
Submissions on Local Loop Unbundling

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PERSPECTIVE OF AUTHOR

1. I do not have any professional or commercial relationship with any industry participant and other than:
 - a. being a consumer of various ICT companies (Telkom, MTN, Afrihost);
 - b. being a great fan of the direction which Mweb and CellC took last year;
 - c. having had most unpleasant experiences with Vodacom in 2006 which has been the subject of several instances of abusive correspondence from various agents connected to same in the five years following;have no interest in the outcome of the process outside of deriving benefit from a better communications industry.
2. I regard myself as a communications enthusiast and believer in the value of proper internet connectivity.

STARTING PREMISE

3. The starting premise for this submission set is that the Authority is correct in its view that local loop unbundling is prescribed by the *Electronic Communications Act* and falls within the domain of the *Electronic Communications Facilities Leasing Regulations*.
4. This submission very brief and essentially answers each of the questions upon which the Authority seeks input after which I submit my conclusions.

IS ICASA'S PROPOSED APPROACH TO UNBUNDLING THE LOCAL LOOP THROUGH THE IMPLEMENTATION OF THE FACILITIES LEASING REGULATIONS REASONABLE, FEASIBLE AND ACCEPTABLE?

5. I submit that this question is inherently incapable of being answered:

- a. Firstly if the industry participants lack innovation they will find the implementation unfeasible, if they are greedy they will find the regulations unacceptable; there is nothing the Authority can do about this.
 - b. Secondly the ICT industry is on a fundamental level an industry which defies the issue of feasibility and the construction of markets has never failed to amaze expectations; we know what monopolized local loops achieve, we can't know what unbundled local loops will bring until we have them.
6. In addition to being unanswerable I submit that the question is fundamentally irrelevant to the issue. Assuming that the facilities leasing regulations are valid the Authority has no discretion but to enforce those regulations.
 7. I submit that the fundamental problem in the regulatory environment is not a lack of regulation making power but rather a general failure to tackle certain ICT players head on. Quite simply and frankly the former and current parasite-Is and politically connected enterprises persist in making a mockery of the Authority and ultimately it is the industry which suffers.

WHAT FORM OF LOCAL LOOP UNBUNDLING DO STAKEHOLDERS REALISTICALLY FAVOUR IN THE SOUTH AFRICAN MARKET?

8. As I am not a stakeholder I have difficulty making any statement on the question. However adopting the position that a consumer is a stakeholder the very question of “realistically” comes into play. The consumer realistically wants value for money and quality service.
9. I submit that as all forms of local loop unbundling are mandated the Authority should ensure that the unbundling takes place. However I submit that the Authority should I submit focus on bitstream and sub-loop unbundling for the following reasons:
 - a. Bitstream unbundling entails “quick wins” for the industry and allows gains to be felt.
 - b. A great deal of hostility towards LLU appears to rest in the “profitable exchanges” in high density, high demand areas in contrast to unprofitable exchanges. In essence the presumption is made that ICT players will focus on drawing easier profits from these exchanges. This presumption is faulted if in the process of accommodating high ICT demand areas the industry is forced to drive investment to the sub-loops – eventually securing fibre to the street, fibre to the building and fibre to the premises.

WHAT OTHER COST ITEMS SHOULD BE INCLUDED IN EACH FORM OF LOCAL LOOP UNBUNDLING?

10. No comment.

SHOULD A STANDARDISED ORDERING SPECIFICATIONS SYSTEM BE DEVELOPED?

11. Whilst standardised ordering specification is beneficial the fear of over-regulation creeps in.

12. The Authority already has a duty to compile lists of essential facilities. I submit that what the Authority should seek to do is to categorise sections of Telkom's local loop according to profitability.

IN THE EVENT THAT AN ACCESS LINE DEFICIT IS IDENTIFIED, WOULD YOU BE WILLING TO CONTRIBUTE TO AN ACCESS LINE DEFICIT RECOVERY SCHEME?

13. I submit that an access line deficit can only be identified while the loop is unbundled and further that its existence will represent continued structural problems.

CONCLUSION: REGULATIONS ARE UNNECESSARY

14. I do not believe that the any regulatory framework pertaining to the local loop will be able to drive the improvements which the Authority is ultimately hoping to achieve. It is telling that despite the facilities leasing regulations having come into effect no publically reported attempt to secure access to the local loop for ADSL provision has surfaced.

15. In particular I submit that if the authority places its focus on the facilities regulations and there enforcement.

16. I therefore submit that whilst it may be desirable for the Authority to promulgate specific regulations pertaining to Local Loop Unbundling of the copper infrastructure used to provide the current loop it is not regulations themselves that will achieve real LLU.

17. An alternative to specific LLU Regulations would be for the Authority to concentrate its focus on implementation and monitoring of the existing *Electronic Communications Facilities Leasing Regulations* and in particular to commence November 2011 with a zero tolerance approach towards large network operators refusing (including stalling) to lease facilities.