



Independent Communications Authority of South Africa

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

FY 2017/18

1. PURPOSE

The purpose of this report is to present the findings of the inspections conducted by the Regions Division of the Independent Communications Authority of South Africa (ICASA) between April and December 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

Since the 2015/16 financial year, the Regions Division has been conducting annual 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 standards 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 and 2016/17 financial years are available on the ICASA website.

In the current year, 2017/18, further inspections have been conducted as per the Annual Performance Plan to continue to track the trends in compliance behaviour of the licensees and report on actions that have been taken to address non-compliance where appropriate.

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, five hundred and sixty-one (561) outlets were inspected. The regional distribution of the sample is as follows:

Region	Cell C	MTN	Other	Telkom	Vodacom	Total
Eastern Cape	10	15	1	3	26	55
Free State	7	23	3	1	19	53
Gauteng	56	92	3	38	119	308
Limpopo	4	7		1	14	26
Mpumalanga	1	1	0	0	3	5
KwaZulu-Natal	9	10	27	1	13	60
North West	1	0	0	0	1	2
Western Cape	12	15	0	6	19	52
National Total	100	163	34	50	214	561

- Thirty-eight percent (38%) Vodacom outlets,
- Twenty-nine percent (29%) MTN,
- Eighteen percent (18%) Cell C,
- Nine percent (9%) Telkom, and
- The balance of six percent (6%) consists of 'other' Retailers.

The category of 'other Retailers' includes *inter alia* the likes of GloCell and Hi Stores and Cellu City.

3. DISCUSSION

The findings can be summarized as follows:

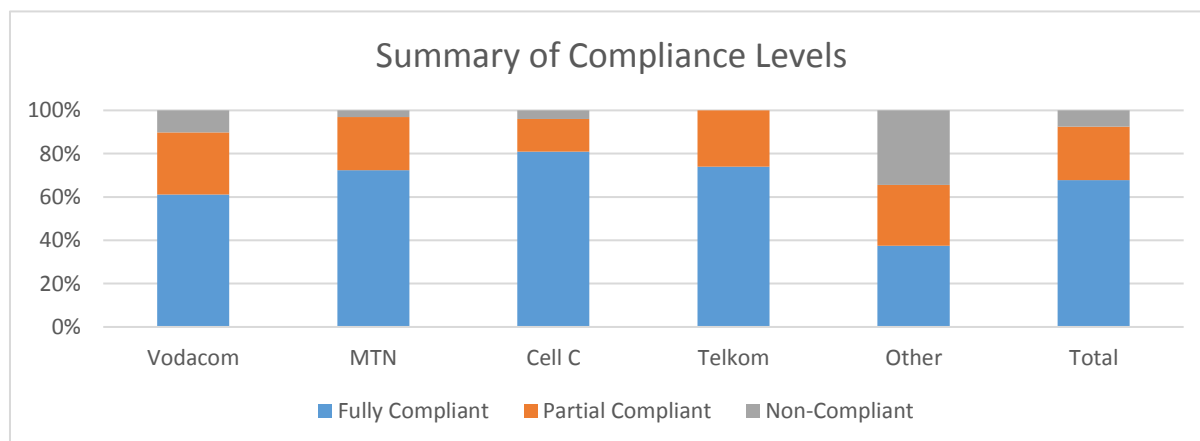


Figure 1: Summary of Compliance Levels

The overall level of full compliance was found to be at sixty-eight percent (68%), which shows marked improvement from the forty-five percent (45%) in 2016/17. Furthermore, at operator level, all have seen an improvement in the levels of full compliance and a significant decrease in levels of non-compliance as is depicted in Figure 1. This can be attributed to the fact that the retail outlets are now aware of the regulations and are trying to ensure compliance.

	Fully Compliant			Partially Compliant			Non-Complaint		
	2016/17	2017/18	% Change	2016/17	2017/18	% Change	2016/17	2017/18	% Change
Vodacom	51%	61%	19%	30%	29%	-4%	19%	10%	-46%
MTN	52%	72%	39%	31%	25%	-21%	18%	3%	-83%
Cell C	52%	81%	56%	33%	15%	-55%	14%	4%	-71%
Telkom	53%	74%	40%	37%	26%	-30%	10%	0%	-100%
Other	20%	39%	97%	9%	27%	203%	71%	33%	-53%
National Total	45%	68%	51%	27%	25%	-8%	28%	7%	-73%

Figure 2: Improvements in Compliance Levels

Over the three years during which the inspections have been conducted, the trend shows an overall improvement in compliance levels nationally. Full compliance has increased by fifty-one percent (51%) with three hundred and eighty-one (381) out of the total of five hundred and sixty-one (561) outlets inspected being found to be fully compliant. Other improvements in compliance are evidenced by the decrease in both partial compliance and non-compliance where the former was reduced by

eight percent (8%) and the latter by seventy-three percent (73%).

Cell C had the highest percentage of full compliance with 81 out of 100 outlets meeting all the requirements of the three key areas of the regulations that were being tested. As in previous years, the results from the inspections at Vodacom outlets show that Vodacom is lagging the other major players in terms of full compliance, albeit, they have improved by nineteen percent (19%). Vodacom remains the operator with the highest level of non-compliance (10%) which, however, is a great improvement from the previous year's nineteen percent (19%).

3.1 Key Areas of Non-compliance

In the sample of five hundred and sixty-one (561) outlets, the following was found:

- 95% of outlets had the complaints handling process clearly displayed and legible enough,
- In 70%, the Code of Conduct was displayed in full view and
- 91% of outlets could print the Code of Conduct in any Official Language upon request.

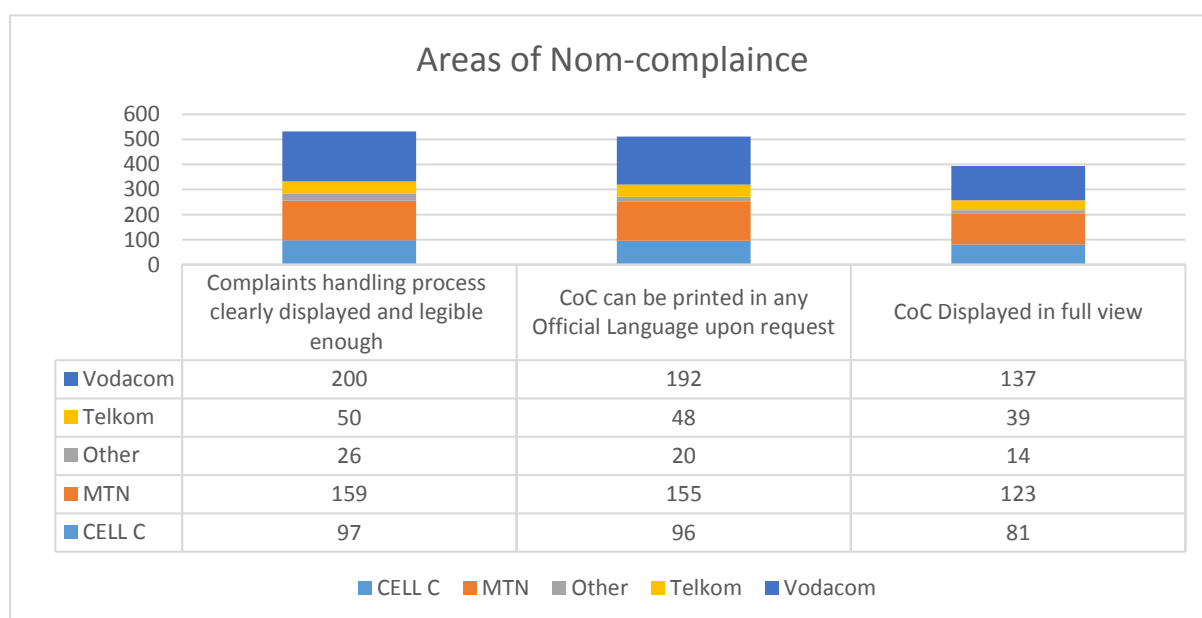


Figure 3: Key Areas of Non-compliance

3.1.1 Code of Conduct available for printing official languages.

As per the requirements of clause 3.3 of the Regulations, the availability of the Code of Conduct in all official languages has improved in the past three years as can be seen in Figure 4 below. Telkom and Cell C were the most compliant major players on this measure both with 96% compliance, followed closely by MTN at 95%. As per previous periods, the smaller players (other) showed relatively low levels of compliance, although it must be noted there has been improvement in their performance.

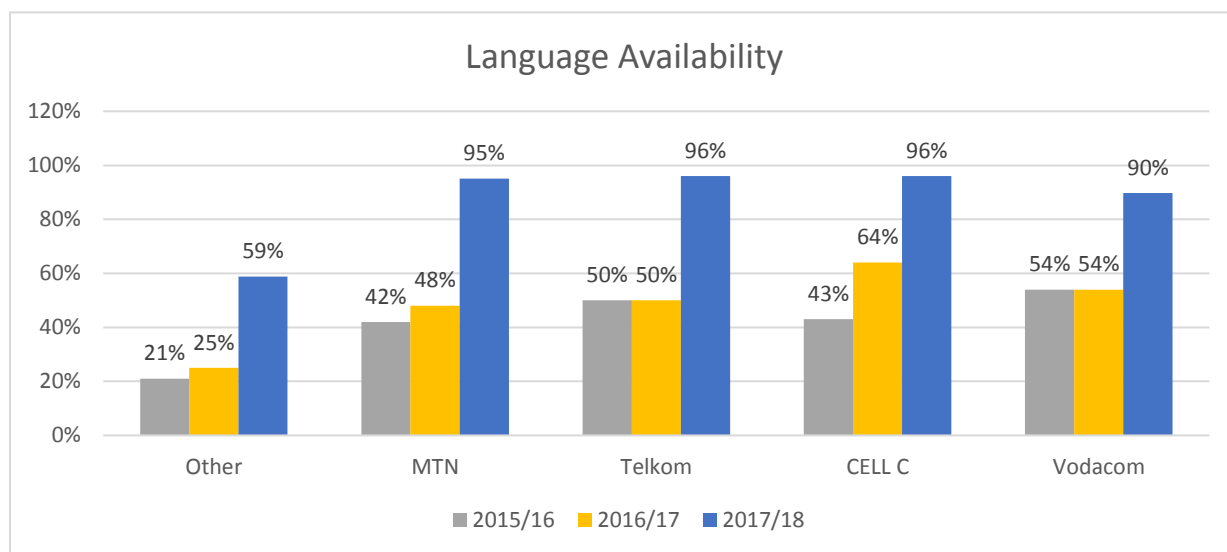


Figure 4: Language Availability

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 ninety-five percent (95%), an increase from the sixty-three percent (63%) in 2016/17 and 2015/16's thirty-six percent (36%) performance as depicted in Figure 5.

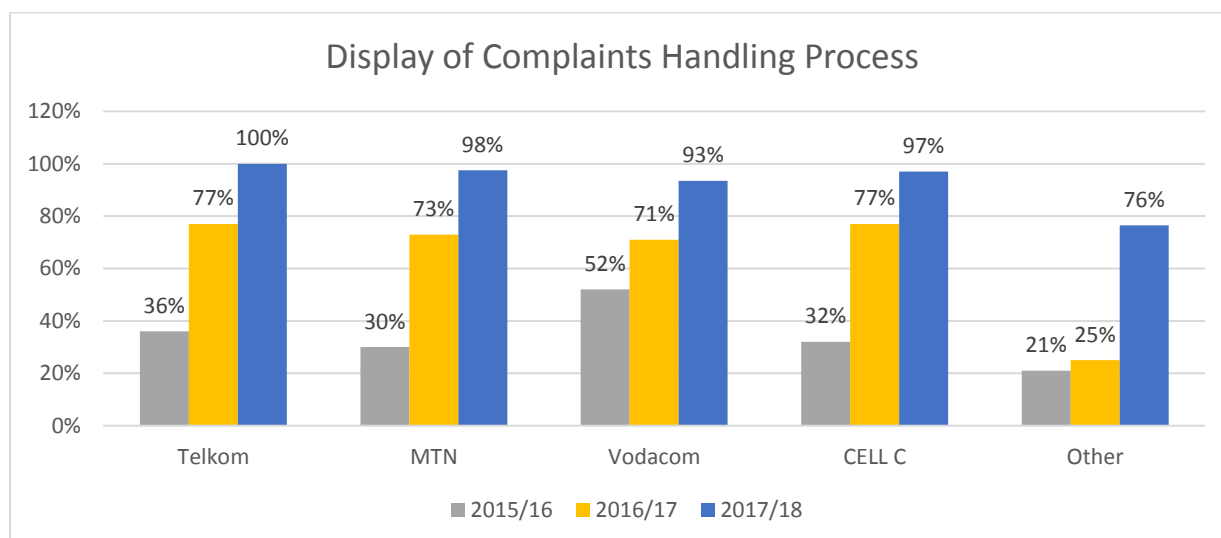


Figure 5: Display of Complaints Handling Process

3.1.3 Display of Code of Conduct

Another area of compliance that was tested 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. There has been a slight decrease (2%) in compliance on this measure from seventy-two percent (72%) in 2016/17 to seventy percent (70%) in the current financial year as shown in Figure 6. Cell C is the most compliant in terms of the display of the code of conduct in the outlets amongst the bigger players at 81%.

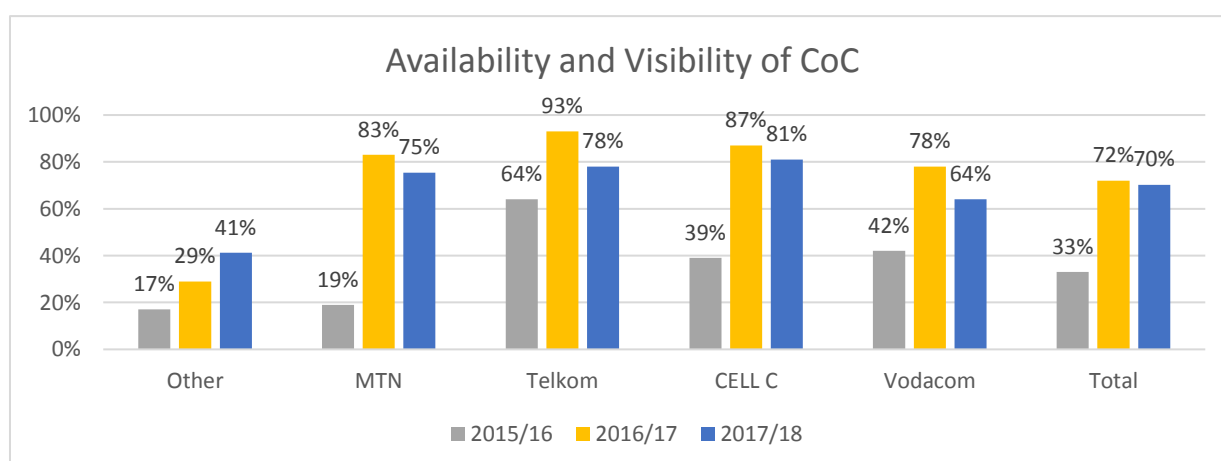


Figure 6: Availability and Visibility of CoC

3.2 Corrective Actions Taken

Where incidents of non-compliance were identified, the outlet managers were educated and advised on what is required for them to comply e.g. prominently display the code of conduct in the store or request their respective Head Office or

Regional Offices to supply them with the necessary documents in the required languages. No enforcement action was deemed necessary as the current approach has yielded positive results.

3.3 Challenges in Conducting the Inspections

In the 2015/16 and 2016/17 financial years, the following challenges were experienced in 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;
- Some of the outlet Managers are not even aware that the Regulations exist and
- 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.

However, as is evident from the improved compliance levels, the challenges of lack of awareness of the requirements of the regulations have to a large extent, been addressed.

4. DECISIONS

4.1 Council Decisions in respect of Licensees' conduct and compliance

Insofar as licensees and other retailers are concerned, the following decisions have been taken by Council:

4.1.1. Licensees are to be advised to continue to educate and inform all their retail outlets of the obligations with respect to the Regulations;

4.1.2 The licensees will be afforded six months to remedy the non-compliance in their respective outlets;

4.1.3. Should the licensee fail to remedy the non-compliance within the stipulated

time-frames, the Authority shall institute enforcement action with associated penalties against such licensee and

4.1.4. This inspection report shall be shared with the National Consumer Commission and be published on the ICASA website to create awareness for both consumers and retailers about the Regulations.

4.2 Future Inspections

4.2.1 In future, the Inspectors will conduct mystery shopper inspections to ascertain compliance to other clause 3.1 of the regulations, which include:

- Is sufficient information provided to consumers?
- Are customers informed about different tariff options?
- Is payment process clearly explained to customers?
- Are customers advised about their rights to refer complaints to ICASA?