

WORLD TRADE ORGANIZATION

RESTRICTED

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Group on Basic Telecommunications

Original: English

COMMUNICATION FROM SOUTH AFRICA

Draft Offer on Basic Telecommunications

Revision

The attached communication is circulated at the request of South Africa to Members of the Group on Basic Telecommunications.

Further to our draft offer on basic telecommunications contained in document (S/GBT/W/1/Add.9), South Africa is pleased to submit the accompanying revised draft offer on basic telecommunications.

South Africa reserves the right to modify, reduce or extend this conditional offer at any time prior to the conclusion of the negotiations on basic telecommunications, depending on the progress of work in the Group on Basic Telecommunications (GBT), the level of commitments of negotiating partners and developments in South Africa.

South Africa furthermore reserves the right to make technical changes, amendments and corrections to the offer.

SOUTH AFRICA - REVISED DRAFT OFFER ON BASIC TELECOMMUNICATIONS

Modes of supply:				
1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons				
Sector or Sub-sector	Limitations on Market Access		Limitations on National Treatment	Additional Commitments
Telecommunications	(1) Only through the network of Telkom monopoly or subsequent duopoly on international traffic. Telkom monopoly to terminate not later than 31.12.2003; thereafter duopoly.		(1) None	South Africa undertakes the attached additional commitments on regulatory principles. Authorities to consider the feasibility of additional suppliers by 31.12.2003. Liberalization of resale services to take place between 2000 and 2003 with authorities to define terms and conditions as well as the maximum limit for foreign investment.
Facilities based and public switched telecommunication services:	(2) None		(2) None	
(a) Voice services, except over value-added network	(3) Telkom monopoly to terminate not later than 31.12.2003; thereafter duopoly. Foreign investment in suppliers permitted up to a cumulative maximum of 30 per cent.		(3) None	
(b) Packet-switched data transmission services	(4) Unbound, except as indicated in the horizontal section.		(4) Unbound, except as indicated in the horizontal section.	
(c) Circuit-switched data transmission services	(1) Only through the network of Telkom monopoly or subsequent duopoly on international traffic. Telkom monopoly to terminate not later than 31.12.2003; thereafter duopoly.		(1) None	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section.
(d) Telex services	(2) None		(2) None	
(f) Facsimile services	(3) None except that foreign investment in suppliers permitted up to a cumulative maximum of 30 per cent.		(3) None	
(g) Private leased circuit services	(4) Unbound, except as indicated in the horizontal section.		(4) Unbound, except as indicated in the horizontal section.	
(o) Other	(1) Only through the network of Telkom monopoly or subsequent duopoly on international traffic. Telkom monopoly to terminate not later than 31.12.2003; thereafter duopoly.		(1) None	(1) None (2) None (3) None (4) Unbound, except as indicated in the horizontal section.
- Paging services	(2) None		(2) None	
- Personal radio communication services	(3) None except that foreign investment in suppliers permitted up to a cumulative maximum of 30 per cent.		(3) None	
- Trunked radio system services	(4) Unbound, except as indicated in the horizontal section.		(4) Unbound, except as indicated in the horizontal section.	

Modes of supply:				
1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons	
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
- Mobile Cellular, including mobile data	<p>(1) Only through the network of Telkom monopoly or subsequent duopoly on international traffic. Telkom monopoly to terminate not later than 31.12.2003; thereafter duopoly.</p> <p>(2) None</p> <p>(3) Services supplied on a duopoly basis. One additional mobile cellular licence will be granted within two years.</p> <p>Foreign investment in suppliers permitted up to a cumulative maximum of 30 per cent.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>Authorities to examine feasibility of additional suppliers by 31.12.1998.</p>	
- Satellite-based services	<p>(1) Only through the network of Telkom monopoly or subsequent duopoly on international traffic. Telkom monopoly to terminate not later than 31.12.2003; thereafter duopoly.</p> <p>(2) None</p> <p>(3) Supplied only by Telkom monopoly until 31.12.2003; thereafter duopoly.</p> <p>(4) Unbound, except as indicated in the horizontal section.</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound, except as indicated in the horizontal section</p>		

ADDITIONAL COMMITMENTS BY SOUTH AFRICA

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided¹.

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided;
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities; and
- (d) At rates determined by the authorities².

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

¹The term "non-discriminatory" is understood to refer to most-favoured-nation and national treatment as defined in the Agreement, as well as to reflect sector-specific usage of the term to mean "terms and conditions no less favourable than those accorded to any other user of like public telecommunications transport networks or services under like circumstances".

²The authorities may determine different rates in respect of different services rendered in different areas under different circumstances or may determine rates which may be higher or lower than the normal rates.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a licence is required, all the licensing criteria and the terms and conditions of individual licences will be made publicly available.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.