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**Our Ref:** ICASA EUSSC Amendment  
Regulations

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**10 June 2022**

Mr Sandile Mthombeni  
Chairperson: End User Subscriber Committee  
The Independent Communications Authority of South Africa

**Per email:** [eussc@icasa.org.za](mailto:eussc@icasa.org.za)

Dear Mr Mthombeni

**COMMENTS TO THE DRAFT END USER AND SUBSCRIBER SERVICE CHARTER AMENDMENT REGULATIONS, 2022**

1. The Competition Commission (Commission) welcomes the release of the Draft End User and Subscriber Service Charter Amendment Regulations of 2022 (EUSSC Amendment Regulations).
2. The Commission supports the objectives of the EUSSC Amendment Regulations to establish amendments that aim to strengthen the provision of quality of service for electronic communication services, improve tariff transparency, and improve the utilisation of voice, SMS and data services.
3. The principles underlying the data expiry regulations are consistent with the Commission's Data Market Inquiry findings. The Data Market Inquiry found that *"Short-validity bundles, especially hourly or daily bundles, provide data access for a very brief period only. Furthermore, it is uneconomic to purchase hourly or daily bundles on a continual basis and purchasing four weekly bundles is no cheaper than a monthly bundle. The short-validity also risks lower levels of utilisation as subscribers fail to fully exploit the bundle before it expires. The evidence provided by the operators does indeed show that poorer consumers have become increasingly reliant on short-*

*validity data bundles and to a far greater extent than wealthy consumers. The point of an affordable data service to all citizens is that they have continued access to that service at an affordable price.”*

One of the Inquiry’s recommendations was therefore a reduction in the headline price of sub 500MB 30-day prepaid data bundles, to reflect the same cost per MB as the 500MB 30-day bundle. This would make sub 500MB 30-day bundles more affordable for lower-income consumers, which would help reduce their reliance on short-validity bundles.

4. The Inquiry also raised concerns about the lack of transparency over the effective rate that consumers are paying for data across networks. This limits price competition as consumers are not aware of the effective rates paid which limits their ability to compare across networks. The Commission notes in paragraph 8.5.1 of the Explanatory Memorandum on the Draft EUSSC Amendment Regulations, that ICASA aims to introduce additional quality of service parameters for electronic communication services that will establish a concise list of KPIs that are understandable to consumers to allow for meaningful comparisons of available services. This will increase transparency for consumers to make informed choices in the selection of competing mobile network operators’ products, which supports the implementation of the Inquiry findings.
5. The EUSSC Amendment Regulations serve to protect consumers from losing unused voice minutes, SMS, and data, without leaving it to licensees to prescribe their own terms and conditions, which may be unfair to consumers. The Regulations also provide consumers with better value for money since longer validity may spur on higher levels of utilisation and greater control over data usage from improved transparency. The EUSSC Amendment Regulations may also foster cost-effectiveness for consumers. These cost-savings may promote digital financial inclusion. More consumers will be able to use their data for longer validity periods and make use of digital transactional platforms.
6. The Commission understands that the new data expiry regulations exclude promotional packages, but it is not clear if promotional packages include short-validity (hourly, daily, weekly, fortnightly) validity bundles. The Commission did not identify a definition of promotional packages in the EUSSC Amendment Regulations and the 2016 Regulations. The Commission notes that the 2016 Regulations required licensees to report on their promotional tariffs and duration of the promotions, which suggests that they are not permanent and should have an expiry date. If the EUSSC Amendment Regulations will have the effect of eliminating permanent short-validity bundles of mobile network operators, which are relatively popular, ICASA will need to consider the impact on consumer choice and on prices since the prices of short-validity bundles tend to be lower than 30-day bundles. The Commission also recommends that a promotional package in the EUSSC Regulations is defined and that the following points are clearly set out: (i) how short-term

promotional packages would need to be in order to be excluded from the regulations; and (ii) whether personalised short-validity and permanent short-validity validity bundles may be considered to be promotional bundles. This would provide clarity on the types of bundles that cannot expire before 6 months.

7. The Commission trusts that this submission will support ICASA's development of regulations for electronic communication services that will promote higher levels of utilisation by consumers.

Yours Sincerely,

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**Khanyisa Qobo**

**Divisional Manager: Advocacy Division**