



**Submission to the Independent Communications Authority Of South Africa  
Draft Standard Terms and Conditions Regulations- Individual Licences, Government**

**Gazette No. 38918, 26 June 2015**

**and**

**Draft Standard Terms and Conditions Regulations- Class Licences, Government Gazette**

**No. 38920, 26 June 2015**

**Submission date: 7 August 2015**



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## INTRODUCTION

1. Neotel welcomes the opportunity to make these written comments on the Draft Standard Terms and Conditions Regulations published in Government Gazette (“GG”) no. 38918, (“the Individual Licence Draft Regulations”). In this written submission, Neotel also makes brief comments on the Draft Standard Terms and Conditions Regulations - Class Licences published in GG No. 38920 on 26 June 2015 (“the Class Licence Draft Regulations”).
2. Neotel thanks the Independent Communications Authority of South Africa (“the Authority”) for this consultative approach.
3. Neotel’s submission commences with general comments, followed by remarks on specific sections covered in the Individual Licence Draft Regulations. The specific comments are on Schedule 2 and Schedule 3 of the Individual Licence Draft Regulations. We then move onto the Class Licence Draft Regulations section. Lastly we make concluding remarks.

## GENERAL COMMENTS

4. The Authority seeks to amend the Regulations regarding Standard Terms and Conditions for Individual Licences under Chapter 3 of the Electronic Communications Act no. 36 of 2005 (“ECA”), GG no. 33294 published 14 June 2010 (“the Current Regulations”).
5. Neotel commends the Authority for amending the Current Regulations to align the provisions to the ECA as amended, which came into operation on 24 May 2014.
6. The electronic communications industry is dynamic and develops rapidly which thus requires the Authority to continuously assess current regulations and amend when necessary.

## SPECIFIC COMMENTS ON SCHEDULE 2 OF THE INDIVIDUAL LICENCE DRAFT REGULATIONS

7. This section covers specific comments on the regulations on the Amendment Standard Terms and Conditions for Individual Electronic Communications Network Service 2015 (“Individual ECNS Draft Regulations”).
8. Neotel supports the amendments in regulation 2(1) of the Current Regulations. The addition of subsection 2(1)(e) is necessary as it has financial implications for licensees, insofar as the financial year end impacts the licensees’ schedule in submitting Annual forecasts for the General Licence fee and the Universal Service and Access Fund. It is therefore crucial for the Authority to be notified of any changes. The Authority should allow flexibility in payment of due dates with regards to Annual Spectrum Fees, General Licence fee and the USA Fund contributions, taking into consideration the licensee’s internal auditing processes.

9. Neotel's is of the view that sub-regulation 2(2) should not be repealed in the draft ECNS Regulations. The parameters within which shares can be changed or transferred should comply with the licence terms and conditions and the underlying provisions of the ECA. These parameters can further be defined in the Final Process and Procedures regulations.
10. Moreover, sub-regulation 2(2) should make reference to the Compliance Procedure Manual Regulations published 15 December 2011 in GG no. 34863 ("Compliance Manual"). Form 1 of the Compliance Manual outlines all the regulatory reporting requirements emanating from the Current Regulations.
11. Neotel recommends an amendment to Regulation 3 of the Current Regulations, which pertains to the Licence area definition. Neotel hereby recommends that regulation 3 should read as follows:  
  

*"The licence geographic area covered is as defined in the Individual or Class Licence issued by the Authority."*
12. Neotel supports the period within which licensees should commence with operations after being granted a licence. The period of twelve (12) months from the effective date is sufficient and Neotel also welcomes the possible extension of commencement in circumstances when licensees experience delays.
13. Neotel requests the Authority to clarify sub-regulation 5(2) of the Current Regulations. This sub-regulation requires licensees to notify the Authority of service disruptions that occur for an uninterrupted twelve (12) hour period. Neotel requests the Authority to define the scope and extent of the service disruption, for example the geographic scope can be defined on a district or national level. Neotel believes that the intention of the Authority is not to obligate licensees to notify the Authority of service disruptions that impact a single customer. Therefore the real intention should be clearly explained.
14. In the Individual ECNS Draft Regulations, Regulation 9 which relates to the Publication of Tariffs and Fees is repealed. Neotel welcomes the withdrawal of Regulation 9. Upon finalisation of these Individual ECNS Draft Regulations, the Compliance Manual should be amended as the reporting requirements in Form 5 (Tariff Reporting Form) will be redundant.
15. Neotel supports the amendment of sub-regulation 10(5) to cover billing items for both voice and data calls.
16. Neotel advocates the reduction of the fine for contravention of the ECNS Draft Regulations. Neotel submits that the fines stipulated in regulation 12 to be more fitting or appropriate for the nature and impact of the contraventions.

### SPECIFIC COMMENTS ON SCHEDULE 3 OF THE INDIVIDUAL ECS DRAFT REGULATIONS

17. This section covers specific remarks on the regulations on the Amendment Standard Terms and Conditions for Individual Electronic Communications Service 2015 (“Individual ECS Draft Regulations”).
18. In the Individual ECS Draft Regulations, the duration of the licence is changed from fifteen (15) years to twenty (20) years. Neotel supports the increase of the licence validity.

### SPECIFIC COMMENTS ON SCHEDULE 2 AND 3 OF CLASS DRAFT REGULATIONS

19. This section covers specific comments on the Amendment Standard Terms and Conditions for Class Electronic Communications Network Service 2015 and the Amendment Standard Terms and Conditions for Class Electronic Communications Service 2015, herein referred to as (“Class Draft Regulations”)
20. Neotel proposes an amendment to regulation 3 of Schedule 2 and regulation 3 of Schedule 3, by the insertion of the word **only** in the restriction of licence area, the regulation should read:

*“A licensee must provide services only within its licence area”*

This will eliminate possible interference on the radio frequency spectrum.

### CONCLUSION

21. Neotel thanks the Authority for the opportunity to make this written submission.
22. Neotel remains at the Authority’s disposal to clarify any issue that may arise from this submission.