



MyBroadband.co.za

Submission
in response to the publication of the
Discussion Paper
for public comment
on the
ICASA Framework for introducing Local Loop Unbundling

published as
General Notice 409 of 2011
in Government Gazette 34382
on 22 June 2011

Contents

INTRODUCTORY REMARKS	2
ABOUT MYBROADBAND	2
GENERAL REMARKS	2
QUERIES RAISED IN THE DISCUSSION PAPER	3
The Authority's proposed approach.....	3
Form of Local Loop Unbundling favoured	3
Other cost items	3
Standardised ordering and specification system	4
Access Line Deficit Recovery Scheme.....	4
NAKED DSL.....	4
TECHNOLOGY NEUTRALITY.....	5
UNIVERSAL ACCESS AND SERVICE OBJECTIVES	5
CONSUMER CONCERNS	5
CONCLUSION	5

INTRODUCTORY REMARKS

1. MyBroadband.co.za (“MyBroadband”) welcomes the publication of the Discussion Paper on the ICASA Framework for introducing Local Loop Unbundling (“Discussion Paper”) and acknowledges the importance of obtaining reasonable and feasible input from all stakeholders involved in the process of unbundling the local loop. MyBroadband users are firmly of the belief there is a need for local loop unbundling (“LLU”), and are in full support of the process of determining how the local loop will be unbundled.
2. MyBroadband requests that a slot be reserved for it to make oral representations should the Authority decide to hold public hearings.

ABOUT MYBROADBAND

3. MyBroadband is South Africa’s biggest and most popular Information Technology website, with around 1 million unique visitors per month. MyBroadband provides news and information on a range of issues relating to the Internet, electronic communications and access to these services. MyBroadband hosts a free and open forum that allows users from diverse areas and backgrounds to voice their opinions on various topics of interest.
4. There is a need and a gap for a reasonable consumer perspective in the consideration of policies that will have an impact on the consumer as the end-user. MyBroadband both directly through user participation and indirectly through editorial insight represents the voice of the consumer, on a host of issues affecting the Internet and its users.
5. The Discussion Paper is accordingly directly relevant to the users of MyBroadband.

GENERAL REMARKS

6. MyBroadband users fully support the open-access approach to the regulation of the provision of electronic communications services as proposed by the Authority.
7. The consumer view is that the objects enumerated in Section 2 of the Electronic Communications Act (“ECA”) have to date not sufficiently been given effect. This has led to a systemic failure to achieve the intended goals of invigorating the industry. The consumer is thus faced with both a lack of service offerings and predatory pricing.
8. Competition at all layers in the network is a key concern of the consumer. The method ultimately adopted by the Authority must encourage substantive and sustainable competition rather than competition merely in name.

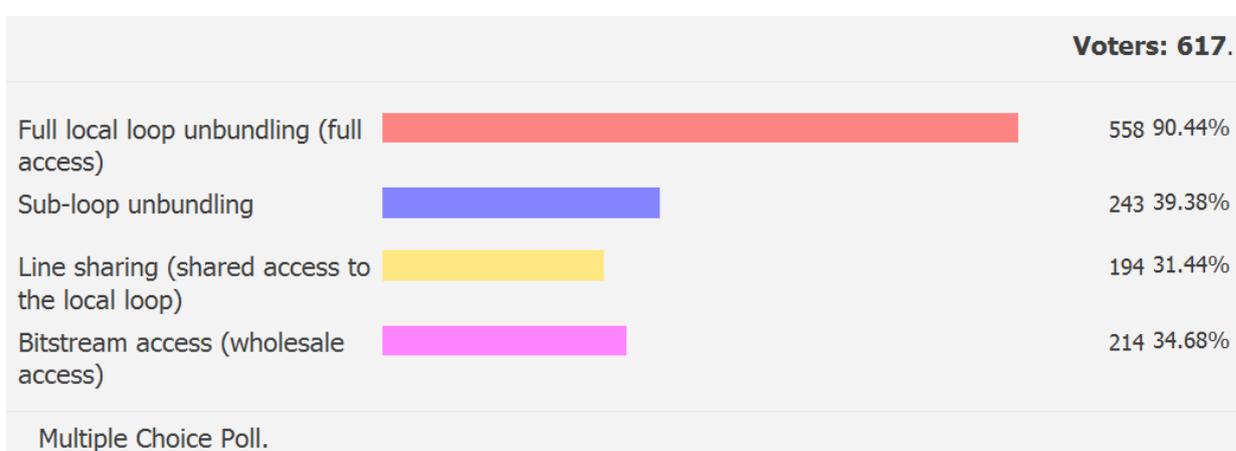
QUERIES RAISED IN THE DISCUSSION PAPER

The Authority's proposed approach

9. The consumer view is that the approach proposed by the Authority, being the unbundling of the local loop through the implementation of the facilities leasing regulations, is reasonable, feasible and acceptable insofar as it leads to meaningful realisation of an open-access model.

Form of Local Loop Unbundling favoured

10. MyBroadband ran a poll for its users to indicate their preferred form of LLU as set out in the Discussion Paper. The poll had multiple options available, and users were able to select more than one option in their vote. The poll opened on 30 June 2011, and the results of this poll as at 14 September 2011 are as follows:



11. From the above, it is clear that the average consumer favours full LLU, with 90.4% of users opting for full local loop unbundling.
12. A phased implementation of the unbundling options listed in the Discussion Paper would be preferred, as this approach will have the most agreeable result. This can be achieved by the Authority laying down timeframes for the implementation of the different forms of LLU, commencing with immediate bitstream access and line sharing, working up to full LLU in the future.
13. Full LLU is needed to ensure that other operators have the option of investing in new physical layer technologies and offering new services, which are not afforded through other LLU options such as bitstream access. This will lead to effective competition in the industry and will ultimately result in greater choice and more cost-effective solutions for the consumer.
14. The consumer also views it as imperative that naked ADSL is made available immediately, and should be considered among the LLU options.

Other cost items

15. MyBroadband has no specific submission in this regard.

Standardised ordering and specification system

16. MyBroadband has no specific submission in this regard.

Access Line Deficit Recovery Scheme

17. The consumer acknowledges the cost realities of service provision and is aware of the possible requirement to contribute to an access line deficit recovery scheme which would increase the cost of services to the consumer, but only where this is with respect to an efficient operator.
18. While the access line deficit may be calculated via the Chart of Accounts and Cost Allocation Manual (COA/CAM) using Current Cost Accounting (CCA), there still exists a need for a review by the Authority and/or an independent third party of the access line deficit so determined, and agreement as to the basis on which such determination is made.
19. Consumers should also be informed as to how the access line deficit was accumulated, so as to understand the reasoning behind the added cost. There is the fear that the access line deficit will be used to recover lost revenue following the unbundling of the local loop.
20. It is imperative that the recovery scheme be clearly communicated to consumers, and that a timeline for such recovery scheme is set. This will ensure that the consumer is fully informed, with the timeline ensuring that the recovery scheme does not continue indefinitely.
21. Consumers do not want to be placed in a situation where they are penalised for Telkom's inefficiencies, particularly as there is a strong sense that consumers as taxpayers have already paid for the local loop.

NAKED DSL

22. Naked DSL is a contentious consumer concern, with consumers currently being forced to take out a bundled voice line and ADSL line when they only require and want the ADSL line. This unfairly deprives the consumer of choice and represents an unnecessary cost to the consumer.
23. The Consumer Protection Act 68 of 2008 ("CPA") prohibits the bundling of goods or services in section 13. There have been consumer complaints against this bundling of products by Telkom, which has resulted in the National Consumer Commission serving notice on Telkom requiring amendment of the bundled product offering so as to be compliant with the CPA. Telkom have indicated that they will be objecting to the notice, which is a further delay in allowing the consumer to express its choice.
24. Notwithstanding the fact that the unbundling of the voice and data lines are currently being pursued under the CPA, Naked DSL remains an easy and beneficial form of unbundling. The bundling of the voice and ADSL lines fails to provide any benefit or convenience to consumers and results in a limitation of the choice available to the consumer of otherwise distinct and separable products.
25. It is regrettable that Naked DSL was not included in the Discussion Paper as an option for LLU. It is submitted that the Authority should consider Naked DSL when dealing further with approaches to LLU.

TECHNOLOGY NEUTRALITY

26. The Discussion Paper deals with an open-access approach, which is based on a technology neutral framework. Thus open access should not be limited to the last mile held by Telkom, but should also incorporate mobile networks and all other possible access media. This is not adequately emphasised in the Discussion Paper, and should form part of the ongoing consideration of LLU.

UNIVERSAL ACCESS AND SERVICE OBJECTIVES

27. LLU should not be seen as a hindrance to achieving the objectives of universal access and service in the ECA. It is misguided to conflate the two issues, and duplicitous to argue that universal access and service objectives are in any way mutually exclusive with those of the LLU process.

CONSUMER CONCERNS

28. Continuous maintenance and upgrading of the existing infrastructure following the unbundling of the local loop is of some concern. The consumer views it as imperative that clearly defined service levels are required of all licensees and strictly enforced in order to ensure the maintenance and further development of the local loop does not stagnate.
29. Competition in the market is viewed as an important factor in the progression of Internet access in South Africa. The average consumer sees real and effective competition in this arena as essential for economic growth of suppliers and better pricing for consumers and suppliers, as well as lowering the barriers to entry for lower-income consumers.
30. A specific concern on the part of South African ADSL users, particularly SMMEs which as a sector are heavily reliant on ADSL for connectivity, is the lack of any form of service level agreement that underpins the service. As we are sure the Authority can appreciate, it is highly frustrating for SMMEs where the only available access media (3G and mobile data products are too expensive for primary business usage) is not tailored to meet their business requirements.
31. MyBroadband users believe that the unbundling of the local loop will allow new entrants to offer SLA-based services and that this will act as a significant stimulant to economic activity, particularly in the SMME sector.
32. In addition, increased competition between service providers will lead to greater choice for consumers, in terms of cost, value-added services and more advanced infrastructure.

CONCLUSION

33. MyBroadband and its users wish to express its thanks to the Authority for considering the above submissions, and will gladly provide any further information which may be requested.