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Attention: Ms Nditsheni Hangwani
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RE: CELL C 'S WRITTEN SUBMISSION WITH RESPECT TO THE DRAFT CODE FOR PERSONS WITH DISABILITIES REGULATIONS PUBLISHED FOR FURTHER PUBLIC COMMENTS

1. Cell C would like to thank the Authority for the opportunity to provide written comments on the draft Code for Persons with Disabilities Regulations as published in *Government Gazette 43418* on 12 June 2020 ("**The Regulations**").
2. Cell C looks forward to engaging with the Authority should the Authority have any queries on Cell C's written submission below.
3. Cell C confirms its readiness to participate in any subsequent consultations and oral hearings that might be called by the Authority.

Kind regards

Unsigned and therefore sent electronically

Harrish Kasseepursad
Executive: Regulatory

Cell C'S SUBMISSIONS ON THE DRAFT CODE FOR PEOPLE WITH DISABILITIES

1. INTRODUCTION

Cell C would like to thank the Authority for the opportunity to present its submissions on the latest draft Code for People with Disabilities. For purposes of these submissions, we refer to the draft Code for People with Disabilities as the Regulations and the existing Regulations as the Current Regulations. Cell C is grateful to the Authority for considering Cell C's previous submissions and subsequent engagements thereafter. In principle Cell C supports the purpose of the Regulations. In this regard Cell C will as practically as possible ensure that persons with disabilities have access to its services using the most efficient and economical means possible in the circumstances.

2. GENERAL COMMENTS

2.1. Cell C Limited (Cell C) has received a number of requests for information from the Authority and written comments to various drafts of the code over the past few years. In this submission, we will again refer to responses from both the previous submissions and presentation. To date Cell C has engaged with the Authority by providing the following which remain relevant:

- i. Cell C submission on the Code for Persons with Disabilities dated 17 January 2018;
 - ii. Cell C Presentation dated 5 June 2019;
 - iii. Cell C response to the Authority's follow up questions dated 4 July 2019;
and
 - iv. Cell C response to the Authority's 11 Questions dated 29 November 2019.
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- 2.2. Cell C has noted the content of the Guideline for the Implementation of Regulatory Impact Assessment (“RIA”) Process in South Africa (2012) (“Guidelines”) which were published by the Presidency, which refer to a RIA as *“an extension of a broader commitment to the quality of government through evidence-based policy making. The advantage of instituting RIA is that RIA adds structure, predictability, and methodological clarity to assessment while also ensuring that the right information is available for decision-making”*.
- 2.3. An initial RIA is recommended in clause 2.3.1 of the Guidelines in 4 instances, which include an intention to make revisions to existing legislation, policies or regulation. An initial RIA may indicate that a full RIA is required. This is the case if regulatory proposals are considered as ‘significant’ in terms of anticipated implementation costs to government, likely compliance costs to business, the scale of impact to society and the environment, the number of people affected, or the political sensitivity of the proposal. An intention to simply remove redundant provisions or that will only have a minor impact does not require a full RIA¹.
- 2.4. Cell C again submits that it is not clear from the Regulations or the covering note why there was a need to amend or repeal the Current Regulations. No explanation, reasoning or substantiation for the substantial amendments and additions to the Current Regulations has been provided. Cell C accordingly requests motivation for the proposed changes and believes that this would assist Cell C in the provision of meaningful comments to the Regulations.
- 2.5. Cell C further submits that it is also not clear whether a RIA was conducted prior to the Regulations being published after Cell C’s initial recommendation that the Authority should do so. The cost to implement the new obligations imposed in the Regulations will be considerably higher under the proposals for mobile network operators and it is not clear whether these costs have been considered or whether the benefits will justify the costs. A regulatory intervention should be based on explicit evidence that justifies the benefit of such intervention.

¹ Clause 2.3.2 of the Guidelines read with footnote 4, which states “Given the wide range of policy areas where RIA will apply, it is not possible to specify a definition of “significant” which will cover all types of impacts/policy areas. In general, however, significant impacts are those which have substantial and observable effects either on the economy, on a sector of society or on the environment.”

The cost and market study will also determine the need, applicability and demand for the requirements in the Regulations. For example, in the past, Cell C converted contracts to Braille format at its own cost, but there was no demand for this format. In addition, the proliferation of smart devices (android and iOs) with disability capabilities in the market place must be considered. We say this because the nature and type of regulatory intervention required is influenced by the status of the marketplace in terms of what is currently available and planned for the future with respect to supporting equipment used by persons with disabilities.

- 2.6. The changes proposed in their current revised form have potentially significant costs implications for a licensee like Cell C. A RIA is not likely to support the amendments in this form if the benefits do not outweigh the prejudice likely to be suffered by licensees.
- 2.7. Cell C submits that the economic compliance costs associated with the Regulations on the licensees must be motivated through a RIA, specifically the requirement to introduce the National Relay System.
- 2.8. Cell C wishes to forewarn the Authority of adding unplanned, additional over and above the already imposed obligations on licensees. It must be noted that during the 6 and 7 June 2019 Workshop, ICASA was requested to perform the National Relay Service function for the public and the Authority's response was that it has challenges with resources and therefore unable to perform the function. Alternatively, Cell C again recommends that the Authority seriously consider the use of the Universal Service Fund monies as provided in Section 88 of the ECA for this purpose, because the obligations will be extremely costly for some operators, indeed Cell C will find it difficult to afford to implement these obligations at all. Cell C has previously indicated that Cell C is currently severely financially constrained and will support interventions that are within its control (feasible). Subsection 88(1) states:
- "The money in the Universal Service and Access Fund must be utilized exclusively for the payment of subsidies –*
- a) for the assistance of needy persons towards the cost of the provision to, or use by, them of broadcasting, electronic communications network services and electronic communication services."*
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3. GENERAL COMMENTS ON THE DRAFT REGULATIONS

3.1. Cell C recommends that sub-regulation 5(1) be amended to:

“ECS licensees must as practically as possible ensure that there are end-user devices that are available and suitable for the needs of people with disabilities”.

We say this because there is a plethora of devices from various OEM's in the marketplace that support needs for persons with disabilities, depending on what those disabilities are, but some of them are more accessible and more affordable than others. All iOS (Apple) and Android devices come with accessibility features built into the software, which caters for individuals with hearing, sight and dexterity disabilities. In addition, the existing device market caters for both feature phone and smartphones users. By introducing an obligation to only provide devices with Universal Design, the unintended consequence thereof is that feature phones would be unavailable to the general public at large, which may result in the reduction of accessibility to electronic communications services.

3.2. As the take-up for android/iOs smartphones increase exponentially, software applications targeted for use by persons with disabilities must be encouraged as these phones are ideal for such platforms. This is demonstrated by the following link available for Android,

<https://support.google.com/accessibility/android/answer/6006564?hl=en>

Android accessibility overview

You can customize your Android device using accessibility settings and apps.

Use a screen reader

TalkBack: To interact with your device using touch and spoken feedback, you can turn on the [TalkBack screen reader](#). TalkBack describes your actions and tells you about alerts and notifications.

TalkBack braille keyboard: You can use the [TalkBack braille keyboard](#) to enter 6-dot braille on your screen. Only Unified English Braille is currently supported.

Select to Speak: If you want spoken feedback only at certain times, you can turn on [Select to Speak](#). Select items on your screen to hear them read or described aloud, or point the camera at something in the real world.

Change your display

Display size and font size: To change the size of items on your screen, adjust the [display size or font size](#).

Magnification: To temporarily zoom or magnify your screen, use [magnification](#).

Contrast and colour options: To adjust contrast or colours, use [high-contrast text](#), [dark theme](#), [colour inversion](#), or [colour correction](#).

Interaction controls

Voice Access: [Voice Access](#) lets you control your device with spoken commands. Use your voice to open apps, navigate, and edit text hands-free.

Switch Access: [Switch Access](#) lets you interact with your Android device using one or more switches instead of the touchscreen. You can use a switch or keyboard to control your device.

Action Blocks: Powered by the Google Assistant, [Action Blocks](#) makes routine actions easier with customizable buttons on your Android home screen.

Time to take action (Accessibility timeout): You can choose how long to [show messages](#) that ask you to take action, but are visible only temporarily.

Use a braille display

BrailleBack: You can connect a refreshable braille display to your device via Bluetooth. [BrailleBack](#) works with TalkBack for a combined speech and braille experience, allowing you to edit text and interact with your device.

Audio & on-screen text

Captions: You can choose [caption preferences](#) (language, text, and style) for your device.

Live Caption: On Pixel devices, [Live Caption](#) automatically captions media playing on your phone.

Live Transcribe: You can use [Live Transcribe](#) to capture speech and sound and see them as text on your screen.

Sound Amplifier: You can use [Sound Amplifier](#) with wired or Bluetooth headphones to filter, augment, and amplify the sounds in your environment or on your Android device.

Hearing aid support: You can [pair hearing aids](#) with your Android device to hear more clearly.

Real-time text (RTT) during calls: You can use text to communicate during a phone call with [RTT](#).

Explore Android accessibility apps and services

You can explore Android accessibility apps and services in several ways:

Download [Android Accessibility Suite](#), including the Accessibility Menu, Select to Speak, Switch Access, and TalkBack. Android Accessibility Suite is built in to many Android devices.

Review Android device settings for ways to customize your device. Open your device's Settings app, then choose Accessibility.

Explore [Google Play](#) for other accessibility apps and services for Android.

Design and develop more accessible apps

For anyone designing or developing an app, [Accessibility Scanner](#) can help you identify opportunities to improve your app for users. You can also refer to [Android Accessibility developer resources](#).

- 3.3. Cell C notes that sub-regulation 5(3) (b), *“Alternate formats – An Electronic Communications Service licensee must make provision for product information and billing in alternate formats (Braille, large print, electronic (plain text or HTML, audio format etc.) upon request, and ensure that this information is easily accessible on the operators’ website;”* is misplaced and therefore recommend this provision be removed. Sub-regulation 5(3) only deals with *“Visual Aid Compatibility Requirements for Mobile Handsets”*. It must be noted that the requirement to provide product information and billing in Braille is financially onerous on Cell C and therefore unfeasible. Cell C will be able to provide product information in electronic format on its website and at selected stores, but submits that it is not commercially viable, feasible or practical to have product information in alternative formats at all stores, many of which may operate in the informal sector.
 - 3.4. However, Cell C currently provides access via its Walk –in-Centres, Call Centre, stores and IVR’s to assist the visually impaired with such information. Visually impaired subscribers have access to by contacting Cell C customer care on 084 135/135 (zero rated for on-net calls). In addition, Cell C currently offers the following devices with the relevant functions:
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| Function | Device Name |
|---|---|
| Customizable Display Alternative Format Braille Screen Reader Voice Recognition Automatic Responses Hands Free/One Touch | <p>Devices that run on iOS and on Android operating systems support these functions subject to market availability.</p> <ul style="list-style-type: none"> • Samsung <ul style="list-style-type: none"> ○ A2 Core, A-Series, S-Series, Note Series, and all Tablets • Huawei <ul style="list-style-type: none"> ○ Y-Series, P-Series, Mate Series, Nova Series and all Tablets • LG <ul style="list-style-type: none"> ○ K-series, Q-Series and G-Series • CAT <ul style="list-style-type: none"> ○ S-series • Devices Supporting Apple iOS from Apple – subject to the latest version available installed on the device. <p>Apple</p> <ul style="list-style-type: none"> ○ iPhone 7, 8, X,XR,XS,11, 11 Pro, SE |

3.5. Cell C is unable to fulfil the obligation to implement a National Relay System in terms of regulation 6 due to financial reasons and for reasons explained hereafter. A national relay service is a complex and substantial mechanism to facilitate communications by persons with specific disabilities (sight, speech and/or hearing) with persons without those disabilities. This service is complex and it would require an end- to- end process of the appointment of specialised trained staff and the introduction of an operator-style service capable of converting text to speech or vice versa and enabling a 3-party call. The Authority is invited to peruse the fact sheet attached (Annexure A) to this submission which is provided by the Australian government as part of the government service. Cell C believes this is an entirely appropriate service for the public sector to provide, as it will then be standardised across the board, provide employment for numerous people, and

Government will be able to in-source the communications services it needs from multiple operators. This is not, in our view, an appropriate service for the private sector, and certainly not for licensees which have multiple other obligations. Cell C recommends that government should fund this service or alternatively use monies from the Universal Service Fund as recommended above. In addition, as mentioned above, the economic compliance costs associated with the Regulations on the licensees must be motivated through a RIA, specifically the requirement to introduce the National Relay System. It is also unclear if the RIA was conducted by the Authority to support the timeframes provided for in sub-regulation 6(4).

- 3.6. A simple search on Google resulted in a number of results. ICASA can consider any of the following existing applications, which a consumer can download to their phone or computer at their election, and which the Authority could publish as part of its consumer education mandate:

<https://www.microsoft.com/en-za/p/convert-text-to-speech/9wzdncrddlsc#activetab=pivot:overviewtab;>

[https://joyofandroid.com/best-android-apps-to-convert-text-to-speech/;](https://joyofandroid.com/best-android-apps-to-convert-text-to-speech/)

[https://text-to-speech.app/;](https://text-to-speech.app/) and

<https://www.techuntold.com/convert-whatsapp-voice-messages-to-text/>

- 3.7. Cell C recommends that the requirement for directory services in terms of sub-regulation 7(1) be removed as this requirement is prescribed in Section 75 of the ECA.
- 3.8. With regards to the requirements to provide special numbers for emergency services in terms of sub-regulation 7(2), Cell C is unclear why there is a requirement to have additional special numbers for emergency services. There is currently an obligation on ECS licensees to provide free access to emergency services and persons with disabilities currently do have access to emergency services. Cell C recommends that this requirement be removed as the number “112” is the exclusive national public emergency number in terms of Section 78 of the ECA. Furthermore, the Authority has prescribed “10111” as the police emergency number and 10177 as the ambulance emergency number in the 2016 Numbering Plan Regulations.
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- 3.9. Cell C notes that it has been proposed that trained employees be provided “*in its stores*” in terms of sub-regulation 7(4). It is not clear whether this obligation is limited to the stores that are owned by the ECS licensees or whether it is the intention to extend this obligation to all stores that stock and/or sell the products and services of ECS licensees. Cell C submits that it will not be commercially viable, reasonable or practical to have trained personnel at all stores that stock and/or sell the products and services of ECS licensees as these stores are not owned by the ECS licensees but owned by third parties. Staff will have to be trained on how to communicate with persons with disability, or for an example how to interpret a braille statement, or communicate with a customer that has a speech impairment. This is not feasible at all stores that may sell Cell C services (which include PEP, CNA, Checkers and other supermarkets). In this regard, Cell C recommends that licensees ensure that front end staff at customer care and stores undertake sensitivity training to efficiently manage queries from persons with disabilities.
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