POLICY GUIDELINES

ON

UNIVERSAL ACCESS / SERVICE FOR

TELECOMMUNICATIONS SERVICES IN SADC

TELECOMMUNICATIONS REGULATORY ASSOCIATION OF SOUTHERN AFRICA
(TRASA)

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Policy Guidelines for Universal Access/Service for SADC

SECTION 1: PREAMBLE

1.1 The SADC Protocol on Transport, Communications and Meteorology ("The Protocol") and the SADC Telecommunications Policies and Model Bill provide essential guidance towards the harmonisation of policy and therefore, of telecommunications development across the region.

1.2 The dynamism and speed of technological development in the telecommunications industry, which create new challenges and opportunities, require further harmonisation of policy, particularly policy for universal access/service.

1.3 The development of telecommunications infrastructure can no longer be taken as a goal in itself, but as a catalyst for enabling information and communications for everyone. Access to information and communications will enhance community participation in social and economic development, by providing opportunities for learning, acquiring and sharing of information and for commercial activities.

1.4 Universal access/service needs to be redefined in the context of the advancement of the information and communications sector in the world and the new business environment.

1.5 The purpose of these policy guidelines is to guide Member States in their effort to implement their own national policy guidelines for universal access/service.

1.6 To serve as a model for harmonisation of universal access/service policy in SADC Member States.

1.7 To create greater certainty in the policy and regulatory environment for SADC countries.

1.8 To promote good governance as indicated in the SADC Protocol, and to reinforce the need for good governance practice across SADC for government, operators and small, medium and micro enterprises (SMMEs).

SECTION 2: OBJECTIVES OF UNIVERSAL ACCESS/SERVICE POLICY

2.1 Universal access/service policy aims to:

2.1.1 Achieve the delivery of affordable, equitable, good quality, and efficient information and communications services to everyone;

2.1.2 Strengthen economic development through greater participation of SMMEs within a fair and competitive environment;

2.1.3 Promote greater private sector participation and encourage competition in the information and communications sector in the SADC region;

2.1.4 Achieve greater social and economic development in the SADC region through the use of information and communications technologies, applications, and services;

2.1.5 Expand the development of the telecommunications network;

2.1.6 Promote local and foreign investment in the information and communications sector in SADC; and

2.1.7 Empower disadvantaged people to have an affordable and good quality information and communications network, on an equitable basis.

2.2 Universal access policy

2.2.1 Universal access entails availability of affordable, good quality and efficient telecommunications services, including good quality access to the Internet.

2.2.2 The objectives of universal access policy include the following:

2.2.2.1 To achieve affordable and equitable access to the information and communications network, applications and services at community level.

2.2.2.2 To mobilise available resources in policy, regulation and funding to provide telecommunications access to the community.

2.2.2.3 To increase expansion of learning opportunities, the acquisition and the provision and sharing of information.

2.2.2.4 To achieve increased access to the information and communications network by all people in SADC in a way that enhances economic inclusion, participation, and regional and international dialogue.

2.3 Universal service policy

2.3.1 Universal service entails the provision of affordable and equitable telecommunications services to every individual or household on demand.

2.3.2 One of the main objectives of universal service policy is to:

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SECTION 3: PRINCIPLES FOR UNIVERSAL ACCESS/SERVICE

3.1 Liberalisation - effective market competition in the information and communications sector in the SADC is the cornerstone for achieving universal access/service;

3.2 Affordability – telecommunication services should be provided at affordable rates;

3.3 Quality of service – services provided should be of good quality and acceptable standards;

3.4 Geographic access – telecommunications services should be made available or accessible regardless of geographical location;

3.5 Availability – telecommunications services should be accessible to a larger proportion of the population in a country.

SECTION 4: STRATEGIES TO ACHIEVE UNIVERSAL ACCESS/SERVICE

Strategies for achieving universal access/service include amongst others:

4.1 Promotion of fair and effective competition as a fundamental strategy for achieving affordability and network development;

4.2 Establishment of Universal Service Fund as auxiliary vehicle for the financing of universal service / access;

4.3 Imposition of Universal access/service obligations on licensed operators to ensure delivery of services in under-served areas;

4.4 Encouragement of community participation in the provision of telecommunication services;

4.5 Encouragement of local loop unbundling when competition is introduced;

4.6 Application of preferential or discounted tariffs for achieving good quality access to schools, clinics, telecentres or other community access centres; and

4.7 Liberalisation of some of the market segments such as:

- 4.7.1 Customer Premises Equipment;
- 4.7.2 Radio Paging;
- 4.7.3 Internet Service Providers;
- 4.7.4 Data Communications; and
- 4.7.5 Value-Added Services.

SECTION 5: UNIVERSAL SERVICE OBLIGATIONS

5.1 Universal service obligation should be a tool for facilitating affordability and equitable access to telecommunications services;

5.2 Universal service obligations should be embedded in the licence of each operator and be overseen by the regulatory agency;

5.3 Discounted tariffs for telecommunications services are essential for achieving affordability and universal access/service to those economically disadvantaged, which include:

- 5.3.1 People with physical or other types of disabilities;
- 5.3.2 Learning institutions in lower income areas, such as primary and secondary schools, libraries, institutes and others; and
- 5.3.3 Health institutions in lower income areas, such as clinics and hospitals.

5.4 Minimum quality of service standards should apply to all providers, such standards include:

- 5.4.1 Prompt response to any complaints lodged by the customer;
- 5.4.2 Restoration of service network within a reasonable period of time;
- 5.4.3 Compensation to the customer for any period of time during which service was interrupted as a result of an operator's fault; and
- 5.4.4 Availability of free emergency services.

5.5 Customer satisfaction should be an aim of universal access/service therefore:

- 5.5.1 Each operator will be required to establish a customer satisfaction organisational unit where customers will lodge service or tariff complaints; and
- 5.5.2 The regulatory authority should ensure that all operators meet customer satisfaction goals.

SECTION 6: UNIVERSAL SERVICE FUND

6.1 There are several methods of funding Universal access/service, one of which is Universal Service Fund (USF). The purpose of the universal service fund is to be an ancillary tool for funding development of the information and communications sector in underserved areas;

6.2 Telecommunications operators will contribute a percentage of their revenues to a universal service fund;

6.3 The universal service fund financial activity should be made publicly available on the website and/or by written request of any citizen;

6.4 The universal service fund should be audited twice per year, and each audit is to be made immediately available to the public;

6.5 The regulatory agency should be responsible for the effective management of the universal service fund;

6.6 The universal service fund should make use of alternative and collateral funding, or small venture capital in order to maximise available financial resources;

6.7 The promotion of public access points such as telecentres, SMMEs and co-operative entrepreneurial organisations that want to implement projects in rural and remote areas should be given priority to the use of the universal service fund;

6.8 The use of competitive bidding as a method for granting funds from the universal service fund to any operator should be prioritised; and

6.9 The Universal Service Fund Model, in Annex 2 provides a detailed organisational map that will help in the implementation of the Universal Service Fund.

SECTION 7: CONCLUSION

The policy on universal access/service for SADC seeks to achieve affordable and equitable access by everyone to information and communications services in line with objectives of The Protocol.

The policy guidelines are presented to the Member States so that the policy harmonisation process will be enhanced and be conducive to attracting local and foreign investment, thereby, facilitating the creation of resources for network development and economic development in the SADC region.

The policy also seeks to foster the effective application of the SADC Protocol directives on the separation of functions, policy, regulation and operations, by strengthening good governance practises and competition.

Member States should scrutinise their respective legislation in the light of the policy guidelines. TRASA should therefore monitor progress in the implementation of these guidelines.

GLOSSARY OF TERMS

Customer- a person who receives and pays for a telecommunication service over a period of time under an agreement with or pursuant to terms and conditions established by the operator with approval of the National Regulatory a notional point identified as a point of interconnection Authority;

Data communications - digital transmission of information usually between computers.

Dominant operator - a regulatory classification of a telecommunications operator that has the largest market share in a given market segment or that is otherwise able to exercise market power in the same or other market segments.

GGP - Good Governance Practice

Harmonization - the dynamic process of establishing mutually complementary policies, legislation, rules, standards, practices or systems between member states on the basis of agreed minimum requirements

ICTs - Information and Communications Technologies

Incumbent operator - the existing operator in a market which is opened to competition.

Interconnection -the physical and logical connection of two operators networks thereby allowing customers of one system to connect with customers of the other, or to access services provided from the other system.

Interface - the technical characteristics that allow two operators networks that are interconnected to understand the technical operation of the other in order for services to interoperate across the interconnection boundary.

Interoperability -the technical features of a group of interconnected networks, which ensure end-to-end provision of a given service in a consistent and predictable way.

ITU - International Telecommunication Union

Non-discrimination - a condition by which an operator, engaged in the provision of telecommunications services, shall not apply less favourable technical and commercial conditions on any competitor than what it would apply to itself, its subsidiaries or its affiliates in delivery of services.

National Regulatory Authority - an agency empowered to regulate and monitor the activities of telecommunications operators or any other info-communications providers in the public interest.

Operator - a person that operates telecommunications facilities.

Paging – a service that provides selective calling from any telephone through a base station to one or a predetermined group or radio receivers, which emit an audible, visual, or tactile alert and sometimes then record a numeric, alphanumeric, or even a short verbal message.

Period of Exclusivity: a period of monopoly whereby operator(s) is given conditions to provide certain services.

Public switched telecommunications network (PSTN) - a fully interconnected and integrated system of telecommunications consisting of various means of transmission and switching, utilised to provide basic telephone services to the general public.

Public telecommunications services - telecommunications services provided to the general public or to a class of persons so as to be generally available.

RAPID - Regional Activity to Promote Integration through Dialogue and Policy Implementation

RCSA - Regional Centre for Southern Africa

Resale - the offering to users or customers for profit of telecommunication services obtained from another telecommunication service provider;

SADC - Southern Africa Development Community

SMMEs - Small Medium and Micro Enterprises

Subscriber - any person who subscribes to the service or any part thereof, provided by the operator

Tariffs - any charges raised by an Operator for telecommunication service(s).

Telecommunications - any domestic or international transmission of information by wire, radio waves, optical media or other electromagnetic systems, between or among points of the user's choosing.

Telecommunications Infrastructure or Network - an integrated system of facilities, which comprise the facilities, used to provide one or more info-communications services.

Transparency - requires that network operators will make publicly available either the interconnection agreements or reference interconnection offers.

TRASA - Telecommunications Regulatory Association of Southern Africa

Universal access – a policy of government to make telecommunications services available, at affordable prices, to as many people as possible through common points or end-user facilities such as libraries, schools, health-centres, community centres, public call offices and pay-phones. This policy also applies to advanced information services, for instance the provision of Internet services and applications such as tele-education, tele-medecine and electronic commerce.

Universal service – a policy of government to make telecommunications services, including advanced telecommunications services, available throughout the country at affordable prices so that they are either available or easily accessible to anyone whenever they are needed, regardless of geographical or physical locations, with due regard to people with special needs.

Universality - Universal access and universal Service

USAID - United States Aid Agency

Universal Service Agency (USA) - an institution recommended to be established under either the Ministry or the Regulatory Authority to design universal service strategies and policies and monitor their implementation.

Universal Service Fund (USF) - a fund into which contributions from operators and/or other sources are paid for the purpose of providing basic and advanced telecommunications services to underserved areas, communities or individuals who cannot afford such services on their own, in the pursuit of universal service/access.

Value-added services - means (i) the manipulation of the format, content, code, protocol, or other aspect of information transmitted via telecommunications by a customer (ii) the provision of information to a customer, including the restructuring of information transmitted by a customer or (iii) the offering of stored information for interaction by a customer.

ANNEX 1. REVIEW OF INTERNATIONAL BEST PRACTISE

A1.1. Universal Service / Access

SADC Member States have agreed on The Protocol to ".achieve regional universal service with regard to telecommunications services and regional universal access to advanced information services…"

Throughout these policy guidelines, emphasis is on access to telecommunications services, maintained with an important distinction, which is the focus on access to information and communications networks, i.e., access to Information and Communications, rather than access to ICTs.

The reason for this distinction is that the term that has been commonly used, ICTs, refers solely to technologies, whereas, "information and communications" refer to technologies, applications, services, networks, and the sector as a whole. Therefore, access to information and communications is a much comprehensive term that should be reflected on the policy guidelines.

A1.1.1 Definition

The adopted definition for universal access/service is:

"**Affordable and equitable access by everyone to information and communications networks**"

This definition takes into consideration the following key principles setout in The Protocol and in the documents that have preceded the preparation of these policy guidelines:

- Affordability
- Equitable and non-discriminatory access
- Wide-geographic availability of the information and communications networks
- Good quality access to information and communications networks

A1.1.2. Universality

In this evolving field of policy, the term "universality" has been recently added to mean both universal access and universal service; however, in this document this term is not used. The term universality is proposed in the Telecommunications Regulation Handbook funded by the InfoDev programme of the World Bank, and authored by McCarthy Tétrault with the assistance of the International Telecommunications Union (ITU). That document is available electronically at http://www.infodev.org/projects/314regulationhandbook/

A1.2. Strategy to achieve universal service / access

International best practice places a very important distinction between universal service and universal access in order to define proper policy, and strategies for implementing that policy.

A1.2.1. Universal access

Universal access is defined as community access. Until recently the concept of universal access was limited to access to a telephone line. These policy guidelines, in line with best international practice, define universal access beyond access to a telephone line, as access to telecommunications services or *community access to information and communications.*

This definition is consistent with the narrowing and closing of the digital divide in developing countries. The solution focuses on the utilisation of available resources to maximise community access to information and communications. This does not mean to neglect the importance of universal service, it simply reflects that a sound policy of universal access to information and communications can and should be combined with a sound policy on universal service, in order to maximise available resources and tackle the key issues of access.

Universal access policy addresses the issues of "layers" of access, such as access to technology, access to connectivity, access to content and content creation, and ultimately, access to knowledge, knowledge creation and sharing, and access to commerce on the Internet.

A1.2.2. Universal service

Universal service is defined as household access. Universal service, in contrast with universal access, is more clearly defined as a telephone line in every household. Universal service policy has rarely focused on access to technology at the household, it has instead focused on enabling overall affordability and connectivity, improving quality of service, and customer protection.

A very important use of universal service policy is to enable service for people considered to be economically disadvantaged and for school, clinics and learning organisations, especially those in rural areas, who cannot afford, or who simply have no access nearby to any telecommunications services. Therefore, universal service policy and universal access policy aim to achieve similar goals, even though they are focusing on different priorities.

A1.3. The access pillars

The access pillars mentioned in this document are an important base for achieving sustainable access; they are based on the general foundations of the SADC Protocol and the SADC Treaty and reflect the vision of separation of functions. The access pillars are:

- Good Governance
- Strengthened Regulation
- Effective competitive

A1.3.1. Good governance

The term good governance has wide applications and it has become a universally applied principle. Good governance relates to both government and corporate management in developed and developing countries. The UN Secretary General, Mr. Kofi Anan, has declared that good governance "promotes the most salient features of a free and prosperous society: social justice, transparency, accountability in the management of public affairs".

International best practise in good governance issues is extensive. The East and Southern Africa Sub regional Follow-up Conference to the World Social Summit held on15-17 March 1999 in Nairobi, Kenya states that:

- ❖ Governance is generally defined as the use of political, economic and administrative authority and resources to manage a nation's affairs. On the basis of this, good governance could be taken to refer to the efficient and effective management of public resources and problems in dealing with the critical needs of the society.

- ❖ Good governance and sound public sector management constitute the major mechanisms of social transformation and the cornerstones of successful economies.

- ❖ Although the private sector and civil society are engaged in important aspects of governance, it is the institutions of the State, which define the political rules for the overall management of a country and its affairs.

- ❖ The role of governance in creating enabling environment for its citizens, establishing law and order, managing macro economic stability, building physical and financial infrastructure, delivering essential services and protecting the vulnerable is critically important for peace, stability and economic prosperity. In fact, the need for capable, effective and efficient system of governance has never been stronger than today where the world is characterised by increased economic globalisation and highly complex and competitive environment.

A1.3.2. Strengthened Regulation

Regulation is recognised as necessary where there is market failure, which necessitates the intervention of a regulator. Historically, the sector was viewed as a natural monopoly that necessitated a particular form of regulation known as public utility regulation or economic regulation. The fundamental role of a regulator, under this form of regulation, is to function as a surrogate for the market or a competitive marketplace.

Regulation in the information and communications sector is the function by which the government implements policy through the issuance of regulations and licenses to communications and broadcasting operators, and manages, in most cases, the allocation and pricing of the frequency spectrum. The regulator is also an important player in the definition of new policy.

The regulatory agency is responsible for facilitating dialogue between sector operators, serving as a mediator in negotiations, specially those related to technical interconnection and interconnection charges, managing conflict resolution between operators and ultimately playing as an impartial arbitrator. The regulator is the entity responsible for enforcing licenses, regulations, and laws within the sector, for which it needs both independence and autonomy.

The institution in charge of regulation is the regulatory authority or its equivalent, it will implement policy at a more specific level of detail, and contribute to the policy making process.

A1.3.3. Effective competition

The market for telecommunications services has been characterised by monopoly structures where only one operator was allowed to offer services. The economic notion that supported this was that natural monopolies were more efficient at delivering infrastructure goods and services, which have required very large investments.

Today, this notion has been completely challenged, as it has been demonstrated in those developed and developing countries where there is effective competition in telecommunications services. Where there is greater availability of services, quality of services is better, and price of services is substantially lower than in countries where the market structure is still monopolistic or has a dominant operator.

Competition encourages the rapid use of new more cost-effective technologies, and it further increases economies of scale and economies of network, which further decreases cost of network deployment, and, therefore, promotes network development.

Competition starts by liberalisation of telecommunications services, so that more than one operator can provide those services. As a result of liberalisation, the barriers to entry to those telecommunications markets are dropped and it is up to the private sector to make the business case for new service provision opportunities. Along with competition, efforts to deregulate should follow in order to foster a more propitious fair and competitive market environment.

ANNEX 2. THE UNIVERSAL SERVICE FUND (USF)

The USF is the main financing instrument for achieving universal access and service, and it should be seen as an investment fund. Good governance principles in the management of the USF are the cornerstone of its success. A badly managed USF can bring catastrophic results whereas a well managed fund, can be a source of great advancement and development for the sector and a source of substantial economic activity in this and other sectors of the economy.

Contributions to the USF are ideally to be placed in a separate account under the control of the0 regulatory authority, but this practise is subject to national laws and regulations. The reason why this is preferred is because it allows the regulatory authority more independence on its decision making process.

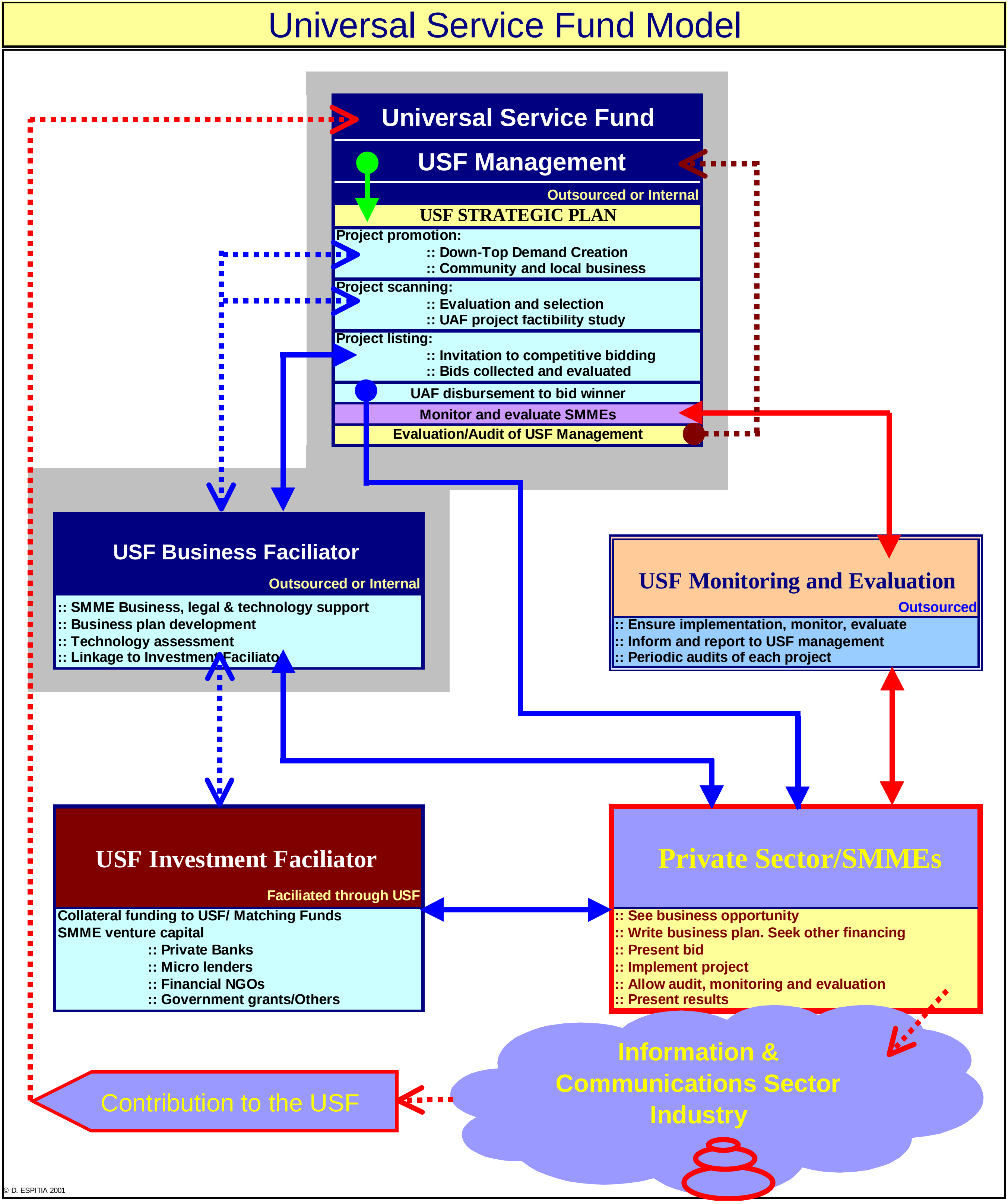
A2.1 The Universal Service Fund model

This section presents the USF model recommended, to accompany the universal access/service guidelines. The USF model, illustrated in next page, is an organisational guide for the implementation of a successful USF. The USF is not just a bank account, but also a strategic vehicle for funding universal access, it is an integrated programme that will facilitate investment and participation in the information and communications sector by all companies, but with special emphasis on SMMEs.

The USF model consists of the following distinctly separate areas or functions, which are inter-related:

- USF management or core organisation
- USF business facilitator
- USF investment facilitator
- USF monitoring and evaluation unit

These four units inter-relate and support each other in providing start-up capital in the form of limited subsidies, or venture capital, to new and existing SMMEs and other private sector companies, and in order to keep track of success and failures that will determine how future programmes are made. Other financial institutions will play a very important role in this process of enabling investment in the information and communications sector.



The Universal Service Fund model

A2.1.1 The USF management unit or core organisation

This is the core organisation that has the main responsibility for promoting and finding suitable projects/investments. The preferred organisational options for management of the USF would be to first name the board of directors for the USF and or the following management options:

i. Managed by the regulatory agency, which is the most common best practise in developing countries; or

ii. Auctioning the management to the private sector according to the regulatory agency guidelines, which is a best practice model in some developed countries.

The main task of the USF management unit is the efficient and transparent management of the fund. The following are some of its characteristics:

- The staff of this unit should be highly skilled in economics, technology and engineering or to have outsourced those capacities.

- It should prepare an annual strategic plan presenting its vision of how it proposes to increase greater universal access/service.

- It should promote the availability of the fund to the private sector for the purpose of implementing universal access/service related communications projects. Such promotion should be down-top oriented working at the community and at the local business level.

- It should not, in any case, become involved with the implementation of projects, but keep its focus in the management of the USF and of alternative international donations to the local private sector, in order to implement access-related projects.

- It would scan a number of potential projects, evaluate them and select the most feasible. It would then request submissions for funding based on competitive bidding. It may utilise the principle of least-subsidy competitive bidding. Any competitive bidding should be subject to strict clear minimal technical standards.

- It will select the winner(s) for each project allocated according to two criteria, quality of technology and least amount of subsidy requested.

- It will hire or outsource capacity to become a business facilitator for new SMMEs

- It will outsource the USF monitoring and evaluation unit.

- It will facilitate potential collateral funding or matching funds for projects.

- It should present an annual implementation plan, and only unused residual amounts of the fund at the end of each fiscal period should return to the Treasury.

- It will maintain an office of public relations, an up-to-date website with clear information to the public on the management of the fund and it will publish promptly the results of annual financial and technical audits.

Contributions to the fund

The fund itself is made of contributions from across the industry in the form of a percentage of either gross revenues, or operational revenues. The criteria for the collection of the contributions need to be carefully balanced, so that it does not become a burden for the industry. The key question is who contributes to the fund and how much. There are two distinct type of operators for which percentage of contributions may vary, in order to avoid double accounting. One is the infrastructure providers, typically the incumbent operator; the other is the service providers, such as ISPs, VANs, data, etc.

Contributions to the USF should be made according to guidelines on interconnection.

USF allocation and accounting

Parliamentary or National Treasury procurement rules apply in the allocation of the USF. However, for greater effectiveness the funds should be collected directly by the USF management unit, and return to the National Treasury the unused amount.

Access to the USF

The USF should be made available to any private individual or enterprise who has submitted an access project proposal, and whose technical and financial proposal have been selected during a process of competitive bidding.

Auditing the USF

The USF as such and its management by the regulatory agency should be independently audited annually through an ongoing and external professional audit, external to the regulatory authority and to any other government agency. Such audit should be reported to Parliament.

A2.1.2 USF Business Facilitator unit

This unit which can be either outsourced or be a distinct part of the core organisation will have it as its main goal to support both the core organisation by promoting the sector, finding best project potentials, assisting potential bidders with business planning intelligence, technology assessments, organisational issues, accounting knowledge, and creating linkages with the USF investment facilitator unit.

This unit will also provide support services for the bid winner ensuring long-term sustainability of the business.

A2.1.3 USF Investment facilitator Unit

The USF unit facilitates access to other funds either as collateral funding, matching funds, or matching projects from other government agencies creating investment synergies. The concept of SMME venture capital also applies, and therefore, funding can come from all kinds of funding organisations such as private banks, financial NGOs, micro lending organisations, and other government sectors.

A2.1.4 USF Monitoring and Evaluation Unit

Outsourced to a professional accounting firm programme of evaluation and monitoring for all projects using the USF. The objective of this unit is to ensure that the USF management unit is informed on real time of the status of its projects and that it can place corrective measures, such as intervention by the business facilitator unit.