



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

# Briefing to the Parliamentary Portfolio Telecommunications & Postal Services

“OTT Services and Regulation”

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# Definition of OTT Services



- ❑ No globally accepted standard definition of OTT
- ❑ Colloquially over-the-top services comprise of content service or an application that is provided to the end user over the open Internet or network of a licensee which:
  - Include VoIP, web-based content, search engines, hosting services, email services, IM, video and MM content, etc. and
  - is generally provided without involvement of a licensee (i.e. network services provider) to which the consumer is connected



## Relevant markets

- Retail markets (OTT and licensed providers provide voice and messaging)
- Wholesale markets (only licensed providers provide origination and termination services for data on individual networks)

## OTT services types

- OTT VoIP service (e.g. Skype, WhatsApp, Viber, FaceTime, etc.)
- OTT IP messaging service (e.g. WhatsApp, Tencent, etc.)
- OTT audio-visual content (e.g. Netflix, ShowMax, YouTube, Hulu, iTunes, etc.)
- e-commerce (e.g. Amazon, Internet banking, cloud services, etc.)
- social networks (Facebook, LinkedIn, Twitter, Instagram, etc.)

## Key drivers of the OTT market

- Availability of advanced mobile broadband networks (i.e. LTE)
- Increase in penetration / adoption of smartphones and tablets
- Consumer confidence in the use and adoption of new technologies / services
- Affordability and low cost of OTT services relative to traditional communication services



# OTT Service and Regulation



- ❑ OTT have no regulatory compliance obligations (e.g. no licence fees, USOs etc.)
- ❑ OTT services are a potential substitute for voice, text or data services
  - Though they compete with licensed services they have no national licenses
- ❑ OTT services create large demand for bandwidth
  - However OTT providers make no network investment
  - Licensed network service providers appear not to have a mechanism to recover their network investment from OTT services providers (i.e. no interconnection or facilities leasing arrangements)
- ❑ OTT services may pose a challenge for law enforcement from a monitoring and interception perspective



# Policy and Regulatory Implications



	Licensed Providers	OTT Providers
Licensing	Service licence required	No service licence
QoS	Subject to QoS standards	No QoS requirements
Interconnection	Mandated in terms of the law	No interconnection requirements
Universal Service	Subject to obligations	Not subject to obligations
Consumer protection	Subject to CPA and other relevant laws	Not subject to CPA
Cyber security	Strict data protection and privacy requirements for users	Practised on a limited and generally voluntary basis
Taxation	Subject to tax regime	Not subject to national tax regime
Investment in infrastructure	Increased investment in network on an annual basis (>R10bn per year over the past 5 years)	No investment in infrastructure
Geographic limitation	Only serve customers within the regulated jurisdiction	Serve any user globally
Content regulation	National content regulation (e.g must carry regulation, local quotas etc.)	No content regulation or carriage requirement of public channels



## Consumers

- additional retail service options (choice)
- low cost option
- inferior or low quality, and lack of access to essential services (e.g. no toll free services)

## Government / National Fiscus

- no contribution to national fiscus via taxes and USAF contribution
- could result in curtailment of private investment in infrastructure
- potential negative impact on country's investment in DTT
- national security risks if services cannot be monitored or intercepted

## ICT Sector (Licensees)

- revenue loss due to increased competition by proliferation of OTT data services, but could be countenanced by increase in data revenue
- cannibalization of traditional services (some operators introduce or support OTT services to the detriment of their traditional services) OTT disrupt traditional business models
- OTT providers do not contribute fairly towards the use of the local telecommunications operators' networks (no interconnection / facilities leasing regimes in place for OTTs)
- licensees are heavily regulated vis-à-vis the unregulated OTTs



## DTPS ICT Sector Policy Review Report

- recognize the potential impact of OTTs
- adopted wait and see approach not to stifle innovation
- continually monitor the impact of OTTs and intervene, if necessary

## ICASA Inquiry into Competition in the Sector

- consider the issue of net neutrality or open internet and its impact on competition and innovation
- undertake an inquiry /research into priority markets (including possible OTT services markets) in the 2016-17 and 2017/18 FYs



**Thank You!!**