



THE POWER IS IN YOUR HANDS

14 March 2014

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Dear Mr Malebusha

**RE: DRAFT AMENDED END-USER AND SUBSCRIBER SERVICE CHARTER  
REGULATION AS PUBLISHED IN GOVERNMENT GAZETTE 37251**

1. Cell C (Proprietary) Limited ("**Cell C**") welcomes the opportunity that has been provided by the Independent Communications Authority of South Africa ("**the Authority**") to provide written submissions on the proposed draft amended End-user and Subscriber Service Charter regulations ("**the Regulations**") as published in *Government Gazette* 37251 on 22 January 2014.
2. Cell C thanks the Authority for the extension of the due date of the written submissions to 14 March 2014.
3. Cell C looks forward to engaging with the Authority should the Authority have any queries on Cell C's written submission ("**Cell C's Submission**").
4. Cell C records that it wishes to make oral representations on the Regulations and Cell C's Submissions to the Authority should further discussions be scheduled.

Yours sincerely

  
Mothibi Ramusi

**EXECUTIVE HEAD: REGULATORY AFFAIRS**

**CELL C'S SUBMISSIONS ON THE DRAFT AMENDED END-USER  
AND SUBSCRIBER SERVICE CHARTER REGULATION AS  
PUBLISHED IN GOVERNMENT GAZETTE 37251**



**1. Introduction**

1.1. Cell C would like to thank the Authority for the opportunity to present these submissions on the Draft Amended End-User and Subscriber Service Charter Regulations (“**the Regulations**”).

1.2. Cell C has reviewed the Regulations and believes that all subscribers must be provided with electronic communication services that are of a decent quality, affordable and always available. To this end, Cell C further believes that the existing minimum standards for end-user and subscriber service charter regulations published in *Government Gazette 32431* (“**Existing Regulations**”) requires minimum revision. The revision contemplated could, however, address the shortfalls as appropriately identified by the Authority and the public. The final Regulations must be simple so that all stakeholders clearly understand their roles and responsibilities ensuring its implementation. These roles and responsibilities apply to the provision of quality services by licensees to subscribers, the efficient lodging and management of subscriber complaints and the frequent reporting thereof. The Regulations should be in a language that enables subscribers to understand their rights in terms of recourse when they receive poor services from licensees. The recourse procedure for subscribers must be efficient to an extent that it is practical, implementable, inexpensive and should not lead to unintended consequences.

1.3. Cell C believes that the amendments and additions to the Existing Regulations must be aligned to the Electronic Communications Act (“**ECA**”), the Standard Terms and Conditions for Individual Licences regulations (*Government Gazette 33294*), the Code of Conduct regulations with its Reasons for decision (*Government Gazette 30553*), the terms and conditions (issued) Electronic Communications Network Service and Electronic Communication Service licences.

- 1.4. Cell C also notes that the Regulations have significantly changed from the Existing Regulations. Some of these changes are completely new additions and some are indicative of maximum thresholds instead of the required minimum set of standards.
- 1.5. In many instances, the provisions for billing, credits and subscription penalties of the Regulations are duplicated as they are contained in other legislative instruments such as the National Credit Act, the Protection of Personal Information Act, Advertising Standards Authority and the Consumer Protection Act. These must be removed as it may conflict with the primary legislation and cause unnecessary confusion among subscribers, licensees and the Authority in its application of them.
- 1.6. Cell C's Submissions are contained in two sections, Part A – General Comments and Part B – Specific Comments with respect to the Regulations.

**Part A – General Comments**

**2. Regulatory Certainty**

**2.1 Section 69 of ECA**

The Authority is empowered to prescribe different minimum standards for end-user and subscriber service charters for different types of services in terms of section 69 of the ECA. Furthermore the matters that these charters may address are prescribed in section 69 (5) which state the following:

*"The matters which an end-user and subscriber service charter may address include, but not limited to-*

- a) the provision of information to end-users and subscribers regarding services, rates, and performance procedures;*
- b) provisioning and fault repair services;*
- c) the protection of private end-user and subscriber information;*
- d) end-user and subscriber charging, billing, collection and credit practices;*
- e) complaint procedures and the remedies that are available to address the matters at issue; and*
- f) any other matter of concern to end-users and subscribers."*

Cell C observes with concern that the Regulations include matters that fall outside the scope of the above section and that this approach is unsubstantiated by the Authority. An accompanying explanatory note or reasons document would have greatly assisted in understanding the Authority's rationale for these inclusions. Further this would have provided Cell C with adequate background information necessary for us to make comprehensive and substantive comments on the Regulations. Compliance reporting requirements as contained in the existing Compliance Regulations adequately cover issues of concern to end-users and should be retained.

## 2.2 Quality of Service (QoS) methodology for data testing

In terms of the drive test Quality of Service (“QoS”) methodology for data testing, it is unclear why the Authority has adopted a completely different approach compared to that of GSM voice. Currently, the GSM voice methodology is being developed by the South African Bureau of Standards (“SABS”) under the TC 74 Quality of Service Workgroup which is represented by the Authority and relevant industry experts. Cell C believes that due to the complexity and the time required to finalise the QoS methodology for data testing, all references to such must be removed from the Regulations and dealt with by the SABS TC 74 Quality of Service Workgroup similar to the approach adopted for technical regulations that are published under Type Approval. It should be noted that the Authority raised this requirement in the last SABS TC 74 Quality of Service Workgroup meeting that was held on 14 February 2014. This raises further confusion to industry regarding the forum in which the Authority intends dealing with this requirement. Furthermore, if changes are required to the QoS methodology for data testing, it is unclear how and when the Authority will again revise the Regulations after it has been finalised. For the above reasons alone, the Regulations may be challengeable.

The comments set out in Part B are therefore made subject to our general comments on the Regulations as a whole. It is Cell C’s view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments. Our comments indicate where ICASA may direct its attention in other regulations rather than in these regulations which are not the proper place because of the provisions of section 69.

### 2.3 Purpose of the Regulations

Cell C recommends that the purpose of the Regulations must be consistent with section 69 of the ECA. Any other additional requirement must be suitably justified in terms of the ECA. Cell C is concerned that the Authority added the following requirements that are not part of section 69 and did not provide the reasons and rationale for doing so and may be *ultra vires*:

- a) Make available information that will help end-users make informed choices on services offered by licensees and through the publication of service performance;
- b) Provide for rebates to subscribers who did not receive services due to service unavailability
- c) Provide for the publication of statistical complaints and network performance measurement reports received from licensees on the Authority's website so as to allow end-users to make informed choices.

### 2.4 Applicability of the Regulations

Cell C believes that these Regulations are confusing in terms of regulating the relationships between subscribers, licensees and the Authority. This set of Regulations does not and cannot practically govern the relationship between licensee and end user/subscriber, which is what section 69 of the ECA prescribes. No ordinary subscriber will know how to measure QoS or dropped call rates and the inclusion of these provisions in the Regulations would lead to unwarranted complaints by subscribers. In our view, the charter will be rendered invalid to the subscriber.

An end-user or subscriber charter should deal with complaints reporting which need not require any particular QoS standard or certainly not one that the ordinary person cannot measure or understand. Call setup could be measured, as could geographic coverage, but Cell C submits that those matters that the consumer can complain about should be contained in a separate regulation from those matters that the Authority is empowered to monitor and regulate.

It is unclear to Cell C if Cell C is expected to conduct the drive tests or tests at a fixed point of the network in order to provide the technical measurement parameters as contained in section 4.5 and 3.1 of Schedule 2. It is further unclear if the Authority will provide the same measurement parameters from its own drive testing. It is therefore difficult for Cell C to provide meaningful comments on these sections of the Regulations as each mode of testing utilises different parameters. Lastly, there are financial, human and technical resource implications associated with these tests regardless who conducts them. These implications must be catered for and it must be made clear who is responsible for them.

### **3. Definitions**

Cell C finds the definition section to be problematic where most, if not all, of the definitions are inconsistent with the defined terms as contained in the ECA. In addition, the defined terms are used inconsistently throughout the Regulations. For instance the words “*end-user*”, “*subscriber*” and “*person*” are randomly used. The Regulations also contains definitions from third party documents which are not necessarily binding or applicable in South Africa. Some definitions also attempt to impose standards within them which is inappropriate.

Cell C is concerned and seeks clarity as to why in a technology-neutral licensing environment, the Authority would seek to set minimum standards based on different technologies used (fixed, fixed wireless and mobile). The definitions of each in any event lack clarity. Some terms that are used in the Regulations are not defined. These terms must be defined to avoid any ambiguity that may arise in the interpretation and application of the Regulations.

#### **4. Determination of thresholds and reporting**

The Parameters and Targets for availability of electronic communication network services and electronic communications services; average time to install and activate services; average time to clear faults; and connectivity failure rate; have significantly increased or changed from the provisions set out in the Existing Regulations. For example, the threshold for the availability of electronic communications network services in the Existing Regulations is an average of 95% over six months. However, this is proposed at 99% in the Regulations and must be reported quarterly. The Authority has not provided any other information to indicate if this value of 99% is averaged over a period. Therefore, Cell C interprets this as 99% network availability at all times (although we note that other licensees may have different interpretations because of the lack of clarity in the Regulations). This is in any event not possible to achieve on a mobile (wireless) network as there are natural elements like the weather and factors outside Cell C's control that may disrupt network availability. Furthermore, Cell C and other licensees are dependent on third parties to provide electronic communication network services. and the implication of the availability requirement is that there must be a 99% service level agreement with these third parties.

The Authority has included "calendar days" which is inconsistent with previous regulations where reference is made to "working days". The implication of this change to Cell C is that the turnaround time obligations placed on Cell C has now significantly shortened. This results in the requirement for more resources, including labour at a higher cost during weekends and public holidays. It must also be noted that the Authority does not function at these times and will therefore be unavailable to interact with Cell C. Furthermore, it is unclear how the Authority is going to deal with existing regulations that make reference to "working days". Cell C recommends that all reference to "calendar days" be replaced with "working days", or that the definition of "days" in the ECA apply as is commonly the case in other regulations.



Cell C notes that it has to provide reports to the Authority on a monthly and quarterly basis. Cell C recommends that the Authority harmonise its reporting requirements with those included already in the Compliance Manual Regulations. In many instances Cell C has to provide similar reports to different units of the Authority, at different times which may be onerous and resource-intensive both for licensees and the Authority and this can be avoided by simply planning and reporting on a consistent but sensible basis.

From the above, it is observed that the obligations placed on Cell C have significantly increased in terms of measurement parameters, reporting and working timelines, without good reason. Cell C recommends that in the absence of any proper reasoning for such onerous obligations, the Authority remove them and adopt the existing approach that is contained Existing Regulations.

## **5. Technical**

### **5.1 Network KPIs**

Different operators use different vendors for supply of network infrastructure. These vendors all have their own interpretation and implementation of Key Performance Indicators (“KPIs”) such as Call Setup Success Rate, etc. The data from different networks cannot be used for comparison purposes nor evaluation of whether such networks have reached their targets or not as this will not be a ‘like for like’ comparison. So in effect this data will not be a true comparison of QoS network performance. Even where different operators do use the same vendors in their networks, the difference in software versions make the KPIs incapable of like for like comparison. Most KPIs listed in the Regulations are only broadly stated and are unclear as to the exact measurement process, measurement environment, event trigger points and formulas for calculation. Cell C therefore recommends the use of a mutually developed benchmark methodology to accurately compare the KPI targets of networks. This can be done by the SABS TC 74 Quality of Service Workgroup.

**Part B – Specific Comments with respect to the Regulation****1. DEFINITIONS**

*“Broadband” means an always on data connection that is able to support various interactive multimedia services, and has the ability of a minimum download speed as determined by the Minister from time to time.*

Cell C recommends that the Authority provide clarity on the adoption of this definition considering a new definition is contained in the South Africa Connect: Creating Opportunities, Ensuring Inclusion: South Africa’s Broadband Policy as published in Government Gazette 37119.

Section 7 of the Broadband Policy under the heading *“Definition”* states the following:

*“In line with the going trends towards defining broadband rather in terms of functionality, in South Africa broadband should be understood as an ecosystem of high capacity, high speed and high quality electronic networks, services, applications and content that enhances the variety, uses and value of information and communications for different types of users.”*

*“Call Setup” means call processing events that occur during the time a call is being established, but not yet connected.*

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

*“Call Setup Success Rate” the percentage of calls that are successfully set up and terminated as a percentage of the total call attempts.*

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

*“Call Setup Time” means time interval from the instant a user initiates a connection request until a complete message indicating call disposition is received by the calling terminal.*

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

*“Call Retention” means a call that, following a successful call setup, continues until it is ended normally by a user.*

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

*“Call Retention Ratio” means the ratio of total successful call setup that continues until ended normally to total established calls.*

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

*“Complainant” means any person who has escalated the complaint to the Authority alleging non-compliance by telephone, e-mail, fax, post or walk-in.*

Cell C recommends that the word “person” be replaced with the word “subscriber” to be consistent with the ECA.

*“Connectivity Failure” means the inability of an electronic communications network system to connect end-users to the service.*

Cell C submits that the term “electronic communications network system” is undefined in the ECA. Cell C recommends that the word “service” be defined as it is vague and therefore unclear if it means an electronic communications service and/or broadcasting service. Cell C further recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

***“Connectivity Failure Rate” means percentage of the total connection attempts to the number of failed connection attempts.***

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

***“Dropped Call” means a call which is established and assigned a traffic channel but dropped prior to the normal completion by the user due to network problems.***

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical. The word “user” is undefined and used in many instances in the Regulations. Therefore, Cell C recommends that the Authority replaces the word “user” with the word “subscriber” to be consistent with the ECA.

***“Dropped Call Rate” means the proportion of incoming and outgoing calls, which, once correctly established and therefore having been assigned a traffic channel, is dropped or interrupted prior to the normal completion by the user, the cause of the early termination being with the operator’s network.***

Cell C recommends that all definitions that are related to GSM Voice be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is currently been developed. See Part A of our submission under section 5, Technical.

*“End-user” means a subscriber and persons who use the services of a licensed service.*

Cell C recommends the removal of this definition as it is defined in the ECA.

*“Fault” means failure of a network which results in disruptions or degradation of services.*

Cell C submits that the definition is vague as a failure in a network may occur at the access, core or IN portion of the network. The failure could be minor or major and therefore the repair time will be dependent on the nature of the fault. Furthermore, some faults may occur outside the control of a licensee e.g, lightning striking a Base Transceiver Station which may interrupt the provision of electronic communication services for long periods of time making it impossible to restore such services within 24 hours. Cell C recommends that the Authority define “Faults” as those that are major faults with the fault clearance rate as contained in the Existing Regulations. This would reduce the burden of the quantity of faults that are reported and cleared.

*“Fixed Wireless Service” means a telecommunications service that provides radio communication between fixed points.*

Cell C submits that this service is not defined in the ECA as the ECA adopts a technical neutral licensing regime.

*“Fixed Wireline Service” means a Fixed Service that is not a Fixed Wireless Service.*

Cell C submits that this service is not defined in the ECA as the ECA adopts a technical neutral licensing regime.

*“Installation” means installing the requested service to qualifying end users.*

Cell C seeks clarity from the Authority on the applicability of this definition to Cell C. Cell C provides mobile electronic communication services that do not require the action of physically installing an electronic communications network service.

*“Internet Session Login” means a call to an Internet point of presence that, following a successful call setup, establishes an Internet session within 40 seconds from when the call is answered.*

Cell C recommends that all definitions that are related to GSM data be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is busy been developed. See Part A of our submission under section 5, Technical.

For example the standard may resolve the following challenge. The login process may (from a subscriber perspective) only be completed if the response is positive and it reaches the mobile network. The external factors that impact the message delivery to the mobile network are the response times and processing times of the remote server. Once access is granted, the login may only be deemed successful to a subscriber once the landing page is loaded. The external server requiring the login credentials could experience a delay due to high volumes of traffic that may impact the login lead time.

*“Packet Loss” means data packets lost between two designated points.*

Cell C recommends that all definitions that are related to GSM data be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is busy been developed. See Part A of our submission under section 5, Technical.

The definition must be specific to packet loss within the operator’s network. End to End packet loss involving routers and switches on the internet must be excluded.

*“Packet Loss Ratio” means the percentage of the number of packets dropped to the total number of packets received.*

Cell C recommends that all definitions that are related to GSM data be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is busy been developed. See Part A of our submission under section 5, Technical.

***“Rebate”** means a deduction from an amount to be paid or a refund of part of an amount paid towards subscriptions.*

Cell C submits with concern that section 69 of ECA, nor does any other section of the ECA and other regulations under the ECA provide for the payments of “Rebates” or explicitly provide for such payments to subscribers. Furthermore, the term “rebate” is not defined in the ECA.

***“Reporting Period”** means the duration over which measurements are taken and recorded when a licensee performs quality of service measurements.*

Cell C submits that the “Reporting Period” does not only apply to quality of service measurements but all the Targets set out in the Regulation and Schedules 2.

***“SMS”** means a message which is sent through short message service and includes a multimedia message sent through multi-media message service.*

Cell C recommends the separation of SMS and multimedia message from the definition, as different elements of the network (bearers) are utilised to provide these services.

***“SMS Transmission Ratio”** means the ratio of message transmission which is transmitted completely without errors between network termination points.*

Cell C seeks clarity from the Authority if this definition applies to Person to Person (P2P) and Application to Person (A2P) messages and does the message transmission include the used portion of technical elements that are in the control of external parties. Cell C notes that the term “network termination points” is undefined.

***“Successful Data Transmission”** means internet data transmission which is transmitted completely without errors between the Network Termination Points.*

Cell C recommends that all definitions that are related to GSM data be removed and captured in the Quality of Service parameters specific to GSM networks under the SABS QoS standard that is busy been developed. See Part A of our submission under section 5, Technical.

It is not clear what is meant by “completely without errors” and it is further not clear what would constitute an error or whether errors due to external parties are included? Examples or test cases would assist Cell C with the understanding of this definition.

The term “network termination points” is not defined and although this is reasonably clear to industry, if it is to be relied upon for measurement in these Regulations, it should be defined.

## **2. PURPOSE OF THE REGULATIONS**

See Cell C comments in subsection 2.3 of this submission.

## **3. SCOPE AND APPLICATION OF THE REGULATIONS**

See Cell C comments in subsection 2.4 of this submission.

## **4. ELECTRONIC COMMUNICATION NETWORK SERVICE (ECNS) AND ELECTRONIC COMMUNICATIONS SERVICE (ECN) SERVICE AVAILABILITY**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C’s view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

### **4.1 Availability Of Electronic Communications Network Services (ECNS)**

*The applicable parameters:*

<b><i>Parameter</i></b>	<b><i>Target</i></b>	<b><i>Reporting Period</i></b>
<i>Fixed wireless / Fixed Wireline services</i>	<i>99%</i>	<i>Quarterly</i>
<i>Mobile Services</i>	<i>99%</i>	<i>Quarterly</i>

Cell C submits that the above thresholds have significantly increased with no justification or reasons from the Existing Regulations which is 95% averaged over six months. Cell C’s recommends the replacement of this Target with the Target as set out in the Existing Regulations.



Cell C notes that “Targets” are just that – they are not maximums or minimums, they are approximations, which should be aimed at but not necessarily met.

**4.2 Availability Of Electronic Communications Services (ECS)**

*The applicable parameters:*

<b>Parameter</b>	<b>Target</b>	<b>Reporting Period</b>
<i>Fixed wireless / Fixed Wireline services</i>	95%	Quarterly
<i>Mobile Services</i>	95%	Quarterly

Cell C recommends that the above target be averaged over six months within a specified area of coverage as contained in the Existing Regulations.

**4.3 Average Time To Install And Activate Services**

*The applicable measurement parameter:*

<b>Parameter</b>	<b>Target</b>	<b>Reporting Period</b>
<b>Installation</b>		
<i>Fixed wireless / Fixed Wireline services</i>	95 % within 20 days	Quarterly
<i>Mobile services</i>	99% within 24 hours	Quarterly
<b>Activation</b>		
<i>Fixed wireless / Fixed Wireline services</i>	95 % within 5 days	Quarterly
<i>Mobile services</i>	99% within 24 hours	Quarterly
<i>Mobile Services</i>		Quarterly

Cell C is concerned that the Authority has defined “*Service Activation Time*” in Schedule, however, the Authority has titled the above requirement as “*Average Time To Install And Activate Services*” and requires “*Activation*” for mobile services to be 99% within 24 hours. It is unclear over what period the “*service activation*” is averaged. Furthermore, practically it is almost impossible to activate a service within 24 hours when a request for a mobile service is concluded telephonically. A subscriber may request a mobile service with his existing number. The service activation is dependent on satisfying other requirements such as the time taken for receiving the handset with the correct paperwork, the completion of a port and the registration of the subscriber for purposes related to the Regulation of Interception of Communication and the Provision of Communication-Relation Act. Cell C recommends that the activation thresholds as contained in the Existing Regulations remain (90% within seven days and 10 % over fifteen days within the specified area of coverage).

Finally the word “activate” is capable of different meanings and should be defined clearly if it is intended to be relied upon for measurement and enforcement.

#### 4.4 Average Time To Clear Faults

*The applicable measurement parameter:*

<b>Parameter</b>	<b>Target</b>	<b>Reporting Period</b>
<i>Fixed wireless / Fixed Wireline services</i>	<i>90% within three (3) Days</i>	<i>Quarterly</i>
<i>Mobile services</i>	<i>95% within 24 hours</i>	<i>Quarterly</i>

See Cell C comments under the definition of “Faults”. Cell C proposes that the target for mobile network services be the same as for fixed network services as the network elements are similar, other than the wireless element of the mobile network. Cell C submits that “*Mobile services*” are undefined and therefore subject to interpretation.

Faults are of different types and will obviously need different times to clear. This should be acknowledged in the Regulations (although see our general comments on the appropriateness of the Regulations in this form).



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#### 4.5 Connectivity Failure Rate For Fixed Wireline, Mobile, Internet And Broadband Services

The applicable measurement parameter:

Parameter	Target	Reporting Period	Cell C comments
Intra network call connection loss	Not more than 6% of all calls may be lost calls per calendar month	Quarterly	The Authority needs to clarify if the Connection Loss means Failures during Connection Establishment. In that case it would be 100%-CSSR. If Connection Losses due to Handovers is Required, it is measured through three KPIs, 2G-2G, 3G-2G and 3G-3G. In this case the Authority needs to clarify whether to use the Average of these three KPIs.
Inter network call connection loss	Not more than 6% of calls shall be lost calls per calendar month	Quarterly	Cell C submits that no measurements are available for Inter-Network (Cell C to Vodacom) in Radio Access Network (RAN) or Core Network (CN) to measure Call Success Rate or Failure Rate
Average Call setup success ratio	Greater than >98% of all calls attempted	Quarterly	The Authority needs to clarify whether to average 2G and 3G KPI STATS
Average Call setup time	Less than <20 seconds for the mean	Quarterly	Cell C submits that this parameter can be measured through CN but not RAN KPIs
Average Call drop rate	Less than <3% of dropped calls	Quarterly	Cell C submits that if the threshold for Call Retention Ratio is 96%, then the threshold for Call Drop Ratio should be 100%-96%=4% The Authority needs to clarify whether to take average of 2G and 3G.

<p><b>Average Call retention ratio</b></p>	<p><i>Greater than &gt;96% of successful call setups</i></p>	<p><i>Quarterly</i></p>	<p>Cell C submits if the threshold for Call Drop Ratio is 3%, then the threshold for Call Retention Ratio should be 100-3=97% The Authority needs to clarify whether to take average of 2G and 3G.</p>
<p><b>Average SMS message transmission success ratio</b></p>	<p><i>Greater than &gt;96% of attempted transmissions</i></p>	<p><i>Quarterly</i></p>	<p>Cell C submits that this cannot be measured through RAN KPIs. Clarification is required from the Authority on the measurement point for CN Cell C assumes the "Transmission" here refers to the delivery of an SMS to the Recipient (on-net or off-net) once the message reaches our SMS Centre. In the delivery leg, Cell C is dependent on the receiving network and / or subscriber equipment availability to deliver these messages. Cell C should not be penalised for not meeting this threshold if it is outside of its control.</p>
<p><b>Speech Quality</b></p>	<p><i>Greater than &gt; 3.0 on the Mean Opinion Score (MOS) scale</i></p>	<p><i>Quarterly</i></p>	<p>Cell C submits that this cannot be measured through RAN or CN KPIs Cell C would need to install additional Measurement Equipment in CN to measure MoS</p>
<p><b>Average Call Block Rate</b></p>	<p><i>Less than &lt;20 % of attempted calls</i></p>	<p><i>Quarterly</i></p>	<p>Cell C submits that the threshold for Call Block Ratio should be in line with Call Setup Success Ratio (CSSR) 20% Blocking may result in 80% CSSR</p>
<p><b>Call Handover Success Rate</b></p>	<p><i>Greater than &gt;95% for the mean</i></p>	<p><i>Quarterly</i></p>	<p>Cell C submits that Handovers is measured through three KPIs, 2G-2G, 3G-2G and 3G-3G. In this case the Authority needs to clarify whether to use the average of these three KPIs.</p>



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<p><b>Service Coverage</b></p>	<p><i>The on-street level service coverage shall have RxLev <math>\geq</math> - 80 dBm for each defined test route. Test routes will include all major and small roads, highways and all parks. The in-building service coverage shall have RxLev <math>\geq</math> - 92 dBm per building that includes all public access areas of buildings within CBDs, and outside of CBDs, including all basement levels.</i></p>	<p><b>Quarterly</b></p>	<p>Cell C submits that this data can be collected only through Field Tests</p>
<p><b>Internet session login success ratio</b></p>	<p><i>Dial-up users must be able to connect at least 95 % of the time</i></p>	<p><b>Quarterly</b></p>	<p>Cell C submits that this can be an Average Value of CSSR PS 2G and 3G. See additional comments in the Definitions section of this submission</p>
<p><b>Packet Loss Ratio</b></p>	<p><i>Loss ratio for any class of service should be less than <math>10^{-3}</math></i></p>	<p><b>Quarterly</b></p>	<p>Cell C needs additional information for RAN, i.e. which layer should be referred to Packet Losses. Cell C recommends that this measurement be restricted to within the operator networks (subscriber equipment to Edge Router) Cell C submits that the remote servers impact the end to end packet loss ratio and should be excluded. See additional comments in the Definitions section of this submission</p>



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<p><b>Delay Ratio</b></p>	<p><i>One way transmission time (international) should be less than or equal to 150 milliseconds (ms)</i></p>	<p><i>Quarterly</i></p>	<p>Cell C seeks clarity if it is end-to-end or from network operator's end to the National Gateway Exchange? Network operators are not responsible for the delays between Gateway Exchanges. 150ms to 200ms is only achievable within the operator's network The internet best effort and asymmetric in nature meaning paths between end points change in real time, the number of hops and latency also varies with these path changes</p>
<p><b>Latency</b></p>	<p><i>Not more than 150ms – 200ms. This should be available 95% of the time during peak hour</i></p>	<p><i>Quarterly</i></p>	<p>Cell C submits that this cannot be measured through RAN KPIs. In CN, Cell C has only checked this KPI for the MGW to MGW user plan VoIP</p>
<p><b>Successful Data Transmission Ratio</b></p>	<p><i>Greater than 95% download attempts, and greater than 80% of upload attempts</i></p>	<p><i>Quarterly</i></p>	<p>Cell C submits that this can be measured through Channel/RAB Drop Rate for GPRS, EDGE, HSDPA, HSUPA and R99 sessions The Authority needs to clarify whether to use average of all these KPIs. Cell C requests that the parameters that needs to be measured be listed. Cell C submits that if this is to be measured via drive testing then how are the external factors mitigated against. This is subjective as a session can be interrupted by various external factors such as, device malfunction, remote server issues/processing power. These factors need to be excluded.</p>



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<b>Broadband speed</b>	<i>As determined by the Minister from time to time</i>	<i>Quarterly</i>	<p>The Authority does not need to include this requirement as it is legislated. Cell C seeks clarity on what exactly does the Authority require Cell C to report on. This parameter vague, a new process should be followed for floor changes of broadband speed.</p> <p>It is unclear if the speed requirement is applicable to local or international as the number of hops has an impact on speed. It is recommended that this be measured only within the operators network. This is heavily dependent on the RAN network capacity. should also use a third party provider to standardize the process. Speedtest.com is not a reliable uniform method of measuring this. Ideally the test server should be located within the operators network.</p>
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Cell C submits with concern that there are differences between the above table and the untitled technical table contained in the Compliance Report of Schedule 2. The differences are with respect to the Reporting Period and the Targets parameters. The above table has a standard Reporting Period of “quarterly” and the table in the Compliance Report has variations of “Monthly” reports. Furthermore, the Targets for handover success rate, average call block rate, internet login success ratio and successful data transmission ratio are inconsistent. Cell C recommends the update of the Compliance Report in Schedule 2 to be consistent with the table in the main body of the Regulations.

#### 4.6 Operator Assisted Call Response Time

The applicable measurement parameter:

<i>Parameter</i>	<i>Target</i>	<i>Reporting Period</i>
<i>Operator assisted call response time (non-automated)</i>	<i>Within three minutes of call</i>	<i>Quarterly</i>
<i>Call Centre Answer Success ratio</i>	<i>98%</i>	<i>Quarterly</i>

Cell C submits that the call centre answer success ratio is significantly high and will have an impact on the requirement for more resources at a higher cost. Normally 95% is achievable and cost effective and a standard. It is unclear on how the reporting will be conducted in cases of emergencies. For example during power outages which Cell C has no control over, there is an unexpected volume of calls to the call centre, which may compromise the performance of the call centre answer success ratio. Cell C further recommends that abandoned calls be excluded from the Target.



## 5. PROVISION OF CRITICAL INFORMATION TO END-USERS

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

*Licensees must provide end-users and subscribers with information regarding inter alia, products on offer, tariffs applicable, terms and conditions relating to the service, applicable hardware cost, connection fee payable, deposits, applicable credit limits, bills, retail outlets, packaging and, complaints handling procedures on points of sale or on its website.*

Cell C has a contractual relationship with the subscriber and no control over the end-user. Therefore Cell C will ensure communication to the subscriber.

Cell C submits that all credit matters are governed by the National Credit Act. Therefore, Cell C recommends that this section be removed as it may conflict with the provisions of primary legislation and cause unnecessary confusion with subscribers, licensees and the Authority in its application.

Licensees will have a specific procedure on how to make contact with the call centres for assistance/information which may have a different name. Including reference to a dedicated complaints handling procedure which, in our view would be too lengthy and impractical to include at all points of sale and customer facing documentation.

- a) *No tariff plan must be presented, marketed and advertised in a manner that may be misleading.*

Currently an SMS is presented to the user stating charges and an email address to use for assistance.

*b) Licensees must inform end-users when roaming internationally of the following information at a minimum:*

- i. SMS welcoming and informing the end-users and subscribers of the roaming networks available upon arrival in a foreign country..*
- ii. Information relating to charges applicable.*
- iii. An opt-in service through SMS.*

Advising the subscriber of other available networks in the country may not be in the best interest of the subscriber and it certainly isn't in the commercial interests of the licensee which must be balanced with other interests.

An opt-in service is not practical at this stage as the subscriber has to book onto the foreign network in order to receive the welcome SMS. At this point it will be too late to have a roaming opt in SMS.

## **6. PROTECTION OF END USER AND SUBSCRIBER INFORMATION**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

*Licensees must protect the confidentiality of end-user information, and in particular, must:*

- a) Use the information only for the purpose permitted or required,*
- b) Release that information only to the end-user; or*
- c) Release that information to another party only:*
  - i. when directed by the written instruction of the end-user;*
  - ii. when directed by a court order;*
  - iii. for the purpose of debt collection;*
  - iv. for the purpose of auditing of licensees accounts;*
  - v. in terms of any applicable law.*

## **7. CHARGING, BILLING, COLLECTION AND CREDIT PRACTICES**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

### **7.1 Charging**

*Licensees must inform end-users of all charges applicable prior to provision of services the following must be communicated at a minimum:*

- i) Connection fees;*
- ii) Deposits; and*
- iii) Pre-payments.*

Cell C has a contractual relationship with the subscriber and no control over the end-user. Therefore Cell C will ensure communication to the subscriber only. Disclosure of price is governed by the Consumer Protection Act. Therefore Cell C recommends that this section be removed as it may conflict with the provisions of primary legislation and cause unnecessary confusion with subscribers, licensees and the Authority in its application. Cell C submits that the term "connection fee" is undefined and therefore vague.

## 7.2 Billing

*Licensees must:*

- a) Communicate billing processes to end-users and subscribers;*
- b) Provide subscribers with itemised billing statements showing detailed records of SMS, voice and websites visited, where data was used;*

Cell C recommends the removal of this provision as this issue is addressed in the Licence Standards Terms and Condition regulation under Metering and Billing arrangements. Cell C submits that this cannot apply to prepaid subscribers as they do not receive bills. Cell C only provides the technical information (IP address) of websites visited by the subscriber upon request. The information (names) of the websites visited is not provided as it may compromise the privacy of the subscriber. Furthermore there is a technical challenge with accessing the names of the visited website. The current information provided by licensees to their subscribers will enable the subscriber to access the detailed information of the websites visited.

- c) Provide payment procedures in their bills including numbers to be called when end-users need to make payment enquiries;*
- d) Inform the prospective end-users at the outset that credit referencing and risk assessment will be applied when the service request is made;*
- e) Explain how the credit referencing system in respect of end-users and subscribers;*
- f) Inform end-users of credit limits where applicable;*
- g) Must confirm subscription with end-users first before billing their account on behalf of third parties.*

Cell C submits that all credit matters are governed by the National Credit Act. Therefore recommends that sub-regulation 7.2 (d) is removed as it may conflict with the provisions of primary legislation and cause unnecessary confusion with subscribers, licensees and the Authority in its application.

The applicable measurement parameter:

<i>Parameter</i>	<i>Target</i>	<i>Reporting Period</i>
<i>Billing Performance</i>	<i>90% of billing complaints must be resolved within fourteen (14) calendar days</i>	<i>Quarterly</i>
<i>Metering and billing credibility</i>	<i>Not more than 1% of bills issued should be disputed over a billing cycle.</i>	<i>Quarterly</i>

Cell C submits that the above billing dispute is too vague and open to interpretation. There could be billing disputes unrelated to licensees or beyond a licensee's control e.g. WASP, rejected debit orders or international roaming queries. A customer can complain about anything which could be regarded as a billing dispute. Cell C submits that 90% is very high and expensive to manage and that 80% will be more achievable. In many instances Licensees are likely to rely on external information to resolve some of the billing disputes which takes time. Therefore Cell C recommends the proposed 14 calendar days be replaced with 14 working days to accommodate this challenge.

**7.3 Applicable rules in defining a suitable degree of end-user protection regarding billing complaints:**

*(a) Where an end-user lodges a billing complaint, the following general principles must be followed:*

- i. Licensees must not disconnect the service of the complainant while the investigation of a disputed bill or portion thereof is still pending.*
- ii. Licensees must reach a determination regarding the billing complaint and communicate it to the complainant within fourteen (14) calendar days.*
- iii. Licensees must ensure that they inform end-users of outstanding bills in advance of sending disconnection notices in case of non-payment.*
- iv. Licensees must not impose adverse collection procedures; late charges and / or penalties during the investigation of a disputed bill.*
- v. Licensees must not require payment of disputed bills pending findings of its investigation.*

Cell C recommends that the proposed 14 calendar days be replaced with 14 working days to be consistent with the Existing Regulations. Sub-regulation 7.3 (a)(iii) is contained in the National Credit Act and therefore should be removed.

## **8. COMPLAINTS PROCEDURES**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

### **8.1 Complaints reported to the Licensee**

- a) A licensee must designate and publicise a point of entry for complaints to be lodged by end-users and subscribers;*
- b) A licensee must display complaints handling procedures on their websites, invoices, display board at service outlets including a summarised version on the device and SIM card packaging;*

Cell C submits that there will be additional costs associated with displaying a summarised version of the complaints handling procedure on the SIM card packaging. Cell C believes that displaying the short code customer care number for complaints handling procedure is sufficient.

- c) A licensee must acknowledge receipt of the complaint from the end-user or subscriber within 24 hours and allocate each complaint a reference number;*

Cell C recommends that the acknowledgement must be done within three working days as this is consistent with the Existing Regulations. Cell C seeks clarity on the applicability of this provision. It is unclear if this applies to all complaints received by the licensee or just those complaints received from the Authority.

d) *A licensee must respond to a complaint in the following manner:*

- i. *Telephonically*
- ii. *In writing:*
  - a. *Via email*
  - b. *SMS*

Cell C recommends that the licensees should respond in any of the above methods to a complaint.

e) *The conclusion of a complaint must be an official written response from the licensee;*

The Existing Regulations provide that a Licensee must formally resolve all complaints from the complainants within fourteen (14) days of receipt. Cell C recommends that other forms may be used as a conclusion of the complaint e.g SMS and voice recordings. Cell C requests clarity on the term “*official response*”. Will this requirement only apply to complaints received from the Authority or to all complaints received by the licensee? Furthermore, the term “official” is vague and therefore subject to interpretation.

f) *A Licensee must resolve all complaints lodged by end-users and subscribers within fourteen (14) calendar days of receipt;*

Cell C seeks clarity on the reasoning for this requirement as opposed to the 14 working days as stated in the Code of Conduct regulations under section 3.10 (ii) which reads: “licensees must reach a determination regarding the billing complaint and communicate it to the complainant within fourteen (14) working days.” This proposed requirement is likely to become a challenge when the resolution of the complaint is dependent on factors outside the control of licensees. Cell C recommends that the fourteen days be replaced with fourteen working days.

g) *In the event that a licensee fails to resolve a complaint within 14 calendar days, the complainant may escalate the matter to the Authority.*

## **8.2 Complaints Procedures And The Remedies Applicable To The Authority To Address The Complaints**

### **8.2.1 Steps to be followed by end-users and Subscribers**

a) *End-users who wish to lodge their complaints with the Authority alleging non-compliance will be required to have complied with the following requirements:*

- i. *Lodged their complaints with their licensee first and received a reference number to their complaint;*
- ii. *Have given the licensee 14 calendar days to resolve the complaint or*

Cell C recommends that the fourteen days is replaced with fourteen working days.

- iii. *Have received a response from a licensee but the complaint remains disputed;*

Cell C recommends that the Authority could validate and assess the responses provided to the complaint by the licensees prior to escalating the matter to the licensee.

- iv. *Have not received a response from the licensee within 14 calendar days.*

Cell C recommends that the complainant may escalate the complaint to the Authority if the licensee has failed to respond to the complaint and not when a resolution has been provided to the complainant.

### **8.2.2 Steps to be followed by the Authority**

*The Authority will follow the following steps when dealing with escalated complaints from end-users:*

- i. *Assess nature and validity of the complaint;*
- ii. *Acknowledge receipt of a complaint and allocate a reference number within 24 hours;*
- iii. *Close the complaint if it does not allege contravention;*



- iv. If a complaint is beyond jurisdiction, refer it to the relevant agency with jurisdiction over the matter; and*
- v. If the complaint falls within the Authority's jurisdiction, escalate it to the licensee within 48 hours for investigation and response.*

Cell C submits that similar timeframes must apply to licensees and the Authority for escalations. It is unclear to Cell C why there is a difference for the timeframe set for the Authority (48 hours) whereas licensees are afforded 24 hours for the escalation procedure. Cell C further believes that 48 hours is unreasonable, impractical and if it is this capable of enforcement.

### **8.3 How licensees respond to the Authority**

*A licensee must:*

- a) Acknowledge receipt of complaints escalated by the Authority within twenty four (24) hours;*

Cell C recommends that the acknowledgement must be done within 24 working hours as opposed to 24 hours but in any event, this appears to be incapable of enforcement.

- b) Respond to all complaints escalated to it by the Authority in writing within fourteen (14) calendar days;*

Cell C recommends that the complainant may escalate the complaint to the Authority if the licensee has failed to respond to the complaint and not when a resolution has been provided. This requirement must provide for exceptions e.g in certain instances, billing and repair complaints cannot be resolved within 14 calendar days. We further propose that interim feedback be considered as adequate even though the complaint is not fully resolved at the time of the response to the Authority.

- c) In the response, indicate how it has dealt with and resolved the complaint brought before it;;*
- d) Provide proof of the complainant's agreement with the resolution of the complaint.*

Cell C recommends that there must be exceptions to this requirement as there will be instances where this requirement will be impossible to achieve and there may not always be an agreement with the subscriber. Cell C notes that the Authority could validate and assess the response provided to the complainant, if necessary.

#### **8.4 Remedies applicable to the Authority to address End -User and Subscriber complaints**

*Where a licensee responds but the complaint remains disputed, the Authority will apply the following remedies to resolve the dispute:*

- i. The Authority will use Alternative Dispute Resolution (ADR) as a mediation process aimed at addressing complaints.*
- ii. The mediation process will be facilitated and Chaired by a Councillor assisted by members of staff.*
- iii. The mediation process will be conducted in all 9 provinces in order to ensure protection of all end-users in the Republic.*

This requirement is costly and Cell C proposes that a teleconference ADR be conducted if mediation is outside Johannesburg area.

- iv. The Authority will invite parties to a dispute informing them of the venue and time where mediation will take place.*
- v. If the dispute is not resolved through the ADR processes, the matter will be referred to the Complaints and Compliance Committee (CCC) for investigation and adjudication in accordance with the provisions of Section 17 (C) of ICASA Act of 2000 as amended.*

Cell believes the remedies available to subscribers should not be set out in the Regulations rather licensees should deal with the remedies they will afford complainants. The complaint can always be escalated to the Authority and addressed in terms of the CCC regulations. The provisions of Regulation 8 are therefore not appropriate or necessary and ADR simply adds another layer of complexity to the process of complaints which will frustrate the subscriber, add a burden of cost to the entire process, and replicate the process of the CCC.

## **9. REPORTING ON ESCALATED COMPLAINTS**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

- a) A licensee must prepare and submit, on a monthly basis, a report of all complaints forwarded to it by the Authority in the format prescribed by the Authority from time to time.*
- b) The report referred to in sub regulation 13 (a) must indicate how many complaints were received, closed and pending, including the time taken to address each complaint.*

Cell C recommends that the submission dates for the report be consistent with the submission date of the Compliance Report. The report is incorrectly referenced to 13(a).

## **10. REBATE**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

The applicable measurement parameter:

<b>Parameter</b>	<b>Rebate</b>
<b>Fault clearance</b>	
<i>Fixed wireless and fixed Wireline</i>	<u>Applicable Rental Rebate</u> <i>Faults pending for more than 3 days: Rental rebate for 7 days. Faults pending for more than 7 days: Rental rebate for 15 days. Faults pending for more than 15 days: Rental rebate for one (01) month.</i>
<i>Mobile</i>	<i>Reconnection to end-users at no cost.</i>
<b>Service Activation</b>	
<i>Fixed and fixed mobile</i>	<u>Rental Rebate</u> <i>Pro rata on service activation for the time the service was not activated..</i>

Cell C does not believe that the mobile fault clearance applies to it and requests the Authority to advise in this regard.

Currently Cell C charges per second billing. Cell C recommends that the term be defined to provide clarity on its understanding and application. As stated previously, Cell C has a contractual relationship with the subscriber and therefore recommends that the term “end-user” be replaced with the term “subscriber”. See additional comments under Regulation 1 of this submission.

<b>Dropped call Rebate</b>	
<i>Mobile Services</i>	<u>Dropped Call Rebate</u> <i>Reconnection at no charge. A Licensee must not charge end-user any fee for the first minute after reconnection. If end-users continue experiencing dropped calls and service interruption which severely impedes the end-users quality of experience, the Licensee must cancel the contract upon request with no early cancellation penalty to the end user. The end user would need to maintain a history of poor quality of service reported to the service provider.</i>

Cell C recommends the amendment to the Regulations where the provision for dropped call rebate for mobile services is removed. This provision may lead to an unintended consequence such as fraud committed by subscribers who want to discontinue their contract before their contract expiry date. It is unclear on what happens to the accompanying product (handset) and the related charges for such product. Subscribers can initiate calls in an area of coverage and then move into a no coverage area resulting in increased fraud and loss in minutes of use. Dropped calls could be caused by many other factors other than those directly related to the network such as the weather, roaming and defective subscriber equipment. The requirement to maintain a history of poor quality of service reported to the service provider by the subscriber is vague. It is unclear if this pertains only to dropped calls or poor quality of service in general. It is further unclear who determines the validity of the drop call history. As stated before, Cell C charges per second billing and therefore believes that a reconnection fee is applicable in an environment where per minute billing is charged. The duration of record-keeping is not specified.

The Consumer Protection Act provides for a cancellation fee. A dropped call rebate for mobile services is contrary to the Consumer Protection Act (CPA) which permits the licensee/subscriber to cancel the contract on payment of early cancellation fees.

## **11. VIS MAJORE**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

- a) *In the event that a licensee fails to comply with the targets set out under technical parameters, a licensee must issue a public notice to its subscribers informing them of the reasons the service is not available within twenty-four (24) hours.*

Cell C recommends that the reference to “*the targets set out under technical parameters*” be more specific. It is unclear to Cell C which parameters in the Regulations the Authority is referring to. It also unclear if this applies to targets as tested by the operator or targets as tested by third parties including the Authority or both. Cell C recommends that the period be revised to seventy-two hours.

## **12. ELECTRONIC COMMUNICATIONS NETWORK MONITORING**

NO COMMENTS

## **13. SERVICE UPGRADES**

NO COMMENTS

## **14. REPORTING AND PUBLICATION**

- a) Licensees shall monitor compliance on a monthly basis and submit their findings to the Authority on a quarterly basis in April, July, October and January.*

Cell C recommends that the Authority specify the range of technical and non-technical parameters that need to be monitored to ensure certainty. The current provision is vague.

## **15. AUDIT AND VERIFICATION**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C’s view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

- a) The Authority may from time to time conduct audits on the reports submitted by licensees. This may include, inter alia, performing test call sampling and service observation to verify compliance with these mandatory standards.*
- b) The monitoring and test call sampling will be conducted in accordance with the standards as set out in **Schedule 2** of these regulations.*

Please see Cell C’s comments in section 2.1 and 2.2 of this submission. Also note that if a test call sampling and service observation is completed after the submission of the compliance report, the results thereof would not be the same. This is due to network upgrades, outages caused by natural elements and factors beyond Cell C’s control.

## **16. COMPLIANCE REPORTS**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

- a) A licensee must submit compliance reports to the Authority on technical, non-technical and complaints statistics on a quarterly basis in April, July, October and January.*
- b) The reports referred to above must be in accordance with the form as contained in Schedule 2 of these regulations.*

In terms of the Compliance Procedure Regulations Manual (Gazette No. 34863) of 15 December 2011, all licensees issued with a licence in terms of chapter 3 of the ECA are currently required to submit quarterly Compliance Reports to the Authority on prescribed forms. By introducing a requirement to submit additional compliance reports that surpass the Authority's mandate in terms of mobile network technical parameters among other requirements, the Authority is introducing some inconsistency and potential confusion. Cell C therefore suggests that this provision for compilation of these reports be deleted from the Regulations as it is already provided for in the Compliance Procedure Manual Regulations. Alternatively, the Regulations must require the same reporting to be done as per the Compliance Procedure Manual in order to be in line with the proposed regulations.

## **17. CONTRAVENTIONS**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

*A licensee shall be considered to have contravened the provisions of these regulations if it failed to:*

- a) Perform and submit quality of service measurements reports as prescribed by the Regulations;*
- b) Achieve the targets as set out in the service parameters in these regulations;*
- c) Submit information requested by the Authority in terms of these regulations in the prescribed format;*
- d) Publish accurate information to the Authority about its quality of service;*
- e) Submit information as per the requirement of these regulations.*

## **18. PENALTIES**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

- a) A licensee who is held to be non-compliant with the provisions of these regulations is liable to a fine not exceeding R1 000 000.*

Cell C supports measures to facilitate compliance with prescribed regulations by imposing reasonable penalties for non-compliance. Cell C considers that the penalties applicable (a maximum of R1 000 000) are unreasonable and extreme when one considers that for a breach of the Mobile Termination Rate regulations, the penalty is R500 000. Cell C seeks clarity on what criteria was used for this determination and what criteria would be used to determine the penalty for lessor offences (or will all offences be subject to the same penalty).

- b) For any repeated non-compliance with the provisions of the Regulations, the licensee shall be subject to payment of a fine and publication of the non-compliance on the Authority's website and the licensee's own website.*



**SCHEDULE 1**

The following comments are also made subject to our general comments on the Regulations as a whole. It is Cell C's view that the Regulations are potentially ultra vires and may be subject to challenge. It is furthermore only to be helpful that we provide these comments.

*Schedule 1 outlines the methodology to be used in taking measurements as a result of drive tests. The Authority may review measurement methods as and when necessary.*

Cell C notes that Schedule 1 is not referenced in the Regulation. The monitoring and measurement criteria have yet to be determined by the Authority and agreed by licensees. Please see Cell C comments and recommendation in section 2.1 and 2.2 of this submission.

**Measurement Methods**

Parameter	Measurements
<p><b>SMS message transmission success ratio</b></p>	<p><i>A successful SMS message transmission is an SMS message transmission in which the message is transmitted completely without errors between the network termination points.</i></p> <p><i>The number of successful SMS message transmissions should be divided by the number of SMS message transmissions. The result, and the number of SMS message transmissions, should be provided as measurements.</i></p> <p><i>The measurements should be obtained from test transmissions of 120-character SMS messages, separated from each other by at least 60 seconds. The transmissions should be from traffic-weighted locations inside the reporting area to traffic weighted locations inside or outside the reporting area during the busy time for the service.</i></p> <p><i>The weighting of the traffic should be based on appropriate figures specific to the service for which the measurements are provided.</i></p> <p><i>If a test transmission is to be regarded as successful it must be completed even when the receiving network termination point is unavailable during transmission.</i></p> <p><i>Percentage of SMS message transmissions completed successfully, rounded down to the nearest percentage point.</i></p>

<p><b>Internet session login success ratio</b></p>	<p><i>A successful Internet session login is a call to an internet point of presence that, following a successful call setup, establishes an internet session within 40 seconds from when the call is answered. The number of successful Internet session logins should be divided by the number of Internet session logins. The result, and the number of Internet session logins, should be provided as measurements. The measurements should be obtained from at least 1500 test sessions, separated from each other by at least 60 seconds. The sessions should be from traffic-weighted locations inside the Reporting Area to traffic-weighted locations inside or outside the Reporting Area during the Busy Time for the Service. The weighting of the traffic should be based on appropriate figures specific to the Service for which the Measurements are provided.</i></p>
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SMS message transmission success ratio: Cell C seeks clarity on what is a traffic weighted location. Is Cell C expected to conduct these tests. The Average SMS message transmission success ratio KPI in the Compliance Report of Schedule 2 refers to “average” ratios which we assume is national and therefore does not align with traffic weighted locations.

Internet session login success ratio: Cell C believes that the testing measurements for this parameter is unfeasible. 1500 test sessions separated by 60 seconds will equal 41.7 hours. The busy hour is between 21:00 and 22:00 every day which means that testing must be carried out over 42 days.

**Conclusion**

Cell C thanks ICASA for the opportunity of making these representations on the Regulations Setting out Minimum Standards for End-user and Subscriber Service Charters. We kindly request the Authority to consider the concerns raised in the Cell C Submission and reconsider these Regulations, alternatively, engage in further public discussions on the Regulations.

Cell C remains open to dialogue and the possibility of further discussions on these Regulations Setting out Minimum Standards for End-user and Subscriber Service Charters.

END