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GENERAL NOTICE

NOTICE 591 OF 2002



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE IN TERMS OF SECTION 27 OF THE TELECOMMUNICATIONS ACT (as amended) (ACT 103 OF 1996) INVITING REPRESENTATIONS WITH REGARD TO THE USE OF MOBILE TELEPHONE BLOCKING DEVICES IN SOUTH AFRICA.

1. The Independent Communications Authority of South Africa (ICASA) (hereinafter referred to as "the Authority") hereby gives notice and invites representations on the use of cellular phone blocking devices in South Africa.
2. The purpose of this document is to seek views from interested parties on the information in the discussion document by **16h00** on Monday the **27th of May 2002**.

3. Persons submitting written representations are invited to indicate whether they are requesting an opportunity to make an oral representations and the estimated duration thereof, which shall not exceed one hour.
4. Written representations shall be made publicly available except where the Authority has declared any information confidential. Should respondents wish to request confidentiality on any information, they should submit a motivation outlining why such information should be regarded as such and separate that information into clearly marked annex. Unconditional permission to use all the information provided will be assumed unless the requested confidentiality has been granted. Any copyright attached to responses will be assumed to have been relinquished unless it is expressly reserved.
5. It would helpful if hard copies of all written representations are submitted and an electronic version thereof, either on disk or e-mail, would be appreciated. Respondents are strongly encouraged to provide their comments in electronic format (WordPerfect, Microsoft Word, Adobe PDF, or ASCII TXT) to facilitate posting on the ICASA's Web site. Documents should be sent with a note specifying the software, version number and operating system used.
6. Written representations may be posted or hand delivered to:

The Project Manager
Mobile Phone Blocking Devices
ICASA
Private Bag X10002
Sandton 2146
Gauteng Province
South Africa

or

ICASA Block A
164 Katherine Street
Sandton 2146

All comments and queries regarding this document should be addressed to Mr. Abel Thoobe:

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MANDLA LANGA
CHAIRPERSON
ICASA

DISCUSSION DOCUMENT

1. Intention

The purpose of this Notice is to invite public views and comments on the use of radiocommunication blocking devices known as jamming devices. Through this consultation, ICASA seeks to establish whether it will be in the public interest to allow such devices in South Africa, and if so, what conditions should be attached thereto if any, or whether such their use should be banned outrightly.

The Authority again, through this public consultation seeks to determine whether the public would be better served by permitting the use of these devices at all, and if so whether they should be used for broader applications or limited authorization issued for law enforcement or public safety purposes. Therefore, ICASA must explore the potential impact of these devices for both legitimate and illegal purposes from regulatory and enforcement perspectives.

2. Background

A number of different regulators are dealing with the question whether such blocking devices should be permitted in the market. There has been a range of varying positions taken by different jurisdictions. For example:

- The United States and Australia has incorporated by law an outright ban on their use,
- The United Kingdom has announced it will take all necessary steps to ensure that "Cellphone Jammers" are not used,
- Some countries have restricted their licensing or permitted the use of only certain types of devices (Japan); and
- Canada sought to establish whether the public interest would be served if their present occasional authorisation of these devices, for law enforcement and public safety purposes, were to be broadened for wider niche market and location-specific applications.

The challenge is to balance the needs of some people or public activities for a preserved quiet zone or non-intrusiveness, in their private environment or in public places such as banks, conference halls, Post Office, restaurants and theatres with the concerns of the Mobile Operators regarding the impact of these devices on their delivery of public mobile services.

3. Present status

Blocking or jamming devices are not currently licensed for sale or use in South Africa. In the absence of a license, prescribed technical standards and equipment type approval, their use contravene sections 28, 30 and 54 of the *Telecommunications Act* (Act 103 of 1996).

4. Types of known devices

There are five types of known devices currently capable of blocking or intentionally interfering with radiocommunication and they can be described as follows:

- 4.1 Jamming Devices - By means of radio frequency interference, the device prevents pagers and mobile phones from receiving calls by transmitting a jamming signal.
- 4.2 Intelligent Disablers - By way of a signal detection function, the device communicates with the base station of the mobile phone users' wireless service provider indicating that that particular mobile phone is in a quiet zone and consequently communication is not established.
- 4.3 Intelligent Beacon Disablers - By means of beacon-like operation, the device interacts with the operation of the mobile phone to disable its ringer, turn down its volume or to switch the phone to a vibrate-signaling mode.
- 4.4 Direct Receive and Transmit Jammers - By way of base station like features, the device interacts with the operation of local mobile phones in its proximity to break or unhook the communication link, before returning to a passive mode.
- 4.5 Passive Jamming Devices - By means of electromagnetic screening (EMI) (suppression techniques, a defined space/room is constructed in a way that prevents the transmission out of or reception inside of external radio signals within the shielded space/room (commonly known as a Faraday Cage).

Generally speaking, the use of any of these five types of devices would result in a mobile phone user not being able to use their phone as if they had either moved outside of mobile phone coverage, or simply had their phone turned off.

In most instances, a message would inform the calling party that the user is currently unavailable and the voice-mail feature would consequently be activated.

5. Views expressed so far.

5.1 Certain segments of the public wish to keep their corporate boardrooms or private residences secure. They may wish to enjoy various forms of entertainment in public venues uninterrupted by mobile phone use.

5.2 Some institutions such as banks, Post Office, restaurants, movie theatres and hospitals may favour a "quiet zone" within their premises and already prohibits the use of mobile phones in their public spaces.

One of the reasons for doing so involves possible criminal activities.

Most of the above-mentioned public institutions currently promote voluntary phone etiquette using in-venue signs/posters and other media to create an environment where mobile phone users acknowledge the rights of others to "quiet time". Mobile phone users can then switch off their phones either take advantage of a technology solution (e.g. putting the ring function of a mobile phone in a vibration mode) or elsewhere should they need to make a wireless call.

5.3 The Mobile Operators are on record and have petitioned ICASA (to date) not to authorize the use of jamming devices in South Africa.

The main concerns of the Mobile Operators are as follows:

- the blocking of emergency calls,
- unfair discrimination in blocking among different service providers and users,
- difficulty in controlling unintended blocking of other service providers and users,
- the regulatory/enforcement and legal implications of allowing third parties to jam licensed services, and
- their license obligations in terms of call blocking.

5.4 Manufacturers/distributors of Radio Jamming Devices design, sell and distribute these devices to address a number of applications. They range from the security of corporate boardrooms and private residences through to public applications in restaurants and theatres for those patrons who wish to have a mandatory rather than voluntary "quiet zone."

6 Invitation to comment.

ICASA invites comments to the following questions, but the response should not be limited to these questions:

- 6.1 Is it in the public interest, to authorise radio jamming devices for use in either private or public niche market applications (e.g. to increase security in boardrooms or to preserve "quiet zones" in public venues) or should such devices be banned outright? Please motivate your answer.
- 6.2 What are potential risks, if any, associated with the use of these devices?
- 6.3 What potential adverse effects that ICASA should address in drafting conditions of use, should the Authority decide to permit such devices?
- 6.4 What is the distinction, if any, between the use of these devices in private places as opposed to public places?
- 6.5 If ICASA permits these devices:
 - (a) Should licensing be restricted and if so, restricted to whom (e.g. law enforcement agencies, radiocommunication operators, or others) and to what frequency band?
 - (b) Under what operational conditions and technical restrictions should these devices be licensed?
 - (c) Are there etiquette protocols that manufacturers of jamming devices could put in the equipment to ensure that each jamming device operates only in the area within which it is licensed to operate?

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