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**GOVERNMENT NOTICE**

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**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

No. R. 774

24 July 2009

**REGULATIONS, IN TERMS OF SECTION 4 READ WITH SECTION 69(3) OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005), SETTING OUT THE MINIMUM STANDARDS FOR END-USER AND SUBSCRIBER SERVICE CHARTERS.**

I, Paris Mashile, Chairperson of the Independent Communications Authority of South Africa ("the Authority"), hereby confirm that the Authority has approved the regulations in the schedule in terms of section 4 read with section 69(3) of the Electronic Communications Act, 2005 (Act No. 36 of 2005)



**PARIS MASHILE**

**CHAIRPERSON**

## SCHEDULE

### 1. PURPOSE OF THE REGULATIONS

The purpose of these Regulations is to prescribe the minimum standards for end-user and subscriber service charters.

### 2. SCOPE AND APPLICATION OF THE REGULATIONS

The Regulations prescribe the minimum standards for end-user and subscriber service charters applicable to Electronic Communications Service (ECS) and Electronic Communications Network Service (ECNS) licensees.

### 3. DEFINITIONS

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

**“The Act”** means the Electronic Communications Act (No. 36 of 2005).

**“Connectivity”** means setting up and connecting the end user to the Electronic Communications network.

**“Connectivity Failure”** means the inability of an electronic communications network system to initiate or maintain connection between end-users.

**“Complaint”** means a communication lodged by an end-user, by means of voice communication, personal visit (walk-in centres), post or by data messaging, expressing dissatisfaction with the service rendered by the licensee.

**“Fault”** means a failure of performance so serious as to destroy the ability of a network or some elements of a network to function effectively.

**“Fault Clearance”** means the resolution of a fault.

**“Fault Report”** means the communication of a fault by the end-user.

**"ICASA Act"** means the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000).

**"Installation"** means making available the network infrastructure on the customer interface side.

**"Qualifying service applicant"** means an applicant for a licensee's service that meets certain preconditions as required by the licensee and can access these services within an area in which a licensee provides the required service and has coverage.

#### **4. ELECTRONIC COMMUNICATIONS SERVICE (ECS) AND ELECTRONIC COMMUNICATIONS NETWORK SERVICE (ECNS) LICENSEES**

Licensees must cater for the following:

##### **4.1 Availability of the ECN services**

All licensees must ensure that they achieve an average of 95% network service availability, over a period of six (6) months.

##### **4.2 Availability of the EC services**

All licensees must ensure that they achieve an average of 95% service availability within their specified area of coverage over a period of six (6) months

##### **4.3 Average Time to both Install and activate Service**

- a) All ECS and ECNS licensees must attain 90% success rate within thirty (30) days in meeting requests for installing and activating of service, for qualifying service applicants within their specified area of coverage.
- b) The remaining ten percent (10%) of requests for installation and activation must be met within forty (40) days of the request.

**4.4 Average time to Activate service**

- a) All ECS and ECNS licensees must attain 90% success rate within seven (7) days in meeting requests for activation of a service, for qualifying service applicants within their specified area of coverage.
- b) The remaining ten percent (10%) of requests for activation must be met within fifteen (15) days of the request.

**4.5** Licensees shall within 7 days upon receipt of a request notify and provide full reasons to qualifying service applicants where they are unable to provide service within the period specified in sub regulations 4.1, 4.2, 4.3 and 4.4 above.

**4.6 Connectivity Failure Rate (including dropped calls)**

The percentage of connectivity failure rate must not exceed an average of 3% of all connections, over a period of six (6) months, for all ECNS and ECS licensees.

**4.7 Operator Assisted Calls Response Time**

The operator assisted calls must be answered within three (3) minutes averaged over twelve months.

**4.8 ECN Monitoring**

All licensees must monitor electronic communications network, 24 hours, seven (7) days a week.

**4.9 Fault Clearance Rate / Mean Time to Clear Faults**

- a) All ECNS and ECS licensees must maintain an average of 90% fault clearance rate for all faults reported within three (3) days.
- b) The remaining ten percent (10%) of faults reported must be cleared within six (6) days of the reporting of the fault.

## **5. COMPLAINTS PROCEDURE**

### **5.1 Complaints reported to the Licensee**

- (a) Licensees must designate and publicise a point of entry for complaints to be lodged by the complainants.
- (b) Licensees must acknowledge receipt of the complaint through the allocation of a reference number within three (3) days upon receipt thereof.
- (c) Licensees may respond to the complaint in any manner or format which the licensee considers appropriate in the circumstances, including, without limitation, in writing, telephonically, by e-mail, via short message services or in person.
- (d) Licensees must formally resolve all complaints from the complainants within fourteen (14) days of receipt thereof.

### **5.2. Complaints escalated to the Authority by End-Users and Subscribers**

- (a) In the event that the complainant is not satisfied with the resolution of their complaint by the licensees, he/she may approach the Authority for the resolution of the complaint.
- (b) Licensees must formally resolve all complaints referred to them by the Authority within fourteen (14) days upon receipt thereof.

## **6. INFORMATION REQUIREMENTS**

- (a) Licensees must keep and maintain a record of all complaints received from end-users and subscribers.
- (b) Licensee must prepare six-monthly reports on complaints received and processed. Copies of such reports must be submitted to the Authority within one (1) month after the end of the licensee's financial year and every six (6) months thereafter.

- (c) Licensees must prepare and submit to the Authority six (6) monthly reports on the standards as prescribed in regulation 4.
- (d) The reports referred to in sub regulations 6(b) and (c) of these regulations must be in accordance with the format as may be determined by the Authority from time to time.

## **7. PENALTIES**

A licensee who is held to be non compliant by the Complaints and Compliance Committee (CCC) will be liable to a fine not exceeding:

- a) R500 000.00 for a contravention of regulation 4
- b) R 150 000.00 for a contravention of regulations 5 and 6
- c) An additional R50 000.00 for every repeated offence

## **8. REGULATIONS THAT ARE REPEALED**

- a) The End-user and Subscriber Service Charter Regulations, published in Government Gazette Number 30792 dated 25 February, 2008 are hereby repealed.
- b) The End-User and Subscriber Service Charter Regulations, published in Government Gazette Number 31556 dated 31 October, 2008 are hereby repealed.

## **9. SHORT TITLE AND COMMENCEMENT**

These Regulations are called End-User and Subscriber Service Charter Regulations 2009 and will come into operation within thirty (30) days from the date of publication in the Government Gazette.



**Independent Communications Authority of South Africa**  
Pinmill Farm, 164 Katherine Street, Sandton  
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## **End-User and Subscriber Service Charter- Reasons for decision**

**July 2009**

### **1. Introduction**

The process of developing the Regulations on End-user and Subscriber Service Charter began with the establishment of a committee of Council in January 2007, in terms of section 17 of the ICASA Act, 2000 (Act No. 13 of 2000).

In terms of section 69(3) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), *"The Authority must, as soon as reasonably possible after the coming into force of this Act, prescribe regulations setting out the minimum standards for and end-user and subscriber service charters"*.

The Authority is further endowed, in terms of section 69(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), with discretionary powers that it may develop different minimum standards for and end-user and subscriber service charters for different types of services. The Authority may in future, in line with this section of the Act, prescribe different service charters for different types of services.

According to section 69(5) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), *"The matters which an end-user and subscriber service charter may address include, but are not limited to-*

- (a) the provision of information to end-users and subscribers regarding services, rates, and performance procedures;*
- (b) provisioning and fault repair services;*
- (c) the protection of private end-user and subscriber information;*
- (d) end-user and subscriber charging, billing, collection and credit practices;*

**P Mashile (Chairperson), NA Batyi, TLV Makhakhe, R Nkuna, BB Ntombela, FK Sibanda, Dr MM Socikwa,  
Prof JCW van Rooyen SC (Councillors), BK Motlana (CEO)**

- (e) *complaint procedures and the remedies that are available to address the matters at issue; and*
- (f) *any other matter of concern to end-users and subscribers.*

The list referred to above, is not necessarily exhaustive and the Authority is at liberty to add or augment more matters it deems relevant to be addressed by the end-user and subscriber service charter. The use of the expression "but not limited to" by the Legislature is indicative that the prescribed list is not a closed one and the Authority may come up with new matters that are not listed in section 69(5) of the ECA.

Over and above the specific matters outlined in section 69 (5) of the ECA, the Authority is also enjoined to take into account the objectives of the Act, in coming up with regulations. In this regard, section 2 of the ECA states that:

*"The primary object of this Act is to provide for the regulation of electronic communications in the Republic in the public interest and for that purpose to-*

- (n) promote the interests of consumers with regard to the price, quality and the variety of electronic communications services;*
- (q) ensure information security and network reliability".*

## **2. Draft regulations for comment (Round1)**

The committee, as its first major task, drafted regulations that were published in Government Gazette Number 30073 dated 13 July 2007 and interested parties were invited to comment thereon and to submit such written representations to the Authority by 24 August 2007. A workshop was held on 17 October 2007 to deal with the written as well as oral representations that were made by the interested parties.

## **3. Draft regulations for comment (Round 2)**

The Authority published and promulgated regulations in the Government Gazette Number 30792 dated 25 February 2008. The Authority, by way of Government Gazette Number 30956 dated 7 April 2008, withdrew the regulations promulgated on 25 February 2008 and the regulations were once again placed in the public domain for further comment and scrutiny by members of the public and the licensees. The rationale for the withdrawal was as a result of concerns raised by some licensees that the promulgated regulations were extremely onerous and would be difficult, if not impossible, to implement in practice.



The Authority again received written representations from the licensees with concerns on legal and technical implications if the regulations were promulgated into law in their current form and content. The concerns will be dealt with briefly hereunder:

### 3.1 Definitions

It is argued that the definition of “dropped calls” is consistent with voice telephony, especially the mobile environment and is never used in the fixed line environment. The definition restricts its applicability to the mobile environment, which is inconsistent with the technology neutrality approach that is mooted in the Electronic Communications Act, 2005 (Act No. 36 of 2005). There is a strong view that the definition should be re-visited if the regulation is intended to be applicable generally to all licensees.

The licensees also sought clarity on the distinction between “call failure” and “failure” as both terms seem to mean one and the same thing. There was also a general feeling amongst the licensees that the term “services” needed to be defined, since in its current form there is no indication of what it means. It is not clear whether it entails voice or whether it includes data and other similar services.

The definition of “urban area” and “rural area” is an area of concern to the licensees and the Authority was advised to consult a recent document entitled “**MIGRATION AND URBANISATION IN SOUTH AFRICA**”, Statistics South Africa for guidance and the administrative nightmares it poses to define the two terms.

### 3.2 Regulation 4.1

It is argued by the licensees that although the heading of the regulation deals with availability and reliability, the body or content of the regulations only talks to availability to the exclusion of reliability. A proposal is put by the licensees that the regulation should rather read:

**All licensees must ensure that the service is available within the areas specified in its licence for 90% of their actual area of coverage over two consecutive 12-month periods.**

### 3.3 Regulation 4.2

Though the 90% success rate within 30 days is extremely challenging in some circumstances, it is more achievable than the stipulation to attain 100% success rate within

14 days and therefore acceptable to the licensees. It is also mooted that the changes brought about by the licensing framework may adversely affect the prescribed 30 day period as subscribers will now approach the Electronic Communications Service Licensee (ECSL) and the latter will approach the Electronic Communications Network Service Licensee (ECNSL) to enquire about the availability of services. In instances where there is no infrastructure, the ECNSL must make guarantees to the ECSL as to when it will be able to construct network infrastructure. This may surely take more than the prescribed 30 day period.

### **3.4 Charging, billing, collection and credit practices**

There is an unanimous view that the provisions of regulation 4 sub-regulation 10 have no place in the end-user and subscriber service charter regulations as the terms and conditions of licences as well as the provisions of the Code of Conduct regulations promulgated in 2008. Matters relating to credit practices are dealt with in terms of the National Credit Act and to regulate such matters in terms of these regulations will be an unnecessary duplication.

## **4. Draft Regulations (Round 3)**

The Authority, in its attempts to deal with the written representations made by licensees and members of the public and to possibly incorporate the proposals made, published regulations on end-user and subscriber service charter in the Government Gazette Number 31556 dated 31 October 2008 for public commentary. The Authority however afforded the licensees and members of the public a further opportunity to comment when it published the regulations in the Government Gazette Number 31807 dated 19 January 2009, inviting licensees and members of the public to submit written representations that may assist the Authority to take a decision whether to repeal or amend or replace the regulations on end-user and subscriber service charter. The closing date for such comments was 20 March 2009.

The notice invited interested parties to propose how the regulations should be amended or replaced and what the content of the amended or replaced regulations should be. The Authority received written submissions from the following stakeholders:

- Telkom,
- Vodacom,
- MTN,

- Cell C,
- Neotel,
- Internet Service Providers Association (ISPA)
- MWEB,
- National Association of Broadcasters,
- Connect net Broadband Wireless (PTY) Ltd.

The three mobile operators and Neotel presented a joint submission in response to the issues raised by the Authority in the notice. Telkom presented a written submission in its individual capacity. In the joint submission it was argued that most of the provisions of the regulations are incapable of implementation as they are unreasonable and impractical. The suggested proposals made jointly by the licensees is an attempt to assist the Authority to formulate requirements and standards that are reasonable and measurable whilst ensuring benefits for the consumers.

#### **4.1 Amend or repeal**

It is argued, generally by some licensees that substantive work has already been completed in the regulations and all that is needed is to introduce amendments in specific areas of the regulations. The issue of a repeal of the regulations and undertaking of the entire process de novo is not appealing to the licensees. A repeal is not in the best interests of the industry and certainly not cost-effective. The possibility of a repeal is not an option to the licensees.

#### **4.2 Minimum or maximum standards**

It is contended by the licensees that though section 69(3) of the ECA requires a charter through regulations, the purpose and scope of the regulations is to set minimum standards that shall be applicable to all licensees. However, the provisions of the regulations do not appear to set minimum but are indicative of maximum thresholds. The contention, though in a subtle manner, indicates that the regulations in their current form and content may be ultra vires. The Authority then invited all interested stakeholders to a workshop on 25 March 2009, where these contentious issues, as contained in their written submissions, were discussed.

Cell C, MTN, Vodacom and Neotel wrote and submitted one submission (The Joint Submission) on the regulations. M-net and Multichoice also made their own combined submission. All other stakeholders made their submissions individually.

The following is an analysis of submissions made by all stakeholders against the initial regulations, as well as the reasons as to how the regulations were arrived at by the Authority:

#### **4.3 SHOULD THE AUTHORITY REPEAL OR AMEND THE REGULATIONS?**

In the joint submission it was argued that the regulations should be amended rather than be repealed as too much substantive work had already been done. Furthermore, they argued that amending the regulations would make them consistent with the Code of Conduct as promulgated in terms of Chapter 12 of the Electronic Communications Act of 2005.

**MWEB** questioned the legal status of the regulations, stating that there are currently two sets of regulations i.e. the "First Regulations" published under Notice 272 of 2008 in Government Gazette No 30792 of 25 February 2008 and "The Regulations" which were a review of the "First Regulations" undertaken in terms of Notice 433 of 2008 published in Government Gazette No 30956 of 07 April 2008.

MWEB's argument is that the First Regulations have never been formally repealed by the Authority when "The Regulations" were published, thus creating a legal uncertainty since there are now two sets of regulations. MWEB maintained that the Authority should have repealed "The First Regulations" when it published "The Regulations" and urged the Authority to attend to the formal repeal of the "First Regulations" prior to the current review of "The Regulations". MWEB specifically requested the Authority to publish a notice in the Government Gazette which formally repeals the "First Regulations" and also to clarify the legal status of "The Regulations" which are currently under review.

**ISPA's** position is that the current regulations should be repealed and replaced with a new set of regulations formulated to cater for specific broad categories of services offered by licensees, by stipulating different sets of minimum standards for such broad categories of services. ISPA argued that the replacement of regulations should specify different sets of minimum standards for voice services distinct from broadband data services, as well as different sets of minimum standards for voice and broadband services offered on fixed and mobile basis respectively.

*Resolution by the Authority:*

- The Authority has resolved to repeal the regulations. This is because there have been too many changes made. It is therefore preferable to have one Regulation than to have many versions each containing a number of amendments.
- In response to ISPA's recommendation, the Authority submits that while section 69 (4) recognises that the Authority may develop different minimum standards for different services, the Authority is also not obliged to do so and therefore utilises its discretion in this regard.

**4.4 PURPOSE OF THE REGULATIONS**

**Connect net Broadband Wireless (Pty) Ltd** argued that the Authority is not empowered to use the consumer protection tools, including the End-User and Subscriber Service Charter, in order to impose obligations on the licensees. Rather, they argue, the End-User and Subscriber Service Charter can only serve to inform the subscribers and end-users of the rights and obligations of both the subscriber and a licensee.

**National Association of Broadcasters (NAB)** submitted that since it was mentioned during the workshop on the End-User and Subscriber Service Charter regulations, which was held on 25 March 2009 and since the 'Purpose of the Regulations' specifically states that the Authority intends to limit the scope and application of the regulations to the Electronic Communications Licensees (ECS) and the Electronic Communications Network Licensees (ECNS), then the scope and application of the Regulations should therefore be limited to exactly those licensees and not extend to all licensees, including broadcasting service licensees. Against this background, NAB recommended that draft regulation 4.11 should be deleted in its entirety, as it makes reference to subscription broadcasting licensees. Regulation 4.11 dealt with the following:

*"(a) Subscription broadcasting licensees must, upon receiving a request from a subscriber, provide the subscriber with an invoice.*

*(b) An invoice provided by a subscription broadcasting licensee must contain sufficient information to inform subscribers what services they are being charged for and the cost of those services."*

*Resolution by the Authority:*

The Authority has resolved to delete draft regulation 4.11 in its entirety. However, as indicated in the introduction, section 65(4) allows the Authority to develop end-user and subscriber services charters for different types of services. The Authority may in future, should the need arise, exercise its discretion to develop an end-user and subscriber service charter specifically for broadcasting services.

**4.7 SCOPE OF THE REGULATIONS: ARE THE REGULATIONS REASONABLE AND PRACTICAL?**

It is argued in the joint submission that the regulations as they stand are unreasonable, impractical and incapable of implementation. They argue that in terms of section 69(3) of the ECA, the purpose and scope of the regulations is to set minimum standards for end-user and subscriber service charters, but the regulations published by the Authority are actually maximum standards.

They further stated that the networks of different licensees are at different stages of development and would develop over a period of time to reach maximum efficiency in terms of availability and reliability and for this reason, using absolute values instead of averages in various provisions of the regulations, would be problematic as this does not accommodate this reality.

It is also stated in the joint submission and other licensees' submissions that in their understanding, the regulations are aimed to address the most vulnerable consumers and not the retail / business end-users / subscribers. They argued that the regulations are not clear on this point and recommended that this should be specifically stated in the regulations.

*Resolution by the Authority:*

The Authority therefore decided to keep the standards at minimum level by accepting the fact that network operators are at different stages of network implementation.

## **4.8 DEFINITIONS**

### **4.8.1 “Call failure”**

In the joint submission it is argued that the definition of “dropped call” is confusing because call failure may not necessarily be caused by network failure of default but may also be due to factors beyond the control of a licensee.

*Resolution by the Authority:*

The Authority resolved to delete this term in its entirety from the regulation and replaced it with “connectivity failure”, which is a concept that was proposed by some licensees.

### **4.8.2 “Dropped call”**

In the joint submission it is argued that the concept of “call failure” adequately includes “dropped call” i.e. “dropped call” is a “part” of “call failure”.

*Resolution by the Authority:*

The Authority however resolved to incorporate this definition as part of the word “call failure”. The Authority was prompted to do this, following the complaints that were raised by the public during the month of May 2009.

### **4.8.3 “Rural and urban area”**

In the joint submission and other licensees’ submissions it is argued that the definitions of these two terms are problematic for the provision of electronic communications services since they focus only on the geographic layout of the place in respect of towns and cities. However, in the South African context, other critical elements should be included in the definitions, such as availability of public infrastructure.

*Resolution by the Authority:*

The Authority has resolved to delete the use of terms “rural and urban area” in the regulations, in their entirety and concentrated on the availability of network in the area of coverage. This is based on the fact that the regulations should address the “availability of service”, as well as the “turn-around time in fault repairs”.

#### **4.8.4 “Failure”**

In the joint submission it is argued that there is no need to define “failure” as “call failure” has already been defined.

*Resolution by the Authority:*

The Authority has resolved to delete the definition of “failure” as it is catered for in the definition of “call failure”

#### **4.8.5 “Fault”**

In the joint submission and ISPA’s submission it is argued that there is no need to define the term “fault”.

*Resolution by the Authority:*

The Authority has resolved to retain the definition of “fault” so as to distinguish and recognise the salient difference it has to “connectivity failure”.

#### **4.8.6 “Network coverage”**

In the joint submission it was argued that there is a need to define “network coverage” with reference to the network coverage areas.

*Resolution by the Authority:*

The Authority has resolved to include the words “within their specific area of coverage” in the relevant provisions of the regulations i.e. regulations 4.1, 4.2, and 4.3, specifically.

### **4.9 SPECIFIC REGULATIONS**

#### **4.9.1 Sub-regulation 4.1: Availability and reliability of the ECNS and ECS services:**

In the joint submission it is proposed that this provision should be drafted to state that where a licensee has network coverage tied to the roll-out targets stipulated in the licence, the network availability should be targeted on an escalation scale using a phased approach.



*Resolution by the Authority:*

The Authority resolved to delete the term “reliability” from this provision since it is not used anywhere in the Regulations. The set target has been reduced from 99,9% to 95%, since it is a minimum standard and also taking into consideration that the provision refers to “service availability within a specified (network) coverage area” and not to network coverage per se.

**4.9.2 Sub-regulation 4.2: Average time to install and activate service:**

In the joint submission and that of Connect net Broadband Wireless (Pty) Ltd, it is argued that while the heading of the provision refers to “average” time to install, the wording of the clause refers instead, to an “absolute” time. The submissions further state that the use of absolute time does not accommodate cases where a licensee may not be able to install and activate a service due to factors beyond the control of a licensee or due to instances where a request to install and activate service falls in a specified coverage area that still does not have infrastructure available.

Telkom further proposed that the definition of “qualifying end-users and subscribers” be substituted by the term “qualifying service applicants”. This term should be defined as such:

“Qualifying service applicant means an applicant for a licensee’s service that meets certain preconditions of service delivery, including with respect to credit referencing criteria, and has residence in an area in which an Electronic Communication Network Service Licensee already has infrastructure capable of providing the requested service(s).”

*Resolution by the Authority:*

Firstly, the Authority separated the requirement to comply to “request for service installation” from the “request for service activation”. These two standards are seen as being separate. However, the standard for service installation will also incorporate activation in order to address the issue of activation being done immediately after installation.

The Authority then resolved to reduce the targets for the request for service installation to 90% success rate within 30 days and to reduce the request for service activation to 90% success rate within seven (7) days. Furthermore, there is also a need to address the rest of the success rate target which is 10%.

The Authority further resolved to adopt the use of the word "qualifying service applicant" but made further changes to the proposed definition.

4.9.3 Sub-regulation 4.3: Call Failure Rate / Dropped Call Rate:

In the joint submission it is proposed that "Call Failure Rate" and "Dropped Call Rate" should be based on the definitions which they had suggested and that the targets for such performance should be 3%.

*Resolution by the Authority:*

The Authority has resolved to:

- avoid the use of "Call Failure" and "Dropped Call" and to replace them with "Connectivity Failure Rate" which encompasses both concepts simultaneously and is technologically neutral.
- set the target at 3% for all connections, over a period of six (6) months and not over a period of twelve (12) months, as proposed by the joint submission. This is done for monitoring purposes.

4.9.4 Sub-regulation 4.4: Response time to operator assisted calls:

There was no proposal against this provision and the Authority has resolved not to change it.

4.9.5 Sub-regulation 4.5: ECN Monitoring Centre:

Connect net Broadband Wireless (Pty) Ltd argued that this standard assumes that every licensee has a monitoring centre.

*Resolution by the Authority:*

The Authority therefore resolved to focus on the monitoring issue and not the centre.

4.9.6 Sub-regulation 4.6: Fault Repair Services:

In the joint submission it is argued that it is not clear what the meaning of this sub-regulation is and therefore proposed that the matters relating to faults and fault repairs should be dealt with under sub-regulation 4.7.

*Resolution by the Authority:*

The Authority resolved to delete this sub-regulation in its entirety and to deal with matters relating to faults and fault repairs under sub-regulation 4.7 and in so doing, set a target for "Fault Clearance Rate" at 90% for all Fault Reports, over a period of three (3) days. Furthermore, there is also a need to address the rest of the success rate target, which is 10%.

The Joint Submission has proposed that the set target period should be stipulated as averages and not as absolutes. The Authority has agreed to this proposal.

**4.10 COMPLAINTS PROCEDURE AND ESCALATION PROCESS**

ISPA argued that the Authority should clarify the chain of escalation so that it makes provision for the fact that many licensees are members of self-regulatory bodies whereby complaints from end-users and subscribers against their service providers (licensees) get escalated firstly to these self-regulatory bodies before being escalated to the Authority.

*Resolution by the Authority:*

The Authority has resolved to maintain the escalation process in its current form. The Authority is of the view that at this stage, end-users and subscribers, in most of the cases, would already have lost patience at this stage of complaint escalation (when the complaint is submitted to the Authority), and would not want to be inconvenienced further with lengthy processes.

The Authority is therefore of the view that the matter of how complaints will be escalated either to the self-regulatory bodies before they become escalated to the Authority can be addressed through mutual understanding and cooperation between the Authority and all relevant self-regulatory bodies.

In the joint submission it is argued that depending on the nature of complaint, it may not be possible to resolve a complaint within fourteen (14) days and therefore proposed that the fourteen (14) days period should be averaged over twelve (12) months.

*Resolution by the Authority:*

The Authority has resolved to maintain the fourteen (14) days turn-around time for complaints resolution as unchanged but did not average the period over which it should be

measured because by the time the Authority receives the report (after six (6) months), some of the complaints would not have been addressed.

### **CONCLUSION**

The Authority has resolved to repeal the following regulations:

- The End-user and Subscriber Service Charter Regulations, published in Government Gazette Number 30792 dated 25 February, 2008 are hereby repealed.
  - The End-User and Subscriber Service Charter Regulations, published in Government Gazette Number 31556 dated 31 October, 2008 are hereby repealed.
-