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Independent Communications Authority of South Africa

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Dear Mr. Letlape

NOTICE REGARDING DRAFT AMENDMENT NUMBERING PLAN REGULATIONS, 2016 UNDER CHAPTER 11 OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (NO. 36 OF 2005)

1. The draft amendment regulations regarding Numbering Plan Regulations, 2016 (“**the Regulations**”) under Chapter 11 of the Electronic Communications Act, 2005 (no. 36 of 2005), (“**the ECA**”) published for further consultation in *Government Gazette* 49329 on 21 September 2023 refers.
2. Cell C welcomes the Authority’s invitation to comment on these Regulations specifically matters related to churn and the efficiency thereof. Cell C confirms that it would be participating in the oral hearings when they are convened.
3. It is Cell C’s understanding from the Regulations i.e., Explanatory memo, that the purpose of this exercise is to consult once again on the inclusion of the concept of churn and processes associated with churn *“in an effort to standardise the process of recycling numbers and to promote efficient use of allocated numbers in particular mobile numbers.”*
4. Cell C would like to submit its comments on the published amendments to the numbering regulations in the attached marked as Annexure A.

5. Cell C will set out its submission below with general, specific comments with recommendations.

Yours sincerely



Mr Themba Phiri

Executive Head: Regulatory Affairs

Annexure A

NOTICE REGARDING DRAFT AMENDMENT NUMBERING PLAN REGULATIONS, 2016 UNDER CHAPTER 11 OF THE ELECTRONIC COMMUNICATIONS ACT, 2005 (NO. 36 OF 2005)

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1. GENERAL COMMENTS

- 1.1. Cell C would like to thank the Authority for the opportunity to present these written comments on the “Churn” provisions and requests the opportunity to both elaborate on the points below as well as to raise further points via oral submission when public hearings are convened on the Regulations.
- 1.2. Cell C recommends that the proposed amendments contained in the Regulations are completed in the prescribed manner that is alignment with Section 68, “*Numbering plans and number portability*”, section 2, “*Objects of Act,*” specifically subsection 2(y), “*refrain from undue interference in the commercial activities of licensees while taking into account the electronic communication needs of the public*” of the Electronic Communications Act, 2005 (Act No 36 of 2005) (“**the ECA**”).
- 1.3. Cell C reiterates that due to the lapse of time and to remain relevant, the 2016 Number Plan regulations requires review to ensure that there is sufficient mobile numbering capacity for future use by the mobile sector. In this regard, Cell C welcomes the opportunity to provide specific comments to the Churn amendments.
- 1.4. Cell C notes the Authority’s confirmation in sections 1.2 and 1.3 of its Explanatory Memo, the following:

“1.2. The Authority, in the Number Plan Second Amendment Regulations, 2023 “the Regulations”, had prescribed a period of inactivity in an effort to standardise the process of recycling numbers and to promote efficient use of allocated numbers in particular mobile numbers.

1.3. The above initiative added to previous efforts the Authority had introduced to

*manage this resource more efficiently which although had some impact **did not in the main yield the desired results**, these include:*

- 1.3.1. Prescribing the use of numberless SIMS;*
- 1.3.2. Increasing the utilization percentage requirement for consideration of additional numbering resources i.e., 80% for mobile numbers.*
- 1.3.3. Releasing a dedicated range of Machine Related Services; and*
- 1.3.4. Releasing new ranges to supplement existing ranges; and*
- 1.3.5. Transition to a non-geographic number plan.*

We wish to assure the Authority that Cell C has managed the assigned mobile numbering capacity efficiently, evidenced by our existing efficiency processes, have not required us to apply for additional mobile numbering capacity since 2016.

Cell C has applied churn rules without infringing on the interest of customers. In fact, Cell C's churn rules is more favourable to the customers, where customers are allowed to reactivate their sims on the network, even after few months of not performing revenue generating activity. Therefore, Cell C would have preferred that the Authority to do not prescribe any regulation on churn, given the efficient way in which Cell C has generally managed its numbering capacity.

In the Regulations, the Authority has introduced a new 60 consecutive calendar days (A2) churn rule for reporting purposes, and further requiring a notification to customers to be sent to subscriber after 30 consecutive calendar days of no revenue generating activity and one month quarantine of the mobile number. This proposal will result in a customer's mobile prepaid number being recycled within 3 months of not completing a revenue generating activity.

It is Cell C's view that the introduction of a two months, (A2) for reporting, and an additional month (A3) for number recycling including a 1-month quarantine is concerning because of the following reasons:

- 1.4.1. Cell C prepaid subscribers have become accustomed to the Cell C no revenue generating activity rules duration and its churn (quarantine) process of 90 calendar days when the mobile number is in quarantine. By shortening the duration of this process, subscribers will be negatively impacted in terms of convenience and customer experience. The Authority should consider that there have not been any wider complaints from customers regarding the Cell C churn rules which are uniformly applied.
 - 1.4.2. In this case, a prepaid subscriber, or a new or existing subscriber, if there is no revenue generating activity for 60 consecutive calendar days, the subscribers
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MSISDN will be put in the churn process for one month as proposed by the Authority. It is Cell C's considered view that the profile of the subscriber's MSISDN must be considered by the licensee in determining the no revenue generating duration with flexibility before the MSISDN goes into the churn (quarantine) process. Therefore, this duration must be determined by the licensee considering that this is a commercial decision whilst taking the interest of the subscriber into account.

- 1.4.3. Subscribers who purchase voice and data bundles, have airtime credit, and have not used it for 30 consecutive calendar days will receive a number withdrawal notification. This may cause confusion, increased subscriber dissent as these unused credits will be lost which and will lead to an influx of calls to the call centre and possibly an increase in complaints to ICASA and Cell C. Thus, placing a burden on Cell C call centre and ICASA complaints unit resources.
 - 1.4.4. A great number of subscribers who are churned, will be inconvenienced because they would be required to purchase new sim cards at cost, and RICA their Sim-cards to continue accessing Cell C's electronic communications services.
 - 1.4.5. In addition, when the customer's number has been churned or the MSISDN which are secondary MSISDN's users which means once they are churned (in quarantine), customers would not have the ability to receive SMS's, promotional material and benefits arising from retention campaigns. It must also be noted that secondary MSISDN users use their Sim-cards intermittently and therefore their Sim-cards need to be active for more than a month to continue to enjoy Cell C offers that benefit them.
 - 1.4.6. Cell C has a strong immigration subscriber base that do long term travel. These travellers including long term international travellers will be disadvantaged by applying the 90-calendar day no revenue generating and recycling rule.
- 1.5. Cell C believes that the approach adopted by the Authority is contrary to the number portability regulations and the amended End User and Subscriber Service Charter Regulations.
 - 1.6. In the porting regulations, the Authority has recognised the value of a mobile number with the associated credits linked with the subscriber number and prescribed in the regulations provisions to ensure that the subscriber does not lose his/her MSISDN when the subscriber moves or ports to another preferred mobile network operator. The recipient network operator is obligated to make the subscriber aware that s/he may lose their unused credits when they port and offer the option to port their number at a later date. The recognition is that the subscriber has the option to use its unused credits and that MSISDN is socially and economically linked to the subscriber for business purposes and familiarity with family and friends. In addition, a subscriber who has intentions of porting and receives a short duration withdrawal notice, that subscriber may decide not to port due to the confusion emanating from the notice.
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- 1.7. In the End User and Subscriber Service Charter Regulations, the Authority provided options for a subscriber to transfer and rollover unused data. Thus, providing for the interest of subscribers.
- 1.8. From a financial viewpoint, Cell C reports its subscriber base numbers using its A3 numbers. The reason for such choice is to allow for a like-to-like comparisons in terms of international and local comparisons to competitors' information. The reporting to the Authority uses similar parameters. It would be impractical to financially report on A2. Cell C as a small player in the mobile market, we would see a significant decline in connections, Cell C subscriber base and revenue of which Cell C cannot afford at this time. This will be further exacerbated as the average life span of customer will be significantly reduced and Cell C subscriber acquisition costs increases, and commission's structure will change negatively.
- 1.9. In further considering technological developments over time, including market innovations, mobile numbers are not only used for basic voice services. For example, mobile numbers are used by the banking and Wireless Application Service Providers sectors. The mobile numbers receive OTP's or Double Opt-In to validate and confirm transactions or subscriptions and to send personal messages such as birthday wishes. Models such as Over the Top (OTT) services are fast replacing the traditional voice services through the social media medium platforms such as WhatsApp and Facebook. If a mobile number is not correctly sanitised (quarantined) over time, there is a huge risk that in an A3 churn rule approach, the recycled mobile number will continue to receive these communications from these entities. The risk here is that private personal information of one subscriber may end up with the new subscriber on the recycled number.
- 1.10. In the past Cell C conducted an exercise where it found that there is a percentage of subscribers who may not perform a revenue generating activity over four months but thereafter. Although the percentage was not huge, the revenue impact to Cell C was significant. Therefore, it cannot be taken for granted that if there is no revenue generating activity over 60 consecutive calendar days, that there is no demand from the subscriber to make a revenue generating activity thereafter.
- 1.11. In view of the reasons stated above, Cell C believes that this regulatory intervention will infringe on the rights of customers to exercise choice of services, interfere with the licensees' commercial activities and therefore it is not in the public interest, and in conflict with the provisions contained in the objects of the ECA, specifically sections 2 (c), (d) (m), (n) and (y).
- 1.12. Cell C implore upon the Authority to rethink this intervention considering the arguments set out in this submission.
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2. LEGAL FRAMEWORK

2.1. ICASA has issued the **amendment Numbering Plan Regulations, 2016 in terms of section 68 of the electronic Communications Act, 2005 as amended.** Section 68 of the ECA mandates the Authority to prescribe numbering plan regulations and the issues to be considered are as follows:

“68. Numbering plans and number portability

- (1) *The Authority must make regulations prescribing -*
- (a) *a numbering plan which must be amended and updated as the Authority considers necessary -*
 - (i) *for efficient use and allocation of numbers; and*
 - (ii) *to accommodate the varied protocols used and services provided by licensees under this Act; and*
 - (b) *measures to ensure that number portability is introduced, including-*
 - (i) *the creation of a national number portability database; and*
 - (ii) *cost allocation and cost recovery among licensees.*
- (2) *A numbering plan must consist of a scheme of identification to ensure that electronic communications are correctly and efficiently directed to the point of reception for which they are intended.*
- (3) *Subject to subsection (7), the Authority must, in preparing a numbering plan, take account of existing numbering plans or schemes.*
- (4) *The numbering plan contemplated in subsection (1)(a) must be non-discriminatory.*
- (5) *The Authority must maintain and manage a central numbering database system.*
- (6) *Every individual electronic communications service licensee and individual electronic communications network service licensee, as applicable, must submit information on all numbers, including numbers of pre-paid subscribers allocated in terms of its licence, to the Authority.*
- (7) *The regulations made in terms of subsection (1) must include matters relating to -*
- (a) *the fees licensees must pay for the allocation of numbers to recover administration costs;*
 - (b) *the conditions under which a licensee may be required to surrender unused numbers to the Authority for reallocation;*
 - (c) *the allocation of responsibility between electronic communications service licensees and electronic communications network service licensees for the implementation of the numbering plan and number portability to -*
 - (i) *ensure effective functionality;*
 - (ii) *ensure access and routing within electronic communications networks; and*
 - (iii) *allow licensees to assign numbers to subscribers and transfer numbers when subscribers change services in an efficient manner without unreasonable delay or disruption of service;*
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(d) the protection for consumers including disclosure of consumer rights relating to -

(i) numbers and number portability; and

(ii) the process and procedures to be followed for resolving subscriber complaints and affording subscribers remedies in the form of discounts and credits when the electronic communications network service licensee or electronic communications services licensee fails to meet its obligations under this section; and

(e) a framework, including a schedule for transforming the numbering plan to a non-geographic numbering system taking into account similar non-geographic numbering plans adopted in other jurisdictions and implementation of electronic numbering, allowing the inter-operation between telephone numbers and the Internet domain name system.”

In finalising the Regulations, Cell C believes that the Authority should not be looking at section 68 of the ECA in isolation but also make these regulations taking the other important Objects of the ECA into account to ensure all stakeholder interests are considered and that Authority follow the prescribed process to avoid any unnecessary disputes that may arise as the unintended consequences of these regulatory interventions. Some of the amendments have a financial and substantial material effect on the way in which Cell C business will operate. Cell C trusts that the Authority will receive these concerns with resolutions in mind and in addition aligns, with Chapter 1, Section 2 of the Objects of the ECA. Cell C would like to highlight the following Objects of the ECA.

“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 -

“2(c) promote the universal provision of electronic communications networks and electronic communications services and connectivity for all;

(d) encourage investment, including strategic infrastructure investment, and innovation in the communications sector

(m) ensure the provision of a variety of quality electronic communications services at reasonable prices;

And in this case,

2.1. (n) promote the interests of consumers with regard to the price, quality, and the variety of electronic communications services;

2.2. (y) refrain from undue interference in the commercial activities of licensees while considering the electronic communication needs of the public;”

3. SPECIFIC COMMENTS

3.1 Definitions:

3.1.1 Cell C proposes the following definition for Churn Rate

“**churn rate**” means a percentage of **mobile** numbers of a licensee that **are quarantined due to a subscriber having** discontinued accessing or receiving services within a given timeframe in relation to the total number of active numbers at the start of the timeframe.”

3.2 Cell C proposes the following amendments to sub-regulation 6A (1)

6A (1) Churn rate must be calculated by taking the quantity of **mobile** numbers **that are in quarantine** ~~have not initiated a revenue generating activity from the services of a licensee for sixty (60) consecutive calendar days~~ and divide this quantity by the quantity of active numbers at the beginning of the defined timeframe.

It is important that the Authority understands the Cell C churn process. Cell C prepaid subscribers have become accustomed to the Cell C no revenue generating activity rules duration and its churn (quarantine) process of 90 calendar days when the mobile number is in quarantine. Cell C believes that the no revenue generating activity rules must be defined by the licensee considering its mobile numbering assignment, its subscriber behaviour and the costs associated with keeping the mobile number on its network.

3.3 Cell C proposes the following amendments to sub-regulation 6A (2) and proposes a new definition for “quarantine” as it is now included in the Churn Rate definition. Cell C notes that the Authority recognises and is familiar with the concept of “quarantine” and makes use of it under sub regulation 1.2 (2) titled “Allocated Blocks, in use” of the Schedule in *Government Gazette 36506*. The subsection states that “2. Numbers that are **quarantined** should be included in column 7 and not included in Column 5.” In addition, ICASA applies this principle to all numbering types e.g., Fixed line and VoIP numbers).

2) Churned **mobile** numbers in terms of **a licensee’s churn rules** must be quarantined for a period of 90 **calendar** days before being recycled into the pool of available numbers.

Quarantined means the restriction of subscriber mobile numbers (MSISDN’s) for a duration of time where the mobile number is blocked and will not exist on any network elements preventing any communication to and from the mobile number.”

3.4 Cell C seeks clarity from the Authority on who or which entities will be the recipient of the request in terms of sub regulation 6A (2A) where *“Licensees must, on request and at a cost, provide a list of numbers that have been placed into quarantine as per sub regulation (2).”*

3.5 Cell C proposes the following amendments to sub-regulation 6A (3).

6A (3) Upon ~~thirty~~ **sixty (360)** consecutive calendar days in which ~~a subscriber~~ **there has was not initiated a** revenue generating activity, a licensee must notify the subscriber of the intended withdrawal. The subscriber must be afforded a grace period of thirty (30) consecutive calendar days to object to the withdrawal notice by means of a revenue generating activity.

3.6 Cell C supports the inclusion of sub regulations 6A(3A), 6(3B), 6 (C) and 6A (4) as it provides an option for those subscribers who would like their mobile number to be exempted churn for a duration of time, the exclusion of mobile postpaid numbers and the trigger to abandon the withdrawal notification. However, Cell C’s rough estimate implementation timeline for such interventions is not more than six months provided the regulatory requirements are not vague.

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