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## GOVERNMENT NOTICES

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### DEPARTMENT OF COMMUNICATIONS

No. R. 963

30 September 2005

I, Dr, Ivy Matsepe-Casaburri, Minister of Communications in terms of section 96 of the Telecommunications Act, of 1996 (Act No. 103 of 1996), hereby give notice that I have approved the regulations in the schedule, made by the Independent Communications Authority of South Africa under section 96 of the said Act.

## SCHEDULE

### IS

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

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**'block operator'** means a network operator that is subject to requirements in respect of number portability and that has been allocated a number block that is subject to number portability;

**'CLI'** means a caller line identity;

**'donor operator'** means a network operator that is subject to requirements in respect of number portability and that ceases to serve a number that is being ported;

**'donor service provider'** means a service provider that ceases to serve a number that is being ported;

**'functional specification'** means a regulation determining the rules applicable to operators and through operators to service providers for the implementation, management and performance of number portability;

**'geographic number'** means a number that is part of a block that has been allocated for use in a specified geographic area;

**'ordering system specification'** means a specification of the procedures by which a recipient service provider, a recipient operator, a donor operator, and a donor service provider exchange information between each other in order to provide number portability to a subscriber, including the information to be sent, the format of the information, the means of communication, the times when communications may be sent, the time limits for responses and the handling of error conditions;

**'recipient operator'** means a network operator that is subject to requirements in respect of number portability and commences or continues to serve a number that is or has been ported;

**'recipient service provider'** means a service provider that commences or continues to serve a number that is or has been ported;

**'service provider'** means

- (a) an entity that sells to a subscriber the ability to make and receive telephone calls;
- (b) a network operator;

- (c) an entity person that buys network services from a network operator and resell these services to 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, including-

- (a) in respect of making and receiving calls, any caller who makes or terminates or receives calls that are the subject of such a contract or arrangement; and  
(b) in the case of mobile services, pre-pay customers;

'the Act' means the Telecommunications Act, 1996 (Act No.103 of 1996);

'winback' means a donor network operator or donor service provider who contacts 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 two months after requesting number portability; but does not include offers made to subscribers in general that do not refer to number portability or the individual subscriber's current or past services.

**Requirements to provide number portability in respect of blocks of geographic numbers**

- 2(1) All network operators who are subject to requirements in respect of number portability and 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 10,000 contiguous numbers provided that-
- (a) no numbers within the same block are assigned to other subscribers;
  - (b) the network termination points remain within the geographic boundaries associated with the number block by the Authority; and
  - (c) the numbers will be ported to another network operator who is subject to requirements in respect of number portability.
- (2) Telkom and all other operators who are required in terms of sub-regulation (1) to offer number portability shall cooperate together to provide such portability as soon as possible: Provided that every pair of operators between whom number portability in accordance with sub-regulation (1) is possible shall provide such number portability not later than two months after the launch of those services by whichever operator launches services later or any longer time that the Authority may on request determine before the launch of the said services.
- (3) All network operators who are subject to requirements in respect of number portability and 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 1,000 contiguous numbers:- Provided that-
- (a) no numbers within the same block are assigned to other subscribers;
  - (b) the network termination points remain within the geographic boundaries associated with the number block by the Authority; and
  - (c) the numbers will be ported to another network operator who is subject to requirements in respect of number portability.
- (4) Telkom and all other operators who are required in terms of sub regulation (3) to offer number portability shall cooperate together to provide such portability as soon as possible: Provided that every pair of operators between whom number portability in accordance with sub-regulation (3) is possible shall provide such

number portability no later than four months after the launch of those services by whichever operator launches services later or any longer time that the Authority on request may determine before the launch of the said services.

- (5) The implementation of number portability in respect of blocks of geographic numbers shall conform to a functional specification to be promulgated by way of Government Notice. The functional specification shall be developed and maintained by the Authority in consultation with the network operators, service providers and other interested parties including user organisations. The Authority shall enforce the functional specification.

### **Requirements to provide number portability in respect of individual geographic numbers**

- 3 (1) All network operators who are subject to requirements in respect of number portability and who terminate calls to subscribers who are identified by geographic numbers and are connected directly to their network shall on request in writing from another network operator who is subject to requirements in respect of number portability provide the capability for subscribers to have number portability when transferring to the said other operator: Provided that any network termination point remains at a location that conforms to the geographic boundaries associated with the number block as determined by the Authority.
- (2) Every network operator who makes a request contemplated in sub-regulation (1) shall send a copy of that request to the Authority.
- (3) The capability to provide number portability as contemplated in sub-regulation (1) shall be made available between the operators concerned within 12 months of the request contemplated in that sub-regulation.
- (4) The implementation of number portability in respect of individual geographic numbers shall conform to a functional specification to be promulgated by way of Government Notice. The functional specification shall be developed and maintained by the Authority in consultation with the network operators, service providers and other interested parties including user organisations. The Authority shall enforce such functional specification.
- (5) The network operators who serve geographic numbers **and** who are subject to requirements in respect of number portability for individual numbers shall prepare and maintain an ordering system specification.

- (6) The ordering system specification contemplated in sub-regulation (5) shall be completed and lodged with the Authority within three months of the date of the request contemplated in sub-regulation (1).
- (7) The preparation of the ordering system specification shall be carried out in consultation with other interested parties including user organisations.
- (8) Network operators shall include in the ordering system specification any measures that the Authority may request; and shall invite the Authority with at least five working days notice of the main meetings to be held to prepare the ordering system specification.
- (9) Every network operator whose subscribers have ported its numbers from another operator shall maintain and make available free of charge or through a third party included but not limited to the on the Internet a list of the ported numbers of its subscribers.
- (10) The list shall be updated at least once per day and shall be publicly available unless, the Authority on request determines otherwise.
- (11) The Authority shall publish the ordering system specification in the government gazette to afford interested parties an opportunity to comment thereon. Upon finalization of the ordering system specification, the Authority shall incorporate the ordering system specification to these regulations to become an integral part thereof.

#### **Requirements to provide mobile number portability**

- 4 (1) All mobile network operators who are subject to requirements in respect of number portability shall work together to offer number portability to their subscribers as soon as reasonably possible and not later than nine months after promulgation of this regulation.
- (2) Where a mobile network operator provides services through a service provider the mobile operator shall secure the cooperation of the service providers in the provision of number portability through their contractual relationships with them.
- (3) The implementation of mobile number portability shall conform to the mobile functional specification to be promulgated by way of Government Notice. The functional specification shall be developed and maintained by the Authority in consultation with the mobile network operators, mobile service providers and other interested parties including user organisations. The Authority shall enforce the functional specification.

- (4) The network operators who serve mobile numbers and who are subject to requirements in respect of number portability shall prepare, maintain and lodge with the Authority within one month of the publication of these regulations an ordering system specification.
- (5) The preparation of the ordering system specification shall be carried out in consultation with the service providers and other interested parties including user organisations.
- (6) The network operators shall include in the ordering system specification any such measures as the Authority may request.
- (7) The network operators shall inform the Authority with at least five working days notice of the main meetings to be held to prepare the ordering system specification and the Authority shall have the right to attend.
- (8) The Authority shall publish the ordering system specification in the government gazette to afford interested parties an opportunity to comment thereon. Upon finalization of the ordering system specification, the Authority shall incorporate the ordering system specification to these regulations to become an integral part thereof.
- (9) Each mobile network operator whose subscribers have ported their numbers from another operator shall maintain and make available themselves, via a third party or via the Internet, free of charge a list of the ported numbers of their subscribers.
- (10) The list shall be updated at least once per day and shall be publicly available unless the Authority agrees otherwise.
- (11) A mobile network operator shall not discriminate against service providers in any aspect of the implementation of number portability; including charging and offering incentives to independent service providers and service providers that they own in whole or in part.
- (12) A network operator or service provider may refuse to import a short number or a number used for information or other such services.

- (13) A network operator may refuse to import a number that would clash with another number or code that is in use, or is planned to be used, in their network.

### **Routing**

- 5 (1) An operator who originates a call or other communication to a ported number or who handles a call or other communication from outside the Republic to a ported number inside the Republic shall be responsible for ensuring that the call will be routed directly or indirectly to the operator that serves the called number.
- (2) A block operator shall ensure that any calls, and where practicable other communications, 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 of the original CLI shall be unchanged by the re-routing process.
- (3) Telkom shall offer to all other network operators a service whereby it will route calls directly or indirectly to ported numbers.

### **Cost recovery and charging**

- 6 (1) An operator that is required to provide number portability shall bear its own set-up costs and all originating operators shall bear any set-up costs that are incurred as a consequence of regulation 5 (1).
- (2) The recipient operator shall pay the donor operator or the recipient operator shall ensure that the recipient service provider pays the donor service provider their reasonable per-customer costs necessarily incurred when a customer ports their number successfully.
- (3) No payments shall be made for unsuccessful portings.
- (4) Per-customer costs between operators shall be cost based and shall be lodged with the Authority.
- (5) A donor operator shall not charge a subscriber when the subscriber ports their number and shall ensure that the donor service provider does not charge the subscriber when the subscriber ports its number.
- (6) This regulation does not prohibit the recipient service provider or recipient operator from charging the customer for successful portings.



- (7) An operator whose retail prices are controlled by regulation, may apply to the Authority to have reasonable set-up costs of number portability and any incremental costs incurred in performing the requirements that are contemplated in regulation 4 (1) be taken into consideration in the next revision of its price control.
- (8) An operator that is required by regulation 5 (2) or 5 (3) to incur additional costs in routing calls or other communications to ported numbers may charge the operator from which they receive the calls or other communications for those additional costs.
- (9) The additional charges contemplated in sub-regulation (8) may be applied to each call or other communication individually or averaged over all the calls or other communications from the said operator.
- (10) Where an operator that is subject to the requirements of regulation 5 (2) or 5 (3) has its interconnection charges controlled by regulation, that operator may apply to the Authority to have the reasonable incremental **costs** necessarily incurred taken into account in the next revision of its price control.

### Service and other requirements

- 7 (1) A recipient operator shall not order number portability for any subscriber unless it has received a request from that subscriber and shall ensure that the recipient service provider does not order number portability for any subscriber unless it has received a request from that subscriber.
- (2) A donor operator shall not engage in winback and shall ensure that the donor service provider does not engage in winback.
- (3) Operators shall not make offers to subscribers with ported numbers that are not also made to subscribers without ported numbers and shall ensure that the service providers do not make offers to subscribers with ported numbers that are not also made to subscribers without ported numbers.
- (4) To ensure adequate tariff transparency for callers, where as a result of number portability the termination rate charged for a call to a ported number is more than 10% higher than the termination rate charged by the operator allocated the number block that contains the ported number, the terminating operator shall apply a warning to be agreed with the Authority before connecting the call and shall not charge for the period during which the warning is applied.

- (5) The Authority may waive the requirement contemplated in sub-regulation (4) or to alter the percentage quoted.
- (6) To ensure adequate tariff transparency for callers from networks where on-net discounts are offered the following shall apply: Where as a result of number portability an on-net discount that might be expected does not apply and the retail rate charged for a call to the ported number is more than 10% higher than the retail rate with on-net discount for a call to an unported number in the number block that contains the ported number, the originating operator shall apply a warning before connecting the call.
- (7) The form of the warning shall be agreed with the Authority and the originating operator shall not charge for the period during which the warning is applied.
- (8) Operators who import numbers shall include in their tariff information an explicit statement about whether or not these numbers qualify for on-net discounts. The Authority shall have the right to waive this requirement or to alter the percentage quoted.
- (9) Network operators who are required to offer number portability and their service providers shall develop, maintain and enforce amongst themselves a code of practice relating to marketing and sales practices and communications with subscribers who request number portability.
- (10) The preparation of the code of practice shall be carried out in consultation with other interested parties including user organisations.
- (11) All operators shall ensure that their service providers also comply with this code of practice.
- (12) The code of practice shall be lodged with the Authority within two months of the publication of this regulation.
- (13) The network operators and their service providers shall include in the code of practice any measures that the Authority may request. The network operators shall inform the Authority with at least five working days notice of the main meetings to be held to prepare the code of practice and the Authority shall have the right to attend.

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- (14) Except where otherwise indicated, network operators required to offer number portability and their service providers shall develop, publish and maintain a code of practice for resolving disputes within four weeks between themselves relating to number portability.
  - (15) The procedures shall include any measures that the Authority may request and unresolved disputes may be referred to the Authority.
  - (16) The network operators shall inform the Authority with at least five working days notice of the main meetings to be held to prepare the code of practice.
  - (17) Nothing in these regulations shall be interpreted as to imply that a network operator or service provider is required to start to serve an entity who is requesting service with number portability if the network operator or service provider would not offer service if that entity were not requesting number portability.