



10 May 2022

ATTENTION:

Chairperson: End User Subscriber Service Committee

Block C, Eco-Park Estate
350 Witch-Hazel Avenue
Highveld
Centurion
2146

By email: eussc@icasa.org.za

**Re: Draft End-User and Subscriber Service Charter Amendment
Regulation, 2022**

It is my pleasure to submit comments on the above-mentioned Draft Regulations on behalf of the Independent Communications Authority of South Africa's Consumer Advisory Panel.

CAP would like to make oral presentations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jeremiah Sikhosana', on a light blue background.

Jeremiah Sikhosana

Chairperson: Consumer Advisory Panel



CONSUMER ADVISORY PANEL
COMMENTS ON THE INDEPENDENT COMMUNICATIONS AUTHORITY OF
SOUTH AFRICA
DRAFT END-USER AND SUBSCRIBER SERVICE CHARTER AMENDMENT
REGULATIONS, 2022

1. INTRODUCTION

- 1) The Independent Communications Authority of South Africa (ICASA) published its Draft End-User and Subscriber Service Charter Amendment Regulations ("Draft EUSSC Amendment Regulations") on Government Gazette No. 46153 Notice 1958 of 31 March 2022 inviting interested parties to submit written representation.
- 2) The Consumer Advisory Panel (CAP) was established by ICASA in terms of section 71 of the Electronic Communications Act of 2005. The Consumer Advisory Panel Regulations, 2017 as amended govern the role and functions of CAP.
- 3) The main role of CAP is to represent a consumer segment and create an enabling environment that allows regulation of the electronic communications, broadcasting or postal services, and consumer insight which will enhance ICASA's consumer protection mandate.



- 4) CAP's function in terms of regulation 4.2 is to provide a consumer perspective through commentary on relevant regulations and regulatory projects published for public comment. Furthermore, regulation 4.5 requires CAP to comment on draft regulations impacting consumers, specifically and especially vulnerable groups such as the elderly, persons with disabilities, and those living in under-served areas.

2. CAP SUBMISSION

We have used headings and numbering as they appear in the Draft EUSC Amendment Regulations to make it easier to follow our submission.

Insertion of new definitions Regulation 1

CAP welcomes the new definitions in the Draft EUSC Amendment Regulations considering that they have been in use in the market for years. This will help to ensure that all stakeholders use the definitions and promote use of common terminology in the broader ICT regulatory environment.

Insertion of Regulation 8A (4), (5)(6)

We commend the Authority for identifying and addressing the regulatory gap which arose from the 2018 amendment relating to how licensees have adopted the "first in and first out" approach to unused voice and SMS services.



We therefore support the clarity and safeguard subregulation (4) provides for consumers of unused prepaid and post-paid voice and SMS services (non-promotional packages) which will no longer expire before the stipulated 6 months period. In this context, we would also like to highlight that people with disabilities and elderly persons who form part of the vulnerable consumers grouping need special protections to ensure that they are not locked into contracts which are not beneficial for them. For instance, deaf consumers being locked into a voice package which they cannot use.

The inclusion of subregulation (6) is fair and will further safeguard consumers, who due to the fault of the Licensee were unable to utilise promotional packages within specified periods. In such circumstances, Licensees should have the discretion for end user compensation (rebate or extension of the product) as the end-user will not be negatively impacted by either compensation option.

Addition of Regulation 8C(1)(d): Educating end-users on cybersecurity and on the protection of personal information

CAP welcomes the addition of this sub-regulation which requires licensees to educate end-users on cybersecurity and on the protection of personal information. Growing levels of cyber-attacks and phishing attempts in South Africa means that consumer will remain vulnerable. Factors such as digital literacy, consumer awareness and education on cybersecurity influence consumer susceptibility to cyberattacks and crimes. In our advisory to Council for 201/22, we highlighted the increasing rate of cybercrimes in South Africa linked to the growth of the online market, an area that requires collaboration among all stakeholders in the market.



Our concern is that without some specific guidelines on what licensees should do, there is a high likelihood that the uptake may be minimal and open to different interpretation by respective licensees and other stakeholders (e.g., consumers, consumer groups). We acknowledge that being prescriptive may be interpreted as regulatory interference with the commercial activities of licensees. We recommend that there be a balance to ensure that consumer protection is prioritised to ensure that whatever mechanism that licensees adopt are meant to mitigate against cybersecurity and phishing attempts to safeguard consumers.

We therefore support the addition of Regulation 8C(3) as it gives the Authority the mandate when necessary to give direct Licensees to issue consumer alerts from time to time. We recommend that this should be utilised to give effect to Regulation 8C (d) in the event of consumer wide cybersecurity concerns that may necessitate immediate dissemination should these arise. The current wording is broad enough to accommodate such developments.

Substitution of regulation 10

CAP supports the proposal for the frequency of Quality of Service audits to be at the sole discretion of the Authority as well as the tools thereof stipulated in regulation 9(13) for fixed, fixed wireless and mobile services. Furthermore, CAP supports that such audits should not be advertised by the Authority in advance. The regulations are very clear on the areas of audits and how these will be carried out by the Authority.



Regulation 11 : Service Upgrades and Network Outages

CAP supports the seven days notification followed by a day before notification of planned service interruptions that licensees must give to end-users. The prescription to use SMS, social media platforms and websites will ensure that all consumer segments are targeted. The use of SMS is important for vulnerable consumers including people with disabilities and elderly persons who use this service and those who do not find websites and social media accessible for communication purposes.

Regulation 11(2) is important from a customer perspective as major network outages and ensuing poor quality service has been an Achilles heel in rural areas and underservices areas. The requirement on licensees to notify both the Authority and customers as soon as such major network outages occur will help with transparency and to ensure that customers are made aware of this. Practically, ICASA should monitor the implementation of this subregulation closely to ensure that licensees do not use this notification as a blanket approach for areas where network coverage is poor with no link to a major network outage.

General Comments

We would like to make two general submissions for the Authority to consider.

1. CAP is concerned that ICASA's regulations are only applicable to first line licensees and does not include other interlocutors such as resellers.



Consequently, end users signing contracts with these interlocutors are not afforded the same protection that EUSSC provides to consumers dealing directly with licensees.

2. Lastly, it is important that the Code for Persons with Disabilities Regulations (2021) should be seamlessly integrated with the Draft EUSSC Amendment Regulations to ensure that persons with disabilities are also afforded protection in a manner that is consistent with their service needs.

3. CONCLUSION

CAP welcomes the opportunity to make a written submission to ICASA's Draft EUSSC Amendment Regulations. We reiterate our support for the overall consumer centric approach evident in the Draft EUSSC Amendment Regulations and look forward to engaging the Committee on our submission.

Jeremiah Sikhosana

A handwritten signature in black ink, appearing to read 'Jeremiah Sikhosana', on a light blue background.

Chairperson: Consumer Advisory Panel

Signature Certificate

Reference number: KAVR2-8SP7Z-HRNMT-O3GTM

Signer

Jeremiah Sikhosana

Email: maboy1966@gmail.com

Shared via link

Sent:

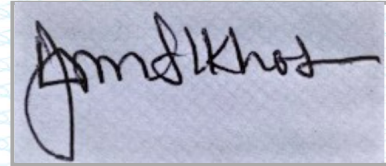
Signed:

Timestamp

10 May 2022 07:07:30 UTC

10 May 2022 07:07:31 UTC

Signature



IP address: 105.244.162.140

Location: Johannesburg, South Africa

Document completed by all parties on:

10 May 2022 07:07:31 UTC

Page 1 of 1



Signed with PandaDoc

PandaDoc is a document workflow and certified eSignature solution trusted by 30,000+ companies worldwide.

