



**NOTICE OF INTENTION TO CONDUCT A REGULATORY IMPACT
ASSESSMENT ON THE END-USER AND SUBSCRIBER SERVICE CHARTER
REGULATIONS**

The Independent Communications Authority of South Africa, hereby publishes the attached notice regarding a Regulatory Impact Assessment (RIA) on the End-User and Subscriber Service Charter Regulations, Government Gazette No. 41613 ("the amendment Regulations").

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

Dr. K Modimoeng
Acting Chairperson



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE OF INTENTION TO CONDUCT A REGULATORY IMPACT

ASSESSMENT ON THE END-USER AND SUBSCRIBER SERVICE CHARTER

REGULATIONS

1. Introduction

1.1. The Independent Communications Authority of South Africa ("the Authority"), hereby publishes a notice of intention to conduct a Regulatory Impact Assessment (RIA) on the End-User and Subscriber Service charter Regulations published in Government Gazette No. 41613 ("the amendment Regulations").

2. Legal basis for the Regulatory Impact Assessment

2.1 In terms section 4(3)(h) of the ICASA Act No. 13 of 2000 the Authority *"may conduct research on all matters affecting the broadcasting, electronic transactions, postal and electronic communications sectors in order to exercise its power and perform its duties"*.

2.2 In addition, regulation 9 of the Standard Terms and Conditions Regulations, Government Gazette No. 39875, states that:

(1) *"The Authority may, in the course of carrying out its obligations under the Act, require a Licensee to provide any information*

including documents or books not ordinarily required, so as to enable it to:

- a) ...;*
 - b) allow for the assessment and allocation of applicable fees and related requirements;*
 - c) facilitate the efficient use of radio frequency spectrum; and*
 - d) collect and compile information to be used for research purposes, planning, reporting and conducting inquiries.*
- (2) In respect of each information request referred to in subregulation (1), except where otherwise addressed in applicable regulations, the Authority will provide, among other things, detailed specifications of its information request, applicable response times and a contact person to whom queries may be addressed.*
- (3) A Licensee must submit all the required information as required by the Authority in terms of subsection (1).*
- (4) In the event where a Licensee or its representative refuse or fail to provide the Authority with requested information in terms of subregulation (1), the Authority may, after reasonable attempts, refer the matter to the Complaints and Compliance Committee.”*

3. Problem Statement

- 3.1 The purpose of the assessment is to evaluate the impact of the amendment of the Regulations on licensees and end-users.
- 3.2 The amendment Regulations were necessitated by general concerns raised by various stakeholders, including consumer groups and social media campaigns, with regard to data expiry rules, high out-of-bundle

rates and rules and also out-of bundle voice and Short Messaging Service ("SMS") rules that were applied by licensees.

3.3 The effect of these industry rules and/or practices prejudiced consumers and were perceived to be contrary to the provisions of section 63 of the Consumer Protection Act No 68 of 2008 ("CPA").

3.4 To address the above-mentioned concerns, the provisions of the amendment Regulations aimed to among others, empower end-users in terms of practices related to:

3.4.1 notifications, out-of-bundle ("OOB") practices

3.4.2 roll over of unused data,

3.4.3 transfer of unused data,

3.4.4 options for opting in and out,

3.4.5 educational awareness

3.5 The following RIA aims to address questions on the impact (i.e. financial, non-financial costs and benefit) of the amendment Regulations on licensees and end-users.

4. The RIA Process

4.1. Following this notice, the Authority will follow the steps outlined below in conducting the RIA:

4.1.1 Phase 1 (commencement of the RIA)

a) The Authority hereby publishes this Notice and a questionnaire or request for information and opinions¹ from market participants and stakeholders.

¹ The questionnaire will be published on the Authority's website

- b) The information and opinions obtained from market participants and stakeholders will be taken into account when evaluating the impact of the amendment of the Regulations on licensees and end-users.
- c) Stakeholders are hereby invited to submit written responses to the questionnaire or request for information within thirty (30) working days from the date of publication of the notice and questionnaire.
- d) A copy of this Notice and a questionnaire or request for information will be made available on the Authority's website at <http://www.icasa.org.za>.
- e) Written representations regarding matters outlined in this Notice and a questionnaire or request for information must be submitted to the Authority by no later than 16h00 by the deadline indicated in paragraph c.

4.1.2 Phase 2 (Final RIA report)

- a) Having considered the views of all stakeholders, the Authority may publish on its website the final RIA report by no later than 31 March 2020.

5. Confidentiality

- 5.1. A stakeholder can request confidentiality on the information submitted in terms of section 4D of the ICASA Act.
- 5.2. The request for confidentiality in terms of section 4D of the ICASA Act must be accompanied by a confidential and non-confidential version of the submission

5.3. The Authority hereby refers stakeholders to the Guideline for Confidentiality published on 17 August 2018 in Gazette No. 41839 to assist the stakeholders when applying for confidentiality.

6. Timelines

6.1. The Authority aims to finalise this study in the 2019/2020 financial year.
The Authority may publish the impact assessment report on its website.

All communications relating to this assessment must be directed to Mr.Mphahlele at lmphahlele@icasa.org.za.