank you Chair, I think you will see that second bullet point Chair that we have there, actually is a disclaimer exactly what you are raising is what we are saying is the challenge of doing these benchmarks. We have not looked at the cost to vis-a-vis to what others are facing in terms of costs;

however we said that as a proviso or as a disclaimer those are the things that may influence the cost of data. The fact that population density and the number of operators, the geography of that country, energy costs, labour costs and other input costs that come with providing the services that may have an  
5 influence on these differences. However we do not have those costs just to be straight forward with you, so but in short what we are really comparing is the headline prices it's not anything else; we are just comparing the headline prices for a 2 Gig bundle in South Africa and in another country where we could find the information, looking at all the SADC countries and the BRICS countries.

10 **CHAIRMAN (MR MAJENGE):** Ya thank you very much Mr Ngwepe and your team for your time as well as for your presentation, we really do appreciate your assistance. Thank you very much. This brings us to the end of this round of public hearings of the data market inquiry, we would like to take this opportunity to convey our appreciation for all the stakeholders who have made submissions  
15 to the inquiry as well as to members of the public who have taken a keen interest and have attended the inquiry. Thank you very much, in terms of the way forward, the process of the inquiry will continue and will unfold in accordance with the timelines set out in the terms of reference. Thank you very much.

20

**THE END!!!!!!**