

**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA
NOTICE 317 OF 2020**



350 Witch-Hazel Avenue, Eco Point Office Park
Eco Park, Centurion
Private Bag X10, Highveld Park 0169

**DRAFT CODE FOR PERSONS WITH DISABILITIES REGULATIONS FOR
FURTHER PUBLIC COMMENTS**

1. The Independent Communications Authority of South Africa ("the Authority") hereby gives notice in terms of sections 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"), read with sections 4(1), 4(4) and 70 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) "(ECA)", regarding its intention to prescribe a Code for Persons with Disabilities Regulations ("draft Regulations") contained in the schedule attached herewith.
2. A copy of the draft Regulations is also available on the Authority's website at <http://www.icasa.org.za> and in the Authority's Library at Block C, 350 Witch-Hazel Avenue, Eco Point Office Park, Eco Park, Centurion during the Authority's normal office hours.
3. Interested persons are invited to submit written representations on the draft Regulations within thirty (30) working days of the date of publication of this notice by either courier service, facsimile transmission or electronically (in Microsoft Word) for the attention of Ms Nditsheni Hangwani, Code for Persons with Disability Project Leader at: ICASA, Block B, 350 Witch-Hazel Avenue, Eco Point Office Park ,Eco Park, Centurion, or Fax:(012) 568 3418 or E-mail: nhangwani@icasa.org.za and CodeforPwDsCommittee@icasa.org.za .
4. All written representations submitted to the Authority pursuant to this notice will be made available for inspection by interested persons at the Authority's library and copies of such representations will be obtainable on payment of the prescribed fee.

5. When a person submits information to the Authority, such person may request that specific information be treated as confidential information in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"). The request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential in terms of section 4D(4)(a) to (e) thereof.
6. The Authority may determine that such representations or any portion thereof is to be treated as confidential in terms of section 4D of the ICASA Act. Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portion(s) thereof.
7. Persons submitting written representations are further invited to indicate, as part of their submissions, whether they require an opportunity to make oral presentations.



DR KEABETSWE MODIMOENG
ACTING CHAIRPERSON
DATE 03/JUNE/2020

SCHEDULE

DRAFT REGULATIONS ON THE CODE FOR PERSONS WITH DISABILITIES

1. DEFINITIONS

In these Regulations, any word or expression to which a meaning has been assigned in the Act, has the meaning so assigned, unless the context indicates otherwise:

“**Act**” means the Electronic Communications Act, 2005 (Act No. 36 of 2005) as amended;

“**Accessibility**” means the ability by persons with Disabilities to equally access and benefit from broadcasting and electronic communications services;

“**Accessibility Services**” means a service such as Audio Description, Closed Captioning, Subtitles, or any other similar service;

“**Applicable Channels**” means all television channels broadcast by a television broadcasting licensee except a third-party channel(s) consisting predominantly of live programming content such as news, reality or sports;

“**Audio Description**” means oral commentary that gives a viewer who is blind or partially sighted a verbal description of what is happening on the television screen at any given moment. It is provided as an aid to the understanding and enjoyment of the programme. The technique uses a second sound track that gives a description of the scene and the on-screen action;

“**Closed Captioning**” means a process of converting the audio content of television broadcast or other production into text and displaying the text on a screen or monitor;

“**Disability**” For the purpose of these regulations, Disability refers to a long-term or recurring hearing and visual impairment;

“**National Relay System**” means phone services operated by interpreters that enable persons who are deaf or hard of hearing or who have a speech impairment, to

communicate by phone through an interpreter with a person who can hear in a manner that is "functionally equivalent" to the ability of an individual without a disability;

"Performance Period" the period of 126 hours in one week measured between 05h00 and 23h00 each day;

"Photosensitive" is when seizures are triggered by flashing lights or contrasting light and dark patterns;

"Sign language" means the South African Sign Language that uses a system of manual, facial, and other body movements as a means of communication;

"Subtitles" means a service by which both the audio dialogue and sound representations of a video programme, are made visible by the user via on-screen text that is synchronized with the audio content;

"Universally Designed" means the design of products, environments, programmes and services usable by all people, to the greatest extent possible, without the need for adaptation or specialised design;

"Year 1" means the twelve-month period commencing on the date on which these Regulations come into operation in accordance with regulation 14 of these Regulations.

2. PURPOSE AND SCOPE OF THE REGULATIONS

The purpose of these Regulations is to prescribe a Code for Persons with Disabilities, to be adhered to by Electronic Communications Service ("ECS") licensees and broadcasting service licensees, aimed at ensuring that persons with Disabilities have access to services.

3. BASIC STANDARDS FOR BROADCASTING SERVICE LICENSEES

Accessibility Services

(1) A television broadcasting service licensee must implement the following Accessibility Services on Applicable Channels: -

- (a) Audio Description;
- (b) Sign Language;

- (c) Subtitles; and
- (d) Closed Captioning.

Audio Description

- (2) The objective of Audio Description is to aid the understanding and enjoyment of a television programme.
- (3) A broadcasting service licensee must maintain quality access to Audio Description, which is essential for ensuring that audiences using broadcasting services benefit from them.

Sign Language

- (4) A television broadcasting service licensee must:
 - (a) ensure that the viewer can see not only the hands but also, where applicable, the facial expressions of the interpreter;
 - (b) monitor the effectiveness of the service through annual consultations with organisations representing hearing impaired persons; and
 - (c) ensure that sign language interpreters employed have a recognised sign language qualification from an accredited institution.

Subtitles

- (5) A television broadcasting service licensee which provides Subtitles must:
 - (a) provide Subtitles as near synchronous to speech as is practicable;
 - (b) reflect the spoken word with the same meaning;
 - (c) construct Subtitles which contain easily read sentences, and commonly used sentences in a tidy and sensible format; and
 - (d) give proper contrast between foreground and background colours.

4. GENERAL REQUIREMENTS FOR COMMUNICATION AND INFORMATION PROVISION TO PERSONS WITH DISABILITIES FOR BROADCASTING SERVICE LICENSEES

Provision for Breaking News

- (1) A television broadcasting service licensee must provide for a news text strapline, in case of breaking news across channels.

Improving accessibility

- (2) A television broadcasting service licensee must ensure that its services are made available and are accessible to persons with Disabilities.
- (3) A television broadcasting service licensee must ensure that there is access to programme support including fact sheets and electronic programme guides (EPGs) on its website or its applications.
- (4) A television broadcasting service licensee may make broadcasting services more accessible to persons with Disabilities by doing the following: -
 - (a) providing a range of formats on a television broadcaster's website (such as electronic versions and audio clips);
 - (b) incorporation of Accessibility Services into advertisements, economic indicators, weather details, telephone numbers and addresses or details of goods and services shown on screen; or
 - (c) making use of non-scheduled services such as access via personal video digital recorders (PVRs) and video on demand (VOD).

Warning to photosensitive viewers

- (5) A television broadcasting service licensee must take special care when providing content that may disturb photosensitive audiences/viewers and issue warnings on the television screen prior to broadcasting for persons with photosensitive epilepsy.
- (6) A television broadcasting service licensee must implement the minimum level applicable to Accessibility Service relevant to its broadcasting service licence category, as follows:

Subtitles:

- (a) A broadcasting service licensee that provides Subtitles must implement the following minimum percentages of total Subtitles, measured across its

broadcasting service on Applicable Channels:

Minimum Subtitling requirements				
	Public	Commercial free to air	Subscription	Community
Year 1	10%	5%	2.5%	2%
Year 2	20%	5%	2.5%	2%
Year 3 onwards	30%	10%	5%	4%

Audio Description:

(b) A television broadcasting service licensee which provides Audio Description must implement the following minimum percentages of total Audio Description, measured across its broadcasting service on Applicable Channels:

Minimum Audio Description requirements				
	Public	Commercial free to air	Subscription	Community
Year 1	2%	1%	1%	0.4%
Year 2	4%	2 %	1%	0.8%
Year 3 onwards	6%	3%	1.5%	1.25%

Closed Captioning:

(c) A television broadcasting service licensee which provides Closed Captioning must implement the following minimum percentages of total Closed Captioning, measured across its broadcasting service on Applicable Channels:

Minimum Closed Captioning requirements				
	Public	Commercial free to air	Subscription	Community

Year 1	5%	2%	2%	1%
Year 2	5%	3 %	3%	1%
Year 3 onwards	10%	5%	5%	2%

5. BASIC STANDARDS FOR ELECTRONIC COMMUNICATIONS SERVICE LICENSEES

Universally Designed Products and Services:

- (1) An Electronic Communications Service licensee must ensure that all electronic communications devices ready for purchase are Universally Designed to cater for the needs of persons with Disabilities.

Hearing Aid Compatibility Requirements for Fixed Line Handsets:

- (2) An Electronic Communications Service licensee must ensure that all its fixed line telephones being offered to the public have hearing aid compatibility. Some of the features may include the following:
- (a) a standard rental telephone handset which includes one-touch dial memory, a lightweight handset and a built-in hearing aid coupler;
 - (b) a telephone which amplifies the incoming caller's voice to suit the listener;
 - (c) a telephone which amplifies the speaker's voice, allowing the speaker to adjust the speech level to suit the listener;
 - (d) a hands-free telephone for a person who cannot hold a telephone handset;
 - (e) an ancillary telecommunications product which has adjustable volume, tone and pitch controls to assist the user to hear the telephone ringing;
 - (f) an ancillary telecommunications product which allows the connection of a second piece of equipment (e.g. a visual signal alert) in parallel with the existing telephone;
 - (g) an ancillary telecommunications product in which the telephone handset is cradled, providing hands-free operation; or
 - (h) a telephone adapting device which allows a person with cochlear implant to have access to the standard telephone service.

Visual Aid Compatibility Requirements for Mobile Handsets:

- (3) An Electronic Communications Service licensee must ensure that all its mobile handsets being offered to the public have visual aid compatibility. Some of the features may include the following:
- (a) **Customized Displays** - An Electronic Communications Service licensee must make provision for wireless device screens with better contrast, illumination, larger font size and magnifying functionalities;
 - (b) **Alternate formats** - An Electronic Communications Service licensee must make provision for product information and billing in alternate formats (Braille, large print, electronic (plain text or HTML, audio format etc.) upon request, and ensure that this information is easily accessible on the operators' website;
 - (c) **Braille** - An Electronic Communications Service licensee must make provision for phones that have built-in, or that make use of applications that have the capability of connecting wirelessly. When set up, it must support navigation and text input from a Braille keyboard;
 - (d) **Screen Reader** - An Electronic Communications Service licensee must make provision for a screen access application that provides individuals, who are blind or visually impaired, with the ability to read the text that is displayed on the computer screen with a speech synthesizer;
 - (e) **Voice Recognition** - Electronic Communications Service licensees must provide options for consumers to interact with their phone using their voice, or voice recognition;
 - (f) **Automatic Responses** - Electronic Communications Service licensees must provide a program on wireless devices to answer automatically or redial certain calls or messages; Hands-free or One-Touch - Electronic Communications Service licensees must provide a hands-free device with a speakerphone or assign certain functions to one button for dialling or other pre-programmed functions.

6. NATIONAL RELAY SYSTEM ("NRS")

- (1) An Electronic Communications Service licensee must provide for a NRS which translates voice to text and vice-versa, on calls made by persons who are deaf or have a hearing or speech impairment.
- (2) The NRS must offer the following relay services:
 - (a) Type and read;
 - (b) Speak and listen;
 - (c) SMS or text based services;
 - (d) Video; and
 - (e) Captioned telephony.
- (3) An Electronic Communications Service licensee must comply with the NRS specifications, applicable to video, as contained in Annexure A of these Regulations.
- (4) The NRS specification, applicable to video, must be implemented as follows:

Timeline	Operating hours
Year 1	09h00 - 18h00
Year 2	06h00 - 22h00
Year 3 onwards	24 hours

7. GENERAL REQUIREMENTS FOR COMMUNICATION AND INFORMATION PROVISION TO PERSONS WITH DISABILITIES FOR INDIVIDUAL ELECTRONIC COMMUNICATION SERVICE ("I-ECS") LICENSEES

- (1) An I-ECS licensee must provide free directory services to the hearing and sight impaired persons upon request.
- (2) **Emergency services:** An I-ECS licensee must provide a special number for emergency services by including functionalities for persons with Disabilities.
- (3) **Priority fault repairs:** An I-ECS licensee must prioritise an urgent need to repair a handset for persons with Disabilities.

- (4) **Customer Service Staff:** An I-ECS licensee must ensure that there are trained employees who can provide customer service and communicate with persons with Disabilities in all its stores.
- (5) **Demonstration of equipment:** An I-ECS licensee must ensure that it provides a demonstration in respect of the use of the equipment to persons with Disabilities who visit a broadcasting service or I-ECS licensee's store before the person purchases, where reasonably possible.
- (6) **Access to information:**
- (a) Television and broadcasting service and I-ECS licensees must:
- (i) ensure that, where practicable, they provide upon request printed material outlining accessible products for persons with Disabilities in simple and reader friendly languages in all their stores;
 - (ii) provide brochures, videos and other information to organisations that work with deaf persons on a regular basis to ensure the information provided is displayed on information stands and targeted to deaf persons;
 - (iii) make available advertisements and promotions for products and services specifically designed for persons with Disabilities in accessible formats to relevant organisations of persons with Disabilities in every province upon request;
 - (iv) make provision for specific needs offers categorised according to disabilities, including hearing, sight, and dexterity disabilities which must be easily accessible on the operators' website.

8. PROMOTION OF AWARENESS AND COMPLIANCE BY A BROADCASTING SERVICE LICENSEE

- (1) A television broadcasting service licensee must prepare a three-year accessibility plan setting out measures for that licensee to promote accessibility for persons with Disabilities to its broadcasting service ("accessibility plan").

- (2) The accessibility plan, in terms of sub regulation (1), must set out the licensee's objectives and proposed measures to be implemented by the licensee in the following three years in relation to accessibility services for:
 - (a) blind and visually impaired persons; and
 - (b) deaf and hearing-impaired persons.
- (3) A television broadcasting service licensee must submit its accessibility plan, in terms of sub regulation (1), to the Authority for approval six months after commencement of regulations and at three yearly intervals thereafter.
- (4) The Authority may request the television broadcasting service licensee to make amendments to the accessibility plan, submitted in terms of sub regulation (3), should it deem it to not be sufficient.
- (5) The measures set out in the accessibility plan, prepared in terms of sub regulation (1), are binding commitments with which the television broadcasting service licensee must comply.
- (6) A television broadcasting service licensee is required to submit annual reports to the Authority on their accessibility initiatives and the extent to which they have implemented the measures in their accessibility plan.
- (7) The reports, submitted in terms of sub section (6), must indicate the extent to which the broadcasting service licensee has implemented the measures in the preceding financial year, the extent to which it has implement the measures and the reasons for its non or partial compliance.
- (8) A broadcasting service licensee's failure to implement the measures in its accessibility plan without, except for where noncompliance is as result of impossibility of performance, will constitute non-compliance with the Code.

9. COMPLIANCE REPORTING

A television broadcasting service and I-ECS licensees must submit annual reports to the Authority, sixty (60) days after the end of the licensee 's financial year, on the nature and extent of the licensee's compliance with these Regulations.

10. CONTRAVENTIONS AND PENALTIES

A licensee that fails to comply with these Regulations, except for regulation 4 (4), will be subject to a fine not exceeding R5 000 000, 00 (five million rand) or 10% of the licensee's annual turnover for everyday or part thereof during which the contravention continued.

11. REPEALED REGULATIONS

The Code on Persons with Disabilities Regulations published in Government Gazette No. 30441 of 2007 is hereby repealed.

12. TRANSITIONAL ARRANGEMENTS

An existing terrestrial television broadcasting service licensee which is migrating from analogue to digital terrestrial transmission will be required to begin complying with these Regulations with effect from the date of the final switch-off of analogue signals gazetted by the Minister.

13. SHORT TITLE AND COMMENCEMENT

These Regulations are called the Code for Persons with Disabilities Regulations, 2020 and shall come into effect eighteen (18) months after publication in the Government Gazette.

Annexure A

National Relay System Specifications Applicable to Video

1. Technical Provision

1.1. Technical Provision

A Video Relay Service (VRS) allows hearing impaired and deaf people to use video technology to communicate in a manner similar to a traditional telephone call via a South African Sign Language interpreter (SASLi.)

VRS is a video interpreting service providing instant communication, on demand, between a South African Sign Language (SASL) user and a third party whereby the parties are in different locations (not co-located). For example, SASL user with webcam, videophone, mobile or tablet etc makes a video call and then signs to SASL Interpreter. A SASLi then speaks (via phone) to the hearing person. The hearing person replies (speaks) to the SASLi and the Sign Language Interpreter then translates (signs) the response to the deaf person (who can see the interpreter on their computer, TV or video screen). This process takes place simultaneously.

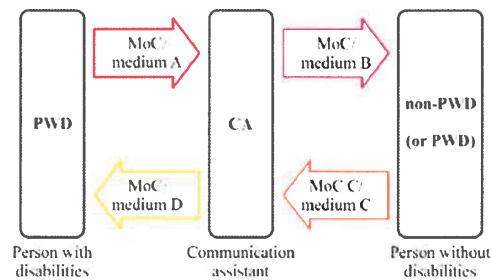


Figure 1

Notes to Figure 1: – MoC: Mode of communication.

CA: Communication Assistant - A person working in a relay service with media conversation, as a human intermediary, including sign language interpreters for video relay service

PWD: Persons With Disabilities

1.5. Service Allocation

The end user must be able to access all VRS services.

1.6. Emergency Calls

Emergency calls must be prioritised. Location and mapping detail are also required where available (access to subscriber information). Real time text will be required in order to provide an alternative method of communication.

The key functional requirements for placing emergency calls are¹:

- a) accurate and fast routing of the relay to the appropriate emergency call centre: the call centre that the relay service connects to must be the call centre that would have been reached if a non-PWD had made the emergency call in a similar situation. Furthermore, the emergency call centre must receive the call through their normal incoming emergency call phone lines, the same way that a voice emergency call is received from a non-PWD. If CA availability is limited, emergency calls should be prioritized (i.e., emergency callers can jump the queue of calls waiting for the next available CA to take a call);
- b) accurate conveyance of all supporting information: information on the phone line and the location as it pertains to the PWD, not to the relay centre must be delivered. To the extent that an emergency call centre has access to such information from a non-PWD caller, the same information must be conveyed about a PWD who connects to the emergency services through a relay service

¹ Rec. ITU-T F.930 (03/2018)

conversation at low bit rates (based on the use of dated equipment or network access at the user end), the following basic minimum performance goals must apply:

- 25-30 frames per second at CIF resolution and a max. 0.4s delay, accepting occasional blur less than that corresponding to QCIF during medium motion.
- Sound synchronism better than 100 ms.
- End-to-end delay (latency) must be below 0.4 s. must
- **Broadband Access** - Broadband access requirements will be defined by the service provider based on the end user device, (mobile, pc, tablet) the type (fixed or mobile) and capability of network infrastructure (e.g. DSL, Ethernet, 3G, 4G) used as well as the quality of service offered.

1.9. Service Initiation and Operation

All VRS systems must be simple to operate from the Call centre application to the End user application. It must be easy to load with adequate loading instructions and simple to configure. It must be self-loading with minimum user intervention.

1.10. Call Handover

During peak busy hours priority calls (e.g. emergency calls) may need to be transferable between providers, provision must be made in this regard.

1.11. Call Back Provision

Caller's numbers or ID's must be temporarily stored to enable call back provision where required. There must be clear policies and procedures in place as to when and how this will be done, reflecting the needs of Data Protection. The user may not be charged extra for this service, neither connection fees or for additional minutes accrued as a result of re-establishing the call. The caller information must be removed within a designated timeframe or at a pre-

Privacy, confidentiality and security shall be maintained to achieve functional equivalency. Privacy, confidentiality and security considerations extend both to the technologies used by relay services and the human CAs.

Relay services shall be able to provide encrypted calls if the mainstream telephone services of the country in which the relay service is located provides encrypted calls. More generally, requirements for confidentiality and call security should mirror those of the mainstream telecommunications services of the country in question.

1.14. Standards

Services provision must conform to the relevant International Telecommunication Union communication protocols and specifications where available. Conformance to standards must be confirmed by the service providers in an auditable manner.

1.16 User Applications

User Applications consists of mobile applications for smartphones and a web-based interface for desktop computers. In addition to telephone numbers, the ability to use web-based links for direct service opportunities must be included in the VRS. This will provide a tremendous amount of accessibility for the end-user.

1.17 Interpreting Services

The core of the NRS are the interpreters. The service provider must set up a call centre and provide a sign language interpreter to enable the service.



Independent Communications Authority of South Africa

350 Witch-Hazel Avenue, Eco Point Office Park
Eco Park, Centurion
Private Bag X10, Highveld Park 0169

EXPLANATORY MEMORANDUM ON THE DRAFT CODE FOR PERSONS WITH DISABILITIES REGULATIONS

1. INTRODUCTION

- 1.1 In 2011, the Independent Communications Authority of South Africa (“Authority”), through the Committee for the Code for Persons with Disabilities began the process of reviewing the Regulations on the Code for Persons with Disabilities, 2007.
- 1.2 On 28 March 2014, the Authority published the first draft regulations on the Code for Persons with Disabilities for public comments in Government Gazette No.37486. Subsequent to receiving the written representations in response to the first draft, the Authority published a second draft regulation for another round for public comments on 14 November 2014 in Government Gazette No 38211. The Authority then published the third draft on 20 November 2017 in Government Gazette No. 41265.
- 1.3 The Authority held a consultative workshop on 06 and 07 of June 2019 with relevant stakeholders.

3. AMENDMENTS TO THE THIRD DRAFT REGULATIONS

3.1 AD DEFINITIONS:

National Relay System: It is important that persons that are deaf or hard of hearing or who have a speech impairment, can communicate by phone through the services of an interpreter. The National Relay System is thus inserted into the draft regulations to cater for a service that provides communication for persons with Disabilities as defined in the draft regulations.

3.2 AD BASIC STANDARDS FOR BROADCASTING SERVICE LICENSEES:

In the previous draft regulations, “**sign language**” was defined but not incorporated in the body of the regulations. This has now been addressed in the draft regulations.

3.3 AD GENERAL REQUIREMENTS FOR COMMUNICATION AND INFORMATION PROVISION TO PERSONS WITH DISABILITIES FOR BROADCASTING SERVICE LICENSEES:

3.3.1 The following requirements were included in the draft regulations:

- (a) Provision for Breaking News; and
- (b) Improving accessibility.

3.3.2 **Provision for breaking news:** every person is entitled to breaking news, including persons with a disability. The previous drafts failed to cater for persons with Disabilities in this regard.

3.3.3 **Improving accessibility:** persons with Disabilities must have access to information and entertainment, thus the insertion of this requirement in the draft regulation ensures inclusion for persons with Disabilities.

Authority's view that the contravention of the Regulations must be viewed in a serious light as the contravention thereof deprives persons with Disabilities with access to information and their rights to dignity.