



**Independent Communications Authority of South Africa**

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**Report on Compliance Inspections relating to the  
Code of Conduct Regulations, 2007**

## 1. PURPOSE

The purpose of this memorandum is to present the findings of the inspections conducted by the Regions Division of the Independent Communications Authority of South Africa (ICASA) between January 2016 to February 2017 at the major ECS / ECNS licensees' and other retailers' outlets to assess their compliance with the Regulations on Code of Conduct for Licensees of 2007 ("**the Regulations**").

## 2. BACKGROUND

In the 2015/16 financial year, the Regions Division conducted inspections to ascertain ECS/ECNS Licensees' compliance with the requirements of the Regulations within their retail outlets.

The key objectives of the Regulations are to:

- Prescribe guidelines that will set acceptable standard of conduct by licensees in respect of consumers; and
- Protect the rights of consumers in the electronic communications sector.

A standard questionnaire was used in all the regions and the results of the inspections conducted in the 2015/16 financial year.

During the 2016/17 financial year, follow up inspections were conducted in order to ascertain whether there had been an improvement in compliance with Code of Conduct Regulations by the operators using the same inspection form as the previous year.

The analysis is conducted looking at three key areas of the Regulation, namely:

1. The **availability** and **visibility** of the Code of Conduct in the retail outlets
2. The availability of the Code of Conduct in the retail outlets **in all Official languages upon request**
3. The availability and visibility of the **complaints resolution process**

Where all the criteria are met, the outlet is said to be fully compliant. Where two out of three are met, it is said to be partially compliant and where one or less are met, it is deemed to be non-compliant.

In total, three hundred and ninety-four (394) outlets were inspected. The sample comprised:

- Twenty-nine (29%) Vodacom outlets,
- Twenty-seven percent (27%) MTN,
- Fifteen percent (15%) Cell C,
- Eight percent (8%) Telkom, and
- The balance of twenty percent (20%) consists of 'other' Retailers.

The category of 'other Retailers' includes *inter alia* the likes of Pep Stores, Woolworths, Game, Ackerman's and Virgin Mobile. The regional distribution of the sample is as follows:

	Cell C	MTN	Telkom	Vodacom	Other	Grand Total
EC	8	12	1	9	2	32
FS	8	13	3	15	1	40
Gauteng	13	26	11	23	7	80
KZN	19	28	10	29	69	155
MP	4	14		20		38
NC		1		2		3
WC	9	13	5	18	1	46
<b>Total</b>	<b>61</b>	<b>107</b>	<b>30</b>	<b>116</b>	<b>80</b>	<b>394</b>

### 3. DISCUSSION

The findings can be summarized as follows:

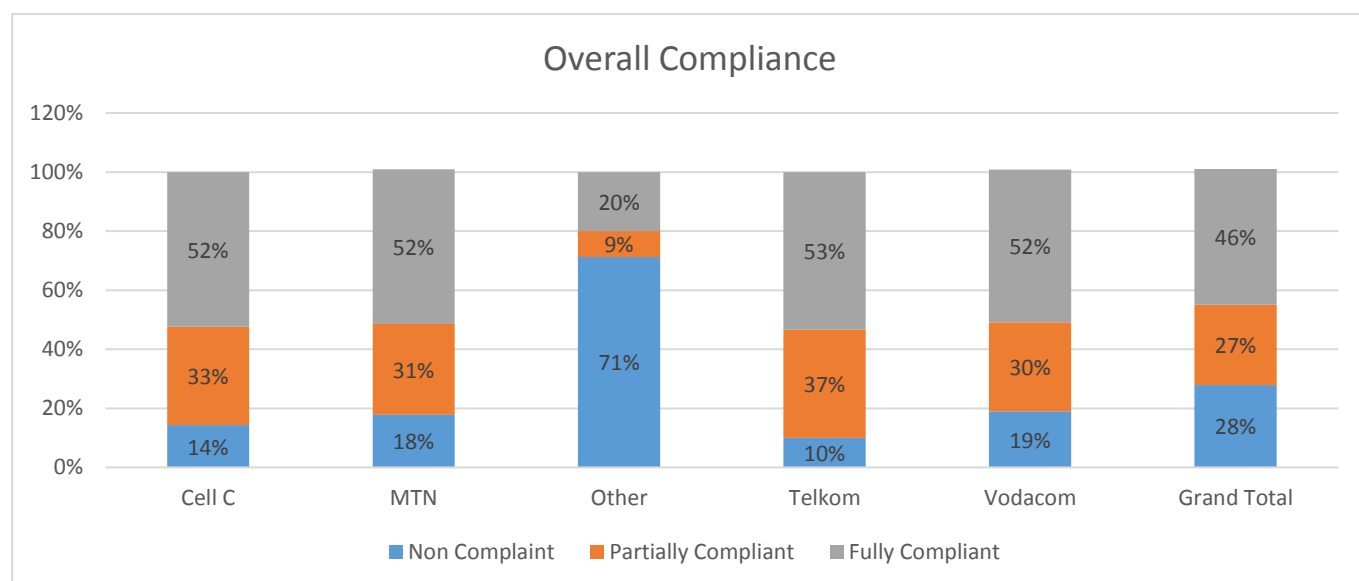


Figure 1: Overall Compliance

In the sample of outlets selected, the operator with the highest level of compliance was Telkom (53%). However, it must be noted that the scores were close, ranging between 53% and 52% for the major players.

The operator with the highest level of non-compliance was Vodacom (19%) followed closely by MTN at 18%. This, however, is a major improvement from the previous inspections which found MTN's non-compliance to be at eighty-four percent (84%) and Vodacom's at sixty-nine percent (69%).

The retailers categorized under 'other' have a worryingly high level of non-compliance.

When comparing the levels of compliance with those of the previous period, Vodacom improved from 31% to 52%, MTN from 16% to 52%, Cell C from 21% to 52%, Telkom from 36% to 53% and Other from 3% to 20%.

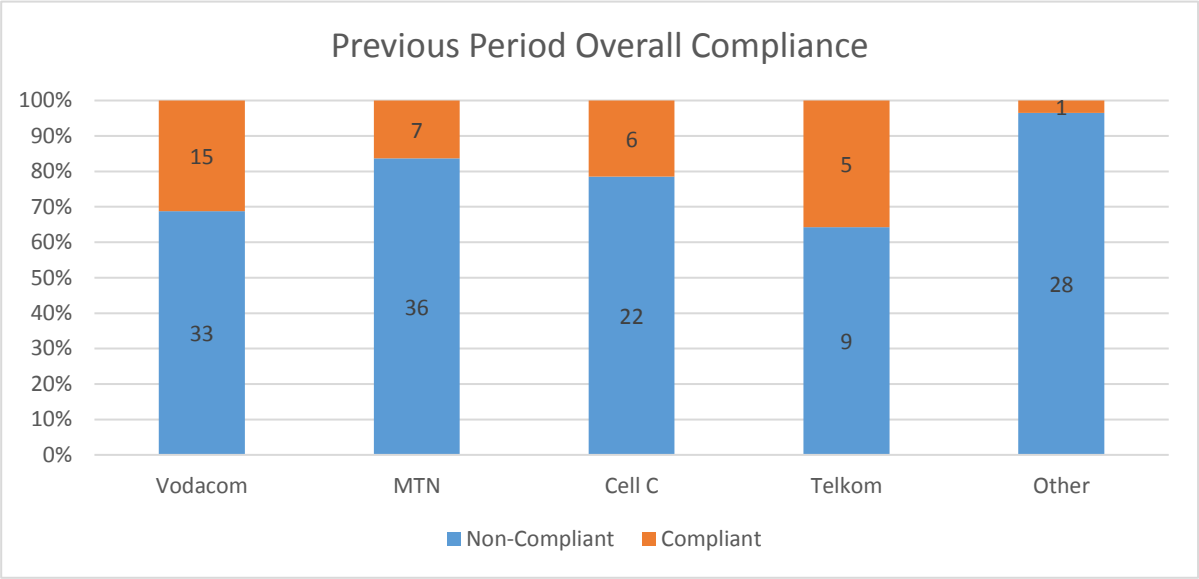


Figure 2:Previous Period Compliance Levels

### 3.1 Key Areas of Non-compliance

As summarised in Figure 3 below, the lowest levels of compliance relate to the availability of the Code of Conduct in English and 1 other official language followed by the availability of the complaints resolution process.

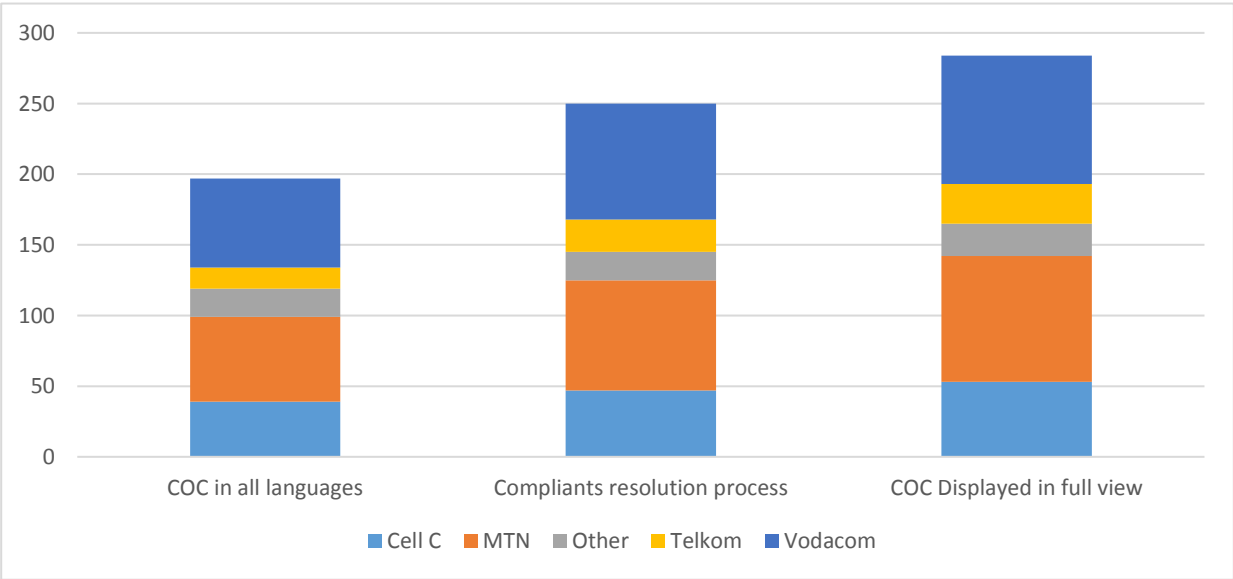


Figure 3: Compliance Levels

### 3.1.1 Code of Conduct not available for printing in English and at least one (1) or more official languages.

In the majority of outlets (57%), the code could not be made available in all official languages as per the requirements of clause 3.3 of the Regulations. As depicted in Figure 4 Cell C was the most compliant major player on this measure with 64% compliance, followed by Vodacom and Telkom at 54% and 50% compliance respectively. As per the previous period, the most non-compliant group of retailers in terms of making the code available in the required languages are the smaller players (other).

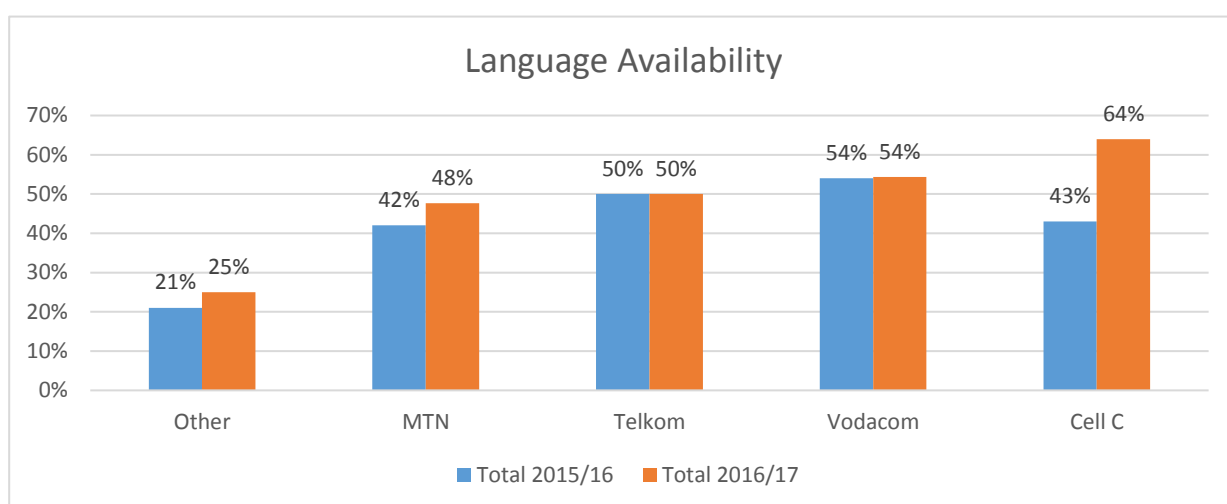


Figure 4: Code of Conduct Language Availability

Important to note is the fact that there has been an overall increase in compliance levels with only Vodacom and Telkom maintaining the previous year's levels.

### 3.1.2 Complaints Resolution Process

Clause 3.13 of the Regulations states that Licensees must prominently display their complaints handling procedures for consumers to note, including the option to refer the complaint to the Authority.

The compliance with regards to availability and visibility of the consumer complaints process in the outlets was sixty-three (63%), an improvement on the previous

year’s thirty-six percent (36%) performance. As depicted in Figure 5, all operators improved on this measure year on year.

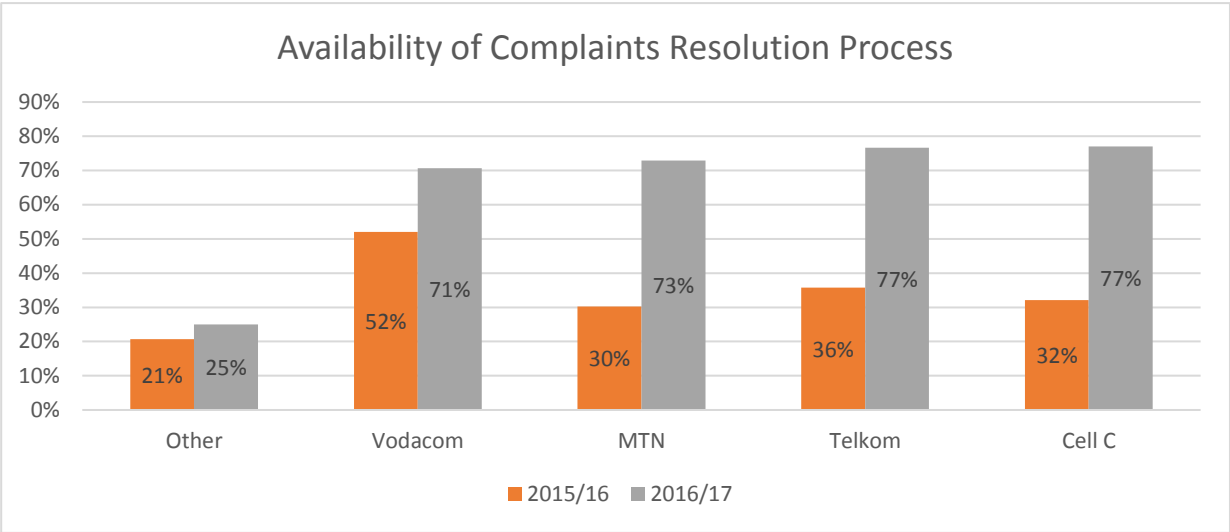


Figure 5: Availability of Complaints Resolution Process

### 3.1.3 Display of Code of Conduct

Another area of non-compliance relates to the availability and visibility of the Code of Conduct in the retail outlets. This requirement is set out in terms of clause 3.2 of the Regulations. Seventy-two percent (72%) of the outlets inspected were compliant as shown in **Error! Reference source not found..** Overall, there has been a thirty-nine percent (39%) increase in compliance on this measure with MTN having shown the greatest improvement year on year and Telkom being the most compliant in terms of the display of the code of conduct in the outlets.

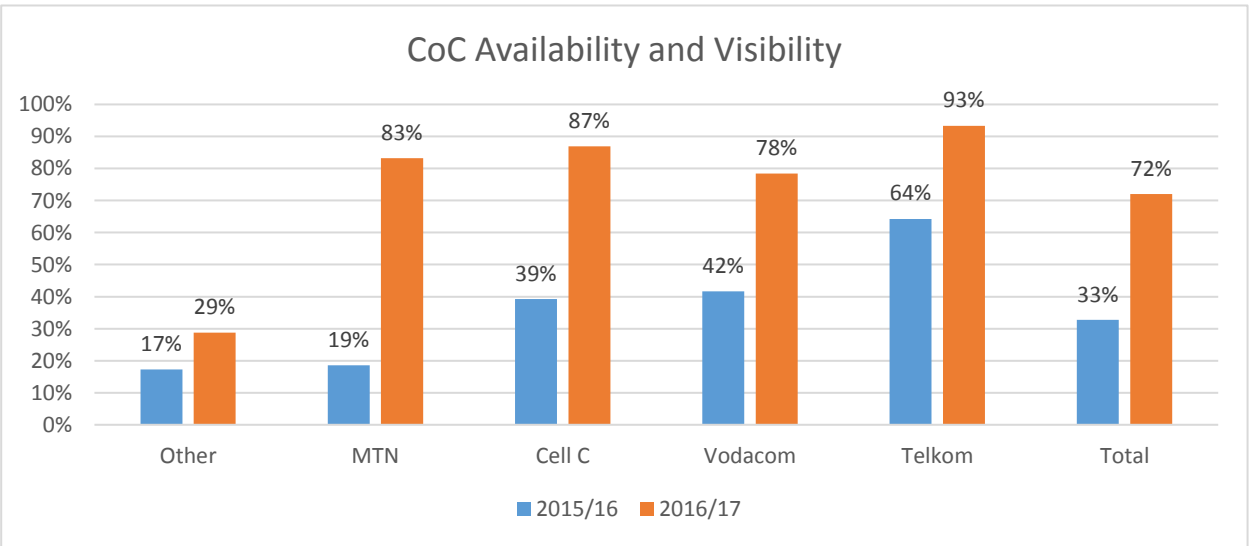


Figure 6: Availability and Visibility of CoC in Outlets

### **3.2 Challenges in Conducting the Inspections**

The inspectors continue to experience the following challenges when conducting the inspections:

- The outlet Managers are not aware about ICASA and its mandate
- Outlet Managers are not aware about the code of conduct inspections taking place<sup>1</sup>
- Some of the outlet Managers are not even aware that the Regulations exist.
- Some of the outlet Managers were reluctant to give ICASA access to their premises to conduct inspections as they were not aware of ICASA and its mandate.