

GOVERNMENT NOTICE



THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

**END-USER AND SUBSCRIBER SERVICE CHARTER AMENDMENT
REGULATIONS IN TERMS OF SECTION 4 READ WITH SECTION 69(3) OF
THE ELECTRONIC COMMUNICATIONS ACT NO. 36 OF 2005, AS AMENDED**

I, Rubben Mohlaloga, Chairperson of the Independent Communications Authority of South Africa ("the Authority"), hereby publish the End-user and Subscriber Service Charter Amendment Regulations, 2018.

Rubben Mohlaloga
Chairperson

SCHEDULE

1. Definitions

In these Regulations "the Regulations" means the End-User and Subscriber Service Charter Amendment Regulations as published under Government Notice No. 39898 of 1 April 2016.

2. Amendment of regulation 1 of the Regulations

2.1 Regulation 1 of the Regulations is hereby amended-

- (a) by the insertion after the definition of "Alternative Dispute Resolution" of the following definition: "**Authority**" means the Independent Communications Authority of South Africa established by section 3 of the ICASA Act 13 of 2000;"
- (b) by the insertion after the definition of "Complainant" of the following definition: "**Data bundle**" means a set amount of data for a set price;"
- (c) by the insertion after the definition of "Fixed Service" of the following definition: "**Hybrid plans**" means a service in terms of which an end-user pays monthly subscription that includes allocation of voice minutes, SMS and data services and allows an end-user to purchase additional voice minutes, SMS and data services."
- (d) by the insertion after the definition of "Mobile Services" of the following definition: "**Out-of-bundle**" means a rate that an end-user is charged upon depletion of the allocated bundle;"

- (e) by the insertion after the definition of "Point of Sale" of the following definition: "**Post-paid plans**" means a service in which an end-user pays monthly subscription and usage charges at the end of each month for the allocation of voice minutes, SMS and data services;" and
- (f) by the insertion after the definition of "Speech Quality" the following definition: "**Unstructured Supplementary Service Data (or USSD)**" means a Global System for Mobile communication technology that is used to send text between a mobile phone and an application program in the network;"

2.2 Regulation 1 of the Regulations is hereby amended by the deletion of the definitions "Quality of Service Measurements", "Service Activation" and "Service Activation Time".

3. Amendment of regulation 4 of the Regulations

3.1 Regulation 4 of the Regulations is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

"(2) A licensee must conduct random checks on points of sale and service outlets to monitor compliance with the requirement to provide information to end-users as contained in sub-regulation (1)."

3.2 Regulation 4 of the Regulations is hereby amended by the addition of the following sub-regulation (4):

"(4) Reports in terms of sub-regulation (3) must be submitted to the Authority in February and in August of every year."

4. Amendment of regulation 5 of the Regulations

Regulation 5 of the Regulations is hereby amended by the addition of the following sub-regulation (4):

“(4) Reports in terms of sub-regulation (3) must be submitted to the Authority in February and in August of every year.”

5. Amendment of regulation 8 of the Regulations

Regulation 8 of the Regulations is hereby amended by the deletion of sub-regulation (7).

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

The following regulations are hereby inserted in the Regulations, after regulation 8:

“8A. VOICE AND SMS SERVICES

- (1) A Licensee must send usage depletion notifications via SMS, push notification or any applicable means to end-users when their usage reaches 50%, 80% and 100% depletion.
- (2) A Licensee must provide end-users who are on post-paid plans with an option to buy additional voice services or SMS services at any time.
- (3) Where an end-user who is on a post-paid or hybrid tariff plan and whose voice and SMS services are depleted does not buy additional voice services or SMS services, a licensee must provide such end-user with an option not to access the relevant depleted services and allow such end-user access to emergency services, customer care services, and incoming voice calls, incoming SMSs and any other free services.

8B. DATA SERVICES

Out of bundle billing practices:

- (1) A Licensee must ensure that an end-user is:
 - (a) sent data usage depletion notifications via SMS, push notification or any other applicable means when usage reaches 50%, 80% and 100% depletion of data bundles;
 - (b) provided with an option to buy additional data bundles via the USSD platform, push notification, or any other applicable means at any time;
 - (c) not defaulted onto out-of-bundle data charges upon depletion of data bundles; and
 - (d) provided an option via SMS, push notification, USSD or any other applicable means at any time to opt-in to out-of-bundle usage charge.
- (2) Where an end-user does not opt-in to out-of-bundle data charge as per regulation 8B(1)(d) above, a Licensee must not permit any out-of-bundle data usage by an end-user until such time that an end-user purchases new data bundles or consents to be charged out-of-bundle data rates via USSD, SMS, push notification or any other applicable means.

Roll over of unused data and transfer of data

- (3) A Licensee must provide end-users with an option to roll over unused data before expiry date. In the event of unused data being rolled over, a Licensee shall in the first instance apply data usage against the rolled over data until that data is fully depleted, and thereafter against the newly allocated data.

- (4) A Licensee must provide end-users with an option to transfer data to other end-users on the same network.

8C. CONSUMER EDUCATION AND AWARENESS

- (1) A Licensee must conduct educational awareness campaigns aimed at:
 - (a) educating end-users on the use of smart phones;
 - (b) educating end-users on how to use data; and
 - (c) educating end-users on a broad range of products and services offered.
- (2) A Licensee must conduct at least four (4) educational awareness campaigns per annum."

7. Amendment of regulation 13 of the Regulations

Regulation 13 of the Regulations is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

- "(1) A complaint may be referred to the Authority's alternative dispute resolution should a licensee not be able to resolve the complaint in terms of regulation 12."

8. Short Title and Commencement

These Regulations are called the End-User and Subscriber Service Charter Amendment Regulations 2018 and will come into force one (1) month after publication in the *Gazette*.