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## GENERAL NOTICE

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### NOTICE 429 OF 2013

### MINISTER OF COMMUNICATIONS

### PROPOSED ICT POLICY REVIEW FRAMING PAPER, 2013

I, Dina Pule, Minister of Communications, hereby publish the proposed ICT Policy Review Framing Paper, 2013 in the attached Schedule.

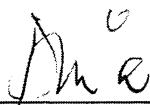
Interested persons are invited to provide written comments on the proposed Framing Paper, by 15 June 2013 at any of the following addresses:

Post: For Attention  
Ms. Adelaide Masemola  
Director: Economic Analysis and Scenario Construction  
ICT Policy and Strategy Branch  
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Please contact Ms. Adelaide Masemola at (012) 4217020 / 7751 for any enquires.



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MS DINA PULE, MP

MINISTER OF COMMUNICATIONS

DATE: 22. 04. 2013



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Department:  
Communications  
**REPUBLIC OF SOUTH AFRICA**

# **ICT POLICY REVIEW FRAMING PAPER**

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# 1. POLICY REVIEW FRAMING PAPER

## FOREWORD BY THE MINISTER

In his foreword to the 1998 White Paper on Broadcasting Policy my predecessor, then Minister of Posts, Telecommunications and Broadcasting, Jay Naidoo, wrote:

*“A primary object of this White Paper ..... is to ensure that the South African system is imbued with the important public interest values of access, diversity, equality, independence and unity as well as fundamental human rights contained in the Constitution”.<sup>1</sup>*

*“The White Paper also seeks to ensure that the frequency spectrum which is a valuable natural resource, remains an asset that belongs to society at large. Frequencies are allotted so that broadcasting is available, universally; to all of the people and that it caters for the diverse needs of the total population.”<sup>2</sup>*

The Minister who served before him, Z Pallo Jordan, expressed similar sentiments in the 1996 White Paper on Telecommunications Policy, emphasising that the primary goal of the framework is to balance universal service in telecommunications to disadvantaged rural and urban communities *“with the delivery of advanced information services capable of meeting the needs of a growing South African economy”*.<sup>3</sup> This focus on universal, equal and affordable access is also echoed in the 1998 White Paper on Postal Policy.<sup>4</sup>

While it is now 15 years since the publication of the first of these government policies, all of them specifically recognise that the Information and Communications Technologies (ICT) environment is dynamic and that rapid technological development would change, among other things, how we communicate and access information and services. The policy frameworks therefore focused on addressing historical inequalities in access to basic services, while ensuring that all South Africans benefit from new services and access to new technologies and that ICTs are actively used to meet the development goals of the country. These policy frameworks reinforce the constitutional principle of equality and equal access to all communication services by all South

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<sup>1</sup> Department of Communications, “White Paper on Broadcasting Policy”, 4 June 1998

<sup>2</sup> Department of Communications, “White Paper on Broadcasting Policy”, 4 June 1998

<sup>3</sup> Department of Communications, “White Paper on Telecommunications Policy”, March 1996

<sup>4</sup> Department of Communications, “White Paper on Telecommunications Policy”, March 1998

Africans, as well as the obligation in our Constitution to actively heal the divisions of the past, recognising that the apartheid system robbed the majority of citizens of opportunities and resources.

Now, in 2013, we are living those predicted technological changes and opportunities. Technology has changed the way we communicate and will increasingly affect how we access TV, radio, information, education, entertainment and services. Yet, despite advances in the possible ways we access messages, postal services remain a critical means of delivering and receiving information and goods and the right to a postal address is still essential. These changes are set to accelerate - increasingly blurring the traditional distinctions between broadcasting and telecommunications.

The past 18 years of democracy in South Africa have equally been characterised by the democratic changes initiated to do away with skewed ownership, infrastructure and service delivery patterns and promote a society where the rights enshrined in our Constitution are enjoyed by all who live in our country. The steps outlined in the relevant White Papers were critical to the process of creating a communications industry that not only respected, but also actively furthered, for example, all South Africans' rights to dignity and freedom of expression (including cultural expression and the right to impart and receive information). The White Papers recognise that the frequency spectrum is a public resource and that policy should therefore be underpinned by the need to fulfil social as well as economic objectives.

The ongoing technological changes and innovations that are envisaged in the future, coupled with the fact that most of the communication related policies were drawn up in the beginning phases of our democracy, necessitate a review of these frameworks and the development of a new policy. Such an assessment should not only be based on a projection of future developments and needs, but also honestly evaluate the successes and challenges faced in the past and the reasons for these so that we can reinforce our strengths and redress weaknesses in a new strategic framework.

I have established a Policy Review Panel following a call for public nominations with the express purpose of engaging all stakeholders in this process. This is in line with the National Development Plan which states that in the short term, Government should conduct a *"full policy review..... (that) should link policy objectives to specific strategies"*. I seek to get feedback from all sectors of society as to the best policy, legal and regulatory approaches to achieve our objective of making it cheaper and simpler for South Africans to use and access information and communications technologies in their homes, communities and work places while enabling Government to better engage with and provide services to citizens.

At various critical points of the review I will be engaging with the public, and seeking inputs from, for example, citizens, stakeholders, industry organisations and experts on future policy options. This Policy Framing Paper is the start of this engagement and will be followed by a Green Paper for your input, ongoing discussions with sectors of society and finally a White Paper.

The starting point is that our country set itself objectives for the communications sector at the advent of democracy. We need to move forward to assess whether or not this vision is still relevant and in doing so ask, for example: Did the original goals set in the policy and legislation correctly capture the needs that had to be addressed? Are these goals still relevant – given changes in our communities and our country during the past 15 years and considering technological advancements? Which new goals, objectives and principles should underpin a new dispensation?

This Framing Paper seeks public views on what citizens and stakeholders see as fundamental principles to underpin the new policy framework. There can be no doubt that the communications sector will play an important role in determining our success as individuals, collectives, communities, civil society, companies and society as a whole. But it can only play this role if the fundamental principles that are its foundation, address the historical, present and future needs of all South Africans.

This Policy Framing Paper is the first opportunity for us all to contribute to defining those principles.

Minister of Communications

Ms Dina Pule

## 2. THE REVIEW PROCESS

The review process will analyse and review all the existing policies that impact on postal services, information and communications technologies, networks, infrastructure and the content, information and services by these platforms and devices. The process is intended to be consultative and participatory and stakeholders will be asked to make submissions, comments and inputs at various stages of the review. The review will culminate in the adoption by Government of a new White Paper/s after consideration of recommendations from the ICT Policy Review Panel appointed by the Minister of Communications and submissions made by members of the public during the process. The expected process is as follows:

1. Framing Paper: seeking clarity on the vision for the sector/s and related objectives and principles that should guide policy determination.
2. Green Paper: including both a diagnostic review of progress against original objectives, and posing questions about the best way to address these in the future policy.
3. Discussion Paper: outlining proposed proposals for a policy framework based on submissions made in response to the Framing Paper and Green Paper.
4. Recommendations by the Panel to the Minister of Communications on the policy for the communications sector.
5. White Paper issued by Cabinet outlining Government policy.

Each of these phases will be guided and informed by ongoing consultation, discussion and engagement with stakeholders.

### **3. THE FRAMING PAPER**

#### **3.1 PREAMBLE**

Many terms are used to collectively describe the infrastructure, networks, services (including postal, e-commerce, e-government), content, applications, and devices used to receive communication and content.

In this Framing Paper the term **communications** is used to collectively refer to what were traditionally known as telecommunications, broadcasting and postal services as well as the content, products, applications and services carried by them.

#### **3.2 BACKGROUND AND CONTEXT**

In 1994 South Africa developed separate frameworks for the telecommunications, broadcasting and postal sectors. The policy frameworks adopted assisted the country to begin transforming the communications sector, and, for example, provided for universal service and access to information and communications technologies.

All of these policies, however, acknowledged that changes in technology would require a review of the country's policy and regulatory approaches in the future. Some steps at a policy, institutional and regulatory level have already been taken in response to changes in the communications sector. For example, the broadcasting and telecommunications regulators were merged in 2000 to begin the process of streamlining the regulatory approach to the sector/s. In 2005, the Independent Communications Authority of South Africa (ICASA) was given the responsibility for the regulation of postal services as well. That same year (2005), a new law, the Electronic Communications Act (no 36 of 2005) was enacted, advancing the process of integrating the policy frameworks for the different sectors in recognition of convergence in the communications sector.

However, South Africa has not yet taken full advantage of the possibilities and opportunities created by convergence and digitisation of communications technologies. The fragmented approach adopted at the advent of democracy, does not maximise efficiencies and in future will increasingly hamper the capacity of the sector to fulfil socio-economic development. The silo approach to the sector needs to be reviewed so that we do not inadvertently create a digital divide where access to quality communications services, technologies, infrastructure and content is a privilege of the elite, rather than a right for all.



The review of current frameworks in order to develop a new integrated policy, at least equal to those of the best in the world, is therefore both a necessity and an opportunity. The policy review should establish which

- current provisions have become redundant because of changes we have experienced;
- provisions should be carried into the future and
- new provisions should be established to take the sector forward.

This policy review process is aimed at developing a new communications sector framework that further advances previous changes made in response to convergence. The review process will evaluate progress against the original objectives set out in the individual White Papers, policies and related laws in order to strengthen the overarching framework. It will also look at what new approaches are necessary to ensure our policies and frameworks are relevant to the changing environment and to individual, community and society's social, economic, cultural and development needs. The amended policy will consider how we could better promote the relevant and sustainable use of communications technologies and services to meet clearly identified needs. We need to consider:

- What policy and regulatory framework will create an enabling environment for communication services to contribute more effectively towards improving people's lives in the workplace and in their homes and communities?
- What framework will best promote access by all South Africans to a range of opinion, information, education and cultural content in the language/s of their choice (including sign language) – and also give them the means to create this content?
- How can we ensure communication services to improve service delivery by Government, the private sector and civil society and give citizens a greater voice in determining their service needs?
- What policy do we need to promote innovation and development of the sector so that it can increase the prosperity of the country as a whole and of all individuals who live in it?
- How can we in this process, strengthen and sustain the relationship between the public and private sectors, labour, citizens, academic and other institutions to increase our capacity to better meet the country's needs?

Government has already identified the communications sector as a critical growth sector. The National Development Plan (NDP) recognises that the ongoing

development of quality communications infrastructure, services, content and applications, is key to the rapid economic, social and cultural development of the country.

This Framing Paper is the first of five phases towards developing this new policy approach.

### **3.3 PURPOSE OF THIS PAPER**

The first step in creating a stable and flexible policy environment, is to set the objectives and principles that should inform any communications sector related policy and legislative framework. The final policy then defines and details the mechanisms, means and tools to be used to fulfil these objectives. This Framing Paper suggests proposed objectives based on the initial principles set in existing communications related policies in order to solicit debate on these principles. All submissions on these proposals will be considered and a “new” set of principles developed to guide and frame the approach to the ICT policy review. These goals will further form the basis for future reviews of the policies to be put in place.

This Paper does not in any way evaluate delivery to date against objectives in the current policies. Submissions should therefore focus on the ideal principles rather than previous performance. Subsequent papers and documents will review performance and will begin to outline the institutional framework, individual activities, programmes and tools necessary to translate those principles into reality.

### **3.4 BASIS FOR DRAFT POLICY PRINCIPLES**

As noted above, the proposed principles outlined in Section 4 of this Paper are drawn from objectives set out in the existing White Papers on Telecommunications, Postal Services and Broadcasting as well as related policies and legislation. While the original goals specifically targeted the individual sectors they governed (e.g. broadcasting, telecommunications and postal services), the principles underlying each of them are based on achieving common objectives drawn from the Constitution of South Africa and the right to equal access to quality services by all citizens.

For broadcasting and telecommunications specifically, the existing objectives recognise that these services use a public resource – the frequency spectrum. The objectives therefore reinforce clear public, social, cultural and economic goals that must be met and maximised through use of the spectrum. The existing White Paper on Postal Policy recognises the importance of the sector to individual and collective economic prosperity

and social well-being, and therefore emphasises the right of all South Africans to efficient, reliable and affordable postal services.

This Paper crystallises the visions set out in the previous policy frameworks and proposes 14 core objectives. Underpinning these proposed objectives is the recognition that, while technological advancements will result in more efficient use of the frequency spectrum and public resources, it remains critical to ensure that these resources are used to meet clearly identified public, social, cultural and economic goals. The policy framework should be focused on effectively facilitating the realisation of agreed upon public objectives.

### 3.5 PROPOSED POLICY PRINCIPLES

The proposed policy principles listed below are not a final list of objectives. The intention of publishing these is to spark debate on which objectives should underpin the development of a new communications sector policy framework. The suggested considerations are based on the vision articulated in the National Development Plan (NDP) that by 2030 *“a seamless information infrastructure will be universally available and accessible and will meet the needs of citizens, business and the public sector, providing access to the creation and consumption of a wide range of converged services required for effective economic and social participation – at a cost and quality at least equal to South Africa’s main peers and competitors”*.

The NDP further specifies that *“(p)ublic services and educational and information products will be accessible to all, and will build on the information, education and entertainment role envisaged for public broadcasting”* and that the sector *“will continue to reduce spatial exclusion, enabling seamless participation by the majority in the global ICT system, not simply as users but as content developers and application innovators”*. It further recognises the importance of arts and culture in opening spaces for debate about society and notes the role that the communications sector can play in showcasing creativity and in enabling the creation of works.

#### 3.5.1 SOUTH AFRICANS HAVE A RIGHT TO FREEDOM OF EXPRESSION

This principle should be the core consideration in reviewing all communication related policies and laws. It encapsulates a number of objectives and goals for the communications sector, such as:

- The need to ensure access by all South Africans to compelling news, information education, entertainment and creative expression. A new policy framework

should consider how to ensure such access by all citizens across a range of platforms, devices and services.

- The need to ensure that the policy facilitates communication and conversations by citizens with each other and with Government, thereby ensuring a socially cohesive South African society. It recognises the obligation on the communications sector as a whole to facilitate meaningful communication and robust debate.
- The importance of facilitating the right of all to tell their own stories and to create and share their own content.
- The right of all citizens to access key information in order to participate actively in the South African society. This includes access to information held by Government and the private sector, in line with the Public Access to Information Act.

The current regulatory frameworks place obligations on Government, the regulator and service providers to facilitate this right. These include:

- Requirements that the regulator acts in the public interest, independent of influence from Government, commercial or other sectoral interests.
- Content obligations for broadcasters.
- A three tier broadcasting system with public, commercial and community services all fulfilling different responsibilities.
- Provisions requiring that services are accessible to people with disabilities.
- Universal service obligations by the South African Post Office and telecommunication operators.

**Do you agree freedom of expression is the core principle that should guide the policy review process? Are there any other key considerations relating to the right to freedom of expression which should be considered?**

### **3.5.2 SOUTH AFRICANS HAVE A RIGHT TO ACCESS A DIVERSE RANGE OF CONTENT**

The Reconstruction and Development Programme (RDP) described the transition from apartheid to democracy as the transformation of South Africa from a closed society to an open one. Access to a broad range of diverse views, opinions, information and cultural and artistic expression, is critical to this. While this principle is inherent in the right to freedom of expression, it is suggested that it is such a key consideration for the communications sector that it should continue to be a specific focus underpinning any ICT policy framework. The principle includes:

- The right to access national, regional and community content via a range of services, devices and platforms.
- The right to a diverse range of content, including access to a broad range of genres and formats (drama, music, information and opinion, educational material and cultural expression).
- Recognition that South African citizens have diverse needs and interests, dependent on many factors, including gender, age, ability, location, language, beliefs and personal interests and preferences. Content should therefore be diverse to meet these different needs.
- The right of citizens to be able to tell their own stories and to create and disseminate their own content.
- Facilitating diversity of ownership of the means to communicate.

Existing broadcasting related laws include specific provisions requiring the regulator to consider diversity in deciding on licences and developing regulatory policies. Requirements to ensure diversity of ownership are linked to this. In the future, broadcasting-like content will be available across a range of platforms, channels and devices – potentially increasing the diverse range currently available.

**Do you agree that access to diverse content provided by a range of different service providers should remain a separate and specific consideration in the new policy environment? Are there any other considerations that would strengthen this principle?**

### **3.5.3 SOUTH AFRICANS HAVE A RIGHT TO ACCESS A BROAD RANGE OF INFORMATION, OPINION AND NEWS OF RELEVANCE TO THEIR COMMUNITIES AND LIVES**

While it could be argued that this consideration is inherent in the right to freedom of expression, the importance of access by all citizens to a broad range of news, information and opinion is specifically recognised in the Bill of Rights clauses on freedom of expression. It says, for example, that all South Africans have a right to a free media and to receive and impart information. This recognises that access to a range of relevant and diverse information, opinion, news and analysis is essential to ensure that citizens are able to make informed choices and participate actively in our democracy. In line with this, and international practice, the current framework specifically prescribes that broadcasting services should air news and information. This principle includes:

- Recognition that people need access to a broad range of diverse information and news at an international, national, provincial and local level to make informed choices about their lives.
- Reinforcement of the need for a range of sources of news, information, opinion and analysis that is relevant to audiences and users.
- Emphasis on the right of individuals and communities to be heard, and to be able to disseminate rather than only receive news, information and opinion.
- Recognition of the right of all to fair representation of their opinions and perspectives.
- Recognition of the fact that information assists in community development and plays a significant role in developing a sense of community awareness, cohesion and identity.
- An obligation on the public sector and public services to ensure access to information about their priorities, programmes and services.

**Is this principle adequately captured in existing policy and legal frameworks? Is it necessary to continue to focus on this as a distinct obligation? How, if at all, will access to content over a range of platforms, channels, services and devices affect this principle? What other considerations should be taken into account to ensure the realisation of this principle?**

#### **3.5.4 SOUTH AFRICANS HAVE A RIGHT TO QUALITY COMMUNICATION INFRASTRUCTURE AND SERVICES WHICH ENABLE ECONOMIC GROWTH, EMPLOYMENT AND WEALTH CREATION**

Overarching Government policies such as the NDP recognise and reinforce the right of all South Africans to participate in and benefit from a dynamic and growing economy. All existing White Papers acknowledge the key role of the communications sector in providing the infrastructure, services and applications to grow the South African economy. They recognise that the sector is an essential economic enabler that facilitates and stimulates the growth and dynamism of a broad range of other economic activities. Effective policy and regulatory frameworks for the sector therefore balance the economic outcomes of the sector and the impact these have on other sectors that are dependent on communications for their success. Current policies regarding the cost of services are one aspect of this.

Beyond playing a role as a facilitator and service provider, the communications sector is an important economic sector in its own right. Evidence indicates that the sector has the potential to contribute more than it currently does to South Africa's GDP if appropriate

supporting mechanisms are put in place. A new policy framework needs to take into account the effect provisions will have on growth in the sector itself (including related sectors such as manufacturing and the creative industries) and the impact on economic development more broadly. It needs to encourage innovation and to be flexible so that it can respond to a rapidly changing environment. In the existing communications related frameworks, objectives related to independent regulation (free from influence by powerful players) and fair competition are also aimed at reinforcing economic growth of the sector itself.

This expanded role can only be sustained if opportunities are shared on an equitable basis. Existing policy provisions redressing the inequalities of the past through specific broad-based black economic empowerment provisions to ensure transformation at a shareholder, director, management and staffing level, are focused on this. Requirements recognising the diversity within the country and ensuring the communication sector responds to and reflects this by, for example, addressing the needs of urban and remote communities, women and men of all ages and people with disabilities, are also key. Provisions requiring access to open systems, combining interoperability, portability and open rather than proprietary standards, are also fundamental.

Finally, the role of the communications sector in the economy is potentially a creator of employment, both within the sector and within related and indirectly-related industries. Policy needs to ensure that the job creation potential of the sector is maximised. In this regard the policy should promote education and skills development.

**Has this principle been adequately covered and its full meaning captured in existing policy and legislation? What other core issues should be considered to facilitate economic development and inclusion?**

### **3.5.5 SOUTH AFRICANS HAVE A RIGHT TO BENEFIT FROM THE ABILITY OF THE COMMUNICATIONS SECTOR TO FACILITATE SOCIAL DEVELOPMENT AND IMPROVE THE QUALITY OF LIFE FOR INDIVIDUALS AND COMMUNITIES**

The existing White Papers recognise the role the communications sector can and should play in enabling and promoting social development. Provisions that currently emphasise this include:

- Recognition that universal access to affordable and reliable postal services is essential and therefore reinforcing the importance of the South African Post Office while imposing obligations on it.
- Similar requirements on public entities such as Telkom, Sentech, the SABC and the Universal Service and Access Agency.
- Recognition that all licensees bear certain public service obligations (such as local content requirements for broadcasters and conditions for community services on other operators and providers).

The sector also has an important role to play in facilitating improved public service. Government is currently re-evaluating its own service delivery strategies in order to introduce efficiencies and promote excellence in service delivery. An evolution of Government services from a mainly paper based and office bound delivery model to an integrated electronic and technology based one, will enable South Africans to access Government services anytime, anywhere and through a variety of platforms. This shift will ensure fast and effective access to Government services by citizens, and will enable greater accountability and better monitoring of service delivery.

Communications services and their associated infrastructure, services, content and applications have a crucial role to play in extending access to and improving the quality of a wide range of development and social service interventions, such as education, health, public administration and social services. Further, ICTs have an important role to play in co-ordinating and supporting a wide range of social support and development interventions, and in enabling and promoting service delivery and rural development. Areas where communications have been shown internationally to support the delivery of better and advanced services, include:

- The use of communication services and applications to offer digital Government services enabling citizens to transact with Government at any time and wherever they are. This can improve service delivery, translating South Africa's Batho Pele principles into concrete reality.
- The use of communications tools and infrastructure to manage and optimise public service administration. This could mean availability of modern communications systems for management of administrative processes, secure databases, monitoring and evaluation of performance.
- The use of computers and other communication tools in schools and educational institutes through e-learning platforms providing for access to a wide range of educational content and teaching support and development services.
- The development of e-health systems that support the integration, extension and co-ordination of quality health-care on a widespread basis.



- The deployment of communication systems to help detect and combat crime.
- The use of communications technologies to monitor weather patterns and their effect on the agricultural sector and to provide early warning systems to manage natural disasters.
- The use of communications technologies to support communication, consultation, and participation in public decision-making.

**Has this principle been adequately covered and its full meaning captured in existing policy and legislation? What other core issues should be considered to facilitate social development and inclusion?**

### **3.5.6 SOUTH AFRICANS HAVE A RIGHT TO CELEBRATE THEIR CULTURAL HERITAGE IN THE LANGUAGE(S) OF THEIR CHOICE**

This principle entails facilitating the availability of a range of services that prioritise South African content and languages across all platforms, channels, services and devices. It enables South Africans to access a range of cultural content easily in all relevant languages (including sign language) – to hear and tell our own stories, listen to our own music and celebrate our creativity. This principle further recognises the right of artists and creators to develop their craft and access the means to show-case it.

The departure point is that the communications infrastructure in South Africa exists not only to provide information and education, but also to meet cultural needs of South Africans. The South African infrastructure, networks and services have an obligation to provide space to South African products, content and creations.

Current policy, legislative and regulatory frameworks require South African Broadcasting Services to air local content and music. The framework also focuses on strengthening and transforming creative industries (including the independent TV production sector and the local music industry).

In addition, the public broadcaster is required to broadcast in all official languages, as the framework reinforces the need for all services to redress the skewed historical promotion of only English and Afrikaans.

**Is this right to cultural expression in all South African languages adequately captured in existing policies? Does it remain relevant in the new multi-channel, multi-platform environment? What other considerations are critical to the realisation of this right in a new communications environment?**

### **3.5.7 SOUTH AFRICANS HAVE A RIGHT TO EQUAL UNIVERSAL ACCESS TO COMMUNICATION SERVICES AND INFRASTRUCTURE**

The South African Bill of Rights states that everyone is equal. Universal access to communication services and infrastructure, irrespective of economic standing, geographic location or social status, is critical to such equality.

All existing policies specifically focus on this principle and the need, given skewed development of the past, to actively redress previous discriminatory practices and to overcome the digital divide. This objective obliges public, private (large players and SMMEs) and community/non-profit sector players to ensure universal access and service to infrastructure, services and content. The principle also includes:

- Recognition that affordability of service is a critical objective given that the cost to communicate is key to access and therefore to universal service.
- The need to promote and support the nationwide availability of communications infrastructure, services and facilities, with particular attention to remote, impoverished and disadvantaged individuals and communities.
- The need to encourage all South Africans to use a wide range of devices and technologies so as to ensure optimal access to communication services and infrastructure.
- The right of access to quality communications services by all South Africans, both rich and poor, in urban and rural areas, including those disadvantaged by gender, disability or lack of literacy.
- The right of all South Africans to a postal address and to reliable postal services.

**Have these considerations been adequately captured in existing policies and laws? If new services should achieve universal access, does this principle need to be strengthened? In the era of high speed internet, should this principle, for example, include universal availability of such services?**

### **3.5.8 ALL SECTORS OF THE POPULATION HAVE A RIGHT TO EQUALLY ENJOY AND BENEFIT FROM COMMUNICATION SERVICES**

South Africa's Bill of Rights states that everyone has the right to equal protection and benefit of the law and specifies that laws and policies should include measures to "*protect or advance persons, or categories of persons, disadvantaged by unfair discrimination*". This principle is in some ways inherent in the previous objective on universal access and service, but South African policies and laws all include specific measures to ensure conscious and deliberate redress of the apartheid legacy of discrimination and skewed development and promote equality in all sectors of the population.

This principle has been captured in existing frameworks through specific measures to promote, for example, historically disadvantaged individuals and communities and the needs of women, children, the elderly, people with disabilities and cultural and religious minorities. Provisions in the current policies and laws include:

- The need to be sensitive in the development of policy and regulatory frameworks to the impact of these on different sectors of society.
- Specific obligations to ensure people with disabilities can access services (such as using sign language and braille in communications and ensuring access to facilities).
- The need to protect children from commercial exploitation and access to unsuitable content.
- Recognition of the importance of redressing skewed ownership and management patterns through specific empowerment provisions.

**Is this principle adequately captured in existing policies and laws? Is it important to continue to separate this principle from a more general right to equal universal access? Are there other considerations that need to be focused on to ensure the realisation of this right? What will have to be taken into account in developing a communications sector of the future that is responsive to all segments of the population?**

### **3.5.9 SOUTH AFRICANS ARE ENTITLED TO COMMUNICATION SERVICES THAT REFLECT, RESPECT AND UPHOLD CONSTITUTIONAL AND COMMUNITY STANDARDS AND VALUES**

While reinforcing the importance of freedom of expression, and recognising the diversity of people's views and values in South Africa, the Constitution also prohibits hate speech and protects the rights to dignity and privacy. The rights of the child are also specifically safeguarded.

Existing communication policy frameworks reflect these rights, and, for example, provide for the development of standards and codes of conduct to protect children from harmful and/or inappropriate content. Codes to reinforce internationally recognised editorial principles and ensure the integrity and legality of information are also provided for. These provisions currently cover not only broadcasting content, but also, for example, information available on the internet and mobile services.

**Is this principle adequately captured in existing policy frameworks? How should policy ensure that communications services reflect, respect and uphold laws and agreed on standards and values in the future, without encroaching on the rights of South Africans to freedom of expression? How can policy frameworks continue to protect these rights given that technology will increasingly facilitate access to information across a range of platforms and devices? Is there a need to more specifically focus on the need to promote media literacy and education of users and audiences?**

### **3.5.10 SOUTH AFRICANS HAVE A RIGHT TO PRIVACY AND TO PROTECTION OF PERSONAL INFORMATION**

Reinforcing the right to privacy is essential to the communications sector. It includes ensuring that the policy and the regulatory framework reinforce the right to protection of personal information – whether stored electronically or physically delivered via, for example, postal services. It also refers to the need of citizens to be able to trust that institutions will use and process their information with integrity.

Internationally it is increasingly evident that mechanisms to protect privacy, need to be updated to address new issues arising from new technologies, services and applications. It is also recognised that there is a need to strengthen related laws, promote the education of citizens and address cyber-crime. Frameworks need to be flexible to address these issues.

**Is there a need to include specific objectives related to the right to privacy and protection of personal information in a new communications sector policy framework? Are these principles adequately covered in the current policies, laws and regulations? What other considerations are important to this right?**

### **3.5.11 GOVERNMENT HAS A RESPONSIBILITY TO MAXIMISE THE OVERALL PUBLIC BENEFIT DERIVED FROM THE USE OF PUBLIC RESOURCES**

This principle is recognised in both South African and international policy frameworks. The Constitution is in many ways focused on ensuring that public resources bring benefit to all citizens. The existing communications policy frameworks further reinforce this principle by

- outlining specific social and economic considerations that should be taken into account when assigning and managing scarce resources such as the frequency spectrum and
- providing for specific economic, social and cultural obligations on users of this spectrum.

Technological advances allow us to use public resources such as the frequency spectrum, the numbering system and the right of way more efficiently and effectively to ensure greater public benefit from these.

The notion of public benefit further encapsulates the principle of value for money, including, for example, recognising that public and other institutions that oversee, manage or utilise public resources should ensure maximum public value from these. This implies that the framework itself and related institutions and processes should be capable, efficient and effective. They should further focus specifically on enabling agreed upon mandates for the sector and only intervening where it is necessary to realise clearly articulated public objectives. Interlinked principles include the need for participation, accountability and transparency in policy-making and related processes and a focus on protection of decision-making from influence by political, industry or other powerful interests.

**Is this principle adequately reflected in existing policy and legal frameworks? What, if any, additional considerations are relevant to this principle? How, if at all, do technological advances affect the considerations underpinning the governance of spectrum?**

### **3.5.12 ALL SOUTH AFRICANS ARE ENTITLED TO A QUALITY COMMUNICATION SYSTEM THAT FACILITATES INNOVATION, FAIR COMPETITION AND EQUITABLE TREATMENT OF ALL ROLE PLAYERS**

This principle is aligned with a range of Constitutional rights – including the rights to equity and equality of opportunity. The NDP emphasises that communication services should be provided at a cost and quality at least equal to South Africa's peers and competitors. This right reinforces the need for the communications framework to focus on enabling and encouraging innovation and investment in the sector in order to maximise the number and range of services and content available to all South Africans. It entails the important principle of similar and equitable treatment of like services regardless of the platform or technology used to deliver the service in order to promote the objective of diversity and choice. It further requires that any framework governing the sector is flexible and can adapt to changing technological, market and customer circumstances and needs.

Other considerations linked to this principle include:

- The need for capable, effective and efficient processes and institutions.
- Ensuring that South Africa has the skills and capacity necessary to develop and build a quality and innovative communications system relevant and responsive to South African circumstances.
- Promoting open systems that facilitate innovation, fair competition and equitable treatment of all role players as well as increase access by citizens to a choice of services. Open systems include the concepts of interoperability, portability and open rather than proprietary standards.
- Ensuring the framework promotes customer-oriented and technology neutral services.

**Is this principle adequately captured in existing policy and legislative frameworks? Is it still relevant for the future? What other goals should be considered in order to realise this objective? What is the role of communications specific policy in this regard, given that there are other laws that promote for example, fair competition?**

### **3.5.13 SOUTH AFRICAN CITIZENS AND CONSUMERS ARE ENTITLED TO MAXIMUM TRANSPARENCY IN HOW SERVICES ARE DELIVERED AND CONDITIONS UNDER WHICH THEY ARE DELIVERED**

Protection of consumers is the foundation of many of South Africa's policies and laws. Given changes in technology, this should increasingly include provisions to protect e-consumers. Consumer protection includes clarity on what services are provided, the expected quality of such services, and the cost of these to the user. It entails putting in place specific measures to ensure that service providers make available the best possible information about products and services and the conditions under which they are offered. It further requires developing mechanisms for consumers to complain about levels of service. Most importantly it underscores the need to ensure any communications framework protects the interests of citizens and consumers.

**Is this principle of importance in an environment underpinned by choice of different service-providers that are competing on the platform, service and product levels? How important will it be in an environment in which different technologies and platforms can be used to offer similar services? Is it important for this to be specifically incorporated into a communications framework given other related legislation that protects consumer interests?**

### **3.5.14 SOUTH AFRICANS HAVE A RIGHT TO AN ENVIRONMENT THAT IS NOT HARMFUL TO THEIR HEALTH OR WELL-BEING**

The Bill of Rights specifically balances ecologically sustainable development with justifiable economic and social development. Communications infrastructure must be extended in line with these requirements. Devices to receive communications must not be harmful to users' safety, health or well-being. The current communications framework recognises this by requiring environmental impact studies and for type approval of devices. Government has identified the need to ensure the safe disposal of electronic waste.

**Is this principle still important to emphasise in a new communications framework? Are principles linked to this adequately covered in existing policies and laws? What other issues should be considered relating to the environment?**

#### 4. YOUR VIEWS MATTER TO US

The Policy Review Panel seeks your comments on each of these proposed principles outlined above. This includes your views on what objectives should guide and frame the policy review process. The Panel is not at this time asking for suggestions on how to apply these principles. That will be the subject of future consultations.

We seek for example your views and inputs on:

- The relevance of the existing objectives set out in related policy and legislative frameworks.
- What, if any, new principles or considerations need to be incorporated given the changing environment?
- What important policy and regulatory issues do these principles raise that need to be considered by the Policy Review Panel?

Interested persons are invited to provide written comments on the attached Framing Paper, by 15 June 2013 at any of the following addresses:

Post: For Attention  
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Director: Economic Analysis and Scenario Construction  
ICT Policy and Strategy Branch  
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Please note that comments should reach the office by 15 June 2013.

Please contact Ms. Adelaide Masemola at (012) 4217020/7751 for any enquires.

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