



3 January 2018

Independent Communications Authority of South Africa

Attention: Chairperson, Priority Markets and Data Services Committee

Per email: prioritymarkets2017@icasa.org.za

DRAFT END-USER AND SUBSCRIBER SERVICE CHARTER AMENDMENT REGULATIONS

1. WAPA refers to the Draft End-User and Subscriber Service Charter Amendment Regulations published as General Notice 901 in Government Gazette 41263 of 17 November 2017 (“the Draft Regulations”) and to the Authority’s invitation to comment thereon.
2. WAPA currently has 250 members, the majority of whom hold Electronic Communications Network Services (“ECNS”) Licences and Electronic Communications Services (“ECS”) Licences issued in terms of the Electronic Communications Act, No. 36 of 2005 (“ECA”). These members will be subject to the Draft Regulations and the obligations contained therein, which means they have a direct interest in the Draft Regulations. WAPA accordingly sets out its comments and concerns on the Draft Regulations herein.

General Comments

3. WAPA understands that the Authority aims to protect and educate end-users, and supports the Authority’s consideration and revision of the existing Regulations to ensure that these needs are met.
4. WAPA members are of the view that the Authority continues to conflate the different markets in which ECS and ECNS licensees operate, which results in one-size-fits-all regulations that – in this case – only apply the mobile operators and do not factor in the other types of services offered by licensees. This can result in regulations that are either not applicable to the majority of ECNS and ECS licensees, or in regulations that the majority of ECNS and ECS licensees cannot practically be expected to comply with. WAPA has raised this before, notably in December 2015 and in February 2016 in its responses during the drafting process leading up to the current Regulations. WAPA members have also raised this directly with the Authority in the course of their compliance reporting. WAPA urges the Authority to consider the different markets when finalising the Draft Regulations.

www.wapa.org.za | Tel: +27 12 655 2394 | Fax: 086 579 2606
Postnet Suite No. 477, Private bag X1007, Lyttelton, South Africa, 0140

Management Committee:
Tim Genders (Chairperson), Coenraad Loubser (Treasurer),
Karel Venter (Deputy Chair) Francois Fourie, Marcu de Ru, Riyaz Kerbelker
Estelanie Kennedy (Secretariat)

Specific Comments

Amendment of Regulation 1 of the Regulations

5. WAPA recommends that the Authority insert definitions for “pre-paid” and “post-paid”, so licensees are clear on which subscribers fit into which category. WAPA would be willing to provide proposed draft wording for these definitions if requested to do so.
6. WAPA notes the deletion of the definition of “Quality of Service Measurements”, and understands this to mean that the Authority will not be prescribing methodology to measure the quality of service to an end-user.

Amendment of Regulation 4 of the Regulations

7. WAPA recommends that the Authority require that licensees conduct these random checks on a representative sample of points of sale and service outlets; it may not be feasible for licensees to conduct random checks on all points of sale and service outlets and to report thereon every 6 months.

Amendment of Regulation 5 of the Regulations

8. WAPA notes this proposed amendment.

Amendment of Regulation 8 of the Regulations

9. WAPA notes that the deletion of sub-regulation 7 has the effect of removing sub-regulation 7(b), which relates to end-user acceptance for subscription to third-party services.

Insertion of Regulations 8A, 8B and 8C respectively in the Regulations

- Proposed Regulation 8A

10. WAPA notes this proposed insertion.

- Proposed Regulation 8B

11. WAPA wishes to highlight a minor error in the wording of regulation 8B(1)(d), which should read:

(d) provided an option through SMS, push notification, USSD or any other applicable means to opt-in or opt-out of out of bundle usage per session.

12. WAPA submits that the wording of regulation 8B(3) should make the Authority’s intention clear, ie that all pre-paid data bundles should only expire after 3 years save where they have been exhausted prior to the expiry of this 3-year period.
13. WAPA submits that it would not be feasible to allow post-paid users to transfer their monthly data allocation or portions thereof to other end-users as required in regulation 8B(4) for various reasons, including that users might be on the same network but have different service

providers, and that this would require licensees to develop systems to allow for this which might have the unintended consequence of driving up the data prices. WAPA accordingly recommends that this requirement in regulation 8B(4) be deleted.

- Proposed Regulation 8C

14. WAPA understands the need for consumer awareness on service offerings and Internet usage, but is of the view that this section results from the conflation of the different markets in which ECS and ECNS licensees operate, as noted above. The content of this proposed regulation suggests that the Authority intends mobile operators to conduct these education awareness campaigns. It would not be feasible to expect all licensees to conduct such education awareness campaigns.
15. WAPA accordingly recommends either the deletion of this proposed regulation, alternatively the amendment of the wording thereof to indicate which category or market of ECS licensees is required to run such education awareness campaigns.

Amendment of Regulation 13 of the Regulations

16. WAPA notes this proposed amendment.

Short Title and Commencement

17. WAPA recommends that the Authority ensure that the final regulations that result from this process do have a phasing-in timeline rather than coming into operation on date of publication. This will ensure that licensees understand the new Regulations and can comply with the provisions contained therein, and will also allow the Authority to ensure that internal processes are in place to deal with the new Regulations.

Conclusion

18. WAPA thanks the Authority for its efforts herein, and requests that the Authority afford it the opportunity to make oral presentations at any public hearings which it may elect to conduct in connection with this process.

Regards,
WAPA Regulatory Advisors