

**RECOMMENDATIONS ON THE DEFINITIONS OF
UNIVERSAL ACCESS AND SERVICE, AND DETERMINATION OF NEEDY
PERSONS BY THE MINISTER, AND DETERMINATION OF UNDER-
SERVICED AREAS BY THE INDEPENDENT COMMUNICATIONS
AUTHORITY OF SOUTH AFRICA**

EXECUTIVE SUMMARY

AUGUST 2009



1. Background

The Universal Service and Access Agency of South Africa (USAASA) has concluded a public process to define “universal access” and “universal service” in terms of section 82(3) of the Electronic Communications Act, 36 of 2005 (ECA), to make recommendations to the Minister of Communications (the “Minister”). A joint steering committee consisting of representatives from the USAASA, DoC, ICASA and MDDA was established to oversee all processes which culminated in the final recommendations.

In terms of section 88(2) of the ECA, USAASA also intends to make recommendations to the Independent Communications Authority of South Africa (the “Authority”) in respect of “under-served areas” from time to time. Furthermore, in terms of section 88(4) of the ECA, USAASA intends to advise the Minister in respect of “needy persons”.

A Discussion Paper was developed which considered in great detail the history of universal access and universal service within the South African policy and legislative context, internationally applied principles and different approaches, and specifically, the current policy and regulatory environment in formulating proposed definitions including discussions and informal consultations with industry players and other recommendations.

Consequently in August 2008, USAASA published a Discussion Document in Notice 987 of 2008 in Government Gazette 31333 dated 15 August 2008. In the Discussion Document, USAASA set out a number of questions and proposed definitions, asking the public to comment. The USAASA extended the due date for comments to 7 November 2008 by Notice 1208 published in Government Gazette 31456 dated 26 September 2008.

In March 2009, in close collaboration with the Department of Communications, ICASA and MDDA, USAASA published a Draft Position Paper and Invitation to a Consultative Workshop, which included refined draft definitions, in Notice 319 of 2009, Government Gazette 32048 dated 20 March 2009. The USAASA invited the public to attend the public consultative workshop to discuss the draft definitions. This afforded all interested parties and affected organizations a further opportunity to make comments and provide input on the revised definitions.

The purpose of defining universal access and universal service is to inform policies, regulations and programmes developed by the Minister, ICASA, MDDA and USAASA to help achieve universal access and universal service. This process is not an end in itself, but only a first one going forward.

Universal access and universal service are defined in the ECA with reference to Chapter 14 which requires the Minister to define the terms from time to time on recommendations of USAASA. The purpose of defining under-served areas and needy person is more specific than the purpose of defining universal access and universal service. These definitions will lead to a list of under-served areas eligible for payments from the Universal Service and Access Fund (the “Fund”), and determination of the types of needy persons to whom the Fund assistance may be provided for the purpose of them accessing the electronic communication service and broadcasting services.

Therefore, the definitions of universal access and universal service, under-served areas and needy persons form the cornerstone of the development of an effective universal access and universal service policy as they frame the national targets and assist in defining and identifying appropriate needs of the Fund beneficiaries in the country.

The suggested targets which accompany the definitions of universal access and universal service are not the same as licence obligations that will be placed on individual licensees by ICASA in terms of section 8(4) of the ECA. Targets are applicable for a certain period, after which they should be reviewed. The targets establish goals and priorities for the industry with no specific consequence for licensees unless the Authority can translate these recommended targets into licenses. The issue of licensee obligations is not the subject of this proceeding.

In addition to obligations, there are a number of other important issues not covered within this process. These are either currently being addressed, or are in planning stages, in separate processes:

- the provision of subsidies to certain schools and further education and training institutions for the procurement of broadcasting services, electronic communications services and access to electronic communications network services, or for the establishment and operation of broadcasting service and community access centres where access to electronic communications network services may be obtained;
- competitive tenders for universal service and access projects provided for in section 90 of the ECA;
- the process of awarding subsidies out of the Fund;
- the e-rate provided for in section 73 of the ECA;
- regulations relating to contributions to the Fund in terms of section 89 of the ECA.

Also not included in this proceeding, although USAASA understands the importance of these issues to achievement of universal access and universal service, are issues such as quality of service (QoS), interconnection and facilities leasing, local loop unbundling, numbering and number portability, carrier pre-selection, rights of way, licensing and spectrum allocation, and other regulatory issues that are critical for universal access and service.

2. FINAL RECOMMENDATIONS TO THE MINISTER

This section outlines the recommended definitions and associated targets which have been derived through the public processes described in Section 1 above.

2.1 PROPOSED DEFINITION FOR UNIVERSAL ACCESS

2.1.1 “**Universal access** is provided where all persons (regardless of disability, age or other vulnerability) in all areas and communities are able to obtain quality, affordable access, to a publicly available minimum set of quality:

- electronic communications network service and electronic communications service (which includes voice, messaging and data electronic communications service and in the case of data, which includes an Internet connection), and access to emergency services using free calls and messaging; and

- Broadcasting service including television and sound broadcasting service.”

2.1.2 The following **universal access targets** apply for a maximum of two years or until revised (whichever comes first):

2.1.2.1 For **voice electronic communications service** the targets are:

- at least one working public telephone at a public access point (regardless of technology used) in a geographically founded community of up to 2,000 persons, and an additional such telephone for every additional 2 000 inhabitants of the community, if the community desires it, and
- the distance to be travelled from home by persons residing in the community to access voice electronic communications service at a public access point should be no more than one kilometre.

2.1.2.2 For **data electronic communications service** the targets are:

- at least one public broadband Internet access point in a geographically founded community of up to 10,000 persons, and if the population of the community is 10 000 or more, then at least one public broadband access point for every 10,000 persons in that community or part thereof and
- the distance to be travelled from home by persons residing in the community to access data electronic communications service at a public access point should be no more than two kilometres.

2.1.2.3 For **broadcasting service**, the targets are:

- For each district municipality, access to at least one community radio broadcasting service - broadcasting in the most relevant languages for that community;
- For each district municipality, access to all public radio broadcasting service broadcasting in the most relevant languages for that community; and
- For each district municipalities, access to all public television broadcasting service
- For each province, access to at least one community television broadcasting service.

2.1.3 The following **additional universal access targets**, relating to public access points, are applicable targets in respect of electronic communications service:

- Each public access point for electronic communications service should be housed in an adequate shelter.
- Access at a public access point should be provided for a minimum of 12 hours a day and at least during the hours of 08h00 to 18h00.
- Those persons who need assistance in using the public access point or any subscriber equipment should be assisted to the extent practicable.
- Access to electronic communications service at public access points must be provided at affordable rates.

2.2 PROPOSED DEFINITION FOR UNIVERSAL SERVICE

2.2.1 Universal service for ECS:

- is provided where all persons, if they desire it, are able to obtain quality, affordable access to a minimum set of electronic communications network service and electronic communications service, on either a household or individual basis (which includes voice and data electronic communications service and in the case of data, which includes an Internet connection), and access to emergency services using free calls and messaging, where all services are offered on a non-discriminatory basis (regardless of disability, age or other vulnerability).
- For the purposes of this definition, affordable means at a rate (including connection and usage charges, but not subscriber equipment charges) that does not exceed a defined percentage of a household's total expenditure.

2.2.1.1 "Universal service for BS:

- is provided where all persons have access to a diverse range of television and sound broadcasting service (in terms of three categories of BS) that cater for all language and cultural groups and which provide entertainment, education and information.

2.2.2 The following **universal service targets** apply for a maximum of two years or until revised (whichever comes first):

2.2.3.1 For **voice electronic communications service**:

- service is available to 95 percent of households on demand.
- service is affordable to 90 percent of households, and
- in respect of affordability- each household or individual shall not outlay no more than 5% of the total expenditure for voice electronic communications service. Such services shall consist of a minimum of 90 minutes calling time per month of which no less than 30 minutes are within peak calling rate periods.

2.2.3.2 For **data electronic communications service**:

- service is available to 90 percent of households on demand where such service includes access to the Internet as a minimum.
- service is affordable to 60 percent of households, and in respect of affordability, for an outlay not exceeding five percent of the household's total expenditure.
- a household should be able to use the Internet in a month, for at least 20 hours (of which no less than 10 hours are within peak calling rate periods) OR
- the amount of data that may be consumed shall be at least 200MB

2.2.3.3 For **broadcasting service**:

- all official languages should be catered for in both sound and television broadcasting service including public, community and commercial when viewed collectively.

- increase local content by 10% more than the prescribed minimum requirements in the local content regulations.

For the purposes of these targets, the term household has the same meaning as it has when it is used by Statistics South Africa.

2.3 PROPOSED DEFINITION FOR UNDER-SERVICED AREAS

2.3.1 “An **under-serviced area for purposes of electronic communications service** is any local municipality or smaller geographic area as defined by the Municipal Demarcation Board:

- in which no electronic communications network has been constructed; or
- in which an electronic communications network has been constructed, but it does not as determined by the Authority, adequately cover the inhabited parts of the area; or
- in which an electronic communications network has been constructed, but over which no or, as determined by the Authority, limited electronic communications service are being provided.”

2.3.2 “An **under-serviced area for purposes of broadcasting service** is any local municipality or smaller geographic area as defined by the Municipal Demarcation Board:

- in which no electronic communications network has been constructed; or
- in which an electronic communications network has been constructed, but it does not adequately cover the inhabited area, as determined by the Authority; or
- in which an electronic communications networks has been constructed, but over which no or limited broadcasting services are being provided, as determined by the Authority.”

2.3.3 For purposes of this definition, it will be indicative that an area will be likely to fall within the definition in respect of electronic communications service if, in the area, the targets for universal access have not been achieved - in other words if -

2.3.3.1 For **voice electronic communications service** –

- at least one working public telephone at a public access point (regardless of technology used) in a geographically founded community of up to 2,000 persons, if the community desires it, and an additional such telephone for every additional 2 000 inhabitants of the community, if the community desires it, and
- the distance to be traveled from home by persons residing in the community to access voice ECS at a public access point should be no more than one kilometre.

2.3.3.2 For **data electronic communications service** –

- for data electronic communications service the targets are at least one public broadband Internet access point in a geographically founded community of up to 10,000 persons, and if the population of the community is 10 000 or more, then at least one public broadband access point for every 10,000 persons in that community or part thereof and
- the distance to be travelled from home by persons residing in the community to access voice ECS at a public access point should be no more than two kilometres.

2.3.3.3 For **broadcasting service** -

- For each district municipality, access to at least one community radio broadcasting service - broadcasting in the most relevant languages for that community;
- For each district municipality, access to all public radio broadcasting service - broadcasting in the most relevant languages for that community; and
- For each district municipalities, access to all public television broadcasting service.
- For each province, access to at least one community television broadcasting service.

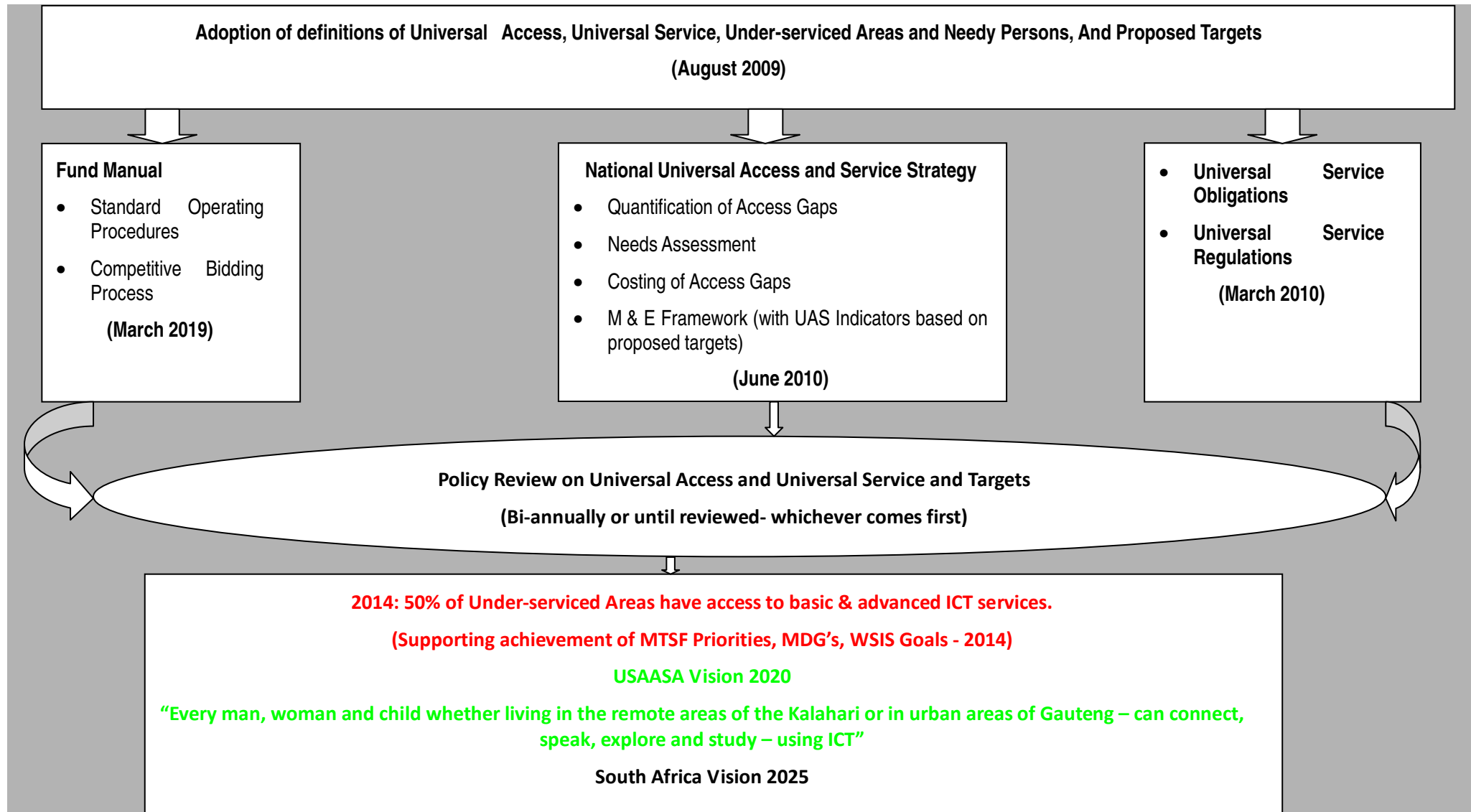
2.4 PROPOSED DEFINITION FOR NEEDY PERSONS

“‘Needy persons’ are persons (either collective or individual) who qualify through the application of a means test, considering a combination of factors, such as financial means, disability, age or other vulnerabilities:

- devised by USAASA; or
- devised by one or more public service organisations or institutions, which are selected for this purpose by USAASA.”

3. PROGRAMME OF ACTION FOR IMPLEMENTATION OF DEFINITIONS PROCESS

The definition of universal access and universal service alone will not be enough to sustain the attainment of the goals of universal access and universal service, and hence it necessitate USAASA to collaborate with ICASA and the Ministry through the Department to implement the following process which are critical towards the attainment of such goals:



Programmes	Interdependencies	Responsibility	Targeted date
<p>1. Universal Service Obligations</p> <p>The review of the universal service obligations is preceded by the definitions on universal access and universal service by the Minister.</p> <p>The definitions of universal access and universal service provide a basis for the development of strategies on the imposition of universal service obligations as framed by national targets.</p>	<p>Definitions of universal access and universal service.</p> <p>The Minister must publish a determination through a Government Gazette on the definitions of universal access and universal service.</p>	<p>ICASA</p> <p>USAASA</p>	<p>March 2010</p>
<p>2. National Universal Access and Service Strategy</p> <p>The main objective of the project is to develop a National Universal Access and Service Strategy that will inform USAASA and its stakeholders on a programme of action, including policies and the concomitant modus operandi, to ensure that ICTs are available, accessible and affordable to all people within the country.</p> <p>This will provide a foundation for USAASA to address the current gaps which prevail in respect of optimal levels of Universal Service and Universal Access in the Republic. The process will also provide UAS indicators, which will allow USAASA to undertake periodic assessments of the extent to which Universal Service and Universal Access has been achieved in the Republic.</p>	<p>The USAASA will make recommendations to the Minister as part of its legislative mandate of making any policy recommendations relating to universal access and universal service.</p> <p>Upon approval by the Minister, such recommendations will publish as a national universal service and access policy in terms of section 3(1) (b) of the ECA.</p>	<p>ICASA</p> <p>USAASA</p> <p>DoC</p>	<p>June 2010</p>
<p>3. Quantification of the universal access and universal service gaps to inform section 89(2)(i)</p> <p>The USAASA in collaboration with ICASA and DoC will undertake a process of reviewing the cost of provisioning universal service and access within the Republic. The main objective of quantification is to finance the National Universal Access and Service Strategy.</p> <p>The outcome of this process will enable a review of the percentage contribution towards the Universal service and Access Fund.</p>	<p>The minister will be required to consult with affected parties through a notice in the Gazette if the percentage contribution towards the Universal Service and Access Fund is beyond 1 percent.</p> <p>ICASA will be required through a regulation to prescribe a revised percentage contribution towards the Universal Service and Access Fund as part of the universal service obligation from the licensees.</p>	<p>ICASA</p> <p>USAASA</p> <p>DoC</p>	<p>June 2010</p>

4. Standard operation procedures and fund manual

The development of a standard operation procedures and fund manual will assist in the process of awarding subsidies out of the USAF. It will further ensure good governance, accountability and transparency in the usage of the Fund as required by prescripts of PFMA.

The Fund is subject to the control and in accordance with the instructions from the Minister and USAASA will be required to consult the Minister on the fund usage and disbursements.

DoC
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March 2010

5. Competitive tender process for universal service and access projects to inform section 90(1)

This process will assist in provisioning of funding grants through USAF to any broad casting service licensee and electronic communications network service licensee for the purpose of financing the construction or extension of electronic communications networks in under-serviced areas as prescribed by the Authority.

The process is preceded by the definitions of universal access and universal service.

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The USAASA will make recommendations to the Authority as part of its statutory requirement on advising the Authority on any matter relating to universal access and universal service.

The Authority is required prescribe the definition of under-serviced areas and the list of designated under-serviced areas eligible for construction payments from the Universal Service and Access Fund.