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GENERAL NOTICES • ALGEMENE KENNISGEWINGS**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA
NOTICE 189 OF 2016**

Independent Communications Authority of South Africa

**THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA
PUBLISHES THE END-USER AND SUBSCRIBER SERVICE CHARTER
REGULATIONS**

I, Nomvuyiso Batyi Acting Chairperson of the Independent Communications Authority of South Africa (“the Authority”) hereby publish the Regulations in terms of section 4 read with section 69 (3) of the Electronic Communications Act, 2005 (Act No. 36 of 2005)

A handwritten signature in black ink, appearing to read 'Batyi', written over a horizontal line.

Nomvuyiso Batyi

Acting Chairperson

1. DEFINITIONS

In these Regulations any word or expression to which a meaning has been assigned in the Act bears that meaning unless the context otherwise indicates.

“Act” means the Electronic Communications Act, 2005 (Act No.36 of 2005), as amended;

“Alternative Dispute Resolution” means a process or mechanism that helps resolve an end-user’s complaint through mediation;

“Availability of ECS” means the proportion of time that a licensee’s network services are operational;

“Availability of ECNS” means the proportion of time that a licensee’s network resources are available to an end-user;

“Call Setup” means activities that occur during the time a call is being established, but not yet connected;

“Call Setup Success Ratio” the percentage of calls that are successfully set up as a percentage of the total call attempts;

“Call Setup Time” means time interval from the instant a user initiates a network connection request until a complete message indicating call disposition is received by the calling terminal;

“Complaint” means an expression of dissatisfaction resulting from a licensed service;

“Complainant” means a person who lodged a complaint to the Authority;

“Dropped Call” means a call which is established and assigned a traffic channel but dropped prior to the deliberate completion by the user due to network problems;

“Dropped Call Ratio” means the proportion of incoming and outgoing calls, which, once correctly established and having been assigned a traffic channel, is dropped or interrupted prior to the deliberate completion by the end-user;

“ECNS” means electronic communications network service;

“ECS” means electronic communications service;

“Fault” means failure of a network which results in disruptions or the degradation of services to an end-user that can directly be attributed to the ECNS licensee;

“Fault Clearance” means the successful resolution of a fault;

“Fixed Wireless” means the operation of wireless devices or systems at any fixed location;

“Fixed Service” means a radio communication service between specified fixed points;

“ICASA Act” means the Independent Communications Authority of South Africa Act, of 2000 (Act No.13 of 2000) as amended;

“Installation” means making available a requested fixed line service to an end-user;

“Mobile Services” means a radio-communications service between land stations or between mobile stations;

“Point of Sale” means a physical service outlet where a transaction has been concluded or a transaction concluded electronically;

“Qualifying Service” means application made by end-users on service provided by a licensee in an area where there is coverage;

“Quality of Service” means the total characteristics of a Fixed, Fixed Wireless or Mobile electronic communications service that results in a defined level of service to an end-user;

“Quality of Service Measurements” means the methodology prescribed by the Authority from time to time that measures the quality of service to an end-user;

“Rebate” means the deduction from an amount payable by an end-user as a result of service disruptions which affected the ability of an end-user to use a service;

“Reporting Period” means prescribed period for which a licensee must measure specific parameters and / or report to the Authority;

“Service Activation” means the commencing a service purchased by an end-user;

“Service Activation Time” means the period from when a service request is accepted by a licensee to the point that a working service is available for use by an end-user;

“Service Installation” means connecting an end-user service point to the network, making the service available to an end-user;

“SMS Transmission Ratio” means the proportion of SMS's transmitted completely without errors between network termination points;

“Speech Quality” means the condition of the conversational speech without noise and echo interference.

2. PURPOSE OF THE REGULATIONS

The purpose of these Regulations is to:

- (a) Prescribe minimum standards for electronic communications services to an end-user by:
 - (i) an individual or class ECNS licensee; and
 - (ii) an individual or class ECS licensee
- (b) Ensure that the quality of service offered to an end-user is in accordance with the prescribed service parameters; and
- (c) Protect the rights of end-users in the electronic communications sector by:
 - (i) providing an end-user with sufficient information to enable informed decisions;
 - (ii) ensuring the efficient and effective resolution of complaints; and
 - (iii) facilitating redress to an end-user where appropriate.

3. SCOPE AND APPLICATION OF THE REGULATIONS

These Regulations are applicable to:

- (a) Class and Individual ECNS licensees; and
- (b) Class and Individual ECS licensees.

4. PROVISION OF INFORMATION TO END-USERS

At the point of contracting

(1) A licensee and its agents must inform an end-user at the point of sale, or prior to contracting of the following where applicable:

(a) contract terms and conditions;

(i) deposit;

(ii) connection fee;

(iii) administrative fees;

(iv) insurance costs;

(v) in and out-of- bundle rates;

(vi) hardware costs;

(vii) the possibility of tariff changes during the contract term;

(viii) rules for early termination of a contract prior to expiry of the contract term;

(ix) rules for the carryover of voice minutes and data;

(x) fair usage policies;

(xi) date and period of invoicing;

(b) complaints handling procedure.

(2) A licensee must conduct periodic random checks of points of sale and service outlets to monitor compliance with the information provision requirements contained in subparagraph (1) no less than once a year of a representative sample of points of sale on a national basis.

(3) A licensee must report to the Authority on the findings of the random checks, and the report must include the following:

- (a) schedule of random checks;
- (b) areas where random checks were conducted;
- (c) findings from the random checks; and
- (d) remedial measures implemented to address non-compliance identified.

5. PROMOTIONS

- (1) A licensee must lodge its promotional tariffs and the duration of the application of the promotional tariffs with the Authority no less than seven (7) days prior to its launch, or any periods of extension.
- (2) A licensee must provide an end-user with all relevant information in clear and simple language, across all platforms used to communicate the promotion. The information to be provided must include the following:
 - (a) terms and conditions of the promotion, including eligibility and fair usage policies;
 - (b) duration of the promotion;
 - (c) obligations of the end-user at the expiry of the promotion and
 - (d) all applicable fees associated with the promotion.
- (3) A licensee must include in its compliance report details of all promotions during a reporting period, including the following:
 - (a) the number of end-users that participated in the promotion during that period;
 - (b) duration of the promotion; and
 - (c) the number of times that the promotion has been extended and the duration of the extensions.

6. INTERNATIONAL ROAMING

- (1) A licensee must send a welcome message to an end-user roaming internationally via SMS or any agreed method with the following information:
 - (a) service care contact details;
 - (b) voicemail retrieval number and applicable rates;
 - (c) roaming networks available;
 - (d) charges applicable to incoming and outgoing voice, data services and SMS's; and
 - (e) summary of the terms and conditions for roaming.

- (2) A licensee must ensure that all of the terms and conditions, including deposits, credit limits and tariffs in respect of international roaming are:
 - (a) sent to an end-user upon activation of international roaming;
 - (b) stated clearly in simple language on the licensee's website and must be easily accessible.

- (3) A licensee must send the terms and conditions via an agreed method with an end-user who activates international roaming.

7. AWARENESS OF THE CHARTER AND COMPLIANCE

A licensee must:

- (a) develop an end-user friendly version of the end-user and subscriber service charter in simple language and;

- (b) publish an end-user version of the end-user and subscriber service charter on its website and must be available and / or displayed at its service outlets.

8. BILLING

Itemised Bill

- (1) A licensee must provide a detailed itemised bill to its post-paid end-users upon request indicating the following information:

- (a) bundled calls (i.e. inclusive voice minutes of an end-user's tariff plan), specifying for each call, "0 cents" for in bundle calls, date, time, duration and recipient number;
- (b) calls incurring a charge, specifying for each call, date, time, duration, recipient number and cost;
- (c) bundled SMS' (i.e. inclusive SMS' of end-user's tariff plan), specifying for each SMS, "0" cents for in bundle SMS' date, time and recipient number;
- (d) SMS' incurring charges, specifying charges applicable, date, time and recipient number;
- (e) in-bundle data (i.e. inclusive data of an end-user's tariff plan), must specify for each data session, "0" cents for in bundle data, date, time and, the total data used;
- (f) out of bundle data specifying charges applicable date, time and total data used;
- (g) any additional charges incurred by the end-user shall be listed in the "detailed itemised bill"; and
- (h) applicable billing period with clear start and end dates.

- (2) A licensee must create online systems to enable end-users to access and retrieve their electronic statements containing the detail set out in sub-regulation 8 (1).
- (3) The detailed itemised bill must be provided at a cost related to the mode of delivery.

Provision of Pre-Paid Usage Report

- (4) A licensee must provide a pre-paid end-user with a usage report within 14 days of a request, after the necessary validation to confirm the authenticity of the end-user. The usage report must be sent via e-mail or by post in accordance with the end-user's request.
- (5) A licensee must keep billing records for a minimum period of three (3) months, unless a longer time period is prescribed in other applicable legislation.
- (6) Charges levied by the licensee, for the provision of a detailed usage report to pre-paid end-users must be limited to cost recovery.
- (7) A licensee must get confirmation from an end-user for acceptance prior to billing for:
 - (a) applicable out of bundle rates; and
 - (b) subscription to third-party services.

9. QUALITY OF SERVICE

Network and service availability will be measured using the parameters listed in sub-regulations 9 (1) to (2) below.

Availability of ECNS

- (1) The applicable measurement parameters for ECNS:

Parameter	Target	Reporting Period
Fixed services	95% network and service availability averaged over 6 months	6 monthly
Fixed wireless services	95% network and service availability averaged over 6 months	6 monthly
Mobile services	95% network and service availability averaged over 6 months	6 monthly

Availability of ECS

(2) The applicable measurement parameters for ECS:

Parameter	Target	Reporting period
Fixed Wireless services	95% service availability averaged over 6 months	6 monthly
Mobile services	95% service availability averaged over 6 months	6 monthly

- (3) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulations (1) and (2) twice annually, in February and August, of each year. Reporting must be in accordance with the format prescribed or otherwise requested by the Authority from time to time.

Installation and Activation of Services to Qualifying Service Applicants

- (4) The parameters set out in sub-regulation (5) are applicable to the installation and activation of fixed, fixed wireless and mobile services.

Time to Install and Activate Services

- (5) The applicable measurement parameters:

Parameter		Target	Reporting Period
Installation			
Fixed Services	Residential Services	95% installed within 30 days, from the date of request	6 monthly
	Business Services	90% successfully installed within 30 days from the date of request	6 monthly

Activation		
Fixed Wireless	95% activated within 48 hours	6 monthly
Mobile Services	99% activated within 48 hours	6 monthly

- (6) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulation (5) twice annually, in February and August. Reporting must be in accordance with the format prescribed or otherwise required by the Authority from time to time.
- (7) A licensee must report non-compliance with targets contained in sub-regulation (5) above in the following manner:
- (a) the number of applications not installed or activated within the prescribed timeframes above;
 - (b) category of service (residential or business), and geographic areas where applications were not installed or activated within the prescribed timeframes; and
 - (c) reasons for the variance resulting in non-compliance with the prescribed targets.

Fault Clearance

- (8) The parameters set out in sub-regulation (9) are applicable to fault clearance.

(9) The applicable measurement parameters:

Parameter	Target	Reporting Period
Fixed	90% of faults cleared within (5) days.	6 monthly
Mobile Services	95% of faults cleared within 24 hours.	6 monthly

(10) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulation (9) twice annually, in February and August, of each year. Reporting must be in accordance with the format prescribed or otherwise required by the Authority from time to time.

(11) A licensee must report non-compliance with targets contained in sub-regulation (5) above in the following manner:

- (a) the number of faults not cleared within the timeframes prescribed in sub-regulation (9);
- (b) cause of the faults not cleared; and
- (c) reasons for the variance resulting in non-compliance with the prescribed targets.

Measurement Parameters for Fixed, Fixed Wireless and Mobile Services

(12) The parameters set out in sub-regulation (12) are applicable to fixed, fixed wireless and mobile services.

(13) The applicable measurement parameter:

Parameter	Target	Reporting period
Average Call setup success ratio	Average call setup success must be greater than 98% averaged over six months	6 monthly
Average Call setup time ratio	Average call setup time must take less than 20 seconds to set up averaged over six months	6 monthly
Average Dropped call ratio	Average dropped call ratio must be less than 3% averaged over six months	6 monthly
Average Message transmission success ratio SMS	Average message transmission success ratio must be greater than 98% of attempted SMS' averaged over six months	6 monthly

<p>End-to-end delivery time for SMS</p>	<p>End-to end delivery time must be less than 60 seconds averaged over six months</p>	<p>6 monthly</p>
<p>Speech Quality</p>	<p>Average Speech Quality on the Mean Opinion Score (MOS) must be greater than 3 averaged over six months</p>	<p>6 monthly</p>

(14) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulation (12) twice annually, in February and August, of each year. Reporting must be in accordance with the format prescribed or otherwise required by the Authority from time to time.

(15) A licensee must submit a report on non-compliance with targets contained in sub regulation (12) above in the following manner:

- (a) number of targets not achieved within the prescribed connectivity failure rates above;
- (b) actual data transmission speeds achieved as per the prescribed

- targets; and;
- (c) reasons for the variance.

10. ELECTRONIC COMMUNICATIONS NETWORK MONITORING

An ECN licensee must monitor its electronic communications network, twenty four (24) hours, seven (7) days a week.

11. SERVICE UPGRADES

A licensee must notify affected end-users via SMS and its website seven (7) days before and a day before planned service interruptions that may result due to service or system upgrades.

12. COMPLAINTS

- (1) An end-user must first lodge a complaint with the relevant licensee or agent.
- (2) An end-user may lodge a complaint with the Authority only in the following instances:
 - (a) when the end-user disputes the outcome of the resolution of the complaint; or
 - (b) when a licensee has failed to respond, or has not adequately responded to the complaint within the prescribed period.

Licensee's Complaint's Handling Process

- (3) A licensee must designate and publicise a point of entry for complaints to be lodged by an end-user.
- (4) A licensee must include the complaints handling procedures on:

- (a) its websites;
 - (b) display boards at the licensee or agent's service outlets;
 - (c) on the invoice for post-paid end-users; and
 - (d) alternate platforms available to pre-paid end-users.
- (5) A licensee that does not have service outlets, must notify end-users of where to find its complaints handling process.
- (6) A licensee must acknowledge receipt of the complaint from an end-user within forty eight (48) hours by:
- (a) allocating a reference number to each complaint; and
 - (b) communicate the reference number to the complainant telephonically, via text or e-mail.
- (7) A licensee must resolve all complaints lodged by an end-user within fourteen (14) days of receipt.
- (8) A licensee must advise the end-user that s/he may lodge a complaint with the Authority in the following instances:
- (a) when an end-user disputes the outcome of the resolution of the complaint;
 - (b) when a licensee has failed to resolve the complaint in terms of sub-regulation 6.
- (9) A complaint will be considered closed by the Authority:
- (a) when the end-user is satisfied with the outcome of the resolution as proposed by the licensee; or

- (b) after the complaint has been referred to the Authority's ADR Committee and has been closed by the ADR Chairperson in writing.

(10) A licensee is entitled to demand payment of subscriptions fees in terms of the contractual agreement with the end-user, except for the disputed portion of the end-user's bill.

Billing Complaints

(11) Where an end-user lodges a billing complaint, the following procedures must be followed:

- (a) a licensee must not suspend the service of an end-user while the investigation of a disputed bill is pending;
- (b) a licensee must not hand over an end-user's account to collection agencies and impose penalties or charge interest on the disputed unpaid portion of the bill until the complaint has been closed in terms of sub-regulation (9).

Disputed Complaints Lodged with the Authority

(12) A licensee must:

- (a) acknowledge receipt of the complaint escalated by the Authority within forty eight (48) hours; and
- (b) resolve each complaint escalated by the Authority in writing within fourteen (14) days of receipt thereof;
- (c) provide the Authority with written confirmation on how the escalated complaint was resolved.

- (13) A licensee must in its compliance report provide details on the steps implemented to mitigate the top three (3) complaints six (6) monthly.

13. ALTERNATIVE DISPUTE RESOLUTION (ADR)

- (1) A complaint may be referred to the Authority's ADR where a licensee was not able to resolve the complaint in terms of regulation 12 (9) and 13 (12) of these Regulations;
- (2) The ADR may be chaired by a Councillor or other suitably designated person/s.
- (3) The ADR will address complaints on a national basis.
- (4) The Authority will inform parties of the venue and time when an ADR session will take place.
- (5) The outcome of an ADR session is the final step in the complaints resolution process facilitated by the Authority, unless non-compliance has been recognized.

14. REBATE

- (1) Subject to regulation (9), an end-user is entitled to a rebate if he/she has not received services in terms of a contract entered into with a licensee to which payment has already been effected for the services.
- (2) The rebate is limited to the days of service lost prorated against the end-user's subscription.
- (3) A licensee that provides a mobile service must offer a reconnect service to an end-user on a per minute tariff plan for dropped calls.
- (4) The service must be provided at no additional cost to an end-user.

15. SERVICE CARE LINE CENTRE

- (1) A licensee must provide an end-user care service.
- (2) Calls to service care line centre must at be no cost to an end-user.
- (3) A licensee must provide help to end-users in as many languages as is practicable.
- (4) A licensee must ensure accessibility of services by persons with disabilities.
- (5) A licensee must answer end-user service calls within three (3) minutes.

16. IMPOSSIBILITY OF PERFORMANCE

- (1) In the event that a licensee fails to provide end-users with service due to circumstances beyond its control for a period more than two (2) hours, a licensee must:
 - (a) As soon as it becomes aware of the outage:
 - (i) notify the Authority in writing;
 - (ii) issue a public notice to affected end-users;
 - (b) Indicate timeframes within which end-users should expect the service to be restored; and
 - (c) Submit a report to the Authority detailing the event/s that lead to the impossibility of performance, including;
 - (i) the cause of the outage;
 - (ii) steps taken to minimise a repeat of the outage, if applicable; and
 - (iii) steps taken to inform end-users of the outage.

17. COMPLIANCE REPORTING

A licensee must submit compliance reports of these regulations in accordance with the prescribed or required reporting templates.

18. CONTRAVENTION AND PENALTIES

(1) A licensee who is found to be non-compliant with these regulations will be subject to

- (a) a fine;
- (b) a non-monetary penalty; or
- (c) a fine and a non-monetary penalty.

Monetary penalties

(2) A licensee that contravenes any part of these regulations, is liable to a fine not exceeding R5 000 000 (five million rand).

Non-Monetary penalties

(3) The non-monetary penalty may include the publication of non-compliance on the licensee and the Authority's websites as well as awareness campaigns in national newspapers, radio and /or television and additional platforms as determined by the Authority.

19. REPEAL OF REGULATIONS

Name of Regulation	Provision being repealed
1. End-user and Subscriber Service Charter Regulations as published in Government Gazette No. 32431 of 2009.	Entirely

20. SHORT TITLE AND COMMENCEMENT

These Regulations are called the End-user and Subscriber Service Charter Regulations 2016 and will come into operation on the date of publication in the Government Gazette.