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Independent Communications Authority of South Africa

Attention: Mr Gumani Malebusha

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ISPA SUBMISSION – DRAFT END-USER AND SUBSCRIBER SERVICE CHARTER REGULATIONS

1. ISPA refers to the Draft End-user and Subscriber Service Charter Regulations 2012 published as General Notice 30 in Government Gazette 37251 of 22 January 2012 ("the Draft Regulations") and to the Authority's invitation to comment thereon, and we set out the ISPA submission below.

2. ISPA acknowledges the effort made by the Authority to review and improve on the existing Regulations[1] and recognises that submissions made in response to the section 4B inquiry have been considered.

3. ISPA's members have a direct interest in the Draft Regulations and there has been significant interest generated amongst the membership through this consultation.

[1] GG 32431, July 2009

Scope and Application of the Draft Regulations

SCOPE AND APPLICATION OF THE REGULATIONS

The Regulations seek to:

(a) Prescribe minimum standards for services to end-user and Subscribers which will be applicable to Electronic Communications Network Service (ECNS) and Electronic Communications Service (ECS) licensees;

(b) Ensure that quality of service is offered to end-users and subscribers are in accordance with established service parameters;

(c) Ensure that end-users are provided with relevant information on a timeous basis to enable the exercise of their rights.[2]

*"**end-user**" means a subscriber and persons who use the services of a licensed service referred to in Chapter 3;*[3]

*''**subscriber**'' means a person who lawfully accesses, uses or receives a retail service of a licensee referred to in Chapter 3 for a fee or the retail services of a person providing a service pursuant to a licence exemption;*[4]

4. ISPA is concerned that the Authority has not properly considered the scope of the Draft Regulations with particular reference to the definitions of the terms "end-user" and "subscriber" as set out in the ECA.
   4.1. The use of these terms in the Draft Regulations requires clear appreciation of the different relationships which they imply[5].
   4.2. ISPA understands the term "subscriber" to refer to consumers who are not in the service provision value chain or as we would understand consumers of communications services in the ordinary sense.

[2] Draft Regulation 3
[3] ECA s1
[4] ECA s1
[5] ISPA notes that the term "end-user" is defined in the Regulations but the term "subscriber" is not. While the relevant definition is obviously set out in the ECA it would be helpful to have it in the final regulations.

4.3. The term “end-user” is obviously broader, incorporating “subscribers” as well as those who are in the service provision value chain who obtain wholesale services from other licensees.

4.4. It follows that where the term “end-user” is employed in order to define the scope of application of a quality of service parameter, it will apply equally between a licensee and a consumer (in the ordinary sense) on the one hand, and between licensees in a wholesale relationship on the other hand.

5. The implications of regulating the commercial relationships between licensees need to be analysed. Is it, for example, the intention of the Authority to dictate to Telkom SA SOC Ltd that the provision of its ADSL service as a “best effort” service is no longer acceptable and that it be obligated, inter alia, to provide 99% network availability?

6. ISPA requests that the Authority include text in the finalised regulations which makes the scope of application of the various quality of service and other obligations explicit with reference to the relationship they refer to.

7. ISPA submits that further granularity is required in the application of the various parameters set out in the Draft Regulations. ISPA’s position is that the current regulations should be repealed and replaced with a new set of regulations formulated to cater for specific broad categories of services offered by licensees by stipulating different sets of minimum standards for such broad categories of service.

8. ISPA recognises that the Draft Regulations are more nuanced than the existing Regulations, but submits that this process needs to be taken further.

8.1. Section 69(4) explicitly recognises that the Authority may, although it is not obliged to do so, develop different minimum standards for different services. The ECA itself appears to appreciate that there may be a need to differentiate in this regard between different types of services, notwithstanding the principle of technology neutrality.

8.2. The proposed breakdown into mobile services, fixed wireless services and fixed wireline services is obviously useful, but ISPA submits that there needs to be further accommodation for specific services.

8.3. For example: the delay time and latency specification (Regulation 4.5) needs to specifically provide for VSAT Internet provisioning. The laws of physics dictate that latency of around 600 – 700ms can be anticipated using a VSAT system. It would further be reasonable to provide a margin to a quality of service figure in recognition of the factors that can affect latency and in this way a figure of 900 – 1 000ms could be stipulated. A licensee providing this service will simply not be able to comply with the generic proposed figure of "not more than 150 - 200ms" to be "available 95% of the time during peak hour".

8.4. ISPA also refers to the ADSL Regulations[6] previously published by ICASA under the Telecommunications Act of 1996 as an example of service-specific quality of service parameters. In making such a referral ISPA in no manner signifies its support for the specific parameters set out in those Regulations.

9. ISPA believes that it flows from the fact that there is incredible diversity in the products and services being offered by ECA licensees, that a more granular approach is required before we can arrive at a workable, robust piece of consumer protection regulation.

10. ISPA suggests the following amendment to the clause, together with such amendments as the Authority may wish to consider flowing from the above submissions.

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[6] General Notice 1112 GG 29141, 17 August 2006

Where do the figures come from?

11. ISPA notes that the Authority has proposed to amend several of the quality of service parameters contained in the current regulations but it is by no means clear why this is being done or on what basis specific parameters are now being proposed.

12. If a time period is to be shortened, is this based on an analysis of the responses submitted to date by licensees under the existing regulations?

13. ISPA submits that it would be extremely useful if the Authority were to publish an explanatory memorandum or other document which could serve as a guide to the basis on which the different parameters have been proposed. This would enable proper responses to this consultation and also allow licensees to evaluate the applicability of parameters to the specific services which they provide.

Scope of reporting

14. It is evident from the submissions received from ISPA members that there is significant confusion as to the scope of the report to be compiled by a particular licensee.

15. Members query, for example, whether they are required to report on service availability where such availability is largely a function of the availability of an upstream network. Where a member provides VoIP services over countless 3rd party networks (including the Internet) do they provide call data records based on the client's broadband connection that it don't provide? How does it delineate where the fault lies and how does it handle the fact that complaints will be directed at it because it has a retail relationship with the complainant (even though it may be in no way at fault)?

The regulations remain mobile-centric and voice-centric

16. ISPA has been involved in the process of drafting and refining these regulations since the inception of such process. It has at all times been evident that:

    16.1. The obligations included as minimum standards are based on similar obligations set out in the Mobile Cellular Telecommunications Service (MCTS) and Public Switched Telecommunications Service (PSTS) licences issued under the Telecommunications Act of 1996.

16.2. The Authority, having adopted the so-called "thin licence principle", seeks to house these minimum standards obligations in an appropriate regulation so as to ensure that they continue to function to protect consumers.

16.3. The minimum standards, having been derived from a technology-specific source, do not sit comfortably within a single regulatory document seeking to bind all service providers.

Utility of reporting under the existing Regulations and the regulatory burden

17. A number of ISPA members have queried how the Authority currently analyses submissions made under the existing regulations and the effectiveness of the link between their obligations under the existing regulations and effective consumer protection.

18. The general view in this regard is that it is by no means clear to members that the Authority even reads their submissions. Receipt is not acknowledged and there does not appear to be any publicly-available document which is available to consumers to assist them in exercising their rights to choose and complain. Nor is ISPA aware of any successful complaints lodged against a licensee under the existing Regulations.

19. The surrounding context for this view is that compliance with regulations of this nature is extremely burdensome and represents a real cost to licensees. Smaller licensees are particularly challenged given their capacity constraints as against the need to spend several days every month compiling the required reports.

20. The difficulties in compiling these reports and the disjunction between the Draft Regulations and the practical realties of running a telecommunications company or ISP are reflected in the following submission from an ISPA member:

"The big problem is that clients email in, log trouble tickets, tickets get responded to, closed, re-opened, etc. Sometimes they reply on old ticket refs with unrelated matters. E.g. If their last email from us was titled "[SWT #1234] Service fault" and they want a routine switchboard change, rather than send a fresh email, they'll just reply on the old one, re-opening the ticket relating to the fault.

So a fault that was restored months ago now reflects as being open again and, even if we close that ticket and open a new one, resolution of the original ticket now reflects as months after the opening date.

There is also the matter of the time difference between when we say we've resolved an issue and the customer agrees. In some instances, we mark it as resolved and they never reply again. In others, they may respond a week or two later saying that they're unhappy, only for us to find that the original issue was either not 100% resolved, or, that it was, but they've now got another different issue that they regard as one and the same as the first.

This is aggravated by insufficient info. E.g. We often reply telling the customer that they've provided insufficient information for us to investigate and close the ticket. If they reply, the matter is re-opened. Does the week it takes them to provide the information count towards resolution time? Well, not in terms of the regulations ("time of acceptance"), however, the fact is that the ticket now shows an opening time of a week ago.

As a result, there is no magic way to extract time-to-resolve figures from customer queries. Even if ICASA ask us to do this, the stats are going to be determined in the most discretionary and fudged manner that each licensee deems fit to make it look compliant."

21. ISPA accordingly requests that the Authority make specific reference to its own obligations in respect of analysing and collating the various reports submitted and utilising these for their intended purpose. The Authority needs to decide:
    21.1. what exactly they're hoping to achieve with the data they receive,
    21.2. how they intend validating it,
    21.3. the cost of producing it, and
    21.4. the frustration to end-users who have to be inconvenienced with inflexible systems built to meet the reporting requirements.

Alignment of Draft Regulations with other regulatory instruments

22. ISPA notes that the Draft Replications duplicate and some cases amend miscellaneous requirements set out in other regulatory instruments previously gazetted by the Authority.

22.1. Sections of draft regulation 7 relating to billing appear in the Regulations Regarding Standard Terms and Conditions for Individual Licences whilst other parts of that draft Regulation appear in the Code of Conduct for Electronic Communications and Electronic Communications Network Services Licensees.

22.2. There is, however, no explanation for the duplication of the provisions of these regulations and this is necessary particularly where there are differences between the different sets of regulations. These should be aligned for certainty.

Vagueness of the parameters used

23. ISPA submits as a general comment – expanded on below – that most of the parameters proposed are too vague to be of any use.

24. If the Authority is not going to provide the required level of specificity the results will be largely useless and inconsistent, not allowing like-for-like comparison. For example: as regards packet loss and latency: Where are you testing from? Where to? How frequently? What packet size & type?

25. The Authority is requested to recall in this regard its previous experience with the aforementioned ADSL Regulations and the difficulties presented by the vague definition of the term "contention" set out therein.

26. The manner in which these questions are answered by licensees will of itself have a dramatic impact on the results reported.

Definitions

27. ISPA notes that the definition of 'Fault' just references the failure of a network which results in disruptions or degradation of services, which also has an impact on related definitions.

27.1. ISPA wishes to highlight that many licensees are also reliant on upstream providers' networks, and have no control over such networks or failures on such networks.

27.2. Accordingly, ISPA submits that the following amendment to the proposed definition:

"Fault" *means the failure of* <u>*the licensee's*</u> *[a] network which results in disruptions or degradation of services.*

28. The use of the word "disruption" causes confusion in the definition of "Disconnection", considering that the definition of "Fault" also makes reference to "disruption". We therefore propose the definition be amended as follows:

    *""**Disconnection**" means a process whereby a subscriber's service is <u>suspended</u> **[disrupted]** or terminated by the service provider".*

29. The definition of "Fixed Wireline Service" is inadequate in clarifying the services that fall within it. The definition requires further clarity and the use of examples of the different types of services under these definitions would assist in identifying them better.

30. ISPA wishes to point out that the definitions of 'Installation' and 'Service Installation' are substantially similar, and considers the latter to be redundant and suggests that it be deleted. The latter term is only used once in the Draft Regulations, in Schedule 2.

31. ISPA also notes that the Authority is conflating 'Installation' with 'Service Activation'. Installation is meant to reference setting up the network portion, not the service. Accordingly, it is submitted that the Authority revise the definition of 'Installation', and instead use the definition of 'Installation' in the Regulations, wherein it is defined as:

    ***"Installation"** means making available the network infrastructure on the customer interface side.*

Availability of ECNS

32. The Draft Regulations indicate that there is a target of 99% for the availability of ECNS, and that the reporting period is quarterly.

33. However, the Draft Regulations do not include this in the Compliance Report contained in Schedule 2, nor do the Draft Regulations set out how this is to be measured (whether 99% averaged over the 3 months, or 99% per month).

34. ISPA further submits that compliance with this requirement will pose particular problems for licensees who are currently relying on licence-exempt spectrum in order to provide services. More often than not such reliance is a function of the continued delays in making licensed spectrum suitable for the provision of access services available to licensees.

Availability of ECS

35. The Draft Regulations indicate that there is a target of 95% for the availability of ECS, and that the reporting period is quarterly.

36. However, the Draft Regulations do not include this in the Compliance Report contained in Schedule 2, nor do the Draft Regulations set out how this is to be measured (whether 95% averaged over the 3 months, or 95% per month).

Average Time to Install and Activate Services

37. ISPA notes that the measurement parameter lists Activation, and assumes that the Authority means this to be a reference to Service Activation as defined in the Draft Regulations.

38. The target for the measurement parameter for Installation of Fixed Wireless/Wireline Services is listed as 95% within 20 days in the Draft Regulations. The Regulations specify that licensees must attain a 90% success rate within 30 days, with the remaining 10% being met within 40 days of request. There is thus an increase in the requirement for Installation and a lessening of the time period within which the requirement is to be met, and ISPA would like to query on what basis this has been done, and on what networks has the Authority based such change – there has been a lack of information to indicate why this change has been made. While a fair number of ISPA members can meet this requirement, it is submitted that the type of network may have an impact on the average time for installation, and that the Authority should consider the different types of installations and determine the installation periods based on that.

39. The Compliance Report contained in Schedule 2 only requires reporting on Installation by Fixed Wireline Services, with the overall target listed as 98%, separated into 79% within 24 hours and 19% within 5 working days. There is thus a discrepancy between the requirement in the Draft Regulations and the reporting obligation in the Compliance Report in Schedule 2 thereto. ISPA recommends that the Authority align the reporting obligations with the requirement.

40. The target for the measurement parameter for Activation of Fixed Wireless/Wireline Services is listed as 95% within 5 days in the Draft Regulations. The Regulations specify that licensees must attain a 90% success rate within 7 days, with the remaining 10% being met within 15 days.

41. ISPA is not sure as to the basis for the reduction of the above time periods from those set out in the existing regulations.

42. The Compliance Report contained in Schedule 2 only requires reporting on Service Activation by Fixed Wireline Services, with the overall target listed as 99%, separated into 95% within 5 days and 4% within 8 days. There is thus a discrepancy between the requirement in the Draft Regulations and the reporting obligation in the Compliance Report in Schedule 2 thereto. ISPA recommends that the Authority align the reporting obligations with the requirement.

Average Time to Clear Faults

43. The target for the measurement parameter for clearing faults of Fixed Wireless/Wireline Services is listed as 90% within 3 days in the Draft Regulations. The Compliance Report contained in Schedule 2 only requires reporting on the Fault clearance rate by Fixed Wireless Services, with the overall target listed as 90%, separated into 80% within 24 hours and 10% within 5 working days. There is thus a discrepancy between the requirement in the Draft Regulations and the reporting obligation in the Compliance Report in Schedule 2 thereto. ISPA recommends that the Authority align the reporting obligations with the requirement.

Connectivity Failure Rate

44. For Internet session login success ratio, the Draft Regulations require that dial-up users must be able to connect at least 95% of the time. The Compliance Report in Schedule 2 indicates that dial-up users must be able to connect at least 90% of the time. In addition to the discrepancy noted, ISPA would also like to query whether this is only meant to apply to those providers offering dial-up access, and as such can be ignored by providers utilising broadband.

Latency

45. The draft Regulations provide no indication of the distance over which the calculation of latency is to be conducted. ISPA submits that finalised regulations should clearly indicate that calculations are required for a national destination or specify an international region to which the measurement applies.

46. ISPA submits that the term "delay ratio" is redundant as it bears the same meaning as the term "latency". The former should be deleted.

Broadband speed

47. ISPA is uncertain as to what reporting is required under this metric and requests that the Authority provide clarity thereon.

Operator Assisted Call Response Time

48. ISPA requests clarity on whether what is required to be reported is an average of response times over the quarterly reporting period.

49. ISPA questions the methodology to be used by the Authority to validate data submitted by licensees in this regard.

Billing

50. Draft sub-regulation 7.2 (b) requires that licensees must provide subscribers with itemised billing statements showing "detailed records of SMS, voice and websites visited, where data was used".

51. ISPA submits that this appears to be a prime example of the mobile-centric nature of the Draft Regulations referred to above. Within the context of the confusion engendered by much of the Draft Regulations ISPA can only assume that it is the intention of the Authority that this requirement only apply to providers of mobile services, but cannot be certain in this regard.

52. The Authority is requested to note that:

52.1. There is no current obligation on licensees to monitor websites visited unless requested to do so by relevant law enforcement authorities. In fact, section 78 of the Electronic Communications and Transactions Act 25 of 2002 specifies that there is no general obligation on service providers to monitor the data which it transmits or stores.

52.2. The requirement which the Authority seeks to impose will constitute a criminal offence under the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 ("RICA") unless it is done with the express consent of the consumer.

53. The Draft Regulations specify that 90% of billing complaints must be resolved within 14 calendar days, with the reporting period being quarterly. The Regulations state that complaints are to be resolved within 14 days. ISPA would like to query why the time period for the resolution of complaints has been shortened, and on what basis the Authority has made this change.

54. Draft sub-regulation 7.3 sets out rules in defining a suitable degree of end-user protection regarding billing complaints, stipulating, inter alia, that a licensee must not require payment of disputed bills pending findings of its investigation.

55. ISPA submits that this is out of touch with reality and wishes to bring to the attention of the Authority the below submission received from a member:

"Payments not required and no disconnection pending outcome of a dispute? Really? Come on! I can cite one customer who, if that was the rule, would have caused us to go bankrupt, through intentional and deceitful abuse of "disputes" to avoid paying what would have easily racked up to millions of rands in the space of time that it would have taken for formal dispute procedures to be effected. Never mind the fact that dispute resolution (typically arbitration or court) costs hundreds of thousands of rands in legal fees. Are we supposed to simply allow people to get away with disputing amounts endlessly because they know that, unless the amount exceeds R250,000, it is too expensive for us to go to arbitration or court? Can ICASA even do this? Is it not a breach of various other laws (perhaps even the constitution)? At a push, if they are going to try and enforce this, then the disputed amount must be payable to an independent attorney and held in trust pending the outcome of the dispute, so that this provision cannot be abused by deceipt. If a dispute is genuine, then the complainant should not be afraid to lodge payment or equivalent security with the arbitrator."

Complaints Procedure

56. ISPA notes and appreciates the more detailed and nuanced complaints reporting and escalation procedure proposed.

57. ISPA notes, however, and notwithstanding prior submissions in this regard, that the Draft Regulations do not make provision for the fact that many licensees are members of self-regulatory bodies and that complaints may be escalated from licensees to bodies such as ISPA before being escalated to the Authority.

58. In this regard it is important for the Authority to recognise that ISPA is an Industry Representative Body (IRB) recognised as such by the Minister of Communications in terms of Chapter 11 of the Electronic Communications and Transactions Act 25 of 2002 ("the ECT Act").

59. ISPA accordingly requests that the Authority clarify the chain of escalation as against our current understanding of the manner in which the complaints process will work in respect of ISPA's members, i.e.

    59.1.1. complaint first laid against licensee which is an ISPA member;

    59.1.2. thereafter escalated to ISPA if not resolved to the satisfaction of the complainant by the licensee/ISPA member; and

    59.1.3. thereafter the complainant may escalate the matter to ICASA if it is still not resolved to their satisfaction.

60. A failure to clarify this may lead to forum-shopping and confusion on the part of consumers.

61. ISPA notes further that it has previously attempted to engage with the Authority - and its Consumer Affairs Division in particular – to enter into a memorandum of understanding which would regulate the handling of complaints as between the Authority and ISPA, to the benefit of consumers of licensed services provided by ISPA members. Notwithstanding two years of attempted engagement no substantive response was received from the Authority and ISPA has abandoned this effort. Should the Authority consider that this is a desirable initiative then it is invited to contact ISPA.

Reporting on Escalated Complaints

62. ISPA strongly opposes the proposed obligation to the effect that licensees are required to "prepare and submit, on a monthly basis, a report of all complaints forwarded to it by the Authority in the format prescribed by the Authority from time to time".

63. ISPA notes that:

    63.1. Reports in respect of complaints were previously required to be submitted on a bi-annual basis.

    63.2. The information to be submitted to the Authority is in any event the subject matter of communications entered into between the Authority and licensees under the Complaints Procedures proposed under draft regulation 8, specifically the escalation of a consumer complaint to a licensee by the Authority under draft sub-regulation 8.2.2.v and the responses required by the licensee under draft sub-regulation 8.3.

64. In the event ISPA submits that this reporting requirement serves no purpose whatsoever other than to duplicate already existing records, constitutes an unnecessary and unwanted regulatory burden and should be deleted.

65. The practical difficulties in reporting on complaints are illustrated by the following submission received from an ISPA member:

    "If we have to report in this manner, the only viable manner to do so will be to REFUSE EMAIL as a means of logging queries. Clients will have to log the queries online via custom portals that are built specifically to meet ICASA's measurement and reporting criteria. When we mark a matter as resolved, we will NOT ALLOW RE-OPENING. i.e. If the client feels that the matter has not been resolved, they will have to log a new fault. This, once again, will lead to fudging of the figures, with ICASA seeing more faults with faster resolution time, rather than fewer faults with longer resolution time.

    Of course, all this means dumping the tried-and-trusted CRM systems that we've invested heavily in and that allow us to communicate with our clients in the manner they're familiar with (e-mail, phone, etc.) and replacing with expensive, new and untested custom-developed systems that only allow

logging via web portal.

Oddly enough, Telkom went a similar route with its archaic Uniweb / Unibase system. It is infuriating that, when a fault is open and, for whatever reason, one needs to wait a period of time to collect additional data to facilitate resolution of that fault (or to confirm resolution or non-resolution), they cannot keep the fault open and mark it as resolved. You then have to keep logging new faults and the matter gets assigned to new people who're unfamilar with it, etc. The whole thing falls apart.

This is as much of a debacle as the ADSL reporting regulations and we've all seen what a dismal failure those turned out to be."

Rebate

66. ISPA is strongly opposed to the notion that the Authority can through regulation of this nature stipulate rebates. ISPA appreciates the intention of the Authority to provide relief to consumers but submits that:
    66.1. It is not practically possible to implement the proposed rebate system.
    66.2. The obligations set out in the Draft Regulations are too vague, nebulous and inappropriate in their application to certain service forms to allow for accurate reporting and therefore to allow for the application of a rebate system.
    66.3. It will in many instances be unclear as to which party is responsible for payment of the rebate. This is especially so where an electronic communications service licensee has a retail relationship with a consumer in respect of a service, the provision of which is directly reliant on the provision of upstream connectivity services by an electronic communications network services licensee. The practical difficulties involved in a retail consumer seeking the rebate from its service provider who must in turn seek the rebate from the upstream licensee are massive. The Authority has direct experience of the difficulties presented by such arrangements through its attempts to introduce e-Rate regulations which allow the downstream licensee to require that an upstream licensee pass through the 50% discount to be made available to a qualifying school.
    66.4. In the words of one ISPA member:

This one is a bit harsh, let's say the client has an DSL line which is under my wholesale agreement with Telkom. We report the line down to Telkom and they take their time to repair. They are not going to give us a rebate, we however have to give our clients the rebate.

66.5. The proposed rebates constitute an unwarranted and unlawful interference in the commercial relationships established between licensees and between licensees and consumers of their services on a retail basis.

Service Upgrades

67. ISPA suggests the following amendment to the table set out in this proposed regulation (underlined text signifying ISPA's suggested additions:

Notice time for network upgrades, cutovers <u>or planned maintenance</u>	Notice to the end-users	<u>At least</u> 24 hours' notice

68. It is not clear to ISPA why this proposed regulation does not deal with planned and unplanned maintenance. Both forms of maintenance are realities for network operators.

Reporting and Publication

69. ISPA refers to the proposed regulation 14(b) which requires licensees to "publish a list of non-cleared faults on their websites, print and broadcast media".

70. In the first instance ISPA is not convinced as to the utility of this provision. Consumers who are affected by faults will be well aware of the progress or lack thereof as regards the resolution of such faults and this may in any instance constitute personal information which the consumer does not want to be made publicly available.

71. Further, and if the Authority determines to retain this requirement, ISPA cannot believe it is the intention of the Authority that a licensee should be obliged to publish such a list through all three channels. ISPA submits that it is more than sufficient for such information to be made available on

the licensee's website and that this can be achieved by allowing only the affected consumer to access the status of the fault reported in a member's zone or similar restricted part of the website.

Contraventions

72. ISPA submits that the aforegoing analysis should make it abundantly clear that it is not possible in all instances and with reference to the different forms of electronic communications network services and electronic communications services currently available to:
    72.1. Achieve the targets as set out in the service parameters in the Draft Regulations; or
    72.2. Publish accurate information to the Authority about its quality of service.

Repeal of Regulations

73. ISPA notes the intention to repeal the existing Regulations.

74. ISPA queries whether the Authority should also seek to repeal or amend:
    74.1. The Compliance Manual Regulations[7] insofar as they relate to the Draft Regulations; and,
    74.2. The Minimum Standards for End-user and Subscriber Service Charter Reporting Format.[8]

Schedule 2

75. ISPA refers the Authority to the submissions above relating to the disjunctions between the reporting requirements as set out in the body of the Draft Regulations and the proposed reporting format as set out in Schedule 2 to the Draft Regulations.

76. ISPA notes that there are some references to 'working days' in the Compliance Report, with other references to 'days'. ISPA assumes that the Authority means the latter to be a reference to calendar days. ISPA requests that the Authority be explicit if that is the case, by referring to 'working days' where relevant and to 'calendar days' where relevant. ISPA also requests that this change be carried over into the text of the Draft Regulations. A failure to be explicit in this regard only serves to create unnecessary uncertainty.

[7] General Notice 275 of 2010, GG 33046, 19 March 2010
[8] General Notice 76 of 2012, GG 34978, 27 January 2012

Conclusion

77. In conclusion, ISPA is gravely concerned that the provisions of the Draft Regulations are replete with unintended consequences.

78. ISPA trusts that the above submissions will be of assistance to the Authority in its efforts to understand the implications of its proposals and will gladly provide any further assistance which may be asked of it.

79. Should the Authority hold oral hearings – or, preferably, workshops – ISPA hereby gives notice of its intention to participate.

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