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GENERAL NOTICES

NOTICE 1927 OF 1998

SOUTH AFRICAN TELECOMMUNICATIONS REGULATORY AUTHORITY



NOTICE TO CONDUCT AN ENQUIRY INTO THE ESTABLISHMENT OF THE HUMAN RESOURCES DEVELOPMENT FUND

1. The South African Telecommunications Regulatory Authority ("the Authority") hereby makes notice that it will commence to conduct an enquiry into the establishment of the Human Resources Development Fund ("the Fund") in the Republic of South Africa, in terms of sections 27 and 78 and 86 of the Telecommunications Act, 1996 (Act No. 103 of 1996) ("the Act"), from 3 September to 9 October 1998. The electronic version of this notice is also available on the internet at <http://www.satra.org.za>.
2. Interested persons are hereby invited to submit written representations on the discussion document attached hereto by no later than **16:00 on Friday, 9 October 1998**.
3. Furthermore, persons submitting representations are requested to submit twelve (12) copies of such submissions.
4. Written representations may be posted or hand delivered for the attention of Ms M. Msimang—SATRA, Private Bag X1, Marlboro, 2063; OR SATRA, Block B, Pin Mill Farm, 164 Katherine Street, Sandown, Gauteng Province.

S. E. FUNDE

Deputy Chairperson, SATRA

DISCUSSION DOCUMENT—THE ESTABLISHMENT OF A HUMAN RESOURCES FUND IN THE SOUTH AFRICAN TELECOMMUNICATION SECTOR

In terms of section 78 (1) of the Act, a Human Resource (the "Fund") to be administered by the Director-General in consultation with the Authority shall be established. The Fund shall be made up of annual contributions by licensees as contemplated in section 86 (1) of the Act.

This Discussion Document has been prepared by the Authority as a means of providing a basis upon which public enquiry as contemplated in section 27, section 76 and section 86 (1) the Act will be conducted.

The establishment of the Fund as an institutional instrument to support skills development programmes and allied initiatives in the telecommunications sector is a statutory requirement in terms of sections 78 and 86 of the Act. The Act states that the purpose of the Fund shall be: "to exclusively promote the provision of adequately skilled human resources at all levels of the telecommunications sector in numbers sufficient for the needs of the Republic..."

In keeping with this human resource development requirement of the Act, the Authority has begun a process to recommend a formula for monetary contributions to the Fund by licensed telecommunications operators.

The Authority invites representations on the establishment of the Fund in the South African telecommunications sector. The Authority would like to be informed of views on some of the administrative and policy issues that may need to be addressed for the successful development of the Fund. Representations may address any relevant issue, whether or not such issue has been raised in the Discussion Document. Furthermore, it is not a prerequisite that representations should address all of the issues raised in the Discussion Document.

Introduction

Income distribution in South Africa remains among the most unequal in the world and poverty and inequality in the country have four outstanding characteristics - race, gender, region and type of area. The South African telecommunications sector is considered one of the fastest growing in the world. However, in order to realise this potential growth and thereby bring the benefits of modern telecommunications to a broader segment of the population, a growing number of skilled and specialised resources will be needed. It is against this background that the need for the establishment of the Human resources Fund in the telecommunications sector has been realised. As such, the Fund can be considered a major innovative creation of the Telecommunications Act, of 1996.

In South Africa low levels of skills development in the Historically Disadvantaged Communities¹ are a direct result of the previous government's policies of discrimination as well as unequal and racially based education. It is these inequalities in education and training that the present government has undertaken to transform, restructure and redress through the development of policies such as the White Paper on Transformation of the Public Services, the Skills Development Bill, the Employment Equity Bill and Affirmative Action.

In its quest to transform the public sector for efficiency and delivery, the government has noted that the responsibility for developing the creative energies and talents of South Africa's diverse communities does not lie exclusively with the state. For this reason, the government sees itself forming partnerships with a variety of social structures, including community organisations, private sector agencies and academic institutions, to become an active partner in developing South African's human resources. A strategic framework for effective human resource development comprises a number of related activities with great emphasis on work-force development and training.

Consistent with government initiatives on human resource development alluded to above; section 78 (1) of the Telecommunications Act (No. 103 of 1996), legislates the establishment and control of the Fund.

A Policy Towards the Human Resources Fund

A policy towards the establishment of the Fund was designed to address the racial and gender imbalance in skills development in South Africa's telecommunications sector. The establishment of the Fund as an instrument to support skills development programmes and allied initiatives in the telecommunication sector is a statutory requirement in terms of sections (78) and (86) of the Act.

The Fund has the potential to affect human resource development activities across the sector, for instance, support for science and technology from primary schools to technikons and universities as well as research in the industry. Maintaining a balance between longterm human resource development and more immediate research requirements when allocating such funding is one of the challenges of the Director-General in consultation with the SATRA.

The discussion below summarises some of the most pertinent issues related to the establishment of a Human Resources Fund in South Africa. The scope of the discussion includes:

1. The Context of the Discussion
2. Human Resource Development in South Africa
3. Rationale for the Fund
4. Distribution formula

¹ The Authority uses the term historically disadvantages (HDC or HDIs) to mean all people who due to the political and legal dispensation pertaining to South Africa prior to the 1994 National Elections, could not exercise the right to vote for members to the House of Assembly of the erstwhile Parliament.

5. Frequency and manner of contributions to the Fund
6. Identification of contributing parties
7. Institutionalisation of the Fund

1. Context of the Discussion

- 1.1 As an essential step in the process of restructuring the telecommunications sector, a new Telecommunications Act was passed in 1996. This Act followed an intensive policy making process through a Green Paper, published in September 1995 and a White Paper published in March 1996. The Act fundamentally transformed the sector by introducing a three-tier separation of powers—the government, which is responsible for policymaking, an independent regulator, SATRA, to regulate the sector, and individual operators to render services to the general public and the business community. The restructuring process was essential in order to reflect the rapidly changing priorities in the South African telecommunications sector².
- 1.2 The vision of the South African government is evidenced in the emphasis placed on the establishment of the Universal Services Fund and the Human Resources Fund to address the needs of disadvantaged rural and urban communities. The need for the establishment of the two funds also reflects the unique economic and social situation of the country's telecommunications sector. Nowhere else in the world does disparity of telephone access exist in such a highly developed communications technology sector. There is an urgent need to address and redress these and other such imbalances.
- 1.3 The Act mandates the Authority to regulate in the public interest to promote the achievement of human resource development, the upliftment of skills and the empowerment of HDIs and women.
- 1.4 Section 2 (l) and (q) of the Act address the aims of the Authority in regards to the empowerment of HDC's, and women.
- 1.5 The Authority believes that in serving the "public interest" the Authority must *inter alia* promote equitable human resource development in the telecommunications sector, as per section 2 (n) and section 78 of the Act.

2. Human Resource Development in South Africa

- 2.1 The telecommunications sector in South Africa is the fastest growing in the world, both in potential and real terms. The rapid growth of the telecommunications sector notwithstanding, the national market is nevertheless severely limited by the country's unequal distribution of wealth.
- 2.2 Despite the rapid growth of the sector, international trends on productivity suggest that a decrease of staff with current operators might be expected. However, new participants (operators, manufacturers, and entrepreneurs) in the telecommunications industry area expected to create new jobs. Thus, the overall workforce in the industry is going to increase. Both existing operators and new participants will have a need for higher skilled staff in order to achieve or maintain a competitive position.
- 2.3 Given their skills level and their present occupations within the sector it is likely that the historically disadvantaged will suffer disproportionately from the need for increased skills in the labour market.
- 2.4 Special attention must be paid to women, a population group that is significantly disadvantaged.
- 2.5 Bearing in mind the specificities of the South African telecommunications sector, it is recommended that the Fund should be used for the following main objectives:
 - 2.5.1 Job creation to counter any projected decline due to increasing scales of efficiency.
 - 2.5.2 Stimulation of upward mobility by the labour force in the Telecommunications sector.
 - 2.5.3 Skills training to enhance operational efficiency within the sector.
 - Are these objectives acceptable?
 - To what extent and how should contributions to the Fund be used to promote the empowerment of historically disadvantaged individuals as articulated in section 2 (1) and (q) of the Act?

3. Rationale for A Human Resources Fund

- 3.1 One of the cardinal objectives of the establishment of the Fund is to redress past discrimination in education, training and employment particularly in the telecommunications sector. The Act stipulates that the money in the Fund shall be used to promote the provision of adequately skilled human resources at all levels in the telecommunications sector in numbers sufficient for the telecommunication needs of the Republic. Other sub-objectives are the achievement of Affirmative Action targets in the sector, redressing the legacy of Bantu education, and integrating and co-ordinate training programmes.
 - 3.1.1 *Achievement of Affirmative Action Targets in the Sector:* To redress imbalances in the telecommunications sector, particularly in reference to human resource development, the Act makes provision for and supports affirmative action based on principles of democracy, non-racism, non-sexism, and equity. This requires setting realistic and achievable targets for proactive recruitment and training particularly of HDIs, women and disabled people. Through effective affirmative action policies both gender and race dimensions can be introduced in the telecommunications sector. To date there is a lack of inclusion of both groups in the sector.

3.1.2 *Redressing the Legacy of Bantu Education:* The legacy of Bantu education has resulted in few Black South African focusing on science and technology. The lack of diversity in the training of South Africans in technical fields directly impacts employment levels of HDIs, disabled people and women. Thus, addressing the inequity in education of South Africans will affect the quality and diversity of the work force.

3.1.3 *Integration and Co-ordination of Training Programmes:* Training programmes in the telecommunications sector are episodic and isolated. Considering the rapid expansion and exponential growth of this sector, there is a need to co-ordinate skills development initiatives in the sector to achieve maximum effect. Significant training and retraining in the sector is required due to the rapidly growing and changing market structures, new technologies, new operators, new strategies and management models.

- Comments in this regard are requested.

4. Determination of a Formula for Contributions to the Fund

4.1 The commitment of the telecommunications sector to human resources development must be enhanced. For an effective and successful process of transition, the co-operation of all parties involved is essential. It is recommended that a system is implemented which rewards licensess for the achievement of objectives and targets set by the Director-General in consultation with SATRA.

4.2 The procedure for determining contributions must be as transparent and simple as possible to create maximum clarity for the parties in the market.

4.3 SATRA, after examining the levels of Human Resource development in South Africa's telecommunications sector, maintains the view that all licensees in the telecommunications sector must contribute to the Fund on the basis of either profit, total revenues, or personnel costs.

4.4 To ensure a smooth transition and a consistent approach, it is also suggested that contributions to the Fund be established in line with the Skills Development Bill which will create a structure that will replace the Human Resources Fund by December 31, 1999. A such, licensees will be required to pay an amount of 1% of their personnel costs. However, the amount paid by licensees shall not exceed R10 million, as per the Ministerial Policy Directive.

- Comments in this regard are requested.

5. Frequency and Manner of Contributions to the Fund

5.1 The contributions by licensees should be made annually from 1 April to 31 March. Contributions should begin from the 1998/99 financial year.

5.1.1 For a licensee whose financial year commences on 1 April, the financial data shown in the audited annual financial statement for the previous financial year of the licensee shall be used. However, for a licensee whose financial year does not commence on 1 April, the audited financial data for the previous period from 1 April to 31 March of the following year shall be used.

5.2 Licensees should make payments to the Authority.

5.3 All monies received shall be deposited into the National Revenue Fund in terms of section 78 (2) of the Act.

5.4 Where a licensee has been licensed for less than 12 months, the contributions should be adjusted proportionally.

- Comments in this regard are requested.

6. Identification of the Contributing Parties

6.1 Section 86 (1) of the Act stipulates that every holder of a licence granted or deemed to have been granted in terms of Chapter V of the same Act shall pay the prescribed annual contributions to the Fund.

6.2 It has been suggested that all parties contribute to the Fund, however, that contributions should be based on the size of the party (i.e. small parties contribute less, a flat rate, or have their contributions remitted).

- To the extent that limits and restrictions on contributions are imposed, should they extend to all licensees? Should such restrictions only apply to licensees with a certain amount of revenue/personnel/profit? If so whatever amount/level?

7. Institutionalisation of the Fund

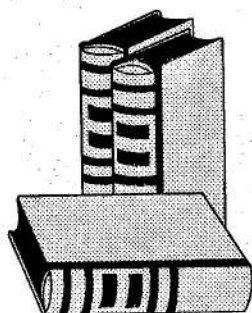
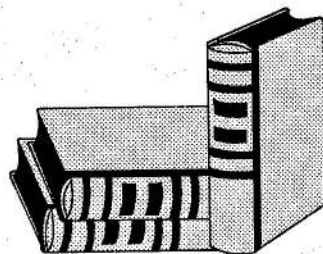
7.1 The government believes that the enhancement of the human resources in the telecommunications sector should be paid for by the sector itself. These funds however, should in no way replace the government funding that is normally provided for educational and training purposes. In order to maintain the Fund as efficiently as possible, it has been proposed that a separate human resources development directorate be established within SATRA.

7.2 The Authority recommends that the Fund be closely related to already existing funds for grants and subsidies that fall under the responsibility of the Director-General.

7.3 The Authority is mindful of the fact that the successful administration and operation of the Fund will depend on professional management and adherence to principles of sound accountability. Monitoring of the performance of the operators with respect to Human Resource development, together with maintaining a mechanism for allocating funds, will require an experienced corps of staff and a sound organisational development background.

- Comments in this regard are requested.
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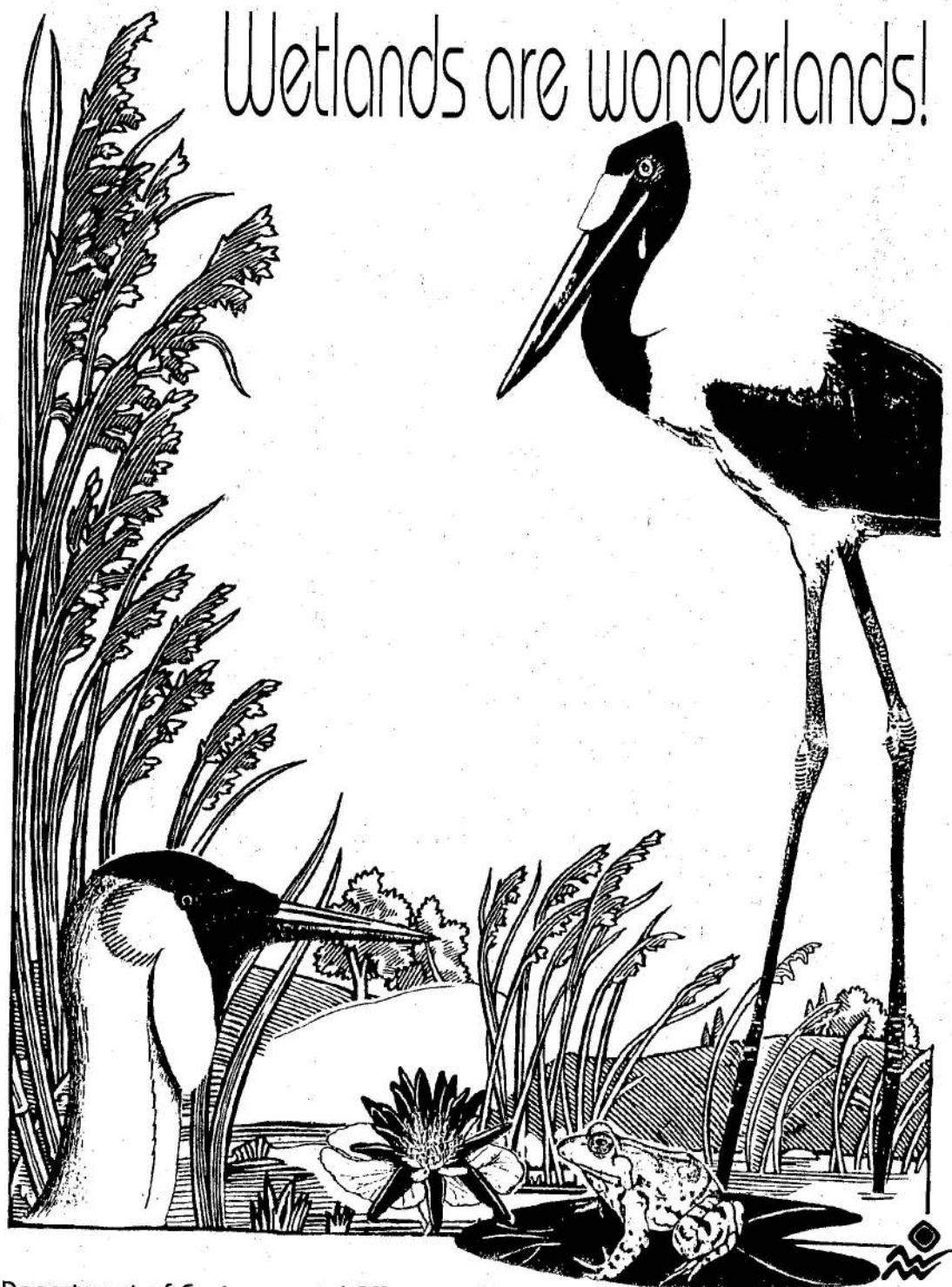
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