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GENERAL NOTICE

NOTICE 791 OF 2012

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

REASONS DOCUMENT FOR THE NUMBERING PLAN REGULATIONS, 2012

The Independent Communications Authority of South Africa ("ICASA") has approved the Numbering Plan Regulations, 2012, in terms of sections 4(4) and 68 of the Electronic Communications Act, 2005 (Act 36 of 2005), as amended.

In preparing the Numbering Plan Regulations the Authority has taken into consideration the views of licensees and the general public. The attached reasons document is intended to highlight major matters raised during the consultation processes and to outline related reasons for decisions taken by the Authority.

1. INTRODUCTION

- 1.1 The Independent Communications Authority of South Africa ("the Authority") is the regulatory body tasked to prescribe a national numbering plan.
- 1.2 In the execution of its mandate, the Authority has acted in terms of its powers contained in the Electronic Communications Act 36 of 2005 ("the EC Act") and the Independent Communications Authority of South Africa Act 13 of 2000 ("the ICASA Act") and has sought to promote relevant regulatory objectives as provided for in the legislation.
- 1.3 The Authority has reviewed the Numbering Plan Regulations, 2006, published in the Government Gazette number 28839 dated 15 May 2006, and finalised the Numbering Plan Regulations ("the Regulations") in terms of section 68 of the EC Act.
- 1.4 The Regulations seek to provide a scheme of identification so as to ensure that electronic communications are correctly and efficiently directed to the point of reception for which they are intended.
- 1.5 The primary purpose of this document is to highlight major matters raised during the consultation processes and to outline related reasons for decisions taken by the Authority.
- 1.6 In taking into account the views of licensees and the general public, the Authority has amended the Regulations where appropriate.
- 1.7 The reasons document will also incorporate the views of the licensees and the general public submitted during the public consultation that took place from June 2010 to date.
- 1.8 This document does not address general points made about drafting. These have been addressed in the Regulations to the extent reasonably possible. It also does not include remarks made about number portability or termination rates, which are outside the scope of the Regulations.

2. PROCEDURE FOLLOWED

- 2.1 On 4 June 2010, in Government Gazette 33108 the Authority published the Draft Numbering Plan Regulations and an Explanatory Note, inviting interested parties to submit written comments by 19 July 2010. After receiving requests from interested parties, the Authority extended the submission date for written comments to 26 July 2010.

2.2 The Authority received written submissions from:

- Cell C;
- ECN;
- Internet Service Providers' Association ("ISPA");
- MTN;
- Neotel;
- Next Generation Network Telecommunications ("NGN");
- Smile Communications;
- Telkom;
- Vodacom;
- Vox; and
- Wireless Applications Service Providers' Association ("WASPA").

2.3 Public hearings were conducted on 17 and 18 August 2010 at ICASA's offices, in Block C, Pinmill Farm.

2.4 The Authority was requested by various respondents to conduct a workshop regarding the numbering plan regulations. Therefore all interested parties were invited to participate in a non-binding, consultative workshop that was held on 20 August 2010. The participants were also invited to make final written submissions.

2.5 The Authority published further provisions to the draft regulations on 02 March 2012 for public comments which have been incorporated into the final Numbering Plan Regulations.

2.6 The Authority received written submissions from:

- Cell C;
- Vodacom;
- Telkom;
- MTN;
- Neotel; and
- ISPA

3. SUBMISSIONS AND DECISIONS

3.1 DEFINITIONS

3.1.1 Several respondents commented that some definitions were missing and some definitions were unclear or circular. There were suggestions that the Regulations should take some material from the explanatory note. The Authority conceded to these suggestions and therefore revised or rephrased definitions of terms such as "allocation",

“assignment”, “release” and “reservation”, and of “allocated”, “released”; “reserved” and “protected”.

- 3.1.2 Some respondents raised concerns that definitions related to short codes were unhelpful. The Regulations have been revised to clarify these concepts.
- 3.1.3 Several respondents perceived the definitions associated with lower band and higher band services as vague. The Regulations have been revised to remove ambiguity and withdrawal of unnecessary distinctions between number ranges such as lower band and higher band services.
- 3.1.4 Some respondents wanted the definitions of toll free and premium rate services to include normative material. The Regulations accordingly provide clarified definitions for these and other concepts.

3.2 OBJECTIVES OF THESE REGULATIONS

- 3.2.1 Several respondents indicated that the objectives of the Regulations should be detailed, particularly to include the requirement to ensure sufficient numbering capacity. The Regulations therefore support the overall objectives identified in the Electronic Communications Act (“the ECA”).
- 3.2.2 Most respondents preferred stringent management of numbers as a way of providing sufficient numbering capacity instead of drastic numbering plan changes. The regulations thus support several mechanisms to ensure effective utilisation and management of the numbering resource such as usage conditions. The regulations also incorporated the MSISDNless sim starter packs (numberless sim cards) intervention (Government Gazette No.32201 of 2009).

3.3 RELEASING NUMBERS

- 3.3.1 Comments under the above heading have been incorporated and this has led to minor redrafting.

3.4 HARMONISING AND MANDATING NUMBERS

- 3.4.1 Several respondents welcomed the introduction of a process for harmonising service codes but requested slightly more definitive information about the process. The Regulations provide this information.
- 3.4.2 Some respondents proposed particular service codes (and services e.g Voice mail) to be harmonised. The Authority has thus decided that more

information on the existing usage of these or other service codes is required before selecting the codes for harmonisation. Separate consultations shall be undertaken in this regard.

3.5 ALLOCATING AND RESERVING NUMBERS

3.5.1 The regulations have been revised to provide for a standard formula for the calculation of the minimum degree of usage required for different type of number ranges prior to the allocation of additional numbering resources.

3.5.2 Most respondents supported the provision for certain non-geographic number ranges or sub ranges for individual number allocations to promote optimal use of allocated numbers.

3.5.3 Most respondents raised concerns about having the 28 days standard timeframe for processing numbering applications. Some respondents made suggestions about special cases when numbering applications could be considered relatively rapidly. The Authority reduced the timeframe to 20 days for standard applications and made provisions for exceptional cases that may take longer than the 20 days.

3.5.4 One respondent mentioned that the allocation of numbers should be linked to the duration of the licence. The Regulations have been revised to incorporate this.

3.5.5 Comments from some respondents suggested that the Regulations should allow for "secondary allocations". The terms "secondary allocation" was not incorporated into the regulations. The usage conditions were rather incorporated in the Regulations to allow for sub-allocations.

3.6 CONDITIONS OF USE OF AN ALLOCATION OF THE NUMBERING RESOURCE.

3.6.1 No objections received under this section.

3.7 WITHDRAWING NUMBERS

3.7.1 Most respondents proposed that there should be consultation(s) with the relevant providers before the withdrawal of numbers. This was incorporated in the regulations.

3.7.2 Some respondents suggested lengthening the notice periods associated with withdrawals and also questioned the differentiation

between the business and residential subscribers. The Authority has standardised the timeframes for withdrawals in the final regulations.

3.8 AMENDING NUMBERING PLANS

3.8.1 Several respondents commented that changes to released or protected numbers should be consulted upon to avoid inconvenience and costs especially when withdrawing released or allocated numbers. These were incorporated in the Regulations to make explicit the requirements for consultation when changing the status of numbers of numbers such as “released”, “protected” and “withdrawals”.

3.8.2 Several respondents were concerned that proposals circumscribing potential revisions to usage conditions were not tightly drawn and could lead to priority clashes with other legislation and other documents (such as the WASPA code). The Regulations currently provide for the development of an inclusive industry code for premium rate services.

3.8.3 Some respondents recognised that there was no case for extensive numbering plan changes in the foreseeable future. The Regulations therefore omit such changes and the corresponding definitions of “ZAP2” and “ZAP3”.

3.9 MAINTAINING NUMBERING RECORDS

3.9.1 Some respondents expressed the need for real time access to numbering records. The Regulations provides for the records to be made available regularly.

3.10 AUDITING NUMBER USES

3.10.1 Most respondents commented that the number audit framework might need to be adjusted to changing industry practices more frequently than other regulations dealing with numbering administration activities. This might create uncertainty as the numbering plan regulations may have to be reviewed more often than required to accommodate number audit requirements. To ensure that such adjustments are feasible, the Regulations make provisions for a separate number audit framework to be published and also the incorporation of the existing framework Numbering Audit Gazette No. 32107 of 2009.

3.11 BARRING NUMBERS

3.11.1 Some respondents requested that the term “overriding public interest” should be replaced by something less general. This request has been factored in the regulations.

3.11.2 Other respondents expressed concerns that a notice period of 24 hours would pose problems during weekends. The Regulation accordingly adopts a notice period of 5 days, as defined for in the ECA.

3.12 RETURNING NUMBERS

Comments under this section have been incorporated in the regulations which led to minor redrafting.

3.13 TRANSFERRING NUMBERS

3.13.1 Comments under this section have been incorporated in the regulations which led to minor redrafting.

3.14 ASSIGNING NUMBERS

3.14.1 Comments under this section have been incorporated in the regulations which led to minor redrafting.

3.15 SUPPLYING INFORMATION ABOUT NUMBERS

3.15.1 Some respondents considered that the suppression of the Calling Line Identity (CLI) was undesirable on the overall because it also permitted spam to be anonymous. Some also expressed doubts about the ability of certain handsets to suppress CLI in messages. The Authority considered the concerns raised and the regulations require that providers to ensure that the correct originating number is transmitted for the communication.

3.16 PREFIXES

3.16.1 Several respondents favoured keeping the leading digit ‘0’ in geographic and non-geographic numbers (with possible exception, in some cases, of toll free and premium rate numbers), because of its familiarity in the country and elsewhere. Some expressed concerns and challenges with the implementation thereof. The Authority has decided to retain the leading digit ‘0’.

3.17 INTERNATIONAL AND NATIONAL NUMBERS

3.17.1 With phase 3 envisaged in the initial draft regulations some respondents questioned whether international applications would ever require the use of second digits other than '0'. The respondents mostly contested that there was no need for additional capacity in this regard. The Authority agrees that currently such applications do not make a convincing case for the use of second digits other than '0' hence the regulations retained "00" as the international prefix.

3.17.2 One respondent remarked that lengthening geographic numbers would dedicate large amounts of numbering space to geographic numbers that may never be used. Other respondents remarked that geographic numbers should continue to have ten digits (even if doing so entailed losing the leading digit '0'). The Authority acceded and therefore, geographic numbers remain unchanged in the Regulations.

3.18 GEOGRAPHIC NUMBERS

3.18.1 Several respondents proposed that detailed maps, tied to a Geographical Information System (GIS), be used to lay down the geographic areas more exactly. Suggestions that providers should define their own geographic boundaries raised other concerns that might affect the routing of emergency services. The Authority adopted the existing geographic boundaries. The maps will be made available on request.

3.19 NON-GEOGRAPHIC NUMBER

3.19.1 Several respondents questioned the validity of the distinction between lower band services and higher band services, drawing attention to convergence between services and between prices. This distinction is considered to be outside the scope of the Regulations hence they have been removed.

3.19.2 Some respondents were uneasy about high charges for calls in some number ranges, going so far as suggesting that the services should be removed to dedicated ranges. The Authority conceded and made provision in the regulations to ensure that that premium rate services are ultimately moved to a distinctive number range.

3.19.3 Most respondents supported the provision for dedicated number ranges for machine related services. The Regulations therefore do not provide a plan for lengthening non-geographic numbers (other than machine related numbers).

3.20 SHORT CODES BEGINNING WITH '1'

3.20.1 Some respondents commented on which short codes beginning with '1' should be released and harmonised. No respondents provided traffic figures. Accordingly, the Regulations split the numbering capacity between access codes and service codes. In doing so the Authority has also incorporated short codes beginning with '1' which are already reserved for carrier pre-selection phase 1. The Authority in consultation with providers will harmonise service codes.

3.20.2 Some responses suggested that certain short codes should be permitted to be internal network communications, to avoid costly software changes. This has been incorporated in the revised regulations

One respondent urged the Authority to waive the requirement to route communications to the emergency call number '112'. Although the Regulations permit the Authority to mandate service codes to which communications must be routed, the Act is clear that '112' is mandated. Therefore, the requirements of the Act shall prevail.

3.21 SHORT CODES BEGINNING WITH '3' AND '4'

3.21.1 Some respondents proposed that the Authority should take management responsibility for short codes beginning with '3' and '4'. One respondent argued that an external agency should look after these short codes. The Authority shall undergo further consultations on this matter on how best to manage the administration of the codes beginning with "3" and "4". This consultation will be done within the context of the premium rated services.

3.22 SUPPLEMENTARY CODES

3.22.1 The respondents had conflicting opinions about whether or not should the Authority take responsibility for the management of supplementary codes. Immediately after the regulations come into force all supplementary codes shall have the status released.

3.23 TRANSITIONAL MEASURES

3.23.1 Comments under this section have been incorporated and this has led to minor redrafting.

3.24 TOLL FREE NUMBER CHANGES

3.24.1 Several respondents favoured making toll free calls and messages free off-net as well as on-net. Some urged that there be more discussions on achieving this. The Regulations therefore require that within two years from the time the regulations come into force, toll free services be free both on-net and off-net. Further consultations on the implementation to be undertaken.

3.25 PREMIUM RATE NUMBER CHANGES

3.25.1 Several respondents appreciated the need for the regulation of premium rate services. In line with the timelines proposed by several respondents, the Regulations require that within two years of the numbering regulations coming into force an industry code should be developed and premium rate services and machine related numbers should be moved to their distinctive number ranges including short codes beginning with '3' and '4' respectively.

3.25.2 Some respondents suggested that premium rates should be defined in terms of multiples of standard rates. Other respondents remarked that the sequences of premium rate messages might begin with toll free or standard rate messages to which responses were required before the sequences proceeded. The Regulations provide definitions of premium rate services.

3.25.3 Some respondents perceive announcements about charges at the start of premium rate calls to be unreasonable and impracticable. Respondents had differing views about the desirability for customers of being able to block premium rate numbers free of charge. The concerns and similar matters will be taken into account during the development of an industry code for premium rate services.

3.26 MACHINE RELATED NUMBER CHANGES

3.26.1 Respondents welcomed the introduction of machine related numbers but noted the difficulty of policing their usage. The Regulations facilitate the migration of existing machine related services to machine related numbers including the processing of new numbering applications for machine related services. The Regulations make provision for the migration to be completed within two years of publication.

3.27 PREFIXED NUMBER CHANGES

3.27.1 One Respondent suggested that every provider should be allocated an access code immediately after the Regulations come into force. In order for the Authority to facilitate a fair and non-discriminatory allocation, providers will have to follow the standard numbering application process.

3.28 FEES

3.28.1 Some respondents indicated that competition considerations should be taken into account in determining fees payable by providers for the allocation of numbers to recover the administration costs. The determination of the fees shall be subject to a separate public consultation process.

3.29 CONTRAVENTIONS AND PENALTIES (REGULATION 30)

3.29.1 No comments were made under this section.

3.30 REVIEW (REGULATION 32)

3.30.1 No comments were made under this section.

3.31 SHORT TITLE AND COMMENCEMENT (REGULATION 33)

3.31.1 No comments were under this section.

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