

Submission to the Independent Communications Authority of South Africa

DRAFT REGULATIONS ON THE CODE OF CONDUCT FOR PREMIUM RATE SERVICES

12 February 2016

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1 Executive Summary

Telkom SA SOC Limited (“Telkom”) humbly requests the Independent Communications Authority of South Africa (“ICASA” or “the Authority”) to retract these draft regulations and await the finalisation of the Number Plan Regulations before attempting to finalise these regulations.

Telkom’s request is based on the following key factors:

1. ICASA is running a compromised process both for the draft number plan regulations and the code of conduct for premium rated services because ICASA is running two different public consultation processes both containing definitions for premium rated services.
2. The code of conduct regulations should be founded on a clear definition of what constitutes a premium rated service, failing which it is ill-advised to attempt to develop a code of conduct until the premium rated definition is finalised having taken on board the numerous concerns raised by various stakeholders in the draft number plan regulations consultation process. The impact on Telkom’s 1.75M active fax-to-email services appears to have been ignored in these draft regulations.
3. The efforts of the Industry Number Forum to develop a draft code of conduct for premium rated services have been ignored by the Authority in developing these draft regulations.
4. The scope of these draft regulations leads to duplication with existing industry bodies like WASPA (Wireless Application Service Providers’ Association) who deal specifically with WASPs (Wireless Application Service Providers) and SMS, including their premium rated service offerings. In particular they attempt to duplicate some of WASPA’s code of conduct.
5. A portion of these regulations hinge on the Classification Guidelines published by the Film & Publications Board, however, they are being challenged, and only once they become finalized and binding, can some of these regulations become effective. This may lead to the Authority having to make amendments to these draft regulations.
6. These draft regulations contain several sections which deal with number management issues, including migration of services which should be located in the number plan regulations and discussed under the number plan regulation consultation process. Their presence in these regulations pre-empt the finalisation of the number plan regulations and compromise the legality of these consultation processes which should not be running concurrently due to their interdependence.

2 Introduction

1. Telkom SA SOC Limited (“**Telkom**”) welcomes the opportunity to submit its written comments on the draft Regulations on the Code of Conduct for Premium Rate Services as published on 17 December 2015 by the Independent Communications Authority of South Africa (“**ICASA**” / “**the Authority**”).
2. Telkom also indicates its availability to make an oral submissions to this consultative process should the Authority decide to hold same.
3. Telkom uses the following format in this submission for ease of reference:

Telkom’s proposed text is presented in cyan.

4. Telkom has divided its comments into the following sections:
 - **Section 1:** Executive Summary
 - **Section 2:** Introduction
 - **Section 3:** General Comments
 - **Section 4:** Specific Comments

3 General Comments

3.1 Public consultation process on PRS

The Authority has published this draft Code of Conduct for Premium Rated Services ("CoC for PRS") before its proposed one on one meetings with stakeholders which are scheduled for 8 - 9 February 2016. By doing so the Authority appears to have pre-empted the conclusions of the one on one meetings on the PRS definition proposed in the draft Number Plan regulations which Telkom submits is procedurally incorrect and exposes the process to legal challenges.

The PRS definition forms the foundation for the CoC for PRS regulations because it defines the scope of the CoC for PRS regulations. Nonetheless, the definition in this draft CoC for PRS appears not to have considered the inputs from industry and particular the concerns raised by Telkom around fax-to-email services under the public consultation on the draft Number Plan Regulations of 26 June 2015.

Telkom strongly recommends that the Authority retract the proposed CoC for PRS regulations until the planned public hearings on the proposed Number Plan Regulations have been completed and the final Number Plan regulations are promulgated.

3.2 PRS definition

Telkom recommends that the final PRS definition should be located within the Number Plan regulations and not in the final CoC for PRS regulations to avoid fragmentation of the Number Plan into several sub-regulations. Therefore the following definitions and sections should be addressed in the Number Plan Regulations since they deal with number administration and management:

- Definition for "premium rated service"
- Definition for "premium rated service provider"
- Section - Numbering Structure of Premium Rated Services
- Section - Migration of Premium Rated Services

3.3 Prescribing of the PRS CoC

Telkom notes that the Authority has prescribed these regulations under section 4(3)(k) of the ICASA Act, amongst others, which deals with empowerment issues. However, the proposed code of conduct for premium rated services contain no reference to any empowerment issues.

Telkom proposes the removal of the reference to section 4(3)(k) of the ICASA Act and the substitution thereof with an appropriate reference.

3.4 Telkom's fax-to-email services

Firstly, Telkom submits that any migration of operator services to new number ranges as required in the Number Plan Regulations should not be addressed in the CoC for PRS regulations but in the Number Plan Regulations. The CoC for PRS is distinctly different from the Number Plan Regulations in scope and purpose. The function of the Number Plan Regulations is that of number management and therefore migration forms part of number management likewise any operator service migration exemptions should be addressed nowhere else to avoid fragmentation of the Number Plan Regulations.

Secondly, Telkom humbly requested the Authority to exclude its fax-to-mail services (1.75 Million active subscribers) from being classified as premium rated services in its submission on the draft Number Plan regulations, published on 26 June 2016, as this would make them subject to migration to the new PRS number ranges i.e. 090-092. (Please refer to sections 6.19, 7.16, 7.1.24 and 7.1.25 of Telkom's submission on the proposed Number Plan Regulations which deal with Telkom's request to exclude its fax-to-email services from PRS migration).

Thirdly, the draft CoC for PRS regulations are correctly silent on how the Authority plans to deal with Telkom's fax-to-email services despite the accompanying Explanatory Notes recognising existing operator services that may face migration challenges. As noted earlier migration or migration exemption of operator services should be explicitly addressed in the current consultative process on the draft Number Plan Regulations.

Telkom therefore re-iterates its recommendation to retract this consultation process until the final Number Plan Regulations have been promulgated.

3.5 Status of the Film & Publication Board Classification Guidelines

Telkom notes that the CoC for PRS has defined the term "Adult service" citing the Classification Guidelines of the Film & Publications Board (FPB). The Classification Guidelines for content which the FPB has published are being contested and therefore any reference to these guidelines in any definitions or provisions will therefore be unworkable until such time as a legitimate set of guidelines is promulgated/adopted by industry.

Simultaneously the SA National Editors' Forum has been engaging the FPB in an attempt to develop its own guidelines in order to self-regulate any press content.

"The SA National Editors' Forum (Sanef) has since last year been involved in discussions with the SA Press Council, the Interactive Advertising Bureau (IAB) and the National

Association of Broadcasters as well as the BCCSA in trying to format a self regulatory regime for digital content published by media organisations.”¹

Until such time as there is agreement and either the FPB promulgates these Classification Guidelines as regulations or SANEF and the FPB reach agreement on a set of self-regulation guidelines acceptable to the FPB, the entire section 12 is rendered unworkable.

Telkom recommends that this be noted and captured accordingly by stating that this section will only become enforceable once the Classification Guidelines have been promulgated.

Lastly, Telkom also notes that these regulations are applicable to electronic communication services and electronic communication network service licensees while the definition of “Adult service” leans on a framework applicable to the press and broadcasting fraternity. Making this applicable as is, therefore, poses its own set of challenges, in relation to PRS services, and Telkom recommends this be closely scrutinized by the Authority to determine to what extent this is practically adaptable to the PRS context.

3.6 Industry Number Forum CoC for PRS

Telkom notes that the Industry Number Forum (INF) had drafted a Code of Conduct in which it raised numerous questions of clarification same. Telkom is concerned that the draft CoC for PRS has not factored in the numerous issues raised by the INF on the PRS CoC in order to streamline this draft. Meaning that all that work has gone to waste. Telkom encourages the Authority to consider the numerous issues raised in the draft CoC for PRS compiled by the INF in order to have a better appreciation of the numerous issues which require urgent attention before finalising the CoC for PRS.

3.7 The scope of the PRS CoC

One of the critical questions posed during the INF draft CoC work was whether the CoC for PRS should be limited to voice only, or whether it should extend to other types of services as well, such as, for example SMS, etc. The draft CoC for PRS does not clarify this question and Telkom assumes the Authority’s intention is to cover all forms of services including SMS, etc.

The Authority’s attempt to address services which are addressed in the WASPA CoC. This proposed CoC for PRS therefore appears to be a duplication of some of WASPA’s code, however, this appears to lack the granularity found in the WASPA CoC.. For example, the draft Numbering Plan regulations of 26 June 2015 defined level 5 short codes beginning with a digit “3” or “4” as premium rated services. These short codes are used by Wireless Application Service Providers (WASPs) and they are governed by WASPA’s Code of Conduct.

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http://www.sanef.org.za/news/entry/sanef_statement_on_regulation_of_digital_content_and_the_draft_policy_of_th/

3.8 Fraudulent practices

Telkom observes that the PRS CoC is silent on fraudulent activities that could be engaged in by PRS providers. For example, the generation of "minutes" in order to claim more revenues from the PRS hosting operator at the expense of customers. Telkom recommends that this area also be addressed to proactively stamp out any undesired behaviour in this market.

4 Specific Comments

4.1 Definitions

4.1.1. Voice services

Telkom supports the attempt to protect persons under the age of 18, however, it submits that there are challenges around the practical implementation of this intent. Nonetheless, Telkom currently prohibits the provision of services of a sexual nature as PRS by its PRS providers.

Telkom notes that although not PRS, there are customers who render adult services using non-PRS numbers and normal rates. Telkom is considering whether those services should also use the 090-092 number ranges and to what extent should it be held accountable for not being aware that such services are being offered. In addition, the accidental dialing of such a service by a minor, it is impossible to detect technically that the call is being made by a minor or that the service rendered is not designated 092, however is an adult service.

Furthermore, the proposed definition of "Adult service" hinges on the content "Classification Guidelines" of the FPB, which are currently being contested by various groups, thus rendering the definitions unusable now until the Classification Guidelines of the FPB are legalized or SANEF and FPB agree to a set of acceptable self-regulation guidelines. Even so, Telkom cautions and questions to what extent this classification framework is practically applicable to PRS and whether it sufficiently adapts to accommodate all the different services scenarios which permeate under the electronic communication service and electronic communication network service licensing framework.

4.1.2. SMS

Telkom applies its own Adult Content Policy with respect to WASPs with whom it contracts on its mobile services. These services use both level 5 short codes beginning with digits "3" and "4" combined with SMS. These adult services use both short codes and 10 digit numbers in the 081 number range combined. The Authority seems to be suggesting that these services should be migrated to the PRS number ranges. Telkom submits as noted earlier that these types of services reside under the WASPA CoC and are applicable to SMS only. Telkom questions whether this CoC for PRS is more suited to address the concerns of the Authority when compared to the WASPA CoC for PRS. As thus, it is recommended that the Authority should rather consider reviewing the prevailing WASPA CoC and engage WASPA to discuss and resolve any concerns it may have with regard to the prevailing CoC for WASPs in order to avoid duplication.

4.1.3. "Advertisement"

Telkom notes that in the case of WASPs, the WASPA advertising rules apply and that the Authority should consider reviewing those rules should it feel that they do not support its objectives. However, in the case of voice PRS this is much more complex to police despite placing contractual obligations on PRS providers. Notwithstanding Telkom places an obligation on its PRS Providers to comply with the Advertising Standards Agency's rules.

4.1.4. "Billing network operator"

Telkom submits that if the intention with the CoC for PRS is to provide protection to customers, then reference to "person" should be more correctly defined as "end-user" or "subscriber". This links the protection of the consumer directly to the customer either as subscriber or another person utilizing the services of the licensee, such as a roaming customer.

In addition, Telkom notes that the interconnection rates are regulated via the call termination regulations and that Telkom does not recover premium call revenues across points of interconnection from any of the parties with whom it is interconnected. Telkom notes that any such future arrangements should be left up to commercial negotiations between interconnected parties due to the commercial risks associated with such recoveries.

4.1.5. "Call originator"

Telkom proposes deletion of this definition as it does not appear to be used anywhere in CoC for PRS. Nevertheless, in order to curb fraudulent activities in which PRS Providers try to generate higher volumes of calls in order to be compensated more for their PRS by licensees, Telkom supports a slight amendment to this definition together with additional wording to the effect of curbing such practices as follows:

"Calling party originator" means an end-user or device that can initiate communication through the input of a number;

4.1.6. "Charge"

Telkom's view is that this definition is ambiguous and that charge should relate to the fees payable by the customer which are associated with the customers' use of the PRS. Point b) of this definition is subjective as it requires an evaluation of an "impression" created towards a customer. Telkom therefore does not support this definition and proposes an amendment thereto as follows:

"charge" means the rate charged to a customer for the use of the premium rated service.

4.1.7. "Children"

No comment.

4.1.8. "Children's services"

Telkom proposes an amendment to this definition to be explicit about the services in question:

"Children's services" are those premium rated services which, either wholly or in part, are aimed at, or would reasonably be expected to be particularly attractive ~~be appealing to~~ children.

4.1.9. "Electronic communication network"

Electronic communication network is already defined in the Electronic Communications Act 36 of 2005, as amended, ("**the Act**") so unless there is a material basis that warrants the need to redefine this term, Telkom recommends that the existing definition not be used. Telkom therefore does not support the proposed definition.

4.1.10. "End user"

Telkom proposes the amendment below to directly reference the definition as defined in the Act.

"End user" means a subscriber and persons who use the services of a licensed service as referred defined to in Chapter 3 of the Act;

4.1.11. "ICASA Act"

No comment.

4.1.12. "Licensee"

No comment.

4.1.13. "Media"

Telkom proposed the following amendment to the definition for clarity:

"Media" means the medium through which ~~ways in~~ a large number of people can receive and access information, such as, but not limited to:

(a) television broadcasts;

(b) radio broadcasts;

(c) publications i.e. newspapers, magazines; and

(d) the Internet

4.1.14. "Premium rated service"

Telkom does not support the proposed definition as it pre-empts the definition proposed in the draft Number Plan Regulations. This definition should be aligned to the final Number Plan Regulations as these Regulations and only be cross referenced in the CoC for PRS. This

wishes to bring to the Authority's attention that its view is that this definition should also factor in Telkom's request to exclude fax-to-email services from PRS.

4.1.15. "Premium rated service provider"

Telkom submits that this definition fails to bring into scope the primary entity responsible for provisioning the PRS, namely the person providing PRS using PRS numbers. The person providing PRS is the main party that must be subjected to this PRS CoC. A licensee or its appointed third party who provides PRS may also be classified as a PRS Provider. In addition a person who has been exempted from migrating its PRS to the new PRS numbers will also be subject to this code of conduct.

Telkom recognizes that PRS providers, who are not licensees are in some instances dependent on the licensees to give technical effect to certain requirements of the CoC for PRS. And to the extent that licensees are responsible for technically implementing requirements placed on PRS providers, they should be held responsible for such implementations where such code of conduct requirements are technically feasible. Licensee's (and their appointed third parties) are responsible to ensure compliance with the Number Plan Regulations which require PRS to use the designated PRS number ranges.

Telkom therefore proposes the following amendment to the definition to clarify the scope of the this code of conduct succinctly:

"Premium rated service provider" means a licensee person that provides a premium rated service within the designated premium rated service number ranges designated in the national number plan regulations for premium rated services, and include a person who has been exempted from migrating its premium rated service to the defined premium rared service number ranges by the Authority.

4.1.16. "Strong language"

Telkom's PRS provider contract does stipulate that the individual should be protected from foul language, etc. So Telkom proposes an inclusion of a reference to freedom of speech rights as contained in the Constitution of South Africa and be cross referenced as part of this definition.

For ease of reference Telkom extracts the relevant section from the Constitution of South Africa below.

16(2) The right in subsection (1) does not extend to -

(a) propaganda for war;

(b) incitement of imminent violence; or

(c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

Telkom Mobile requires all its WASPs to become members of WASPA who have their own Code of Conduct that governs all their members' activities. Telkom recommends that the Authority considers WASPA's code of conduct and determine whether it sufficiently meets its objectives and propose certain amendments to avoid duplication of the prevailing regime.

4.2 The Scope and application of the PRS CoC

The scope of this CoC for PRS is very broad and must be clarified. Please see Telkom's proposal on the definition of "premium rated service provider" which it submits that it is the focus of this CoC for PRS. Telkom proposes that it should be specified which services the code applies to. Failing to define the specific service/s which are subject to this CoC for PRS leads to this code not being effective. Telkom in its participation in the Industry Number Forum and in its submission on the draft Number Plan Regulations of June 2015 highlighted the need to specify which services this code will apply to. Telkom therefore recommends that the Authority lists the specific services which are subject to this Code. Such a list could be updated if the Authority wishes to add more services.

Telkom views the following services to be subject to the proposed CoC for PRS:

- PRS Voice services
- SMS services located behind level 5 short codes beginning with digit "3" or "4" - (but they are already governed under WASPA CoC)
- Premium rated USSD - (already governed under WASPA's CoC)

Regulation 2(1) – Telkom submits that this CoC for PRS is firstly aimed at addressing the behaviour of PRS providers. Please see Telkom's proposal on the definition of "premium rated service provider".

Telkom proposes the following amendment to this regulation 2(1):

"2(1) These Regulations sets out the code of conduct for premium rated services providers."

Regulations 2(2) – Telkom proposes deletion of this regulation in light of its proposed change of definition of "premium rated service provider"

Regulation 2(3) - Telkom submits that regulation 2(3) is superfluous and trite. Issues relating to PRS should primarily be addressed in the Number Plan Regulations and subsequently any other regulation pertaining to PRS as defined in the Number Plan.

4.3 Numbering Structure of PRS

Regulation 3(1) of the CoC for PRS overlaps with section 25 of the prevailing 2012 Number Plan Regulations as well as section 23 of the draft Number Plan regulations as published on 26 June 2015. Telkom recommends that regulation 3(1) should be deleted. Regulation 3(2) deals with number management in that it designates a specific number range to a specific type

of service i.e. number range 092 to Adult services. Therefore it should be designated in the Number Plan regulations and not the CoC for PRS. Therefore Telkom recommends that regulation 3(2) should be deleted.

Telkom further recommends that if the Authority wishes to give this guidance on where Adult services should be located and which number ranges are defined for PRS, the the Authority should simply cross reference the specific regulations in the Number Plan regulations as they should give direction as to where PRS numbers belong.

Telkom does not support the repetition or restating of Regulations that already exist as proposed in this CoC for PRS.

4.4 Migration of PRS

This entire section deals with number migration which is a number management function and therefore covered in the Number Plan regulations. Telkom does not recommend the inclusion of these Regulations in the CoC for PRS. In addition, Telkom provides the following inputs:

Telkom proposes an amendment to regulation 4(1) as follows:

"4(1) All new premium rated services assignments ~~must~~ shall be made ~~on~~ in the new designated numbering range."

Regulations 4(2) - deals with the instance where a licensee has to migrate its existing PRS to the new PRS number ranges. Being that the Authority wishes to monitor the progress of a licensee's PRS migration where the licensees have not been exempted from migration. Telkom's view is that there is no need to report on new PRS as these will be reported in the annual number audit report and should not be of material concern to the Authority as they are naturally situated behind the correct designated PRS number ranges. The proposed text does not capture this requirement succinctly and Telkom proposes the following amendment in order to address this:

"4(2) A licensee that is providing premium rated services which are required to migrate to a new designated premium rated service number range ~~on other numbering ranges~~, must shall submit migration progress reports on a ~~bi-monthly~~ three monthly basis on ~~progress of the migration to the Authority (i.e. new activations on new numbering ranges and services still utilizing old ranges).~~"

Further, Telkom is concernrd that Regulation 4(2) requires that the reporting period for a licensee to inform the Authority on the progress of its PRS migration is bi-monthly. Telkom submits that this period is in reality way too short as the migration of a very large number of subscribers would take months to plan and complete and reporting on a bi-monthly basis is practically not feasible. Telkom has proposed amendments to Regulations 4(2) above to

address this reporting period concern. Telkom believes that a more reasonable time period of 3 months in cases where the amount of customers that have to be migrated are large.

4.5 Premium Rated Services offered indirectly by Licensees

This regulation may not be required if the Authority adopts the definition of "premium rated service provider" proposed by Telkom.

4.6 General provisions of PRS

The Authority does not provide a time frame for implementation of the PRS CoC in Regulation 6(1). Telkom notes that it would require sufficient time to assess the impact and more importantly the duration required for implementation. Preliminary indications are that it is do-able, but this would require time, including clarification of other issues raised herein the submission by Telkom.

Telkom is concerned about the 5 seconds time limit placed on voice messages that inform customers of the rates in Regulation 6(2). Telkom is currently playing messages at an average time of 8 seconds. We therefore require a relaxation on this requirement. Telkom also notes that playing such a message when making a fax-to-email call is impractical as the dialing party is a facsimile machine. Therefore playing of such a message will disrupt the fax-to-email communication rendering the fax call unsuccessful.

Regulation 6(3) – Supported.

Regulation 6(4) – Supported.

Regulation 6(5) – In the case of SMS and WASP services, Telkom recommends the Authority should determine whether WASPA's code of conduct is sufficient to address this problem. In the case of voice services a message is played when dialing the service.

Regulation 6(6) – Supported.

Telkom informs its subscribers on the costs associated with the services they request prior to them to subscribing to the service.

Regulation 6(7)

Telkom agrees with the intent but submits that this PRS CoC is highly subjective and will be difficult to assess practically. Telkom recommends this regulation be reworded to remove the subjective assessment from this provision.

Regulation 6(8) – Supported.

Telkom does place obligations on its PRS Providers to release calls as soon as they are finished which is aimed at addressing this very concern.

Regulation 6(9) - See Telkom's earlier submission on "Strong language" to include reference to the wording found in the Constitution of South Africa.

4.7 PRS number re-use or masking

Telkom directs the Authority to the existing number assignment practices of operators, where they are allowed to quarantine numbers after the PRS customer has terminated their service. Telkom quarantines these numbers for a minimum of 3 months before either re-assigning the number to another Telkom customer or returning the number to ICASA. The more important question is whether this is existing practice or whether this is not sufficient time to avoid the situation described in clause 7(1).

Telkom would support this clause, for those instances where the existing Telkom PRS customer seeks to change the service, while continuing to offer a PRS behind the existing PRS number, but on condition that the change made by the PRS provider should reasonably meet the expectation of the calling customer. Any deviation from the reasonable expectation of the service behind the PRS number, must be implemented using a new PRS number.

Telkom finds no fault in a PRS Provider informing a calling party about other services which it may also be offering.

4.8 Information on PRS

Granularity is a problem. Telkom currently keeps records of which blocks are associated with which type of PRS. Telkom would need to place a request to its PRS providers to specify in detail what PRS they provide behind what number. However, Telkom fails to see the purpose of this provision considering that PRS providers generally advertise their PRS and therefore end-users who seek to dial the PRS number will have seen the service advertised behind this number.

Section 8(1) & 8(2) – Telkom questions what the reasoning for this regulation is, since the Authority allocates these numbers to a licensee applying for such numbers. In addition licensees are required to submit by end of March each year an annual number audit report to the Authority of all numbers allocated to it, including utilization information, etc. Telkom is of the opinion that this requirement may in fact be superfluous since other processes already sufficiently cover this aspect.

4.9 Unsolicited PRS

Regulation 9(1) – Telkom supports this regulation. A customer must explicitly opt in before being signed up to the service by the premium rated service provider and similarly the subscriber should not be charged when responding to the communication from the premium rated service provider to opt out. This is especially true for WASP services which include

Premium rated SMS/Premium rated USSD/Event Billing. In the case of voice premium rated services this type of practice does not occur.

Regulation 9(2) – Supported.

4.10 Subscription Services

Regulation 10(1) - Telkom notes that in relation to Regulation 10(1) WASPA members have to abide by the WASPA code of conduct which has these standards clearly defined.

Regulation 10(2) - Telkom fails to appreciate this specific requirement. Perhaps the wording needs some rewording. Is the request not simply when advertising the content subscription service that the content service provider must show two content images?

Regulation 10(4) – This is covered in Telkom Mobile’s Event Billing Rules in its WASP Agreements.

Regulation 10(5) – This is covered in Telkom Mobile’s Event Billing Rules in its WASP Agreements.

Regulation 10(6) - This is covered in Telkom Mobile’s Event Billing Rules in its WASP Agreements.

Regulation 10(7) – This is vague as children could possibly access Games/Apps which have charges associated to them. Telkom recommends this clause be clarified. In what publications may promotions for children’s subscription services be published?

4.11 Contact and Dating Services

Telkom notes that all these regulations are covered in the WASPA code of conduct.

4.12 Adult Services

See Telkom’s submission under the General section dealing with the Film & Publication Board’s “Classification Guidelines” and the definition of “Adult Services”. Notwithstanding Telkom does not allow any adult services on its fixed line business.

Telkom also notes that the Authority uses the word “must” as opposed to “shall” which is the normal drafting language found in regulations.

4.13 Children Services

Telkom applies an Adult Policy to its WASPs and most of the conditions in this policy are covered by this CoC for PRS. Telkom also abide by ASA rules.

4.14 Advertising and Promotion Materials of PRS

Regulation 14 – Applies to the PRS Provider, supported.

4.15 End User Information (EIU) obtained by PRS Providers

Regulation 15 - Supported.

4.16 Billing of PRS

Telkom notes that regulation 16(7) refers to sub-regulations (16) and (17). Should this not be more correctly regulations 16(5) and 16(6)?

Regulation 16(1) – Supported

Regulation 16(2) – Telkom Fixed does not show the name of the Telkom PRS Provider, but only the PRS number that was dialed by the customer. In the case of Telkom Mobile all information relating to service and charge as well as service provider are shown on the bill. Telkom guards that this regulation increases the complexities of implementing this arrangement from a billing perspective as now in addition to the called numbers being presented in the bill this would also now require a comprehensive database that is continually updated and interrogated to determine the exact PRS service. This would require a substantial upgrade on Telkom's existing billing engine and would also increase the number of pages required to display this amount of detail, and finally it would result in the size of the emails increasing dramatically. Telkom urges the Authority to reconsider this requirement and keep the status quo where all called numbers are displayed in the monthly invoice. The CoC for PRS Telkom submits is largely focused on proactively informing the consumer about the costs which he/she will incur and many of the proposed requirements already achieve this.

Regulation 16(3) – Supported.

Regulation 16(4) – Supported.

Regulation 16(5) – There are several issues h below whiTelkom requires clarity on:

- Is the limit of R200 a collective limit for all the customer's calls to all PRS services or is the requirement a R200 limit per PRS i.e. total number of calls to each PRS number?
- Telkom Fixed does not do real time/per second billing which would enable it to measure and signal such usage threshold to its customers.
- Telkom could do a breakdown of such calls after the fact during the monthly bill run and present a summary of all calls made to PRS, but implementation thereof will take time. The customer would still only gain visibility of his charges to PRS once he receives his monthly account.
- Implementation of such a solution is highly complex and would take time to implement.
- Telkom is in the process of migrating its network to a modern next generation network, but all customers have not yet been migrated over and so the ability to apply such a practice consistently across Telkom's fixed customer base is not possible yet. Telkom is willing to share the technical details with the Authority in private.
- Telkom Mobile on the other hand has introduced a R200 threshold to manage the number of complaints and notifies the customer by SMS.

- Telkom Mobile does not support this type of consumer service on an individual PRS number basis, but collectively, otherwise the overheads don't justify the benefit of provisioning the service.
- Telkom Mobile notes that requiring a customer to opt in to a PRS where it is charged each day for the subscription also poses its own challenges when trying to implement a real time charging basis.
- Telkom Mobile requires its WASPs to become members of WASPA and consequently they are subject to WASPA's CoC. Telkom would encourage the Authority to seek a more pragmatic solution which avoids duplication by ensuring that the WASPA CoC meets its objectives for this specific type of service. Telkom Mobile would prefer if the WASPA framework could be embraced by the Authority to avoid unnecessary duplication and efficiencies.

Regulation 16(6) – The same challenges present as described in 16(5) above.

Regulation 16(7) – The same challenges present as described in 16(5) above.

Regulation 16(8) – delete the first "beyond" in the regulation.

4.17 Complaints Procedure

Telkom customers may call Telkom to log a dispute as the charge in question would appear on the Telkom invoice. Telkom will then check who the relevant PRS Provider is and engage with them to investigate the matter.

Regulation 17(2) - Telkom notes that customer service is changing and that the channels through which customers can interact with licensees to log complaints are many i.e. SMS, email, whatsapp etc. In this regard this regulation appears to constrain the channel to a telephone number only. Telkom would recommend this regulation be amended to also cater for the numerous other alternative forms of engagement which can now be used by customers.

Regulation 17(9) – Telkom only confirms that it applies to the specific customer only.

All billing disputes are logged on Telkom's billing system and records are kept of them. Therefore Telkom doesn't see a problem with this section.

Telkom Mobile complaints procedures are captured in the Event Billing terms and conditions.

Telkom provides below extracts, for the benefit of the Authority, from Telkom Mobile's Events Billing terms and conditions:

- Event Billing is a mechanism and must be used in conjunction with one of our standard rated bearers;
- The total request is restricted to a maximum amount of R 200.00 (incl. VAT) per event. Should the service fee (excluding bearer fee) exceed R 200.00 (incl. VAT), it shall be

rejected by the system which will only process authorisation requests to or less than the value of R 200.00 (incl. VAT) .

- The service fee billed per transaction must be equal to the total price of the service. The WASP will not be allowed to split the full price into various transactions with smaller charges. Therefore, for example, a R99.99 service should be billed in one transaction at R99.99 and not 3 transactions of R33.33 or a R20.00 per week subscription service should be billed once per week and not billed in five daily transactions of R4.00 each.
- A WASP is required to complete a service description with a unique service name for each application applied for via Event Billing. The service name on the service description must be the same as applied for on the production Event Billing and must only be used for as described within the service description. In the event of the WASP using the service name for anything other than what was intended, then Telkom Mobile shall be entitled to immediately suspend the service;
- The instructions for subscribing must be clear on all advertising; the subscriber must be made aware that the service is a subscription service. (The advert must communicate that it's a subscription service).
- You are required to adhere to the subscription service rules as defined in the WASPA Advertising Rules published on the WASPA Portal and updated by WASPA from time to time.
- Bearer detection is required for the Double Opt-in and to ensure same bearer is used as not to redirect customer into another bearer. Example: If a customer requests the subscription service via a WAP portal, Telkom Mobile Network to manage.

4.18 Transitional Arrangements

These contracts are handled by the same core legal and regulatory teams, so realistically one month to amend such agreements would be challenging for the largest of operators. Telkom recommends that the period over which such alignment of agreements be done, be stretched over a period of one year since the regulations would apply immediately, irrespective of time it takes to align the agreements and removes the urgency of alignment while the more important issues is to ensure that consumers enjoy the protection of whatever regulations may be forthcoming from the Authority. In addition, network operators would require time to implement their networks. Telkom would therefore recommend that alignment be maintained between the implementation date and this transitional clause's agreement alignment deadlines.

4.19 Short Title and Commencement

Regulation 19(1) – Telkom proposes the following amendment to be consistent with its own proposal on the definition for "premium rated service provider":

19(1) These Regulations are called the "ICASA code of conduct for premium rated services providers" and shall commence on the date of publication in the government gazette.

The End