Dynamic Spectrum Alliance Limited
http://www.dynamicspectrumalliance.org

August 21, 2026

The Portfolio Committee on Communications and Digital Technologies

Parliament Street, Cape Town

PO Box 15, Cape Town, 8000

Re: Draft DSA response on Electronic Communications Amendment Bill (B12–2026)

Dear Sir/Madam

The Dynamic Spectrum Alliance (DSA)[1] welcomes the opportunity to comment on the Electronic Communications Amendment Bill for South Africa. The DSA supports the Bill's proposed introduction of the "use it or share it" principle under section 31 of the Electronic Communications Act. This is an important step toward improving spectrum efficiency by enabling unused licensed spectrum to be made available for secondary use, while preserving the rights of incumbent licensees and advancing broader connectivity objectives.

South Africa has made substantial progress in assigning licensed spectrum for broadband services. However, assigned spectrum is not always deployed uniformly across the country, particularly in rural and underserved areas. A well-designed sharing framework can help make unused spectrum available where it is not being actively used, accelerate broadband deployment, stimulate innovation, and support digital inclusion.

The success of the proposed framework will depend heavily on the regulations and implementation measures adopted under the Bill. The DSA therefore recommends that the implementing framework be technology-neutral, and administratively workable, while ensuring effective protection of incumbent operations.

This submission focuses primarily on the provisions of the Bill that relate to spectrum efficiency, access, and implementation. DSA's comments are intended to support a practical and investment-friendly framework that enables sharing where spectrum is unused, while preserving certainty for existing licensees.

Sincerely,

Dr. Martha Suárez
President
Dynamic Spectrum Alliance

[1] The DSA is a global, cross-industry, not for profit organization advocating for laws, regulations, and economic best practices that will lead to more efficient utilization of spectrum, fostering innovation and affordable connectivity for all. Our membership spans multinationals, small-and medium-sized enterprises, as well as academic, research and other organizations from around the world all working to create innovative solutions that will benefit consumers and businesses alike by making spectrum abundant through dynamic spectrum sharing. A full list of DSA members is available on the DSA's website at: https://www.dynamicspectrumalliance.org/members.

1. Support for Efficient Spectrum Utilization

Radio spectrum is a finite national resource, and its social and economic value is maximized when it is actively used to deliver communications services. The DSA supports the Bill's objective of enabling unused licensed spectrum to be accessed by secondary users where spectrum is not being utilized in specific geographic areas or under clearly defined technical and operational conditions, while at the same time preserving the legitimate rights and protections of primary licensees.

This approach is important because spectrum that lies fallow in one area or during certain periods can often be put to productive use without undermining existing services. Allowing such shared or opportunistic access can help extend broadband coverage, improve connectivity in underserved and rural communities, support new entrants into the market, encourage innovation, and promote more intensive and efficient use of scarce national resources. In practical terms, this means that the same spectrum can serve more people and more use cases, generating wider public benefit than if it were left idle.

The Bill therefore reflects an important and forward-looking policy principle: spectrum should be managed in a way that balances certainty for incumbents with flexibility for new and innovative uses. Properly designed sharing frameworks can create a more dynamic licensing environment, reduce barriers to market entry, and allow new services to be deployed more quickly where there is genuine spectrum availability. In this sense, the Bill appropriately recognizes that efficient spectrum utilization is not merely a technical matter, but also a tool for advancing broadband policy, competition, and digital inclusion.

This direction is also broadly consistent with South Africa's recent regulatory movement toward more flexible spectrum management, including dynamic spectrum access and innovation-oriented use cases. The Authority has already introduced regulatory measures in relation to dynamic spectrum access and opportunistic spectrum management in certain bands, which indicates that the policy environment is evolving toward more efficient and adaptive use of spectrum. The Bill would build on that direction by strengthening the legal and policy basis for more effective use of unused or underused spectrum resources.

2. Transparent and Predictable Sharing Framework

The DSA welcomes the Bill's requirement that Authority develop regulations governing spectrum sharing, coordination procedures, technical conditions, and interference management. These implementation rules will determine whether the framework works efficiently in practice.

Technology-neutral regulation promotes innovation and future-proofs the framework. It allows spectrum users to adopt evolving technologies and spectrum management tools without requiring repeated legislative amendment.

Where appropriate, the Authority should consider modern spectrum management approaches, including automated coordination and database-assisted spectrum management. South Africa has already developed a regulatory basis for dynamic spectrum access and opportunistic spectrum management in the 3800–4200 MHz and 5925–6425 MHz bands, including the use of a Unified Spectrum Switch. While those specific regulations are distinct from this Bill, they demonstrate that database-assisted and dynamic approaches can form part of a credible national spectrum management framework.

In addition, Ofcom[2] demonstrates how database-assisted coordination can enable more adaptive and

[2] https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-3-4-weeks/consultation-expanding-access-to-the-6-ghz-band-for-commercial-mobile-and-wi-fi-services/main-document/expanding-access-to-the-6-ghz-band-for-commercial-mobile-and-wi-fi-services.pdf

flexible spectrum-sharing models. The relevance of such examples is not to replicate another jurisdiction's framework directly, but to illustrate how modern coordination tools can achieve more efficient spectrum use compared to static allocation models. Please refer to the "Europe's Approach to the Upper 6 GHz Band (An Overview of development of UK and Europe Union)"[3].

For that reason, the Bill's "use it or share it" framework should be implemented in a way that allows the Authority to make use of dynamic sharing tools where appropriate. This would improve efficiency, reduce transaction costs, and help ensure that secondary access can be managed in a technically robust and transparent manner.

In addition, a successful "use it or share it" framework depends on clear, objective, and transparent criteria for determining whether assigned spectrum is genuinely unused. If the concept of unused spectrum is vague or inconsistently applied, the resulting uncertainty may discourage investment and make implementation more contentious than necessary.

The DSA therefore recommends that the Authority establish transparent regulatory criteria for identifying unused spectrum. These criteria should include consideration of geographic deployment rather than nationwide licence holdings, actual network availability and operation, spectrum utilization measurements where feasible, fulfilment of licence obligations, and planned deployment that is supported by objective evidence.

An objective framework would reduce uncertainty for all parties. It would provide primary licensees with greater confidence that sharing obligations will be imposed only where spectrum is truly unused, while giving prospective secondary users a predictable basis for seeking access.

3. Protection of Incumbent Licensees

Successful spectrum sharing depends on maintaining confidence in licensed spectrum rights. Any framework that permits secondary access to licensed spectrum must therefore include clear and credible safeguards for incumbent licensees, so that operators can continue to rely on their existing rights and investment decisions. The DSA therefore supports the Bill's inclusion of protections such as notice requirements, consideration of future deployment plans, protection against harmful interference, and the ability to reclaim access where spectrum is needed for deployment in accordance with the applicable framework.

These safeguards are important because spectrum licensing and network rollout require substantial capital investment, long planning horizons, and regulatory certainty. Operators that have invested heavily in spectrum acquisition, infrastructure deployment, and long-term service commitments must be able to trust that the regulatory framework will not undermine legitimate commercial use or planned expansion without proper cause. A clear and predictable protection regime helps reduce investment risk and supports continued rollout of networks, particularly where deployment plans are supported by objective technical and commercial evidence.

At the same time, incumbent protection must not be applied so broadly that it prevents meaningful access to spectrum that is in fact idle or underutilized. If the implementation process is overly cautious, unclear, or based on speculative rather than evidence-based claims of future use, it may effectively close off spectrum-sharing opportunities even where no genuine operational requirement exists. That would defeat one of the central purposes of the Bill, which is to unlock productive use of spectrum that is not being used in practice.

For that reason, the implementing regulations should establish a balanced process that is transparent, timely, and grounded in technical evidence. Decision-making should be based on clear criteria, with

[3] https://www.dynamicspectrumalliance.org/2026/DSAEuropesapproach2026.pdf

objective proof of actual or near-term deployment needs, rather than on general assertions of possible future demand. The process should also be efficient enough to avoid unnecessary delays that could discourage secondary access, while still allowing incumbent licensees to demonstrate legitimate need where spectrum is genuinely required for their operations.

In this respect, the Bill should be implemented in a way that protects lawful incumbent interests without turning those protections into an effective barrier against innovation, competition, and more efficient spectrum use. The right balance will preserve investment certainty for existing licensees while still allowing unused spectrum to be made available in a practical and credible way. That balance is essential if spectrum sharing is to function as a genuine policy tool rather than a theoretical option.

4. Supporting Competition, SMMEs, and Community Connectivity

The DSA welcomes the Bill's broader orientation toward improving access and reducing barriers in the communications sector. The inclusion of provisions relating to roaming, MVNOs, wholesale access, and access obligations reflects a clear legislative intent to foster greater competition, expand consumer choice, and reduce structural barriers to market entry. That policy direction is important because the benefits of connectivity are often limited when market power remains concentrated among a small number of large operators. A more open and competitive framework can help ensure that the communications sector develops in a way that is more inclusive, innovative, and responsive to local needs.

A well-designed spectrum sharing framework can complement these objectives by enabling smaller operators, SMMEs, community networks, and other innovative service providers to access underutilized spectrum in areas that may not be commercially attractive to large national operators. In many cases, these entities are better positioned to serve specific local markets, especially in rural, remote, or low-income communities where deployment economics may not support traditional nationwide rollout models. By allowing secondary access to unused spectrum, the Bill can help unlock new business models and support service delivery in places where consumers and small enterprises continue to face limited or unreliable connectivity.

This is particularly significant in rural and underserved areas, where the challenge is not always a complete absence of spectrum, but rather the lack of practical incentives for large operators to deploy infrastructure at the required scale. In such contexts, smaller and more locally embedded providers may be able to deliver more targeted and cost-effective connectivity solutions. Spectrum sharing can therefore play a valuable developmental role by making it possible for community-oriented operators to fill coverage gaps, support local economic activity, and strengthen digital inclusion.

For this reason, the DSA supports regulatory measures that enable broad participation in secondary access opportunities, provided that all users comply with the technical and operational rules necessary to protect incumbent services. The framework should be designed so that it is not only legally open in principle, but also practically accessible in implementation. This means that the procedures, compliance requirements, and coordination mechanisms should be proportionate and transparent, and should not unintentionally exclude smaller entities through excessive complexity, cost, or administrative burden.

In particular, the regulatory framework should avoid creating a system that is effectively usable only by large incumbent operators or well-resourced national players. If spectrum sharing is to support real competition and meaningful community connectivity, then smaller operators and local service providers must be able to participate on fair and workable terms. A balanced framework would therefore widen access while still preserving the technical discipline necessary to ensure coexistence, interference management, and reliable spectrum use.

5. Supporting Competition, SMMEs, and Community Connectivity

To support effective implementation of the Bill, the DSA respectfully recommends that the Authority's implementing regulations:

- establish objective and transparent criteria for determining when spectrum is unused
- maintain technology-neutral spectrum sharing rules that allow multiple compliant technical approaches
- develop clear coordination procedures, technical conditions, and predictable timelines for decisions
- permit the use of modern spectrum management tools, including automated coordination and database-assisted approaches, where appropriate
- ensure effective and evidence-based protection of incumbent licensees
- support participation by smaller operators, SMMEs, and community connectivity providers where they can deliver public-interest benefits
- periodically review the effectiveness of the framework as technologies, market conditions, and spectrum usage patterns evolve.

The DSA also recommends that the Authority engage closely with stakeholders in the design of the implementing rules, including on technical standards, administrative processes, and monitoring mechanisms. Early regulatory clarity will improve confidence in the framework and reduce the risk of delays or disputes once the legislation comes into force.

6. Conclusion

The DSA supports the introduction of the "use it or share it" principle in the Electronic Communications Amendment Bill, 2026 as an important step toward more efficient spectrum use in South Africa. The Bill creates an opportunity to ensure that unused assigned spectrum can generate public benefit through broader connectivity, increased innovation, and more inclusive market participation, while preserving legitimate incumbent rights.

The success of the framework will depend not only on the legislative amendments themselves, but also on the implementing regulations developed by the Authority. Those regulations should be transparent, objective, evidence-based, and technology-neutral, and should enable practical forms of secondary access that protect incumbents while making more efficient use of scarce spectrum resources.

The DSA welcomes continued engagement with the Parliament of South Africa, the Department of Communications and Digital Technologies, as this framework is refined and implemented.