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ECS/ECNS COMPLIANCE ANNUAL REPORT 2021/2022

FINANCIAL YEAR

ASSESSED:

2020/2021

N.B: The contents of this report are based on the compliance submissions of respective licensees that the ECS/ECNS Compliance Unit had received at the time of writing this report.

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A: Acronyms

Acronym	Description
CCC	Complaints and Compliance Committee
CSR	Corporate Social Responsibility
CPMR	Compliance Procedure Manual Regulations, 2011 as published in <i>Government Gazette</i> No. 34863 dated, 15 December 2011.
ECA	Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended.
ECS	Electronic Communications Service
ECNS	Electronic Communications Network Service
E - Rate	A 50% discount rate at which internet services should be provided to public health institutions, public and private schools, colleges, further education and training institutions and higher education institutions, in accordance with section 73 of the ECA.
EUSSCR	End User and Subscriber Services Charter Regulations, 2016 published in <i>Government Gazette</i> No. 39898 dated, 1 April 2016, as amended.
GLFR	General Licence Fees Regulations, 2012 as published in <i>Government Gazette</i> No. 36323 dated, 28 March 2013, as amended.
HDGs	Historically Disadvantaged Groups as defined in section 9 (2) (b) of the ECA
ICASA Act	Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), as amended.
ICT	Information and Communications Technology
IMT	International Mobile Telecommunications
IP	Internet Protocol
ISM	Industrial, Scientific and Medical band
ISP	Internet Service Provider
ITA	Invitation to Apply
LSEN	Learners with Special Educational Needs
MSISDN	Mobile Station International Subscriber Directory Number
UMTS	Universal Mobile Telecommunication System
USAF	Universal Service and Access Fund
USAO	Universal Service and Access Obligation
USO	Universal Service Obligations
PTN	Private Telecommunications Network
PSTN	Public Switched Telecommunications Network
QOS	Quality of Service
SIP	Session Initiation Protocol

1. EXECUTIVE SUMMARY

The ECS/ECNS Compliance Unit has a target to report on the legislative and regulatory compliance of (60) licensees in as far as the financial year 2021/22 is concerned. The said target is as per the Independent Communications Authority of South Africa's (the Authority) Annual Operational Plan. It is of utmost importance that mention be made however that a reporting on a limited number of licenses does not mean that compliance monitoring, assessment and enforcement with other non- reported licensees was not done. Also of importance to mention is the fact that the ECS/ECNS annual report is always a year in arrears, as it reports with respect to submissions that were received for this financial year for the previous financial year.

With the increase from as few as fifteen (15) in 2010, to approximately 510 licensees in the period under review, it is clear that compliance percentages continue to gradually increase. This, despite the fact that the number of licensees continues to increase and so does the number of regulations.

2. IMPACT OF COVID - 19

This particular financial year saw the effects of the Covid-19 global pandemic necessitating the gazetting of the Information and Communications Technology (ICT) COVID-19 National Disaster Management Regulations, Government Gazette Number 43207, dated, 6 April 2020. Being a new regulation, there were teething problems that were encountered in its implementation and the Unit had to continue working with licensees to deal with the teething challenges and ultimately ensure that a considerable degree of compliance is attained.

It would be amiss if mention is not made of the fact that the Covid-19 pandemic had a negative impact on the compliance levels by licensees. Mainly, the negative impact on the compliance levels resulted from:

- ✓ Limited availability of licensees' compliance staff, as some then got infected or affected, with some losing their lives, which then either impacted on the timelines within which compliance submissions were made to the Authority and with a few being unable to submit by the time of writing this report.
- ✓ Some licensees were still adjusting to enabling their staff to work from home and availing the necessary resources/ work tools, which also had a delaying effect in the delivery of the submissions to the Authority.
- ✓ Compliance staff at the major licensees that had received additional temporary spectrum had to quickly familiarise themselves and accordingly make adjustments and put systems

in place to ensure compliance with the newly published ICT COVID-19 Regulations. Added to that these licensees had to constantly liaise with the Authority to ensure a smooth transition and compliance with these new regulations.

Some licensees requested extensions and therefore adjusted timeframes had to be agreed to in an endeavour to ensure that despite the complications brought about by the COVID-19 pandemic, as far as possible compliance still occurs.

3. INTRODUCTION

This report has as its main intention, to provide a picture in relation to the extent of regulatory compliance by ECS/ECNS licensees for the period that is being assessed. Compliance monitoring, analysis and evaluation assessment is conducted against the relevant pieces of Legislation, Regulations, and prescribed licence terms and conditions of selected licensees as elucidated in paragraph 4 below. Compliance evaluation is done over a twelve¹ month period through an analysis and assessment of compliance information submitted by the ECS/ECNS licensees, together with any interconnection and facilities leasing agreements entered into by licensees and/or notifications submitted to the Authority for review and approval.

Financial compliance (i.e., submission of financial information / reports and payments of annual licence fees and USAF contributions) is one of our most importance focus area in as far as ensuring compliance is concerned. The other main aspects for consideration are the submissions by licensees made in terms of the prescribed Forms as per the Compliance Procedure Manual Regulations (CPMR) 2011, the assessment of the information given on universal service obligations, interconnection and facilities leasing agreements.

In instances where the Unit comes across areas of failure to comply. The Unit then does its best to assist the concerned licensee to have a thorough understanding of what is required to comply and takes them through the process to ensure compliance. In instances of a major and/or repeated contravention, the next step then becomes that referral of the said licensee to the Complaints and Compliance Committee (CCC) for investigation, hearing and adjudication. The standard practice though prior to the referral, to ensure a fair administrative process, ECS/ECNS Compliance will write send correspondence to the concerned licensee notifying it of the alleged contravention and affording it an opportunity to make representations as to why they should not be referred to the CCC for non-compliance.

¹ The twelve months' period refers to 1 April of the previous year to 31 March of the current financial year. However, the period for compliance assessment is the preceding financial year i.e. 2018/2019.

Due to different financial year end periods between the Authority and licensees, some information (for licensees) may not be complete at the time of finalising the Authority's Compliance Report, by 31 March of any year.

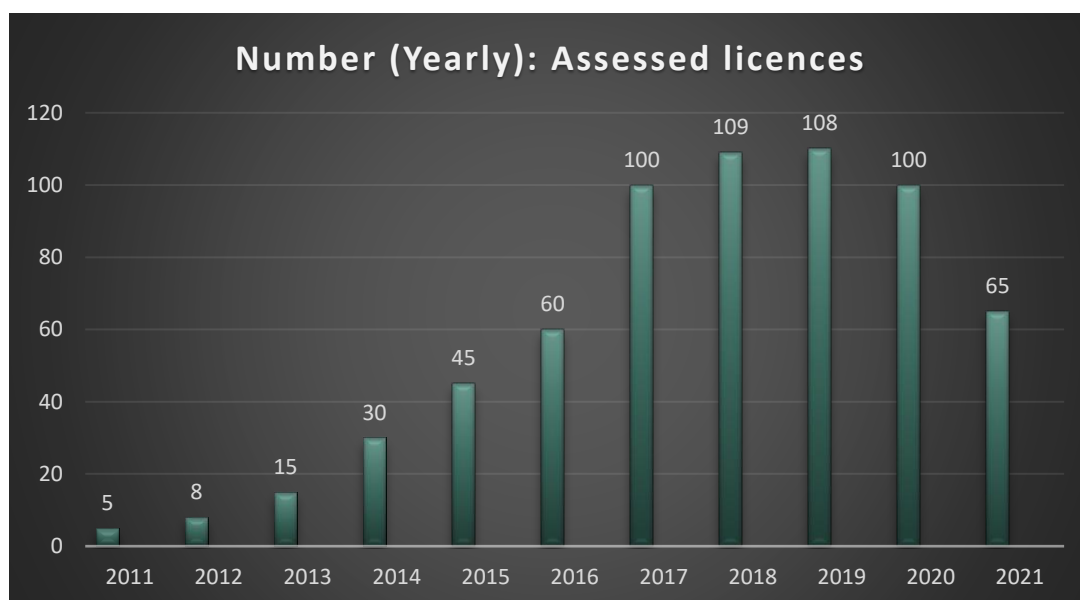
Table 1: Monitored licensees

#	Licensee	Licence Type	Financial Year-end
1.	Borwood Communications (Pty)Ltd	Class	February
2.	SMS Cellular Services (Pty) Ltd	Class	February
3.	Atomic (Pty) Ltd	Class	February
4.	BareMetal Computer Traders (Pty) Ltd	Class	February
5.	Balwin Properties (Pty) Ltd	Class	February
6.	Vangibuzz (Pty) Ltd	Individual	March
7.	The Immedia Ecosystem (Pty) Ltd	Individual	February
8.	WIOCC South Africa	Individual	December
9.	Telkom SOC Ltd	Individual	March
10.	Network for Next Generation Pty) Ltd	Individual	February
11.	VTs Connect (Pty) Ltd	Individual	February
12.	V O Connect (Pty) Ltd	Individual	March
13.	Scan RF (Pty) Ltd	Individual	July
14.	Amobia Communication (Pty)Ltd	Individual	March
15.	BT Communication (Pty)Ltd	Individual	March
16.	CELL C Ltd	Individual	December
17.	Gateway Communication (Pty)Ltd	Individual	December
18.	Gigabug / RD Solutions (Pty)Ltd	Class	March
19.	Kaltrade 407(Pty)Ltd	Individual	March
20.	Ladysmith Wireless	Class	March
21.	L Com (Pty)Ltd	Class	March
22.	Letaba Wireless Internet CC	Class	August
23.	Telemedia (Pty) Ltd	Individual	March
24.	Transnet Freight Ltd	Individual	March
25.	Tribal Zone Communications (Pty)Ltd	Individual	March
26.	Verizon South Africa (Pty)Ltd	Class	April
27.	Ask Internet Technologies (Pty)Ltd	Class	February
28.	Balwin Fibre (Pty) Ltd	Class	February
29.	Bundu Networx (Pty) Ltd	Class	February
30.	Compatel Africa (Pty) Ltd	Class	December
31.	Converged Telecoms (Pty) Ltd	Class	February
32.	Cybersmart (Pty) Ltd	Class	February
33.	Liquid Telecommunications South Africa (Pty) Ltd	Individual	February
34.	First Technology (Pty) Ltd	Individual	February
35.	Greenflash Trading 72 (Pty) Ltd	Individual	February
36.	Grey Town Machines (Pty) Ltd	Class	February
37.	Huge Telecom (Pty) Ltd	Individual	February
38.	Stuart Vincent Bodill T/A IT Net	Individual	February
39.	KAB Technologies (Pty) Ltd	Class	February
40.	Aaminah Aisha Moosagie TA Ztel	Class	February
41.	Aethernet (Pty) Ltd	Class	February
42.	CMC Networks (Pty) Ltd	Individual	March
43.	Collateral Trading 355 (Pty) Ltd	Individual	May
44.	CW Net CC	Class	February
45.	Dark Fibre Africa (Pty) Ltd	Individual	February
46.	Digital Dynamix CC	Individual	February
47.	Mobile Telephone Networks (Pty)Ltd	Individual	December
48.	Dube TradePort Corporation	Individual	March
49.	EasyComs Communications (Pty) Ltd	Individual	February
50.	Gardale Solutions CC t/a G Solutions	Class	February
51.	Vumatel (Pty) Ltd	Class	February

#	Licensee	Licence Type	Financial Year-end
52.	iCTel (Pty) Ltd	Individual	February
53.	Vodacom (Pty) Ltd	Individual	March
54.	Sentech SOE Ltd	Individual	March
55.	Broadband Infraco SOE	Individual	March
56.	Iclix CC	Individual	March
57.	RSA Web Internet Services (Pty) Ltd	Individual	March
58.	Telemedia (Pty)Ltd	Individual	February
59.	Skygistics (Pty) Ltd	Individual	November
60.	FFG Connection CC	Individual	March
61.	GS Telecom (Pty) Ltd	Individual	March
62.	Sevenstone Investment	Individual	February
63.	Hymax Talking Solutions	Individual	July
64.	eNetworks (Pty) Ltd	Individual	June
65.	Mzansi Lesetta Media (Pty) Ltd	Individual	February

The sample above is representative of a broad range of licensees, i.e. small, medium, major, top and non- top earners, and those who are consistently compliant as well as those that are not fully compliant.

Figure 1: Number of licensees assessed to date.



Below is a table (Table 2) constituted of a broad spread of the financial year ends with respect to the 65 licensees reported on for purposes of this report. Our observation over the years, is indicative of February being the most common financial year end month, followed by March. Information on financial year end is crucial as it influences the payment of licence fees and USAF contribution as well as the conclusion of Authority's compliance assessment. The General License Fee Regulations requires that Licensees have up to six months *after* their financial year end to pay their licence fees and make their USAF contributions.

Table 2: Financial Year Ends (FYE)

FYE	Number of licensees
February	32
March	20
April	1
May	1
June	1
July	2
August	1
November	1
December	5

Licensees have a regulatory obligation to provide (at their financial year end), financial forecasts of the General Licence fees and USAF contributions that they expect to pay (as they serve as estimates/forecasts in as far as the Authority is concerned). The said financial forecasts are then later reviewed against the actual finalised financials (and where applicable, audited) once those are made available to the Authority as per the requirements of the General Licence Fees Regulations.

4. LEGISLATIVE AND REGULATORY CONSIDERATIONS

ECS/ECNS licences are granted and issued under chapter 3 of the ECA, as part of the mandate of the Authority. The table below lists the key legislative and regulatory tools used, for compliance assessment. With the advent of the COVID-19, the ICT COVID-19 regulations are also included here.

	Legislation
1.	Independent Communications Authority of South Africa Act, 2000 'ICASA Act' (Act No. 13 of 2000), as amended.
2.	Electronic Communications Act, 2005 'ECA' (Act No. 36 of 2005), as amended.
	Regulations
1.	ICASA General Licence Fees Regulations, 2013
2.	Universal Service and Access Fund Regulations, 2011
3.	Compliance Procedure Manual Regulations, 2011 (CPMR)
4.	Regulations on Standard Terms and Conditions for Individual Licences, 2010
5.	Regulations on Standard Terms and Conditions for Class Licences, 2010
6.	Processes and Procedures Regulations for Individual Licences, 2010

7.	Processes and Procedures Regulations for Class Licences, 2010
8.	End User and Subscriber Service Charter Regulations, 2016
9.	Interconnection Regulations, 2010
10.	Electronic Communications Facilities Leasing Regulations, 2010
11.	Regulations on Code on People with Disabilities Applicable to All Licensees, 2007
12.	Code of Conduct for ECS-ECNS Licensees, 2007
13.	Regulations in terms of Section 4 read with Section 73 of ECA in respect of E-Rate 2009
14.	Numbering Plan Regulations, 2016
15.	Call Termination Regulations, 2014
16.	Information and Communications Technology (ICT) COVID-19 National Disaster Management Regulations, Government Gazette Number 43207, 2020.

Chapter 3 of the ECA, categorises ECS and ECNS licences into **Individual** and **Class** licences. The differentiation being that an Individual licence has provincial or national scope whilst a Class licence is geographically restricted to a district or local municipality. The procedure to issue Individual Service licences as set out in section 9 of the ECA is that the Authority will issue an Invitation To Apply (ITA) inviting applicants to submit applications within a prescribed time frame. With respect to Class licences, the Authority receives applications for registration throughout the year, as and when relevant applicants make such submissions.

The total number of Individual and Class licences that have been issued by the Authority is broken down in figure 2 below. Regard should also be had to the fact that in some instances, licensees hold more than one licence. The legislative framework also provides for “resellers²” which are entities that provide electronic communications services but do not require licences,

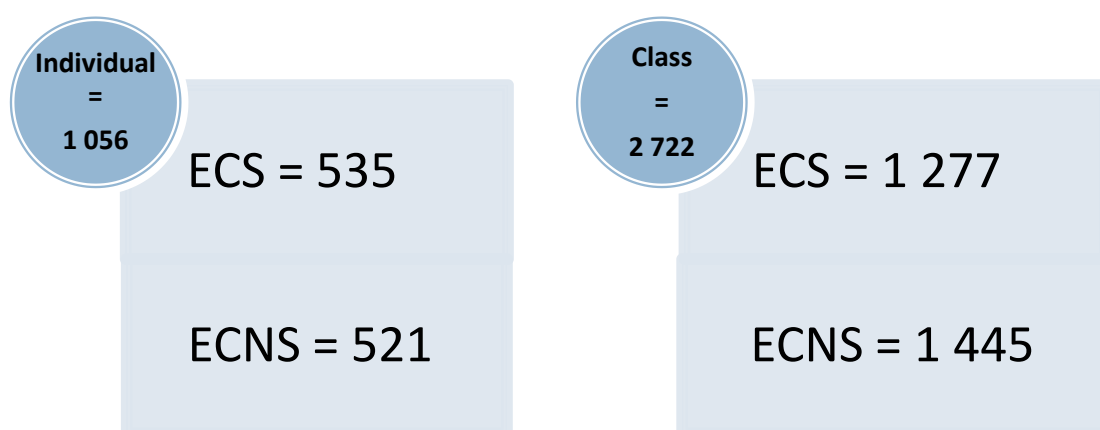
² Means “a person who-

- (a) acquires, through lease or other commercial arrangement any electronic communication network service or electronic communications service; and
- (b) makes such electronic communications network service or electronic telecommunications service available to subscribers for a fee, whether such electronic communications network service or electronic communications made available by the reseller-
 - (i) are identical to the electronic communications network service or electronic communications service acquired;
 - (ii) are packed, bundled or otherwise regrouped to form new or varied service offerings;
 - (iii) are combined, linked or used in connection with electronic communications networks or electronic communications facilities owned by the reseller; or
 - (iv) add value to such electronic communications network services or electronic communications services,”

which are not monitored for compliance as there is no duty upon resellers to comply with regulatory requirements.

ECS and ECNS licensees provide voice, data and network services both at wholesale and retail. Of the six³ main individual licensees, three (MTN, CELL C and Vodacom) provide mobile voice services as their core business whilst Liquid Technologies, Telkom and Rain predominantly fixed wireless and data services. The majority of the other ECS and ECNS licensees provide data services as ISP's (internet service providers).

Figure: 2 - Individual & Class licences = 3 778



4.1. Licence Terms and Conditions

Contained in each of the ECS/ECNS licences are applicable licence terms and conditions. These conditions are also encapsulated in the Authority's Standard Terms and Conditions Regulations. In addition to the said licence terms and conditions, some licensees have specific Universal Service Obligations (USOs), as outlined in section 4 below. As part of the annual compliance assessment, the ECS/ECNS Unit also factors in the USO obligations with respect to which those apply.

5. COMPLIANCE FINDINGS

In as far as the selected licensees that this report is based on, the findings are elucidated below:

5.1. General Licence Fees Regulations, 2012⁴ (GLF)

The payment of licensee fees is premised upon the Licence fees payment framework as contained the GLF Regulations. It is based on a percentage of revenue that licensees would

³ Cell C, MTN, Liquid Telecom (formerly Neotel), Telkom, Vodacom and WBS.

⁴ Published in *Government Gazette* No. 36323 dated, 28 March 2013.

have generated from their licensed services during a particular financial year and is based on a sliding scale as per table 3, below⁵:

Table 3: Extract from GLF Regulations⁶

Licenced Revenue	Percentage
R	B
0 – 50 000 000	0.15%
50 000 001 – 100 000 000	0.20%
100 000 001 – 500 000 000	0.25%
500 000 0001 – 1 000 000 000	0.30%
1 000 000 001 and above	0.35%

Pa is the general licence fee payable by the licensee

$$Pa = R \times B$$

The said regulations prescribe those licensees submit their financial statements and make payments to the Authority, by no later than six months **after** [own emphasis] their financial year end. The requirement is that the financials either be audited or signed off by their Accounting Officer⁷. The financials are then analysed by the ECS/ECNS Compliance Unit, against the GLF Regulations prior to submission to the Finance Division, for invoicing.

Where licensees fail to pay within the prescribed time, interest is then charged on the amount due. Persistent non-payment of fees constitutes non-compliance and will generally result in a referral to the CCC. For the current assessment period, the highest licence fees paid by a single licensee, amounts to R 197, 769, 609.00 and R 466.63. The GLF Regulations do not exempt any licensee from payment of licence fees, regardless of the amount generated from licensed services.

5.2. Universal Service Access Fund (USAF) Regulations, 2011

On the other hand, the USAF Regulations⁸ requires that licensees pay an annual contribution of 0.2% of their annual turnover to the USAF fund. USAF calculations and contributions must be done within six month of the financial year end of each licensee. Where licensees fail to pay within the prescribed period, interest will also be charged on the amount due. For the

⁵ Per Schedule 2 of ICASA General Licence Fees Regulations, 2012.

⁶ *Ibid.*

⁷ Per Schedule 3 of ICASA General Licence Fees Regulations, 2012.

⁸ USAF Regulations, 2011 published in *Government Gazette No. 34010*, dated 10 February 2011.

current assessment period, the USAF contributions paid range from R 93, 798, 447.00 as the highest, with R 622.17 as the lowest.

Table 4 below provides a breakdown of the GLF and USAF contributions paid by the monitored licensees in the 2020/21 financial year.

5.3. **Spectrum Fees**

Licensees who use the frequency spectrum as allocated by the Authority are required to make payment in relation to spectrum fees as follows:

- (i) Radio Frequency Spectrum Regulations, 2015 which provides charges for spectrum application fees; and
- (ii) Radio Frequency Spectrum Licence Fees Regulations, 2010 which provides charges for annual spectrum fees.

For the financial year 2019/2020, the Authority received a total of R 197, 769, 609.00 with respect to the ECS/ECNS radio frequency spectrum licensees and applicants from all licensees.

Table 5 below reflects the total fees and USAF contributions collected from all ECS and ECNS licensees for the 2020/21 Financial Year.

Table 5: Total Fees Collected for the 2020/2021 Financial Year

Fees	Amount
GLF	508,985,897
USAF	224,621,764
Spectrum Fees	795,819,725
Total Fees Collected	1,529,427,386

5.4. **Universal Service and Access Obligation (USAO)**

Universal Service and Access Obligations (USAOs) "refers to a state objective to provide broad public access to information and communication technologies (ICTs) to ensure the provision of services to rural, remote, and lower-income users who would not, in the absence of such policies, be served. Universal service and universal access are both regulated in order to facilitate full access to modern technologies, to promote economic development, and to eliminate current disparities between rural and urban areas"⁹.

⁹ <http://thornton.co.za/resources/telelaw10.pdf>
ECS/ECNS Annual Compliance Report 2021/22

For purposes of the USAO process, only seven¹⁰ licensees have USAOs as part of their licence conditions. The USAOs as amended¹¹ further oblige the licensees to provide internet connectivity to identified schools or community areas for the duration of their licence period, with the requirement to rollout the USAOs over a period of 5 years, commencing 2014.

Cell C, Liquid Telecom (formerly Neotel) MTN and Vodacom continue to roll-out the USAO obligations adding to the figures of what has been rolled out in the previous years. Licensees that are busy with the roll-out are required to report twice a year to the Authority (at the end of April and end of October), on the progress and status of USAO implementation.

For this financial year COVID -19 has had a negative impact on the implementation of the USAO in that at some points during the state of emergency:

- schools were closed and licensees could not access school premises;
- staff members at schools and relevant departments were not accessible for planning purposes; and
- at some points only staff that did what was considered to be emergency services were allowed to be out working (which excluded this type of work);

Figure 3: Details the USAO rollout obligations for Cell C, Liquid, MTN and Vodacom.



Figure 3: Details of the USAOs rollout for each licensee

¹⁰ Cell C, Liquid Telecom (formerly Neotel), MTN, Vodacom, Telkom, Sentech and Rain (formerly WBS)

¹¹ Amended by the Authority on 18 March 2014 and effective from 1 April 2014.

Below (figure 4) is an illustration of the USAO Rollout requirements for Cell C, Liquid Telecom, MTN and Vodacom

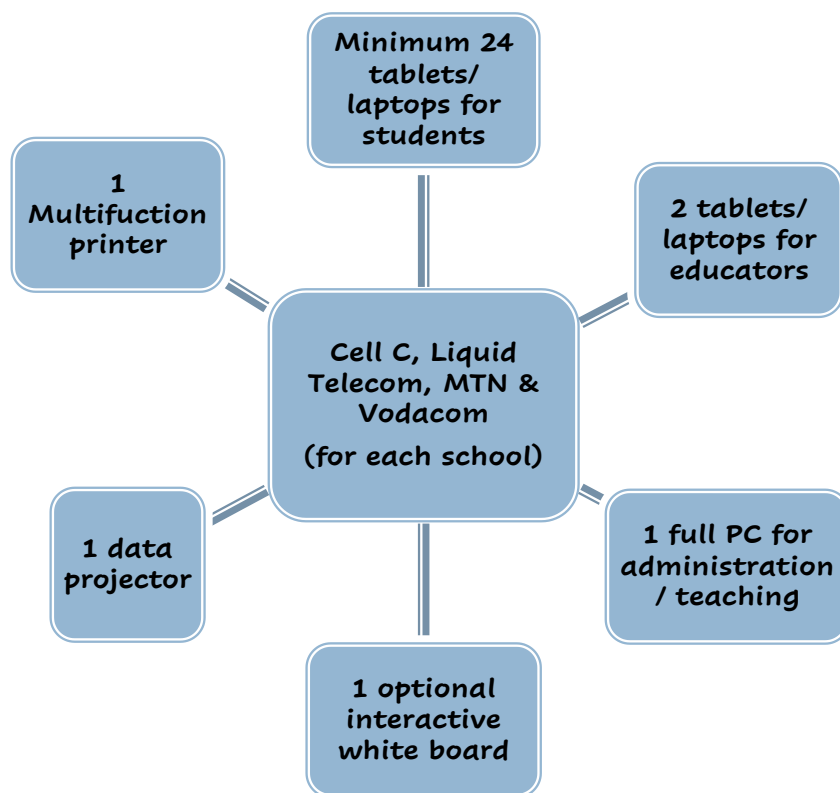


Figure 4: USAO Rollout requirements of Cell C, Liquid Telecom, MTN and Vodacom

5.4.1 Connectivity: Mainstream Schools¹²

VODACOM

Vodacom commenced the roll-out in 2014 (as per the amended conditions) and completed the connectivity of one thousand five hundred and one (1501) mainstream schools within five (5) years in line with its obligation. Vodacom was required to connect only one thousand three hundred and sixty (1360), however the licensee decided to connect additional mainstream school and the number of schools connected increased to one thousand five hundred and one (1501). The highest number of schools connected by Vodacom are in the Eastern Cape and the least connected schools are in Western Cape.

¹² N.B. The information herein, is purely based on what licensee have reported on, in their various and respective compliance submissions and as signed off by the (principals of the relevant) schools. The ECS/ECNS Compliance unit cannot at this stage independently verify the accuracy of the submissions. However, in the absence of complaints from the schools concerned, the information may be regarded as accurate.

MTN

MTN commenced its rollout in 2015 (as per the amended conditions) and completed the connectivity of one thousand three hundred and sixty (1360) mainstream schools within five (5) years in line with its obligation. The highest number of schools connected by MTN are in the KwaZulu Natal and the least connected are in North- West.

MTN has also connected thirty-seven (37) schools for Learners with Special Educational Needs (LSEN), and one (1) of the thirty-four schools was a pilot school. However, the licensee is required to go back to thirty (33) schools and provide additional learner and teacher devices.

CELL C

Cell C commenced implementation in 2016 (as per the amended conditions) and completed the connectivity of one thousand three hundred and sixty (1360) mainstream school. Cell C completed the connectivity of one thousand three hundred and sixty (1360) mainstream schools in 2019 outside the prescribed period of five (5) years due to the delay by Department of Basic Education (DBE) in providing the list of schools to the Authority. However, the Authority approved the extension and Cell C completed the connectivity in line with the extension. The highest number of schools connected by Cell C (Pty) Ltd, are in Limpopo and the least connected schools are in the Free State.

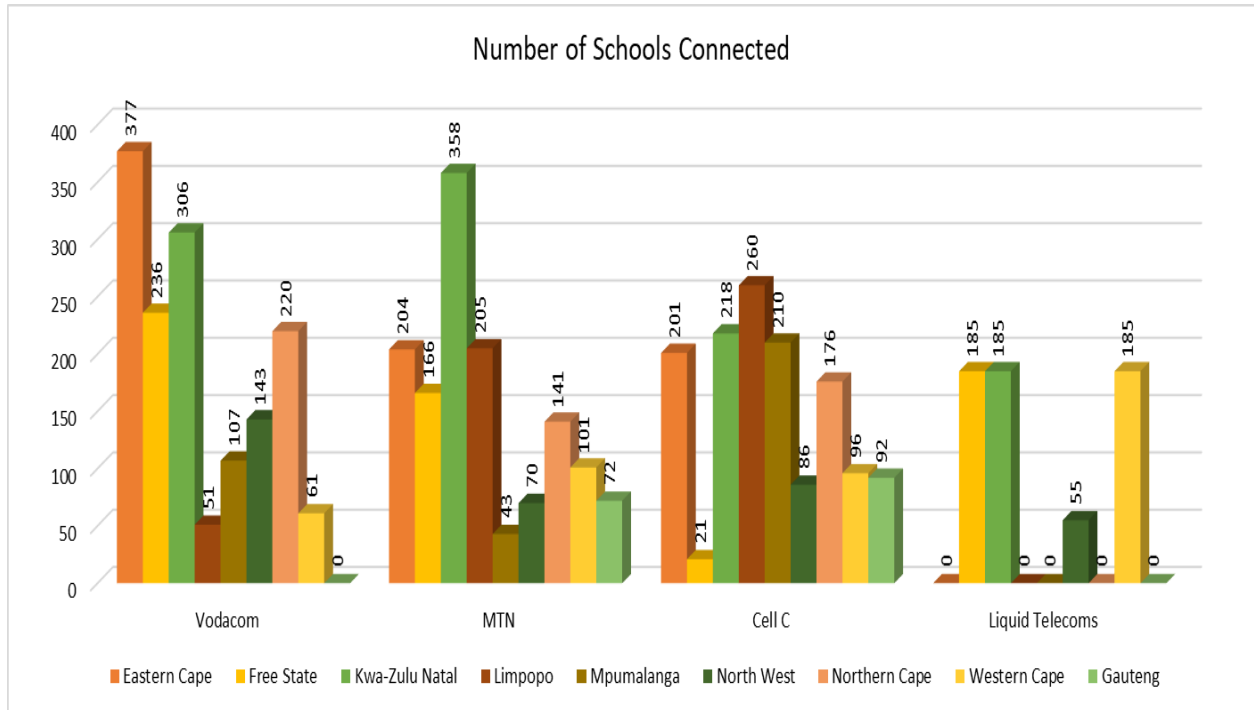
Cell C connect six (6) Special Schools to date.

LIQUID TELECOMS

Liquid Telecoms commenced implementation in 2016 (as per the amended conditions) and completed the connectivity of six hundred and ten (610) mainstream schools. Liquid Telecoms (Pty) Ltd completed the connectivity six hundred and ten (610) mainstream schools in 2019 outside the prescribed period of five (5) years due to the delay by Department of Basic Education (DBE) in providing the list of schools to the Authority. The Authority approved the extension and Liquid Telecoms completed the connectivity in line with the extension.

To date, Liquid Telecoms (Pty) Ltd connected forty-two (42) Special Schools.

Figure 5. Schools connected to date



5.4.1. Connectivity: Schools for Learners with Special Educational Needs (LSEN)

The draft specifications in relation to schools for Learners with Special Education Needs were finalised in 2017 after consultation with relevant stakeholders (i.e organisations representing people with disabilities, the then Department of Telecommunications and Postal Services (DTPS), and the Department of Education (DoE).

The Authority sent the draft specifications to all four (4) licensees and gave each licensee one (1) LSEN school to connect as a pilot project.

To date, Vodacom connected and twenty-four (25) schools for Learners with Special Educational Needs (LSEN), and one (1) of the twenty-five schools was a pilot school. However, the licensee is required to go back to the 24 schools and provide additional learner and teacher devices.

MTN has also connected thirty-seven (37) schools for Learners with Special Educational Needs (LSEN), and one (1) of the thirty-four schools was a pilot school. However, the licensee is required to go back to thirty (33) schools and provide additional learner and teacher devices.



Cell C has connected six (6) Special Schools to date.

MTN, Vodacom and Liquid Telecom have since provided the Authority with submissions that form feedback to the roll out of the pilot schools. In addition to that, the Authority held a meeting with the three (3) licensees in January 2020, where they presented their implementation plans with respect to the LSEs.

5.4.2. Universal Service Obligations (USAO) (Other Licensees)


The Universal Service and Access Obligation Council Committee was constituted in 2016 to amend the USAO for Sentech, Telkom and Rain. On 26 January 2017, the Authority published the Amendment of the USAO for Sentech, Telkom and WBS (now Rain) to provide connectivity to TVETS and Primary Healthcare Facilities. DHET then requested that ICASA provide connectivity to CETs and CLCs instead of TVETs, as those had already been connected.

Figure 7: USAO – Other licensees

	<p>Sentech's USO obligations¹³ initially required it to connect 1500 (one thousand five hundred) public rural schools and e-Learning Solutions Platforms to all TVET's nationally as allocated by the Authority. It has since connected 123 (one hundred and twenty-three). The Authority has since proposed the provision of a local area network for 63 (sixty-three) community education and training and community learning centres.</p> <p>After consultation with all stakeholders, the Authority then published the Sentech's Draft Universal Service and Access Obligations on 19 January 2022 for public comment. Comments have since been received and are under consideration.</p>
	<p>Rain (Former WBS's) USO obligations¹⁴ initially required that it provide internet access to no less than 1000 (one thousand) rural and urban public schools. WBS has connected 1 900 (one thousand nine hundred) schools to date.</p> <p>Consultations were then conducted, with stakeholders agreeing to the connectivity of 63 (sixty- three) community education and training and community learning centres. The proposal was published for public comment on 13 March 2020.</p>

¹³ Request for Amendment of Sentech SOC LTD Universal Service and Access License Obligations, Government Gazette No. 40575, of January 2017.

¹⁴ Request for Amendment of WBS Universal Service and Access License Obligations, Government Gazette No. 40575 of 26 January 2017.

	<p>The Authority has since published the final Specifications on 19 January 2022, which then paves way for RAIN to commence the roll-out of the mentioned above.</p>
	<p>Telkom's obligations were initially to provide connectivity as follows:</p> <ul style="list-style-type: none"> • Internet access and services to 3,631 (three thousand six hundred and thirty-one) public health institutions allocated (not done yet and forms part of the review process); and • 120 000 (one hundred and twenty thousand) public payphones, which Telkom installed. <p>Obligation for Telkom are yet to be finalised, the USAO Committee is in consultation with GOGDA and DCDT with the view to connect Thusong Service Centres or alternatively, Libraries across the country.</p>

5.5. **Compliance Procedure Manual Regulations (CPMR)**¹⁵

The Compliance Procedure Manual Regulations were implemented with the aim of streamlining the submission of compliance information in a simplified manner. The required information was consolidated into forms that licensees complete periodically and submit to the Authority.

The forms contained in the Compliance Procedure Manual Regulations detail the requisite compliance information that licensees must provide, (in a variety of forms which then provides the Authority with a picture of their compliance with various legislative and regulatory requirements. The forms that apply to ECS/ECNS licence holders, together with their respective requirements are outlined below.

5.6. **Form 1: Shareholding and Staff component**

The information required in Form 1, enables the Authority to ascertain licensees' basic company information inclusive of the structure thereof. This enables the Authority to have insight into the layout of the ICT sector with respect to employment/staff and shareholding distribution by race, gender, historically disadvantaged groups (HDGs), youth, people with disabilities and women. The HDGs information received pursuant to this form provides the Authority with a sense of the extent of transformation within the ICT sector for purposes of

¹⁵ Published in *Government Gazette* No. 34863 dated, 15 December 2011.
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attaining the 30% shareholding quota, in line with the requirements of section 9 (2) (b) of the ECA.

Further, section 13 of the ECA read with Regulation 12 of the Processes and Procedures Regulations has made it a requirement for individual licence applications for transfer of both ownership and control to only be approved, where the transferee concerned meets the requirement for a minimum of 30% of its equity shareholding to be held by HDGs.

5.6.1. Form 1 - Findings

Shareholding: Though this is changing rather slowly, many licensees still have a very little HDG as part of their equity ownership. In addition to the slow rate of transformation within the ICT industry, the other contributory factor is that the requirement to have 30% HDG shareholding was only introduced after the licence conversion process.

5.6.2. Historically disadvantaged groups (HDGs) Shareholding

Below is a picture of the HDG representation within the five major licensees as provided by licensees and verified by their registration certificates at Company and Intellectual Property Commission (CIPC) offices. The figure below demonstrates the relevant HDG percentages:

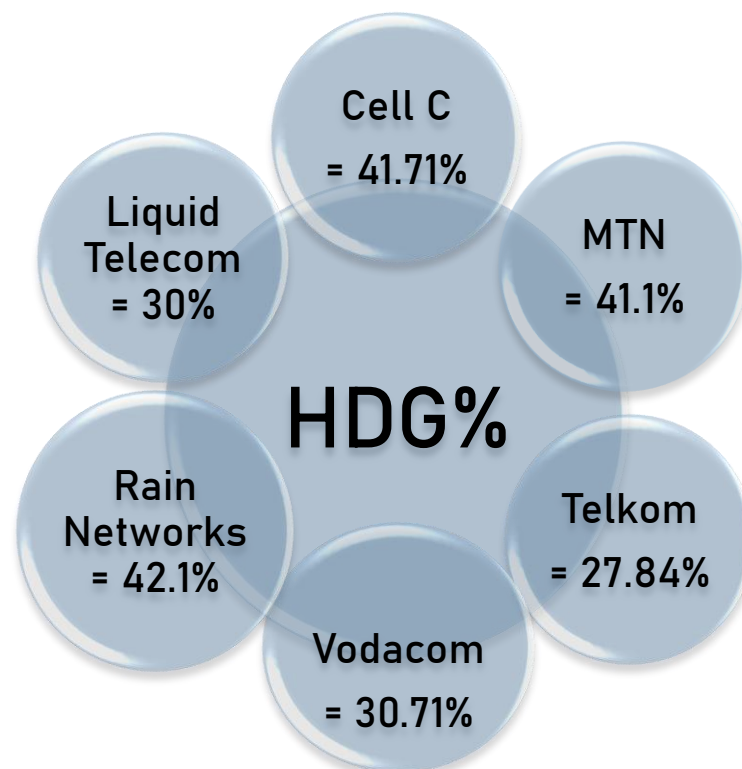


Figure 11: Main Licensees - HDG Shareholding

Having analysed the Forms received from Licensees, it is generally apparent that women shareholding within the industry, though existent, it is still at a significantly lower level looking at the country demographics. Table 10 below, shows the non-management staff breakdown of the major players¹⁶ in the industry:

Table 6: Staff Numbers – Sample

	Female	Male	Black	Coloured	Indian	White
CMC Networks	46	57	53	3	9	38
Cell C	1 375	1 201	1 655	379	283	259
Dark Fibre	250	418	331	104	60	165
Liquid Telecom	261	502	318	94	128	223
Lycamobile	10	15	19	1	3	2
MTN	2 192	2 173	2 594	632	571	568
MyVoip	5	11	2	1	12	1
Sentech	71	221	228	18	10	36
Telkom	3 164	6 889	5 062	1 433	938	2 620
Vodacom	1 130	1 251	1 260	482	258	381
Vumatel	21	37	6	1	4	3

5.6.3. Management distribution

The figure below shows the management breakdown in the major industry players by race and gender.

	Male	Female	Black	White	Indian	Coloured
Cell C	102	34	27	60	33	16
Dark Fibre	72	38	24	56	14	6
Liquid Telecom	6	4	4	3	2	1
MTN	543	284	345	230	167	85
Telkom	1 974	866	870	1 353	381	236
Vodacom	208	107	77	122	81	35

¹⁶ Major players for purposes of this report only looks at those mentioned in table 6

Vumatel	37	21	6	37	3	4
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Figure 12: Management distribution

The trend in relation to management with the licensees that were assessed, reflects men still being in a great majority comparatively speaking. Also, with respect to race (management) still indicate a lead by White people especially males, followed by Black, Indian and Coloured people.

5.6.4. Form 2: General Licence Fees and 3: Universal Service and Access Fund

The findings of Forms 2 and 3 are dealt with in paragraphs 4.1 and 4.2, above.

5.6.5. Form 4: E - Rate

For purposes of this form, relevant licensees provide the Authority with a report with respect to E-rate services provided. Although the USO project continues to be rolled out, licensees remain frustrated about non-implementation of the 50% E-rate, by the Universal Service and Access Agency of South Africa's (USSASA), as stipulated in regulation 3.1 of the E-Rate Regulations.

5.6.6. Other Forms

Form 5: Tariff Report Form	•Indicates which tariff/s is/are being charged by respective licensees.
Form 6A: Sectoral Planning Form	•Provides information in relation to the ICT industry e.g churn rates/ interconnection traffic & number portability
Form 7A: Code of Conduct	Consumer (information in relation to consumer information, rights and recourse)
Form 7C : Code on People with Disabilities	•Reports on whether licensees put in place relevant facilities for thr needs of the disabled
Form 12: Compliants report	•provides information in relation to the extent to which licensees receive complaints and how they are attended to.

Figure 13: Other forms

No major non – compliance aspects were picked up by the Unit when analysing the forms mentioned in figure 12 above.

5.7. End User and Subscriber Service Charter Regulations, 2009

5.7.1 Network Availability

In accordance with the End User and Subscriber Service Charter Regulations licensees have an obligation to make submissions in relation to their compliance in relation to their network availability. In relation to the Service Charter, the report will sample and report on the key industry players Liquid Telecom, MTN, Vodacom, Broadband Infracore and Telkom. The submissions are summarised below:

Table 7: Network availability figures

Regulation 9(1)	An average of 95% of network service availability over a period of six (6) months.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	95%: Fixed services = compliant 95%: Fixed Wireless = compliant	100%: Fixed services = compliant 98%: Mobile services = compliant	Compliant	95.60%: Mobile services = compliant	Fixed Services =94.86% Compliant Mobile services =99.87% Compliant	Compliant
Regulation 9(2)	An average of 95% of EC service availability within a specified area of coverage over a period of six (6) months.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	95%: Fixed wireless Services = Compliant	100%: Fixed wireless Services = Compliant 96% Mobile Services = compliant	Compliant	97.80%: Mobile Services = compliant	95%: Fixed Services = compliant 95%: Mobile services = Compliant	Not applicable (ECNS holder)
Regulation 9(5)	Average time to install service – attain 90% success rate within thirty (30) days.					

	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Enterprise: 90% = compliant Non-enterprise: 95% = compliant	All Services 98% = compliant	Awaiting info – followed up	99.99% = compliant	Residential: 97.35% = compliant Business: 98.60% = compliant	Compliant
Regulation 9(5)						
	Activation within 48hrs (after installation) Fixed Business =90%, Fixed Res 95%. Fixed wireless = 95%. Mobile = 99%					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	95% activated within 48hrs target = compliant	Over 99% activated within 48hrs target = compliant	Compliant	Mobile Services 99% activated within 48hrs target = compliant	All Services 99,27% activated within 48hrs target = compliant	=compliant
Regulation 11						
	Licensee is required to indicate its communication method with customers if it is unable to provide the relevant service.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021

Findings	Website, SMS & telephone = Compliant	Website and displayed in all stores = Compliant	Website and displayed in all stores = Compliant	Website & App = Compliant	Website = Compliant	Website = Compliant
Regulation 12						
	The percentages of connectivity failure rate must not exceed an average of 3% of all connections, over a period of six (6) months.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Below 3% = Compliant	0.43% = Compliant	Compliant	Awaiting info-followed up	0.10% over a period of 6 months = Compliant	Compliant
Regulation 13						
	Operator assisted calls must be answered within three (3) minutes averaged over twelve (12) months. (No % target)					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Awaiting info-followed up	173 sec high value prepaid = Compliant 142 sec, general prepaid = Compliant	Compliant	96.49% of calls answered in 3 minutes	Awaiting info-followed up	Compliant

Regulation 12						
	Licensee to indicate if network monitoring centre is available, where it is situated and how it operates.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Not Indicated = Awaiting info	Indicated = Compliant	Indicated = Compliant	Indicated = Compliant	Indicated = Compliant	Indicated = Compliant
Regulation 8						
	Maintenance of an average of 90% fault clearance rate for all faults reported within three (3) days.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	90% cleared within 5 days' target = not compliant	95% cleared within 24 hrs = compliant	Compliant	Awaiting info – followed up	Fixed: 90.3% clearance of faults reported within 3 days = Compliant Mobile=96.1% clearance of faults reported within 3 days = Compliant	Compliant
Regulation 9						
	The remaining 10% of faults reported must be cleared within six (6) days of reporting of the fault.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco

Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Awaiting info – followed up	Awaiting info – followed up	Compliant	Awaiting info – followed up	Fixed=99.87 Mobile=94.86 = Compliant	N/A
Regulation 12(3)						
	Licensee must indicate a point of entry for complaints.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Not Indicated = Not complaint	Indicated = Complaint	Indicated = Complaint	Indicated = Complaint	Indicated = Complaint	Indicated = Complaint
Regulation 12 (4)						
	Licensee must indicate the complaints handling procedure					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Awaiting info – followed up	Indicated = Complaint	Indicated = Complaint	Indicated = Complaint	Indicated = Complaint	Indicated = Complaint

Regulation 12 (6)	Licensee must acknowledge receipt within forty -eight (48) hrs					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb - July 2021	Feb - July 2021	April – Sept 2021
Findings	Awaiting info – followed up	Indicated = Complaint	Indicated = Complaint	Awaiting info – followed up	Awaiting info – followed up	Indicated = Complaint
Regulation 12(7)	Licensee must indicate how many complaints were resolved within fourteen (14) days.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb - July 2021	Feb - July 2021	April – Sept 2021
Findings	Licensee no longer provides services to individual; services are currently provided to businesses. Complaints dealt with in terms of contacts and service level agreements with the customers.	Indicated = Complaint	Indicated = Complaint	Awaiting info – followed up	Awaiting info – followed up	Indicated = Complaint
Regulation 12 (12)	Licensee must indicate how many complaints were referred to the Authority for resolution.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Licensee no longer provides services to individual, services	Indicated = Complaint	Indicated = Complaint	Awaiting info – followed up	Awaiting info – followed up	Indicated = Complaint

	are currently provided to businesses.					
Regulation 12 (12)	Licensee must report on the time for resolution of complaints referred by the Authority.					
	Liquid Telecom	MTN	Vodacom	Cell C	Telkom	Broadband Infraco
Reporting period	Feb – July 2021	March – Aug 2021	Feb – July 2021	Feb – July 2021	Feb - July 2021	April – Sept 2021
Findings	Licensee no longer provides services to individual, services are currently provided to businesses.	Indicated = Complaint	Indicated = Complaint	Indicated = Complaint	Awaiting info – followed up	Indicated = Complaint

5.8. Interconnection Agreements

The Electronic Communications Act, section 39 creates an obligation upon licensees to submit any interconnection agreement entered into for the Authority to review, within seven (7) days of the agreement being entered into. The said review is then undertaken in line with the provisions of:

- i. section 39 of the ECA;
- ii. (ii) the Interconnection Regulations¹⁷; and
- iii. (iii) the Call Termination Regulations¹⁸, as amended.

For purposes of this financial year, the Authority received 22 interconnection agreements for review. When reviewing the said interconnection agreements, CCA takes into account factors such as financial and technical feasibility, quality of service, non-discrimination and transparency by the interconnection providers towards interconnection seekers as required in terms of the Regulations.

As part of the review, should the ECS/ECNS Compliance Unit come across some part that needs to be rectified (e.g. the agreement not reflecting the correct/applicable interconnection rates), the submitting licensee be accordingly notified so as to rectify the non-compliance to ensure that the agreement meets the regulatory requirements. In instances of legislative or regulatory non-compliance, the contravention would be referred to the CCC for hearing and adjudication.

5.9. Facilities Leasing Agreements

Similarly, the Electronic Communications Act creates an obligation for filing agreements that have been entered into for purposes of the leasing of electronic communications facilities between licensees. Upon review of the facilities leasing agreements, the ECS/ECNS Compliance Unit has to ensure that licensees comply with the provisions of the ECA and the Facilities Leasing Regulations¹⁹. Where there is non-adherence or non-clarity with respect to any of the legislative or regulatory requirements, the lodging party will be notified and afforded an opportunity to provide additional information and/or clarity.

This financial year the Authority received 13 facilities leasing agreements for purposes of review.

¹⁷ Interconnection Regulations as published in *Government Gazette* No. 33101 of 9 April 2010.

¹⁸ Call Termination Amendment Regulations, 2017 published in *Government Gazette* No. 41132 dated 22 September 2017.

¹⁹ Electronic Communications Facilities Leasing Regulations, 2010.

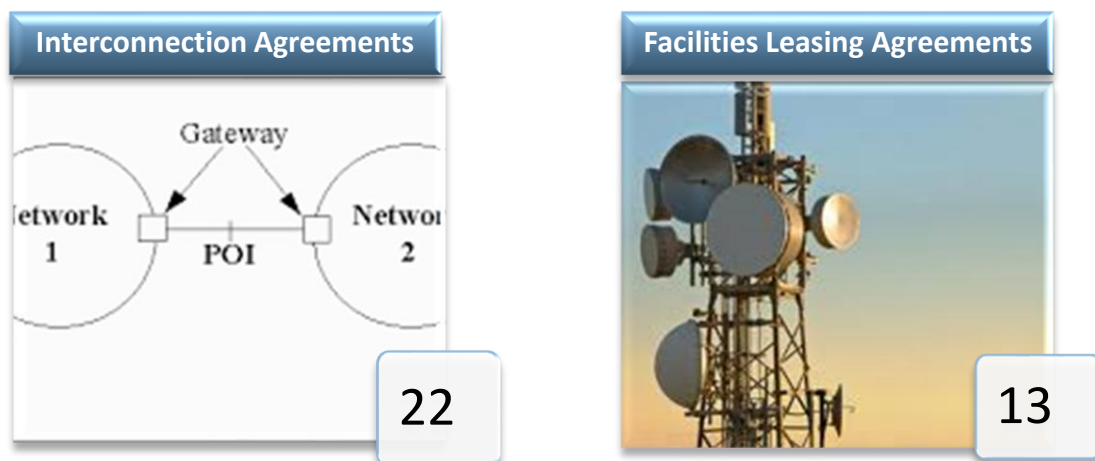


Figure 13: Interconnection & Facilities Leasing Agreements numbers for the year

5.10. Extensions and Notifications

5.10.1. Extension of Commencement Date

In instances where a licensee is unable to commence operations as per the license commencement date, the licensee is required in terms of regulation 5 of the Standard Terms and Conditions Regulations to notify the Authority and request an extension of commencement period, to avoid non-compliance with the above-mentioned provision.

In terms of the regulatory framework, licensees have a period of twenty-four (24) months for ECNS licences and twelve (12) months for ECS licences within which to commence operations. The Authority may – upon request and with good cause shown - grant a maximum of one 24- month extension, for commencement of operations.

For this financial year, the Authority did not receive any request for an extension of commencement of operations.

5.10.2 Notifications

In accordance with Schedule 2, regulation 2 of the Standard Terms and Conditions Regulations, licensees to notify the Authority of changes to licence information such as an address, contact persons or shareholding. The notice to the Authority must be submitted in terms of Form O of the Processes and Procedures Regulations within the period of 7 days of the occurrence of the change.

6. REFERRALS TO THE COMPLAINTS AND COMPLIANCE COMMITTEE (CCC)

In instances where the ECS/ECNS unit comes across instances of minor non-compliance, the Unit goes an extra mile to ensure compliance by any licensee.

There are however instances of major non-compliance where the Unit has no option but to refer the matter to the CCC for adjudication. This year no referrals were made to the CCC.

7. CONCLUSION

To a greater degree the Unit has over the past years experienced considerable growth with respect to the compliance levels despite its limited human resources in comparison to the numbers of licensees, which continues to increase. A lot of work still remains to be done though.

As elucidated above, the effects of COVID- 19 had some negative impact on the compliance levels, although the Authority and licensees worked together as much as possible in some instances involving adjusted submission dates to ensure some considerable degree of compliance.

FEBRUARY 2022

END