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GENERAL NOTICE

NOTICE 1042 OF 2004



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA NOTICE OF INTENTION TO MAKE REGULATIONS FOR THE IMPLEMENTATION OF NUMBER PORTABILITY

The Independent Communications Authority of South Africa ("the Authority") hereby gives notice that it intends making the following regulations in terms of section 89(1) (b).

Interested persons are hereby invited to submit written comments or written representations with regard to the proposed regulations, to be received **by no later than 16h00 on the 5th of July 2004** by post, hand delivery or facsimile transmission for the attention of Ms Nomvuyiso Batyi, Independent Communications Authority of South Africa, Private Bag X10002, Marlboro, 2063; Block C, Pin Mill Farm, 164 Katherine Street, Sandton; Facsimile (011) 321 8536, telephone (011) 321 8473 or e-mail: nbati@icasa.org.za

**MANDLA LANGA
CHAIRPERSON
ICASA**

SCHEDULE

1. Definitions

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

'Area Code' means dialled identification code that identifies a geographic area within the Republic of South Africa, as determined by the Authority.

'Block Operator' means a network operator that has been allocated a number block that contains a number that is being or has been ported.

'Block Service Provider' means a Service Provider that has been allocated a number block that contains a number that is being or has been ported.

'Donor Operator' means a network operator that is ceasing to serve a number that is being ported.

'Donor Service Provider' means a Service Provider that is ceasing to serve a number that is being ported.

'Exchange Code Area' means the geographic area to which a block of 1000 or 10,000 numbers is assigned.

'Geographic Number' means a number that is part of a block that has been allocated for use in a specified geographic area.

'Recipient Operator' means a network operator that is starting to serve or is continuing to serve a number that is being or has been ported.

'Recipient Service Provider' means a Service Provider that is starting to serve or is continuing to serve a number that is being or has been ported.

'Service Provider' means an entity that sells to a Subscriber the ability to make and receive telephone calls. A Service Provider may also be a network operator or may buy network services from a network operator and resell these services to its Subscribers.

'Subscriber' means any person or entity that is a party to a contract or other similar arrangement that is in force with a Service Provider or network operator for the supply of telecommunications services. The term includes in addition any caller who makes or clears or receives calls that are the subject

of such a contract or arrangement. In the case of mobile services, pre-pay customers are regarded for the purposes of this regulation as Subscribers.

'Winback' means a Providing Operator contacting Subscribers to offer discounts, free services or other inducements in order to convince those Subscribers not to change operators or to revert back to their original operator in the first 2 months after requesting Number Portability. Offers made to the generality of Subscribers by means other than in person or by telephone are not included in the definition of Winback.

2. Requirements to provide Geographic Number block portability

2.1 All network operators who terminate calls to Subscribers who are identified by Geographic Numbers and are connected directly to their network shall offer Number Portability to Subscribers who have been assigned more than ten different numbers within the same block of 1000 contiguous numbers provided that:

(a) no numbers within the same block are assigned to other Subscribers

(b) the Subscriber remains within the same Area Code.

2.2 All operators who are required by section 2.1 to offer Geographic Number Portability shall cooperate together to provide such portability as soon as possible and no later than 01 April 2005.

2.3 The implementation of Geographic Number block portability shall conform to a Functional Specification to be developed and maintained by the Authority in consultation with the Operators. The Authority shall publish and enforce the functional specification.

3. Requirements to provide geographic individual Number Portability

3.1 All network operators who terminate calls to Subscribers who are identified by no more than ten Geographic Numbers and are connected directly to their network shall on request from another such operator provide the capability for Subscribers to have Number Portability when transferring to the said other operator provided that the Subscriber remains within the same Area Code.

3.2 The facility described in section 3.1 shall be made available within 12 months of receiving the request.

- 3.3 The implementation of geographic portability shall conform to a functional specification to be developed and maintained by the Authority in consultation with the Operators. The Authority shall publish and enforce the functional specification.
- 3.4 The ordering system for handling orders for geographic individual Number Portability and effecting these orders in cooperation with other operators shall conform to an Ordering System Specification to be prepared by all network operators who are within the scope of section 3.1.
- 3.5 Each network operator whose Subscribers have ported their numbers from another operator shall maintain and make available to all other network operators in South Africa a list of the ported numbers of their Subscribers.

4 Requirements to provide mobile Number Portability

- 4.1 All mobile network operators and mobile Service Providers shall work together to offer Number Portability to their Subscribers as soon as reasonably possible and no later than 1 April 2005.
- 4.2 The implementation of mobile Number Portability shall conform to a Functional Specification to be developed and maintained by the Authority in consultation with the mobile network operators and mobile Service Providers. The Authority shall publish and enforce the functional specification.
- 4.3 The ordering system for handling orders for mobile Number Portability and effecting these orders in cooperation with other operators and Service Providers shall conform to an Ordering System Specification to be prepared by all network operators and Service Providers who are within the scope of section 4.1.
- 4.4 Each mobile network operator or mobile Service Provider whose Subscribers have ported their numbers from another operator shall maintain and make available to all other network operators in South Africa a list of the ported numbers of their Subscribers.

5 Routing

- 5.1 Each operator who originates a call to a ported number or who handles a call from outside South Africa to a ported number inside South Africa shall be responsible for ensuring that the call will be routed to the operator that serves the called number.
- 5.2 Each block operator shall ensure that any calls to ported numbers within number blocks allocated to that operator shall be routed to the network that currently serves the called number and that any value for the original CLI shall be unchanged by the re-routing process.
- 5.3 Telkom shall offer to all other network operators a service whereby it will identify calls to ported numbers and re-route them to the operator that currently serves the ported number.

6 Cost recovery and charging

- 6.1 Each operator or Service Provider that is required to provide Number Portability shall bear its own set-up costs.
- 6.2 The Recipient Service Provider shall pay the Donor Service Provider their reasonable per-customer costs necessarily incurred when a customer ports their number.
- 6.3 Where the network operator is a separate entity to the Service Provider the Recipient Service Provider shall pay the Recipient Operator and the recipient Donor Service Provider shall pay the donor operator their reasonable per-customer costs necessarily incurred when a customer ports their number.
- 6.4 Neither the Donor Service Provider nor the donor operator may charge the Subscriber when the Subscriber ports their number.
- 6.5 The Recipient Service Provider or Recipient Operator may charge the customer for Number Portability.
- 6.6 Each operator whose retail prices are controlled by regulation may apply to the Authority to have the reasonable set-up costs of Number Portability and any incremental costs incurred in performing tasks that derive from section 4.1 into account in the next revision of their price control.

- 6.7 Each operator that is required by sections 5.2 or 5.3 to incur additional costs in routing calls may charge the operator from which they receive the calls for those additional costs. Such additional charges may be applied to each call individually or averaged over all the calls from the said operator. Where the operator that is subject to the requirements of sections 5.2 or 5.3 has their interconnection charges controlled by regulation, the said operator may apply to the Authority to have the reasonable incremental costs necessarily incurred taken into account in the next revision of their price control.

7. Service and other requirements

- 7.1 The Recipient Operator or Recipient Service Provider shall not order Number Portability for any Subscriber unless it has received a request from the said Subscriber and shall not engage in Winback.
- 7.2 All Donor Operators and Donor Service Providers shall report to the Authority their performance against a list of quality of service parameters identified and published by the Authority. This shall specify the frequency of reporting.
- 7.3 All Operators and Service Providers shall comply with a Code of Practice to be published and enforced by the Authority after consultation with the operators. This Code of Practice will *inter alia*, relate to marketing and sales practices and communications with Subscribers who request Number Portability.
- 7.4 Except where otherwise indicated, disputes relating to Number Portability shall be handled in accordance with the dispute procedures applicable to interconnection agreements.
- 7.5 The terms of these Regulations shall be reviewed by the Authority no later than 31 December 2007.

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