



MINUTES OF THE MEETING BETWEEN MACRA AND MISPA HELD ON 19TH DECEMBER 2012
AT MACRA OFFICES, BLANTYRE

Present

MACRA

B. Chitsonga	<u>bchitsonga@macra.org.mw</u>	0 999 940 106	(Chairman)
L Momba	<u>lmomba@macra.org.mw</u>	0 888 894 443	
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C Banda	<u>cbanda@macra.org.mw</u>	0 888 559 505	
D Chiwoni	<u>dchiwoni@macra.org.mw</u>	0 212 713 893	
H Silika	<u>hsilika@macra.org.mw</u>	0 999 952 300	
E Lungu	<u>elungu@macra.org.mw</u>	0 212 930 806	(Secretary)

MISPA

E Bodole	<u>eliab@burcomw.com</u>	0 999 961 205	
L Kanjadza	<u>limbika@skyband.mw</u>	0 999 961 237	
B Brown	<u>barry@skyband.mw</u>	0 999 961 103	
Dr P Nyirenda	<u>paulos@sdp.org.mw</u>	0 888 824 787	

1 Opening Remarks

1.1 In his opening remarks, the Chairman welcomed MISPA to the Authority and allowed for self-introduction of all members present.

1.2 The Chairman indicated that MACRA was notified of the members meeting which MISPA held with regard to the issue of levy the previous week but thought it sensible not to send a representative to allow the ISPs deliberate the issues freely and later present the issues to MACRA.

1.3 MACRA indicated that it appreciates the efforts being made by the ISP Association as it allows MACRA deal with all ISPs issues from a common front. The Chairman then requested MISPA to present their issues to MACRA.

2 MISPA PRESENTATIONS

2.1 MISPA expressed grave concern that some ISPs had received letters from MACRA requesting them to be submitting 5% levy from their net operating revenues starting from a backdated date of 1st June, 2012.

2.2 MISPA further indicated that the issue of levy goes back to the year 2000 when an understanding was reached with MACRA to exempt ISPs from submitting the 5% levy in order to allow the sector to grow before implementing the 5% levy on ISPs.

2.3 MISPA further indicated that it appreciates that MACRA had an understanding on exempting ISPs from the levy but is concerned that although the industry has grown since then, Malawi still has among lowest Internet penetration rates, among the highest Internet access prices, still does not have any noticeable information society and has virtually no government online services.

2.4 MISPA further appreciated the fact that the sector is continuing to evolve as there is a review of the Communications Act, formulation of e-legislation, an e-government department in place, among other developments.

2.5 MISPA further noted with appreciation that Government has made these and other initiatives and announcements so as to see that the sector grows with increased Internet and broadband penetration and use at affordable prices.



2.6 MISPA expressed concern that the levy on ISPs, which may be considered as one of the Internet Governance issues, carries the risk that it will add to the many annoyances of Internet users in Malawi.

2.7 MISPA requested if MACRA could consider the following:

- Reducing the size of the levy (to possibly 1%).
- Levy commencement should not be retrospective.
- Reconsider the commencement of the levy and MACRA should send adequate notification to all ISPs on the agreed date through MISPA.

2.8 MISPA further noted that the devaluation has had some negative impact on the ISP business as some customers have resolved to buy less bandwidth and others have resolved to de-register some of their staff members as a mechanism to cut costs.

3 MACRA'S RESPONSE:

3.1 MACRA indicated that it appreciates the concern raised and clarified that the levy is a license condition which the ISPs had signed on obtaining their license and are obliged to comply within that respect.

3.2 MACRA further clarified that considering the twelve (12) years which has passed by, ISPs should appreciate the fact that MACRA has been considerate. Further, the MACRA clarified that the levy is calculated on net operating revenue and not on gross revenue.

3.3 MACRA further informed MISPA that the other Telco's provide Internet/data services and they too submit a 5% levy to the Authority - this implies their Internet service is also levied; in order to level the playing field, MACRA indicated that the ISPs would no longer be exempted in paying the levy to the Authority in this regard.

3.4 MACRA also informed MISPA that the Authority is required to level the playing field and has been queried by the other telecom operators through their association (ATOL) on why the ISPs do not submit a 5% levy to the Authority.

3.5 MACRA further responded that the possibility of gradually increasing the levy from 1% to 5% requires license review and calls for the Authority to find justifications on why the approach should be accepted against the license conditions.

4 LEVY CALCULATIONS AND INCLUSION TO THE SUBSCRIBERS

4.1 MISPA further indicated that ISPs were discussing and considering introduction of a line item on the invoice to the customers showing the Levy, so that the subscribers should be aware that the cost of service being offered includes the Levy to be submitted to the Authority by the ISPs

4.2 MACRA queried MISPA that presentation of the levy on the invoice would be putting too much burden on the subscribers as levy is calculated on net operating revenue and not the gross revenue.

4.3 MACRA and MISPA later agreed that there is a requirement to find the practicality on how best the levy would be reflected on the subscribers, this was compared to the example that although companies pay corporate tax, such tax is not reflected on the subscriber's invoices.

4.4 On the table in the levy letters showing how the levy amount to be paid would be calculated, MACRA further clarified that upstream charges are deductible because the telecom operators do not include expenses they incur to fellow operators in levy calculation since the requirement is to calculate based on the actual revenues.

5.0 RESOLUTIONS (CONCLUSION)

5.1 MACRA and MISPA eventually agreed that

5.1.1 MACRA will consider their concern and will later inform MISPA of its decision concerning the gradual process for the submission of levy taking into consideration the following factors;

- (i) The 5% levy is a licensing condition and if any changes will be made, consultations will need to be done
- (ii) Once negotiations are finalized, MACRA will inform all ISPs of the commencement date of the levy through MISPA.
- (iii) All ISP's will be informed through MISPA on the way forward within the month of January 2013.

Signed (on behalf of MACRA): B Chitsonga.....



.....Date..... 4/02/2013

Signed (on behalf of MISPA: Dr. P Nyirenda.....



.....Date..... 5/2/2013

