



MTN Submission

Draft Numbering Plan Fourth Amendment Regulations, 2023.

2 November 2023

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1. INTRODUCTION

- 1.1 MTN (Pty) Ltd (“MTN”) would like to thank the Authority for the opportunity to comment on the draft Numbering Plan Fourth Amendment Regulations, 2023 as published in Government Gazette 49329 dated 21 September 2023.
- 1.2 MTN appreciates the decision by the Authority to review this critical regulatory aspect of activation, deactivation, and re-assignment / recycling of numbers.
- 1.3 MTN agrees with the Authority that numbers, as a scarce national resource, are to be used in an efficient and effective manner. MTN further agree that the reporting of numbers should be consistent and uniform throughout the industry. However, it is equally critical, that the correct balance be adopted that ensures the efficiency of numbers, while providing stability of consumers and takes into account the broader aspects of the functioning of operator’s businesses.
- 1.4 MTN is concerned that the Authority may not have evaluated the full impact of the introduction of these interventions to the broader sector. MTN will provide details of these aspects in more detail further in our submission.

2. BACKGROUND

- 2.1 On 23 March 2022, the Independent Communications Authority of South Africa (ICASA) gazetted the Draft Amendment Numbering Plan Regulations, 2016 (Draft Regulations) for public comment¹. Included in the Draft regulations was the proposed insertion of Regulation 6A on the Activation, Deactivation and Re-assignment / Recycle of Numbers. The proposed regulation provided *inter alia* as follows—

(2) Churned numbers must be quarantined for a period of 90 days before being recycled into the available pool.

(3) Prior to activating a quarantined for a period of 90 days of

¹ Draft Amendment Numbering Plan Regulations, 2016, in accordance with Chapter 11 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) published in GG No. 46080 (23 March 2022)

withdrawing numbers for assigned subscribers, a licensee must notify the subscriber of the intended withdrawal. The subscriber must be afforded a grace period of 31 days to object to the withdrawal notice.

(4) Should a subscriber object to the withdrawal as per sub-regulation (3), the licensee must abandon the withdrawal and subsequent deactivation of the number.²

2.2 Explanatory Notes included in the Gazette provided further insight into the main reasons for the proposed amendments. Paragraph 5.1(a) of the Explanatory Notes set-out the reasons for this proposed amendment—

‘Circumstances on the deactivation of numbers i.e., mobile numbers, wherein subscribers have raised concerns of inadequate notification of deactivation of an assigned mobile number. This matter further exacerbated by sensitive data and connectivity that can be linked with mobile numbers rendering, at times, the deactivation of mobile numbers a devastating occurrence. The insertions standardize a period from which subscribers can remedy a possible deactivation³

2.3 Based on the above it was concluded that the need for Regulation 6A on the Activation, Deactivation and Re-assignment / Recycle of Numbers was namely:

- For subscribers to receive sufficient notice of an impending deactivation of a mobile number to ensure that sensitive subscriber data was not lost; and
- To provide for an adequate and standardised period of quarantine during which a subscriber would be able to retrieve their mobile number which had been deactivated.

² ‘Draft Amendment Numbering Plan Regulations, 2016, in accordance with Chapter 11 of the Electronic Communications Act, 2005 (Act No. 36 of 2005)’ published in GG No. 46080 (23 March 2022) Regulation 6A (2)- 6A (4).

³ ‘Draft Amendment Numbering Plan Regulations, 2016, in accordance with Chapter 11 of the Electronic Communications Act, 2005 (Act No. 36 of 2005)’ published in GG No. 46080 (23 March 2022).

2.4 Importantly, the Draft Regulations did not seek to address issues of number resource efficiency; nor did they seek to standardise operator-rules relating to when a number would be disconnected/ deactivated, however MTN recognises the importance of these elements.

2.5 In response to the original draft regulation MTN submitted a response to the Authority and while our submission did not specifically address the Authority's proposal of a grace period in addition to a quarantine period, it did suggest a rewording that would cater for greater efficiency while providing adequate notification of deactivation of an assigned mobile number. MTN's original proposal is provided below for ease of reference.

*“(3) Prior to ~~deactivating a number and placing it into~~ **quarantined** ~~after~~ ~~for~~ a period of 90 days **of inactivity** ~~of withdrawing numbers from assigned subscribers~~, a licensee must notify the subscriber of the intended ~~withdrawal~~ **deactivation of the number due to its dormant status**. The subscriber must be afforded a grace period of ~~30~~ **30** days to **utilise the number on the licensee's network by performing revenue generating activity using the number**. ~~object to the withdrawal notice~~.”*

2.6 In summation, MTN had proposed that following a defined period of inactivity (90 days), plus a further 30-day period, after which the number would be recycled and re-assigned. For clarity the total period would then be 120 days made up as 90 days (inactivity period) + 30 day ((quarantine period).

2.7 However, the Authority misinterpreted MTN's submission and concluded incorrectly that MTN was advocating for a total recycling period of 210 days [90 days (inactivity period) + 30 days (grace period) + 90 days (quarantine period)].

2.8 Consequently, it was surprising when the Authority published the final regulations entitled the Numbering Plan Second Amendment Regulations, 2023 on 29 March 2023,⁴ which came into effect immediately upon publication.

2.9 These final regulations included provisions relating to the insertion of Regulation 6A (2) to 6A (4), but the content and effect of these provisions was markedly different from what the Authority had proposed in the Draft Regulations.

The salient provisions of the Final Regulations are—

(2) Churned mobile numbers must be quarantined for a period one (1) month before being recycled into the pool of available numbers.

(3) Upon twenty (20) consecutive calendar days in which a subscriber has not initiated a revenue generating activity, a licensee must notify the subscriber of the intended withdrawal. The subscriber shall be afforded a grace period of ten (10) consecutive calendar days to object to the withdrawal notice by means of a revenue generating activity.

*(4) Should a subscriber object to the withdrawal as per sub regulation (3), the licensee must abandon the withdrawal and subsequent deactivation of the number\.*⁵

2.10 Following several engagements with the industry the Authority published the Third Amendment Regulations on 15 September 2023 in Government Gazette 49314, whereby Regulation 6A described in the Second Amendment Regulations was amended by the deletion of sub-regulation (1), (2) (3) and (4).

2.11 This then gave rise to the **Authority's Fourth Amendment Regulations** which is currently the subject of this submission. The Authority has revised the

⁴ 'Amendment of the Numbering Plan Regulations, 2016 in terms of section 68 read with section 4 of the Electronic Communications Act, 2005 (Act No. 36 of 2005)' published in GG No. 48328 (29 March 2023).

⁵ 4 'Amendment of the Numbering Plan Regulations, 2016 in terms of section 68 read with section 4 of the Electronic Communications Act, 2005 (Act No. 36 of 2005)' published in GG No. 48328 (29 March 2023) at Regulation 6A.

amendment of regulation 6A which is to be inserted before sub-regulation (5):

The amendment is as follows:

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

(2) Churned mobile numbers must be quarantined for a period one (1) month before being placed into the pool of available numbers.

(2A) Licensees must, on request and at a cost, provide a list of numbers that have been placed into quarantine as per sub regulation (2).

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

(3A) In the event a subscriber anticipates that their assigned mobile number may be inactive for more than sixty (60) consecutive calendar days, licensees must provide an option, at a cost, for the subscriber to apply for an exemption from sub regulation (3) and retain use of the mobile number.

(3B) The option for an exemption and retention of a mobile number, as per sub regulation (3A) must be valid for 183 consecutive days, from its date of activation.

(3C) Sub regulation (3) does not apply to subscribers on a postpaid service plan.

(4) Should a subscriber object to the withdrawal as per sub regulation (3), the licensee must abandon the withdrawal and subsequent deactivation of the number\."

3. MTN PROPOSED AMENDMENT

3.1 MTN reiterates our appreciation in the Authority's decision to review this critical regulatory aspect of activation, deactivation, and re-assignment / recycling of numbers. To avoid any ambiguity MTN included in bold text our proposed changes while strikethrough the Authority's suggested text.

3.2 Following this section MTN will provide specific rational as to why the activation period should be as proposed and the implications to MTN, subscribers and stakeholders in adopting a lesser period. MTN proposes the following amendment to the current ICASA draft regulations:

*"(1) Churn rate must be calculated by taking the quantity of numbers that have not initiated a revenue generating activity from the services of a licensee for ~~sixty (60)~~ **ninety (90)** consecutive calendar days and divide this quantity by the quantity of active numbers at the beginning of the defined timeframe.*

(2) Churned mobile numbers must be quarantined for a period one (1) month before being placed into the pool of available numbers.

(2A) Licensees must, on request and at a cost, provide a list of numbers that have been placed into quarantine as per sub regulation (2).

*3) Upon ~~thirty (30)~~ **sixty (60)** consecutive calendar days in which a subscriber has not initiated a revenue generating activity, a licensee must notify the subscriber of the intended withdrawal. The subscriber must be afforded a grace period of thirty (30) consecutive calendar days to object to the withdrawal notice by means of a revenue generating activity.*

*(3A) In the event a subscriber anticipates that their assigned mobile number may be inactive for more than ~~sixty (60)~~ **ninety (90)** consecutive calendar days, licensees must provide an option, at a cost, for the subscriber to apply for an exemption from sub regulation (3) and retain use of the mobile number.*

(3B) The option for an exemption and retention of a mobile number, as per sub regulation (3A) must be valid for 183 consecutive days, from its date of activation.

(3C) Sub regulation (3) does not apply to subscribers on a postpaid service plan.

(4) Should a subscriber object to the withdrawal as per sub regulation (3), the licensee must abandon the withdrawal and subsequent deactivation of the number\’s”.

- 3.3 MTN submits that if the draft regulations is implemented in the current manner as proposed by the Authority, this regulatory intervention will have a material and significant impact on MTN across several dimensions, including but not limited to:
- a. Subscriber Base Impact
 - b. Customer Experience Impact
 - c. Commissions and Dealer Arrangements
 - d. Effect on Key KPIs (including Market Share)

MTN will discuss each of these impacts briefly below to provide the Authority with insights regarding the broader implications to the telecommunications sector.

3.3.1 Subscriber Base Impact

3.3.1.1 MTN has identified that the prepaid base will be the most impacted.

3.3.1.2 [Redacted]

3.3.1.3 [Redacted]

3.3.1.4 [Redacted]

3.3.2 Impact to the Customers Experience

3.3.2.1 The experience to the customer is likely to be adversely impacted due to the shorter duration of inactivity before being disconnected. Subscribers may lose sensitive information associated with their phone numbers, such as contact lists, voice messages and text messages upon deactivation. Additionally, bank accounts and South African Social Security Agency (SASSA) grants important information can be shared via SMS and may be lost to subscribers who are deactivated.

3.3.2.2 Subscribers who are disconnected will forfeit the balance of the funds in their wallets (if any) on deactivation. While a subscriber's personal information is

collected in terms of Regulation of Interception of Communications and Provision of Communications -Related Information Act (RICA) process on activation of a Sim, a Mobile Network Operator (MNO) is legally precluded from accessing and utilising this information for another purpose.

Consequently, it is not feasible to refund these subscribers in respect of their forfeited wallet on deactivation due to the impracticalities associated with verifying the identities of disconnected subscribers with any unspent value.

3.3.3 Impact on Distributors and third-party partners

3.3.3.1 [Redacted text block]

3.3.3.2 [Redacted text block]

adequate notice, the notice period varies between 30 days and 12 months depending on the specific contract.

3.3.4 Impact on Key Performance Indicators

3.3.4.1 In addition to the impact on the subscriber base, which is reported publicly by the MTN Group Limited as part of their results, there would also be an impact on MTN market share. Whether competitors within the sector will implement the regulations and if they do so, how well competitors implement the regulations (more specifically, will they alter their definition of a revenue generating activity in order to circumvent the need to disconnect millions of subscribers.

3.3.4.2 A potential change in the reported market share of MTN South Africa, as a major subsidiary of the broader MTN Group has the potential to impact the market sentiment and may impact the MTN Group share price.

4. DEFINITIONS BY ITU

4.1 The ITUs work as the United Nations specialized agency for information and communication technologies (ICTs) extends beyond managing the radio frequency spectrum and has done significant amount of work in numbering and the efficient use of these resources.

4.2 The ITU defines a *Prepaid mobile-cellular telephone subscriptions* as the total number of mobile-cellular telephone subscriptions that use prepaid refills. These are subscriptions where, instead of paying an ongoing monthly fee, users purchase blocks of usage time. Only active subscriptions should be included (**those used at least once in the last three months for making or receiving a call or carrying out a non-voice activity such as sending or reading an SMS or accessing the Internet**).⁶ [our emphasis]

⁶ ITU (2011) Handbook for the Collection of Administrative Data on Telecommunications/ICT, p.33. <https://www.itu.int/en/ITU-D/Statistics/Pages/publications/handbook.aspx>

4.3 Alternatively, the ITU Code 271p which defines Mobile cellular subscriptions: prepaid provides the following text.

Total number of mobile cellular subscriptions (a subscription refers to a line) that used prepaid refills. These are subscriptions that rather than paying a fixed monthly subscription fee, choose to purchase blocks of usage time. This includes both analogue and digital cellular systems (IMT-2000 (Third Generation, 3G) and 4G subscriptions. Only active prepaid subscriptions that have used the system (as shown by traffic or whether they have recharged the card) during the past three months should be included.⁷

5. RECOMMENDATIONS

5.1 In as much as MTN acknowledges the Authority's need to ensure that numbering resources are used in an effective and efficient manner, we submit that the following recommendations will improve the draft regulations and have a positive impact on the telecoms sector.

5.1.1 It is necessary that all players within the sector have an adequate and standardised period before the number is disconnected from the network as well as a defined quarantine period during which a subscriber would have the opportunity to retrieve their mobile number which had been deactivated.

5.1.2 Subscribers to receive sufficient notice of an impending deactivation of their number in order to provide an opportunity to avoid loss of the number and any associated wallet and/or sensitive data.

5.1.3 MTN submits that a 90 day activity period should be allowed (as opposed to the Authority's proposed 60 days). This mitigates the concerns raised by MTN in paragraph 3 above and align with the definition of the ITU for a prepaid subscriber in terms of international standards.

⁷ https://www.itu.int/ITU-D/ict/material/TelecomICT_Indicators_Definition_March2010_for_web.pdf