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GENERAL NOTICE

NOTICE 801 OF 2005



NOTICE IN TERMS OF SECTION 27 OF THE TELECOMMUNICATIONS ACT

1. The Independent Communications Authority of South Africa ("the Authority") hereby gives notice and invites written comment in terms of section 27 of the Telecommunications Act, No 103 of 1996 ("the Act") on how handset subsidies should be regulated.
2. Interested persons are hereby invited to submit written representations, including an electronic version of representation in Microsoft Word, of their views on the section 27 enquiry.
3. Persons making representation are requested to indicate if they wish to make oral representations, which shall not exceed one hour in duration.
4. Written representations may be posted or hand delivered by no later than 05 July 2005, for the attention of:

Ms Nomvuyiso Batyi
Manager: Competition
Private Bag X 10002
Sandton,
2146

or

ICASA, Block A, Pinmill Farm, 164 Katherine Street,
Sandton

5. Where possible, written representations should also be e-mailed to nbaty@icasa.org.za and copy mrkopane@icasa.org.za
6. All written representations submitted to the Authority pursuant to this notice shall be made available for inspection by interested persons at the

ICASA library and copies of such representations and documents **will** be obtainable on payment of a fee.

7. At the request of any person who submits a written representation or document pursuant to ~~this~~ notice and seeks confidentiality for **any part** thereof, the Authority **will** determine whether any such part of the written representation is confidential. Where the Authority determines ~~that~~ **any** such part is indeed confidential then it will be treated as such. Where the Authority decides to the contrary then the person **will** be allowed **to** withdraw the written representation in question and the Authority **will not** take it into consideration when in making its findings.
8. In order to provide for a wider basis for representations to be made during the enquiry, the Authority has compiled questions pertinent to this issue.
9. These questions have been incorporated into ~~the~~ annexure hereto entitled "DISCUSSION DOCUMENT ON **HANDSET SUBSIDIES**" (hereinafter referred to simply ~~as~~ the "Discussion Document").
10. The findings and conclusions, if any made by the Authority following the enquiry **will** be published in the Government Gazette in accordance to section 27 of the Act

Mandla Langa
Chairperson
ICASA

Discussion Document into terminal equipment subsidies also known as handset subsidies

1. Background:

1.1 Since **1993** when Vodacom and MTN were licensed, handsets have always been subsidised. In the South African market, this has been translated into a 24 months contract to subscribers. There have been instances where mobile operators have reduced the amount(s) for the contract for the initial **12** months of the contract and subsequently reverting to the full contract price for the remainder of the period.

1.2 Subsidies have been identified as a potential problem for subscribers. The view is that a subscriber due to the subsidisation of the handset over a 24 months period might be, prejudiced in switching.

1.3 The major question that arises, and which is central to this discussion document is whether subscribers that enter into **24** month contract are aware of the real cost of the handset or bundled minutes. In the pre-paid market, the costs of the handsets seem to be transparent. The difference is that in the pre-paid market some handsets are network locked. During the number portability rulemaking process, the Number Portability Committee and having taken all submissions into account, identified handset subsidies being a possible barrier for subscribers to port to other operators.

1.4 It should be noted that a handset subsidy is of competition and consumer concern. A handset subsidy may be used as an inducement for a subscriber not to change from one mobile operator to another example handset upgrade before the contract is over. This has the implications of the contract being extended for a further period of **24** months. Consumers may not be aware that the free handset is paid for in the monthly subscriptions fee and is not obvious in the bill.

2 Discussion

2.1 As early as the inception of mobile telephony in South Africa in **1994**, terminal equipment subsidies have been available. Mobile network operators and service providers mostly offer terminal equipment as part of subscription to post pay services.

2.2 For the purposes of this discussion document terminal equipment **will** be referred to as handset.