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CONTENTS • INHOUD

No.	Page No.	Gazette No.
-----	-------------	----------------

GENERAL NOTICE

Communications, Department of

General Notice

28 Telecommunications Act (103/1996): Invitation to apply for a telecommunications service licence	3	23011
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GENERAL NOTICE

NOTICE 28 OF 2002

DEPARTMENT OF COMMUNICATIONS

I, Ivy Matsepe-Casaburri, Minister for Communications, hereby publish the following invitation to apply for a telecommunications Service licence by means of Global Mobile Personal Communications by Satellite (GMPCS) service as prescribed in terms of section 34(2)(a)(v) of the Telecommunications Act, 1996 (Act No. 103 of 1996)



DR. IVY MATSEPE-CASABURRI

MINISTER

1. THE INVITATION

- 1.1. In terms of section 34(2)(a)(v) of the Telecommunications Act 1996, applications are hereby invited by the Minister of Communications, for licences to operate a telecommunication services by means of Global Mobile Personal Communications by Satellite (GMPCS).

2. ABBREVIATIONS/DEFINITIONS

- 2.1. Terms defined in the Telecommunications Act of 1996, the GMPCS policy direction and used in this Invitation to Apply shall have the meaning assigned to them therein.
- 2.2. Unless the context clearly indicates otherwise, the following abbreviations and/or definitions shall have the meaning set forth below:

"Act"	means the Telecommunications Act 103 of 1996; as amended.
"Application"	means the application to be submitted by an Applicant in response to this ITA and as further described in this ITA.
"Application Process"	means the application and all subsequent events pursuant to applicable law up to the award of the Licences.
"DOC" or "Department"	means the Department of Communications.
GMPCS"	means Global Mobile Personal Communications by Satellite.
"GMPCS Service"	"GMPCS service" means the transmission of any type of telecommunications service - voice, data, fax, or paging - which is provided directly to end users, anywhere on earth, by means of a GMPCS system.
"GMPCS system"	"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 those elements of the Public Switched Telecommunication Network (PSTN) by means of which, inter alia, satellite telecommunication services are provided. Such elements include, but are not limited to V-Sat and satellite news-gathering network infrastructure.

"Historically Disadvantaged Groups"	Shall have the same meaning as defined in the Employment Equity Act.
"ITA"	means this Invitation to Apply, including the appendices thereto.
"Licences"	means the Licences for the provision of GMPCS service to be issued pursuant to the Act.
"Minister"	means the Minister of Communications;
"Policy Direction"	Means the policy direction as published in Government Gazette No 22170 of 23 March 2001 and amendment thereof.
"ICASA"	means the Independent Communications Authority of South Africa (ICASA), established in terms of section 3 of the Independent Communications Authority of South Africa Act, Act No 13 of 2000, or its legal successor.

3. DESCRIPTION OF ITA DOCUMENTS

- 3.1. The ITA Documents consist of this ITA, including Appendices, together with any other written communication(s) signed by a duly authorised representative of the Ministry of Communications which expressly states that such communication is included as part of the ITA Documents.
- 3.2. The ITA Documents are and remain the property of the Ministry of Communications.

4. INFORMATION PROVIDED - DISCLAIMER

- 4.1. Nothing contained in the ITA Documents or otherwise may be relied on as a promise or representation, whether as to past, present or future.
- 4.2. The ITA Documents do not purport to contain all of the information that may be required to evaluate the Application Process.
- 4.3. The ITA Documents supersede all information concerning the Application Process, which may have been previously communicated to Applicants by the Relevant Authorities whether orally or in writing or otherwise.
- 4.4. The ITA Documents are not intended to form the basis of a decision to apply for Licences or any other investment decision and does not constitute an offer, invitation or recommendation to enter into any transaction or to make any decision.

5. GOVERNING LAW

- 5.1. The ITA Documents, the Application Process and the actions arising there from shall be governed by and construed according to the law of the Republic of South Africa.

6. GENERAL INSTRUCTIONS TO APPLICANTS

- 6.1. **Submission of Written Questions by Applicants and Answers Thereto**

6.1.1. All enquiries by Applicants relating to the Application Process shall be addressed in writing by Applicants to the office of the Chairperson, ICASA, at facsimile number: (011) 321 8547 or to the address listed in 6.2.1 below. Such enquiries should identify the Application Process, the Applicant and provide e-mail, facsimile and telephone contact details of such Applicant. ICASA reserve the right not to respond to frivolous enquiries or enquiries lacking the proper identification and contact details.

6.1.2. Answers (if any) to all enquiries referred to in section 2.2.1 and copies of such enquiries will be made available without disclosing the identity of the party who submitted the question, by no later than 60 days after receipt thereof.

6.1.3. ICASA reserves the right not to answer any particular enquiry or to answer in any way it deems appropriate.

6.2. Submission of Applications

6.2.1. Applications, together with the application fee of SAR 50 000,00 (Fifty-thousand Rand), must be submitted to:

The Chairperson: ICASA
Block B, Pin Mill Farm
164 Katherine Street
Sandton
2196

6.2.2. Applications shall reach ICASA by no later than 12:00 on the 30th April 2002, or such later date as the Minister may determine.

6.2.3. Faxed Applications will not be accepted. Applications may be delivered by hand or by courier or posted at the Applicant's risk.

6.2.4. Applicants will be notified in writing of the receipt of their Applications.

6.2.5. All Applications must provide the information requested in the ITA Documents.

6.2.6. All Applications must conform to the required format specified in Sections 15 and 16 following.

6.2.7. Applications that are incomplete or not submitted in accordance with the requirements of applicable law and/or this ITA (including format requirements) will be rejected without further consideration.

7. WHO MAY SUBMIT APPLICATIONS

7.1. Applications are invited from interested parties in accordance with the Act. Specific attention is drawn to section 35(3) and section 35(4) of the Act.

8. COST OF APPLICATION SUBMISSIONS AND APPLICATION PROCESS

8.1. The application fee of SAR 50 000,00 (Fifty-thousand Rand) as prescribed by ICASA in terms of section 88 of the Act is payable for each application submitted.

8.2. The Applicant shall bear all costs associated with its Application, including such other fees as ICASA may prescribe. The Applicant shall not be entitled to reimbursement of any costs incurred in the Application process.

9. ADDITIONAL INFORMATION

9.1. Any Applicant may be required at any time by ICASA to respond to questions and/or provide supplementary documentation or information.

10. GOVERNMENT GAZETTE PUBLICATION

10.1. Where required by applicable law, ICASA will, as soon is reasonably practicable, publish all information and communications in connection with the Application Process in the *Government Gazette*, which are required to be so published.

11. PREPARATION OF APPLICATIONS - REQUIREMENTS

11.1. Executive Summary

11.1.1. An Executive Summary must be provided, giving a brief description of the Application.

11.2. Corporate and/or Contractual Structure of the Applicant

11.2.1. Corporate / JV Information

Each Applicant must submit in its Application the following details of the Applicant (or, if a consortium or joint venture, of each of the members of such consortium or joint venture):

- Name of organisation
- Type of organisation (e.g. limited liability company)
- Registration number
- Registered address
-

11.2.2. Head office:

- Postal address
- Street address
- Telephone number/s
- Mobile number/s
- Facsimile number/s
- e-mail address/es

11.2.3. Contact person/s:

- Name/s
- Telephone number/s
- Mobile number/s
- Facsimile number/s
- E-mail address/es

11.2.4. Names and contact particulars of at least two references.

12. FOREIGN APPLICANTS

12.1. A foreign applicant must state in its Application where it has a corporate or other presence in the Republic of South Africa.

12.2. The Applicant is required to provide the following details of such presence:

- Name
- Registration number

- Registered address
- Street address
- Postal address
- Telephone number/s
- Mobile numbers/s
- Facsimile number/s
- e-mail address
- Names of office contact person/s
- Their telephone number/s
- Their mobile number/s
- Their facsimile number/s
- Their e-mail address/es

12.3. Compliance with the law

Applicants are required to submit with their Application a declaration stating that they are fully acquainted with all applicable law in respect of the Application Process and that they will comply therewith.

12.4. Ownership and control

- 12.4.1. legal description of the Applicant;
- 12.4.2. full details of direct and indirect ownership interests in the applicant;
- 12.4.3. full details of direct and indirect ownership interests by foreign persons in the Applicant;
- 12.4.4. full details of direct and indirect ownership interests of persons from historically disadvantaged groups in the Applicant;
- 12.4.5. full details of the governing body of the Applicant.
- 12.4.6. principal shareholders and percentage shareholding, highlighting equity ownership and other participation by persons from Historically Disadvantaged Groups.
- 12.4.7. ultimate shareholder(s) and relationship to organisation.
- 12.4.8. organisational chart showing the Applicant's members, advisers and Application Process sub-contractors and a description of the role to be played by each such party.

12.5. Business Plan

- 12.5.1. full details of the operational management of the service operations;
- 12.5.2. full details of the marketing plan.
- 12.5.3. full details of the financial plan;

12.6. Service

- 12.6.1. full details of the proposed service, including a listing of services to be provided, if relevant.

12.7. Technical Plan

- 12.7.1. Overview of the technical aspects of the service operations, including requirements for frequency spectrum licensing;
- 12.7.2. All applicants should note that if their application is successful they will be required to apply for radio frequency spectrum licence from ICASA in terms of section 30 of the Act.

12.8. Social Objectives Plan

- 12.8.1. Overview of social objectives plan, indicating how the Applicant will contribute towards the upliftment of Historically Disadvantaged Individuals.

12.9. International Telecommunication Union Authorisation

- 12.9.1. Evidence that the International Telecommunication Union has authorised a person to provide GMPCS system service, that is, to use a particular space segment and radio frequencies for the management, administration and operation of the relevant GMPCS system. Such evidence should include;

- a) ITU registration and recording of the respective satellite system.
- b) The respective international treaty(ies), agreement(s) and / or arrangement(s) under which the particular facilities are made available.
- c) Proof of registration or authorisation from the respective notifying administration(s)

12.10. Experience

- 12.10.1. The relevant capabilities, experience and qualities of the Applicant and each of its members and/or third parties that will form a material part of the Applicant's activities in connection with the Application Process. Applicants are to submit copies of annual reports and similar information.

13. FORMAT OF APPLICATIONS

13.1. Language

- 13.1.1. Applications must be prepared and submitted in English. Any printed literature included in an Application may be in another language so long as it is accompanied by an English translation of the pertinent passages. For the purpose of interpretation of the Application, the English translation provided shall govern.
- 13.1.2. All official correspondence and any other documentation exchanged between the parties shall be in English.

13.2. Content and Order of Application Documents

- 13.2.1. The Application shall comprise the following documents, properly indexed and paginated, in the following order:
- 13.2.1.1. Cover letter and Application fee as determined by ICASA;
 - 13.2.1.2. Executive Summary of Application;
 - 13.2.1.3. Full Application as detailed in Section 3 and applicable law;
 - 13.2.1.4. Other information.

13.3. Copies

- 13.3.1. All interested parties must submit an original Application (marked as 'original') and 25 (twenty five) copies (each marked as a "copy") of its Application for the application process together with all attachments and appendices. Applications must also be submitted in electronic format on micro floppy disk or CD-rom using Microsoft Office 2000 (or lower version) software.

13.4. Binding

- 13.4.1. All documents should be bound, either singly or with several documents bound together. The Application should preferably not include any loose paper. If loose paper is necessary (e.g., where drawings cannot be bound), the Applicant shall provide in the cover letter to the Application a list identifying loose inclusions with a reference number. Each loose inclusion shall be marked with the corresponding reference number as well as with the reference indication and shall be signed by the person(s) referred to in 18.6 below.

13.5. Correction of Errors

- 13.5.1. The complete Application shall be submitted without alterations, erasure or omissions except as necessary prior to submission, to correct errors made by the Applicant, in which case such corrections shall be initialled in black ink by the person or persons signing the Application.

13.6. Signing Requirements

- 13.6.1. The principal or persons duly authorised to legally bind the Applicant, shall sign the original Application. Each such person or persons shall be properly authorised to sign such documentation by way of a formal resolution by the Board of Directors, or its equivalent, of the organisation concerned, and copies of such resolution, properly dated and signed must accompany each Application.
- 13.6.2. In addition, each signatory shall make a written declaration to the effect that all documentation signed by him/her is factually correct and true and that it understands and accepts the terms and conditions of this ITA.
- 13.6.3. An authorised person or persons, legally binding the Applicant, must sign all copies of correspondence from the Applicant to ICASA. All such signatures must be accompanied by the name of the person(s) signing them, their position(s) and the name of their organisation.

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