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## GENERAL NOTICE

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NOTICE 56 OF 2011



**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

**"IMPLEMENTATION OF THE TRANSITIONAL PROVISIONS OF THE  
INTERCONNECTION REGULATIONS (RELEASED IN GOVERNMENT  
GAZETTE 33101)**

I, Stephen Mncube, Chairperson of the Independent Communications Authority of South Africa hereby publish a Practice Note to all stakeholders entitled "Implementation of the Transitional Provisions of the Interconnection Regulations"

A handwritten signature in black ink, appearing to be 'S. Mncube', written over a horizontal line.

Dr Stephen Mncube  
Chairperson



## Independent Communications Authority of South Africa

Pinmill Farm, 164 Katherine Street, Sandton  
Private Bag X10002, Sandton, 2146

### PRACTICE NOTE ON THE IMPLEMENTATION OF THE TRANSITIONAL PROVISIONS OF THE INTERCONNECTION REGULATIONS

Date of issue: 28 January 2010

#### 1. Purpose

1.1. The purpose of this practice note is to provide clarity to stakeholders on the implementation of the transitional provisions of the Interconnection Regulations released on the 9<sup>th</sup> of April 2010 in Government Gazette No. 33101.

1.2. The specific areas clarified in this note are:

1.2.1. How are the transitional provisions of the Interconnection Regulations to be implemented given the requirement for Vodacom, MTN and Telkom to develop Reference Interconnect Offers (RIO) under the Call Termination regulations.

1.2.2. Can requests for interconnection still be submitted to MTN, Vodacom and Telkom during the development of the RIO?

1.2.3. What will the development of RIOs have on any existing and potential disputes?

#### 2. How are the transitional provisions of the Interconnection Regulations to be implemented given the requirement for Vodacom, MTN and Telkom to develop Reference Interconnect Offers (RIOs) under the Call Termination Regulations

2.1. The Interconnection Regulations contain transitional provisions in Regulation 24, stating the following:

*“(1) Any interconnection agreement concluded prior to the commencement of these regulations must be submitted to the Authority in terms of section 39(1) of the Act in accordance with the time periods set out in the following table:*

Year interconnection agreement entered into	Date to be submitted to Authority
On or before 01 January 2007	On or before 31 January 2011
On or after 01 January 2007	On or before 30 June 2011

*(2) Before submitting an interconnection agreement to the Authority in terms of this section, the parties must review the interconnection agreement and amend the agreement where necessary to ensure that the agreement complies with the requirements of these regulations and the Act.*

*(3) The process set out in the Act and these regulations applies with the necessary changes to the review by the Authority of interconnection agreements submitted in terms of this regulation”*

2.2. These transitional provisions exist to ensure that all interconnected licensees interconnect in compliance with the Objects of the Electronic Communications Act No 36 of 2005.

2.3. The Call Termination Regulations impact on this requirement by requiring certain licensees to develop Reference Interconnect Offers (RIOs):

2.3.1. Under Regulation 24 of the Interconnection Regulations, all existing interconnection agreements must be submitted to the Authority for review according to the stipulated timeframes.

2.3.2. However, owing to the introduction of the Call Termination regulations (GG 33698), certain licensees, namely MTN, Vodacom and Telkom, are required to develop a RIO.

2.3.3. These RIOs are to have two characteristics:

2.3.3.1. Compliance with the Interconnection Regulations; and

2.3.3.2. Compliance with the conditions stipulated by the Authority in Appendix A of the Call Termination regulations

2.3.4. Therefore in order to align the Call Termination Regulations with the Interconnection Regulations, the Authority informs all stakeholders that the Authority forbears from upholding compliance with Regulation 24 of the Interconnection Regulations so long as the interconnection agreement is between any licensee and one of the following:

2.3.4.1. MTN

2.3.4.2. Vodacom

2.3.4.3. Telkom

2.3.5. On finalisation of the RIOs it is expected that all interconnection agreements with MTN, Telkom and/or Vodacom will be amended and submitted to the Authority for review.

2.3.6. Given that the RIOs will not yet be completed, all licensees are instructed to submit notification to the Authority that the correct wholesale voice call termination rates as stipulated in the “Practice Note on implementation of asymmetry provisions in the Call Termination Regulations” are adhered to NO LATER THAN 20 February 2011.

2.3.7. The Authority wishes to inform all licensees that any interconnection agreement not affected by the introduction of a RIO is to be re-submitted in accordance with Regulation 24 of the Interconnection Regulations.

**3. Can requests for interconnection still be submitted to MTN, Vodacom and Telkom during the development of the RIO?**

3.1. The obligation to develop of a RIO does not replace an obligation a licensee has under Section 37(1) of the ECA, whereby

*"Subject to section 38, any person licensed in terms of Chapter 3 must, on request, interconnect to any other person licensed in terms of this Act and persons providing service pursuant to a licence exemption in accordance with the terms and conditions of an interconnection agreement entered into between the parties, unless such request is unreasonable."*

**4. What impact will the development of RIOs have on any existing and potential disputes?**

4.1. The obligation to develop a RIO is a separate matter to any existing and potential disputes over interconnection UNTIL the RIOs have been approved by the Authority.

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