



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 441

Pretoria, 15 March
Maart 2002

No. 23234



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GENERAL NOTICE

NOTICE 356 OF 2002



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE OF INTENTION TO PRESCRIBE REGULATIONS ON CARRIER PRE-SELECTION IN TERMS OF SECTION 96 OF THE TELECOMMUNICATIONS ACT No 103 OF 1996 AS AMENDED ("THE ACT"), READ WITH SECTION 89C.

The Independent Communications Authority of South Africa ("the Authority") hereby gives notice that it intends to prescribe regulations on Carrier Pre-selection as attached in the schedule in terms of section 89C of the Telecommunications Act as amended.

Interested persons are hereby invited to submit written representations in relation to this regulation to the Authority **by no later than 19 April 2002** by post, hand delivery or facsimile transmission. Where available a softcopy of the corresponding hardcopy of the representation should be e-mailed to kassh@icasa.org.za.

The written representations must be addressed to **Mr Harrish Kasseepursad**, Acting Manager: Numbering, Independent Communications Authority of South Africa, Private Bag X1, Marlboro, 2063, or Block A, Pin Mill Farm, 164 Katherine Street, Sandton, Facsimile (011) 321-8550, Tel 011 321-8311 or Cell 082 903 0492.

Persons making written representations must clearly indicate in their representations if they wish to make oral representations including the duration thereof which shall not exceed one (1) hour. Should a request for such oral hearings be received then public hearings shall be held on a date to be determined by the Authority at Block C, Pin Mill, 164 Katherine Street, Sandton, Gauteng.

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MANDLA LANGA
CHAIRPERSON
ICASA

SCHEDULE

REGULATIONS FOR THE IMPLEMENTATION OF CARRIER PRE-SELECTION

1. DEFINITIONS

1.1 In these regulations, the following words will have the meaning given to them unless the context otherwise requires:

Carrier Pre-Selection means any facility by which subscribers to a telecommunication service can access the services of an interconnected (a) national long distance telecommunication service provider; and/or (b) international telecommunication service provider.

Carrier Pre-selection Process means the measures prescribed by these regulations by which a subscriber shall designate its choices of pre-selected operator(s) to provide its national long distance telecommunication services and/or international telecommunication services.

Designated Licence Holder means holders of licences designated by the Authority as having an obligation under these regulations to provide carrier pre-selection.

Functional Specifications means a document published by the Authority which specifies the technical characteristics and other principles which are intended to effect the efficient implementation of the carrier pre-selection process.

Per Subscriber Set-Up Facilities means the carrier pre-selection facilities required for a particular subscriber in order to meet that subscriber's request for carrier pre-selection.

Per Operator Set-Up Facilities means the carrier pre-selection facilities required from the providing carrier by any individual pre-selected operator for the routing of calls specified in a subscriber's request for carrier pre-selection, including arrangements for the electronic transfer of customer orders.

Pre-Selected Operator means the telecommunication service provider who is licensed to provide national long distance telecommunication services and/or international telecommunication services and has been selected by a subscriber at any given time as that subscriber's national long distance telecommunication service and/or international telecommunication service provider.

Providing Carrier means any PSTS provider, under-served area licensee, mobile operator and, as applicable, designated licence holder.

Qualified Carrier means all PSTS licensees and Sentech.

Subscriber means any person or entity who is a party to a contract or other similar arrangement that is in force with a telecommunication service provider

for the supply of a telecommunication service. The term subscriber includes new subscribers as defined in section 3.1.

System Set-Up Facilities means any alterations or additions needed to the providing carrier's facilities to enable it to provide carrier pre-selection which cannot otherwise be attributed to a specific subscriber or pre-selected operator.

- 1.2 In these regulations, any expression or word to which a meaning has been assigned by the Telecommunications Act, 1996 as amended (Act No. 103 of 1996) (hereinafter referred to as the "Act"), shall have the same meaning unless the context indicates otherwise.

2. REQUIREMENT OF CARRIER PRE-SELECTION

- 2.1. All providing carriers shall enable their subscribers to access the national long distance telecommunication service provider and international telecommunication service provider of their choice in accordance with these regulations by 31 December 2002.
- 2.2. In complying with these regulations, all providing carriers shall ensure that sufficient facilities are in place within their networks and such networks are interconnected to enable their respective subscribers to access the services of their pre-selected operators without the need for any access code, other than (i) a four-digit prefix for national long distance calling, (ii) not more than a two digit prefix for international calling, (iii) and to enable subscribers to override any pre-selected choice on a call-by-call basis by dialing an access code of no more than four digits.
- 2.3. The Authority may select an outside contractor unaffiliated with any South African telecommunication service provider to perform any function assigned to the Authority by the Act or these regulations.
- 2.4. The Authority may amend the requirements set forth in section 2 by Notice in the Gazette. Any subsequent amendments to the requirements set forth in section 2 shall be made in accordance with the Authority's Regulations on the Numbering Plan.

3. CARRIER PRE-SELECTION

- 3.1. New subscribers shall consist of those subscribers placed into service by a providing carrier after 31 December 2003.
- 3.2. All providing carriers shall inform their new subscribers of such new subscriber's rights with regard to carrier pre-selection and shall request that all such new subscribers select their national long distance telecommunication service provider and international telecommunication service provider at the time such new subscriber enters into a contract for service, service agreement

or other similar document or, if no such service agreement or similar document is entered into, prior to commencement of service.

3.2.1 All information provided under section 3.2, shall be provided on a non-discriminatory basis and shall provide no information with regard to national long distance telecommunication service or international telecommunication services other than to identify those service providers participating in the carrier pre-selection process.

3.2.2 Providing carriers shall implement carrier pre-selection for the subscriber's chosen national long distance telecommunication service and/or international telecommunication service at the time the new subscriber receives service.

3.2.3 Subscribers placed in service prior to 31 December 2003 may select a national long distance telecommunication service provider and/or international telecommunication service provider in accordance with section 4.

4. CHANGES IN PRE-SELECTED CARRIERS

4.1.1 A subscriber may change its pre-selected operator for any national long distance telecommunication service and/or international telecommunication service at any time on or after 31 December 2003.

4.1.2 Requests to a providing carrier for a change in pre-selected operator must be delivered to the newly selected national long distance telecommunication service provider or international telecommunication service provider in writing and may be in the form of a letter of consent authorizing the new pre-selected operator to effect the change with the providing carrier.

4.1.3 The letter of consent must contain, in clear and unambiguous language the following:

4.1.3.1 The subscriber's name, identification number, address, and telephone number for each telecommunication service affected by the requested change.

4.1.3.2 A statement of the subscriber's intent to change the pre-selected operator for either national long distance telecommunication service, international telecommunication service, or both.

4.1.3.3 A statement that the subscriber understands that it may have only one pre-selected operator for each such service associated with each telephone number assigned to that subscriber.

4.1.3.4 A statement that the subscriber understands that there may be a charge for the requested change.

4.2 Pursuant to a request received under this section, a providing carrier shall provide carrier pre-selection facilities to the newly pre-selected operator within two business days in accordance with the functional specifications established by the Authority.

4.3 The providing carrier that implements a change in pre-selected carrier pursuant to this section may bill the subscriber making such change in accordance with the cost recovery provisions of section 6.

4.4 Nothing in section 4.3 shall be interpreted to prohibit the pre-selected operator from reimbursing its new subscriber as an inducement to change service providers.

4.5 Nothing in this section shall be construed to prohibit candidates for selection as pre-selected operators from advertising in any media in an effort to win subscribers.

4.6 All providing carriers shall ensure that tariffs that are related to the provision of carrier pre-selection are cost oriented; and that any direct charges to subscribers do not act as a disincentive for the use of the carrier pre-selection process.

4.7 All providing carriers shall provide information to consumers regarding carrier pre-selection with special emphasis on the costs and benefits thereof.

5. RECOVERY OF INITIAL CARRIER PRE-SELECTION COSTS

5.1 Six months prior to the effective date of these regulations, each qualified carrier shall submit a cost proposal for its implementation of initial carrier pre-selection. The proposal should include a detailed review of such carrier's network, operational systems, and process developments and enhancements required to introduce carrier pre-selection and the cost associated therewith pursuant to the guidelines in section 7.

5.2 The Authority shall examine the cost proposals to determine whether the qualified carrier's costs are recoverable pursuant to section 7, reasonable, and efficiently incurred. The Authority may determine that a cost is not reasonable if it considers that the qualified carrier could at the relevant time have used lower cost methods in implementing the relevant aspect of any carrier pre-selection service and in that event the Authority may disallow such item of cost in whole or in part as the Authority deems appropriate. Upon a finding of unrecoverable

costs or unreasonable or inefficient proposals, the Authority may make modifications or substitutions to such proposals to the extent necessary to assure reasonability and efficiency.

5.3 Any determination specifying costs or charges made under this section 5 shall be based on the qualified carrier's incremental costs of providing carrier pre-selection as detailed in section 7 unless some other cost basis shall have been substituted by the Authority.

5.4 Following the Authority's approval of the cost proposal or modification or substitution, as set forth in Section 5.2, the Authority will allocate the aggregate costs among all qualified carriers. The total aggregate cost submitted by PSTS licensees shall be allocated among all PSTS licensees based upon the number of telephone numbers allocated to each PSTS licensee, less a proportionate share determined by the Authority to be paid by Sentech in relation to its potential benefit received arising out of the implementation of carrier pre-selection.

5.5 Each providing carrier shall be responsible for the costs associated with the ongoing maintenance of the carrier pre-selection facilities within its network.

6. COST RECOVERY FOR NEW LINES AND CHANGING PRE-SELECTED OPERATORS

6.1 The providing carrier's reasonable costs incurred in providing carrier pre-selection facilities for new subscribers and for changes to pre-selected operators shall be categorized as System Set-Up Costs, Per Operator Set-Up Costs and Per Subscriber Set-Up Costs and shall be allocated accordingly.

6.2 On or following 31 December 2003, each providing carrier may impose a one-time charge upon each new subscriber and upon each subscriber making a change in its pre-selected operator. Where a providing carrier imposes a charge pursuant to this section 6.2, such charge shall consist of the Per Subscriber Set-Up Costs and the proportional share of the System Set-Up Costs and Per Operator Set-Up Costs associated with such new service or change in pre-selected operator. Allocations of System Set-Up Costs and Per Operator Set-Up Costs shall be based upon reasonable estimates of the number of new lines and pre-selected operator changes expected by the providing carrier.

6.3 In respect of any individual item of cost under this section, the Authority may determine into which category of cost it falls, and if it considers that any such item of cost cannot be reasonably categorized as System Set-Up Costs, Per Operator Set-Up Costs or Per Subscriber Set-Up Costs, the Authority may determine whether and to what extent the providing carrier may reasonably

recover such costs. The Authority may determine whether a providing carrier's estimates of new subscribers and pre-selected operator changes are reasonable and may substitute its own values where it determines that such estimates are unreasonable. Recoverable costs shall be subject to the requirements of section 7.

7. GUIDELINES FOR COST RECOVERY

7.1 In order to demonstrate to the Authority that costs are eligible for recovery, an operator must conclusively show in its proposal under section 5.1 and its calculations for the purposes of section 6 that such costs:

- (a) would not have been incurred by the operator but for the implementation of carrier pre-selection; and
- (b) were incurred for the provision of carrier pre-selection.

7.2 Measuring Eligible Costs

In measuring eligible costs, operators shall use the following criteria:

- (a) Eligible costs constitute dedicated costs, portions of joint costs, and certain incremental overheads.
- (b) Dedicated costs are the costs of investments or expenses that are dedicated exclusively to the provision of carrier pre-selection functions.
- (c) Joint costs of providing carrier pre-selection are costs associated with new investments or expenses that directly support the provision of carrier pre-selection functions and also support at least one other function.
 - (1) The portion of joint costs that is an eligible cost constitutes the difference between the total cost of an item with the carrier pre-selection functionality and the total cost of the item without the carrier pre-selection functionality.
 - (2) The burden shall be on the operator to demonstrate what portion, if any, of such joint costs should be attributed to carrier pre-selection.
- (d) An operator may include incremental overheads as eligible costs only to the extent that the operator can demonstrate that such incremental overheads:
 - (1) are incurred specifically in the provision of carrier pre-selection; and
 - (2) are actually new costs incremental to and resulting from the provision of carrier pre-selection.

7.3 Costs recoverable through carrier pre-selection cost recovery mechanisms under sections 5 or 6 may not be included in other cost recovery mechanisms.

7.4 Any eligible costs recoverable through carrier pre-selection cost recovery mechanisms shall not result in any burden, as determined by the Authority, to the

implementation of carrier pre-selection. Should such recoverable eligible costs result in a burden to the implementation of carrier pre-selection, the Authority may determine by notice in the *Gazette* that such costs are not recoverable and are to be borne by the operator incurring such costs.

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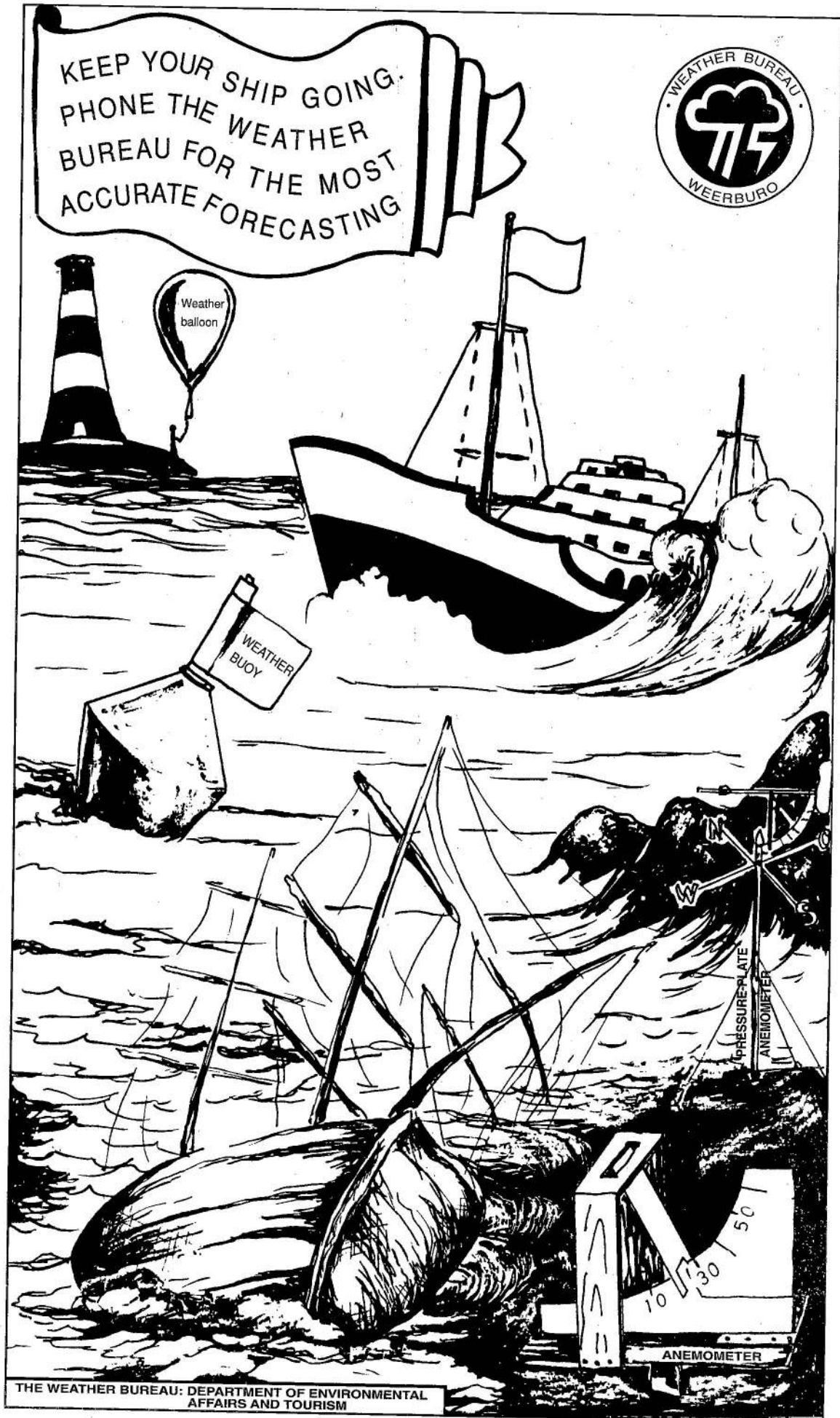
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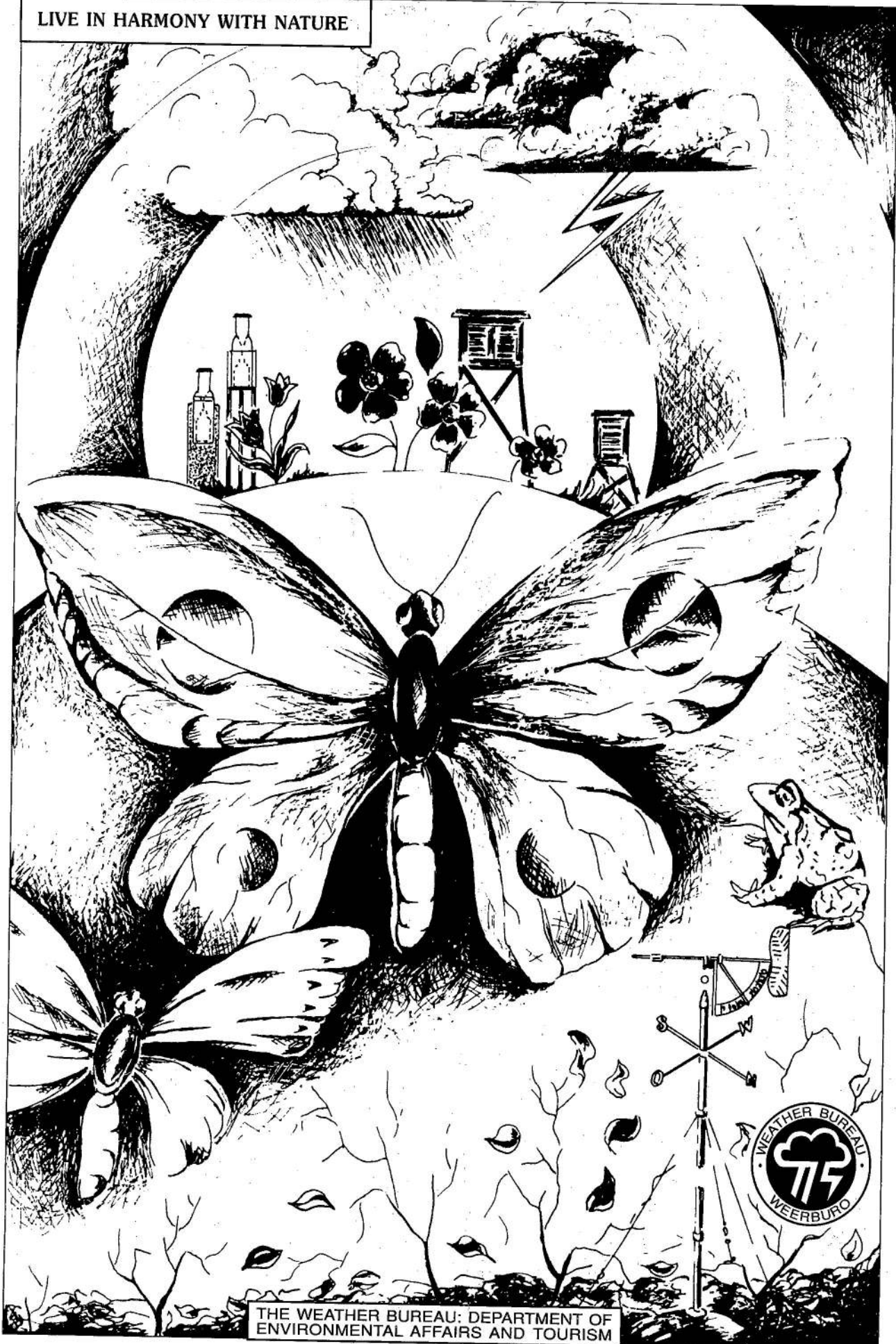


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