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OF
SOUTH AFRICA



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GOVERNMENT NOTICE

DEPARTMENT OF COMMUNICATIONS

No. 1609

4 December 1998

I, Jay Naidoo, Minister for Posts, Telecommunications and Broadcasting, hereby publishes the following policy direction in terms of section 5(4)(a) of the Telecommunications Act, 1996 (Act No. 103 of 1996).

Jay Naidoo

Minister for Posts, Telecommunications and Broadcasting

**POLICY DIRECTION ON GLOBAL MOBILE PERSONAL
COMMUNICATIONS BY SATELLITE IN THE
REPUBLIC OF SOUTH AFRICA.
ISSUED BY THE MINISTER FOR POSTS, TELECOMMUNICATIONS
AND BROADCASTING IN TERMS OF SECTION 5 OF
THE TELECOMMUNICATIONS ACT 103 OF 1996.**

In this Policy Direction, unless the context requires otherwise;

- (i) All words and expressions shall have the same meanings ascribed to them in the Telecommunications Act 103 of 1996 and the Telkom Licence;
- (ii) Words and expressions not defined in this policy direction or the Telecommunications Act shall be as defined in the International Telecommunications Union, Memorandum of Understanding (Geneva, 14 February 1997) and, the relevant ITU Recommendations on GMPCS, to the extent that such definitions are not inconsistent with the terms of the Republic's telecommunications law and regulation;

1 DEFINITIONS

- (a) **"GMPCS"** means Global Mobile Personal Communications by Satellite;
- (b) **"GMPCS system"** means any satellite system, whether fixed or mobile, broadband and/or narrowband, global or regional, geostationary or non-geostationary, existing or planned, providing telecommunication services directly to end users from a satellite, or network or constellation of satellites other than and excluding Public Switched Telecommunication Network (PSTN) satellite telecommunication services which include, but are not limited to V-SAT, Satellite News Gathering (SNG) and INTELSAT services;
- (c) **"GMPCS service"** means a telecommunication service, new and distinct from existing telecommunication services as defined in the Telecommunications Act 103 of 1996, which is provided directly to end users by means of a GMPCS system;
- (d) **"GMPCS system operator"** means the person authorised by the ITU to use particular space segments and radio frequencies and is responsible for the management, administration and operation of a GMPCS system;

- (e) **"GMPCS country operator"** means any person authorised by a GMPCS system operator and includes an authorised subsidiary or agent, charged with the responsibility for the management and administration of a GMPCS service provided in the Republic;
- (f) **"GMPCS earth gateway station"** means a land based facility used to establish, maintain, validate and control communication with the space segment of a GMPCS system utilising feeder links and which is interconnected to one or more telecommunication system(s);
- (g) **"GMPCS service licence"** means a telecommunications service licence issued to a GMPCS country operator in terms of this policy direction and the Act, and entitling the holder to provide a GMPCS service in the Republic;
- (h) **"GMPCS earth gateway operator"** means a person which is authorised by a GMPCS system operator, or an authorised subsidiary or agent of a GMPCS system operator, as the entity with responsibility for the management and administration of a GMPCS earth gateway station situated in the Republic;
- (i) **"GMPCS earth gateway service"** means the service provided by a GMPCS earth gateway station in establishing, maintaining, validating and controlling communication with the space segment of a GMPCS system utilising feeder links and which is interconnected to one or more telecommunication systems;
- (j) **"GMPCS earth gateway licence"** means a telecommunications service licence, issued to a GMPCS earth gateway operator in terms of the Act, entitling the holder to operate a GMPCS earth gateway station in the Republic. Should the GMPCS earth gateway station provide telemetry, tracking, and command functions, such licence may also entitle the holder to provide such telemetry, tracking, and command functions;
- (k) **"Republic"** means the Republic of South Africa
- (l) **"The Act"** means the Telecommunications Act 103 of 1996;
- (m) **"The Authority"** means the South African Telecommunications Regulatory Authority established in terms of section 5 of the Telecommunications Act 103 of 1996.
- (n) **"The Telkom Licence"** means the public switched telecommunications service Licence issued to Telkom SA Ltd on 7 May 1997 to provide telecommunication services in terms of section 36 of the Act.

- (o) **"User terminal equipment"** means an ITU registered GMPCS terminal, and includes GMPCS hand-held and other portable terminals, vehicle-mounted terminals, vessel or platform mounted terminals at sea or in the atmosphere (platforms being inclusive of aeronautical or maritime buoys), fixed private terminals, fixed or mobile public pay telephone terminals and any other type of GMPCS terminal which may be used by an end user to send and/or receive telecommunication traffic directly to and/or from a satellite or system of satellites;

2 INTRODUCTION

- 2.1 The introduction and provision of GMPCS services in the Republic has inter alia the following potential benefits for the Republic and its citizens:
- 2.1.1 The provision of telecommunication services in under-serviced areas;
 - 2.1.2 The promotion of universal access and universal service;
 - 2.1.3 The development of the Republic's telecommunications infrastructure;
 - 2.1.4 Ensuring that the Republic's telecommunications infrastructure remains abreast of and integrated with the world telecommunications infrastructure;
 - 2.1.5 Broadening the range of telecommunication services in the Republic;
 - 2.1.6 The integration of the Republic's economy into the global economy;
 - 2.1.7 The promotion of investment in the Republic;
 - 2.1.8 The provision of opportunities for local businesses to participate in global business; and
 - 2.1.9 The promotion of small, medium and large enterprises;
- 2.2 It is expected that the implementation of GMPCS systems and services will contribute to the achievement of the objectives listed in Section 2 of the Act;
- 2.3 GMPCS has received ITU support, and the ITU has and will allocate appropriate radio frequency spectrum to GMPCS system operators globally;
- 2.4 The Republic wishes to comply with its obligations to the ITU and other international telecommunication authorities and structures;

- 2.5 It is in the interests of the Republic's citizens that telecommunication services of an international standard be provided in the Republic;
- 2.6 This policy direction accordingly seeks to facilitate the early implementation of GMPCS services within the Republic in such a manner that the benefit of such services for the public is maximised;
- 2.7 This policy direction is drafted in accordance with the Republic's international obligations, and in particular with those applicable to or impacting upon GMPCS.

3 OBJECTIVES

The objectives of this policy direction are:

- 3.1 to allow for the early introduction of GMPCS into the Republic as and when GMPCS services become available;
- 3.2 to ensure that GMPCS services are provided in a manner consistent with the broad public interest;
- 3.3 to ensure that the needs of users of GMPCS services are satisfied on a fair and non-discriminatory basis;
- 3.4 to enhance telecommunications between people and organisations within the Republic and those in the Republic and other countries;
- 3.5 to contribute to making progress towards the goals of universal access and universal service, especially in remote and rural areas;
- 3.6 to promote the economic development of the Republic and other countries in the Southern African region;
- 3.7 to contribute to the range of services available to the public, so that the different needs of consumers are served;
- 3.8 to provide for competition between different GMPCS systems and services and associated user terminal equipment manufacturers, distributors, dealers and service providers, as a means of ensuring a range of services of good quality and affordable prices;
- 3.9 to, where possible, facilitate participation in the enterprise of GMPCS by local groups, companies and individuals;

- 3.10 to ensure the efficient use of the radio frequency spectrum;
- 3.11 to ensure that no aspect of GMPCS will violate the sovereign rights of the Republic or any other country;
- 3.12 to promote the empowerment of historically disadvantaged people;
- 3.13 to retain control over national telecommunication policy objectives, assure the integrity of the legal and regulatory framework.
- 3.14 To ensure that the interests of countries in the Southern African region are respected through appropriate regulation of GMPCS services and GMPCS earth gateway services;

4 PROHIBITION ON THE PROVISION OF GMPCS SERVICES AND GMPCS GATEWAY SERVICES WITHOUT A LICENCE

- 4.1 No person may provide a GMPCS service in the Republic other than under and in accordance with a GMPCS service licence issued to the GMPCS country operator by the Authority in terms of this policy direction and the Act.
- 4.2 No person may provide a GMPCS gateway service in the Republic other than under and in accordance with a GMPCS gateway licence issued to a GMPCS gateway operator by the Authority in terms of this policy direction and the Act.
- 4.3 The Authority may issue a GMPCS service licence or a GMPCS gateway licence in accordance with this policy direction and the requirements of the Act.
- 4.4 A GMPCS service licence and a GMPCS gateway licence shall specify the services, which the licensee is entitled to provide in terms of the licence.
- 4.5 A single entity may hold more than one licence in terms of the Act and this policy direction, and in particular, a single entity may hold both a GMPCS service license and a GMPCS gateway licence simultaneously.

5 COMPETITION BETWEEN GMPCS SYSTEMS AND SERVICES

- 5.1 The Authority shall promote competition between GMPCS systems and services and shall seek to create an environment in which all GMPCS service providers can compete fairly.

- 5.2 Appropriate frequency assignments shall be made to licensees to facilitate and promote fair competition.
- 5.3 There shall be no limitation on the number of GMPCS service licences or GMPCS gateway licences, which may be issued by the Authority, provided that appropriate radio frequency spectrum is available.

6 PROMOTION OF THE SOCIAL OBJECTIVES SET OUT IN THE ACT

- 6.1 An applicant for a GMPCS service licence will be required to submit a plan to the Authority setting out the way in which it intends to contribute to the achievement of the social objectives set out in the Act.
- 6.2 The Authority shall not grant a GMPCS service licence until it is satisfied that the applicant's plan will contribute in a satisfactory manner to the achievement of the said social objectives, taking into account applicable commercial considerations.
- 6.3 An applicant for a GMPCS service licence may consult the Authority regarding the development of an appropriate plan for the achievement of the social objectives contained in the Act.
- 6.4 The plan agreed to between the Authority and the applicant shall form part of the GMPCS service licence issued, and the terms of the plan shall be considered to be terms of the licence.
- 6.5 The Authority shall ensure that no particular licensee is unduly prejudiced through its incurring disproportionately more onerous social obligations in terms of a GMPCS service licence than other licensees.
- 6.6 It shall be required from the GMPCS system operator/GMPCS country operator/GMPCS gateway operator to route all emergency calls, free of charge, to the nearest emergency centre when dialling the national emergency number, in accordance with the National Emergency Telephone Service Act No 143 of 1993.
- 6.7 The GMPCS service licensee shall comply with all applicable legislation, for example, the Interception And Monitoring Prohibition Act No. 127 of 1992

7 REQUIREMENTS FOR ISSUING A GMPCS SERVICE LICENCE OR A GMPCS GATEWAY LICENCE

Before issuing a GMPCS service licence or a GMPCS gateway licence, the Authority shall satisfy itself that:

- 7.1 in the case of a GMPCS service or Gateway licence, the system to be utilized by the applicant has been demonstrated to be economically and technically feasible;
- 7.2 in the case of a GMPCS service or Gateway licence, the applicant is able to demonstrate a sustainable business plan for its proposed operations;
- 7.3 the applicant complies with all applicable ITU recommendations and ITU Radio Regulations;
- 7.4 the GMPCS system operator has been assigned appropriate frequencies by the ITU;
- 7.5 the prospective applicants for GMPCS service licences and/or GMPCS gateway licences must, if they require the use of certain frequencies before the transition periods as stipulated in the *Revision of South African Frequency Allocation Plans (Band Plans) and Migration Strategies* (Government Gazette No. 17983 of 6 May 1997) have expired, negotiate with the incumbent users their migration from any portion of the radio frequency spectrum that has been allocated by the ITU for that particular GMPCS service. Such negotiations must be conducted in a transparent and equitable manner. Any agreement reached, pursuant to the outcome of such negotiation, shall be lodged with the Authority. Should the parties fail to reach agreement after reasonable attempts at negotiation, either or both parties may refer the matter to the Authority;
- 7.6 the applicant has complied with all other requirements set out in the Act.

8 LICENCE SPECIFICATIONS

A GMPCS service licence and a GMPCS gateway licence issued by the Authority shall specify inter alia:

- 8.1 the date on which the service may commence;
- 8.2 the latest date by which the service shall be required to commence;
- 8.3 the duration of the licence;

- 8.4 any fee payable by the licensee in respect of the licence;
- 8.5 the nature of the services to be provided in terms of the licence;
- 8.6 the frequency spectrum allocated for the use by the licensee in terms of the frequency licence;
- 8.7 considerations of a technical or any other nature which may apply to the licence;
- 8.8 any other terms and conditions applicable to the service to be provided.

9 NETWORK INTERCONNECTION

- 9.1 GMPCS earth gateway stations situated in the Republic shall interconnect with the PSTN.

10 NUMBERING ARRANGEMENTS AND ROUTING

- 10.1 The Authority shall assist all licensed GMPCS country operators, and GMPCS gateway operators, as well as operators anticipated to be licensed, with numbering arrangements in accordance with the provisions and guidelines of the Standardization Sector of the ITU, and the Act.
- 10.2 The Authority's obligation shall include facilitating arrangements for number recognition of GMPCS user terminals by domestic telecommunication systems, as well as the proper routing of traffic to end user terminals.

11 TARIFFS FOR SERVICES

- 11.1 The Authority shall ensure that the tariffs for GMPCS services are market related. This includes mandated social service obligations.

12 RADIO FREQUENCY SPECTRUM UTILISATION

- 12.1 The Authority shall allocate appropriate frequency spectrum for use by GMPCS country operators and GMPCS gateway operators in accordance with the terms of the ITU allocation, the Act and this policy direction.

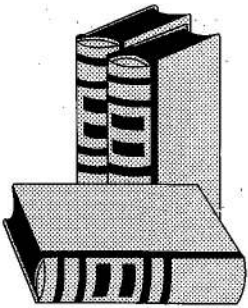
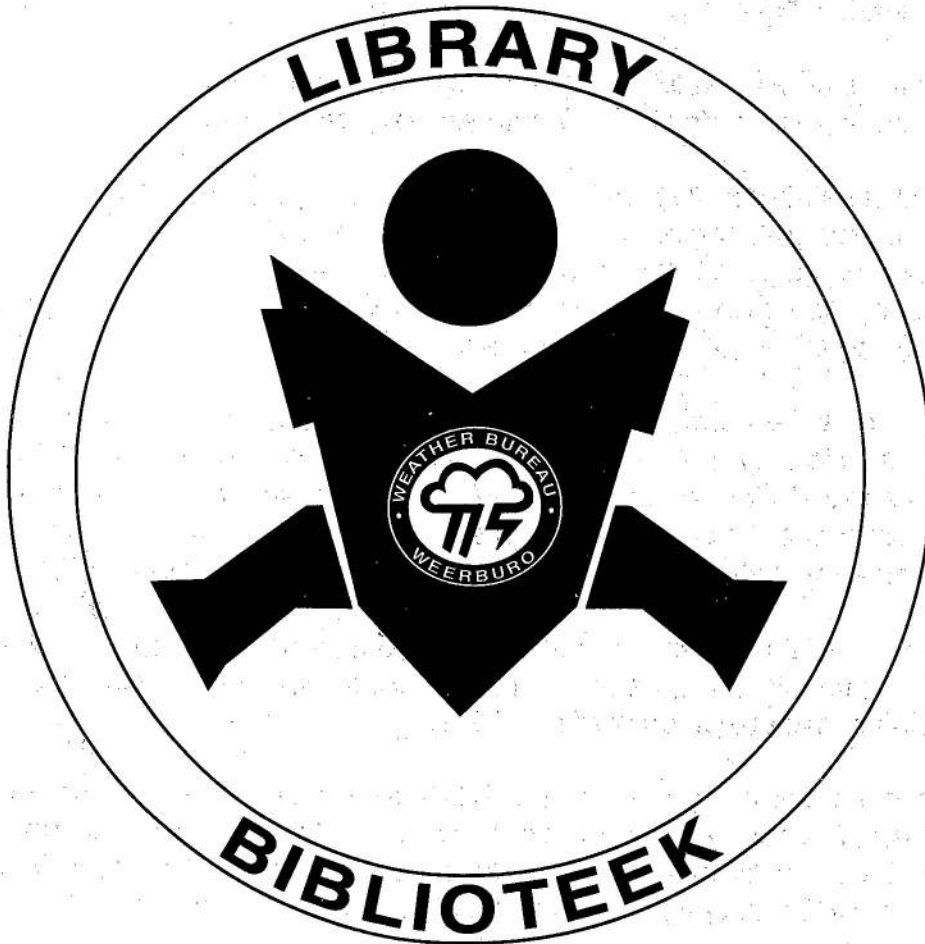
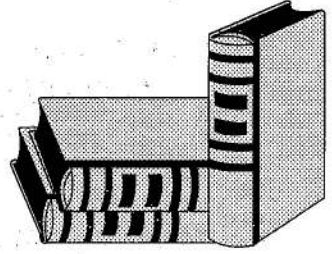
13 REQUIREMENTS FOR USER TERMINAL LICENCES

- 13.1 The Authority shall give effect to the Republic's international obligations in terms of any Memorandum of Understanding or other applicable agreement with respect to GMPCS user terminal equipment.

14 EXCLUSIVITY AND BYPASS

- 14.1 For the period referred to in Sec. 36(3) of the Act and paragraph 3.1 of the Telkom licence;
- 14.1.1 Telkom shall have the right to operate and manage GMPCS gateway stations to provide GMPCS gateway services in the Republic.
- 14.1.2 Notwithstanding Telkom's rights as set out in 14.1.1, should Telkom be unwilling or unable to provide GMPCS gateway services to a GMPCS country operator, the country operator may apply to the Authority for permission to operate and manage a GMPCS earth gateway station to provide GMPCS gateway services.
- 14.1.3 When, as envisaged in 14.1.2, a GMPCS country operator is granted permission by the Authority to operate and manage a GMPCS earth gateway station to provide GMPCS gateway services, the provision of an international telecommunications service to and from the Republic via such earth gateway station shall constitute by-pass of the PSTN.
- 14.1.4 The provision of an international telecommunications service to and from the Republic via an earth gateway station situated outside the Republic shall constitute by-pass of the PSTN.
- 14.1.5 In the event of by-pass of the PSTN as set out in 14.1.3 and 14.1.4, the GMPCS country operator shall compensate Telkom for by-pass of the PSTN in terms of an agreement to be entered into between Telkom and the GMPCS country operator, the procedure as set out in section 43 of the Act to apply.
- 14.2 The provisions of 14.1.1 - 14.1.5 above shall not apply in respect of the Inmarsat service that was in operation in the Republic before 1 April 1998.
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Department of Environmental Affairs and Tourism
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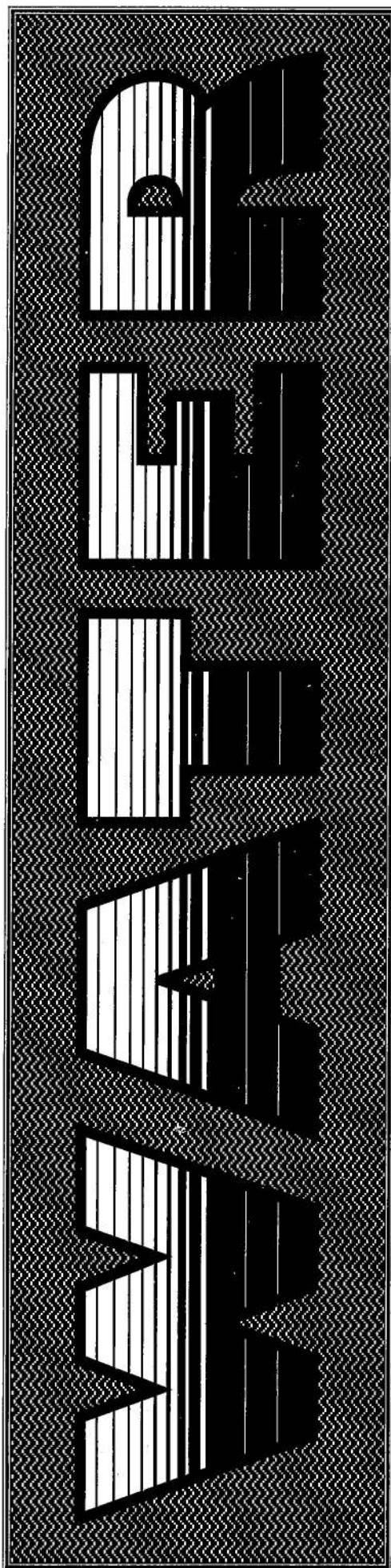
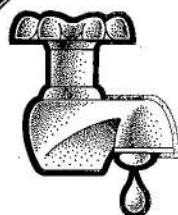
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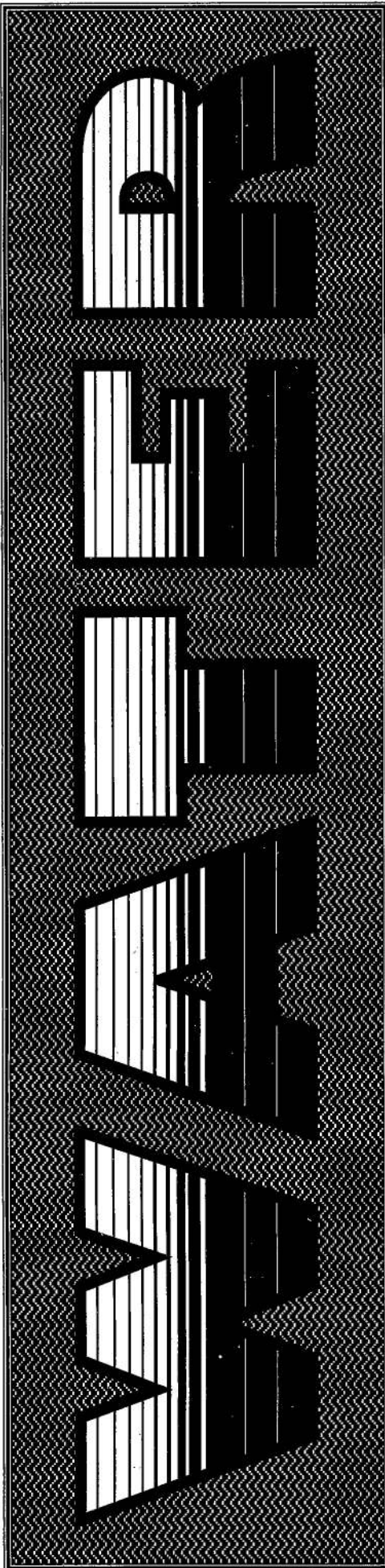


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