



## Independent Communications Authority of South Africa

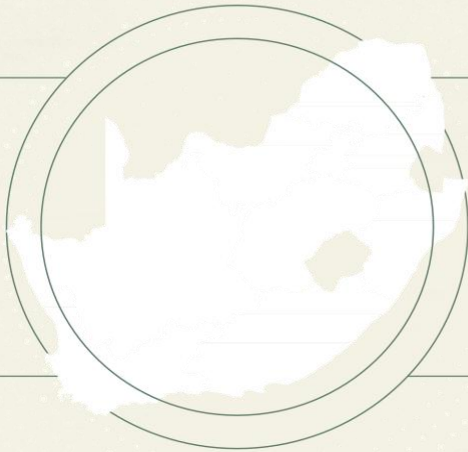
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**March 2023**



## **ECS/ECNS COMPLIANCE ANNUAL REPORT**

**2022/2023**

**FINANCIAL YEAR ASSESSED: 2021/2022**

Important notice: The contents of this report are based on the compliance submissions of respective licensees that Compliance Department had received at the time of writing this report.



INDEPENDENT COMMUNICATIONS  
AUTHORITY OF SOUTH AFRICA

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## **1. EXECUTIVE SUMMARY**

The Independent Communications Authority of South Africa ("Authority") has a statutory mandate in terms of the Independent Communications Authority of South Africa, 2000 ( ICASA Act) and the Electronic Communications Act, 2005 (ECA) to regulate electronic communications activities in South Africa in the public interest. One of the main tasks of the Authority is to ensure compliance by Electronic Communications Services and Electronic Communications Network Services (ECS / ECNS) Licensees with the terms and conditions of their respective licences, the ECA, the ICASA Act, and any relevant legislation and Regulations.

It is within this context that the ECS/ECNS Compliance Unit in the Licensing and Compliance Division (LCD), has compiled this Annual Compliance Report (ACR), to assess the extent to which sixty-three (63) ECS/ECNS Licensees have complied with their respective licence terms and conditions and applicable regulations for the 2021/2022 financial year. The sixty-three (63) Licensees comprise forty-five (45) Individual Licences and eighteen (18) Class Licensees. The Licensees sample is representative of a broad range of Licensees, i.e. small, medium, major, top earners.

It is noteworthy that the scope of compliance areas (i.e. the number of regulations that Licensees are required to comply with (including various amendments thereto), has over the years increased. The results of the monitoring exercise suggest that the standard of compliance by ECS and ECNS licensees is improving considerably despite the introduction of newer regulations which initially resulted in teething challenges, such as the fact that Licensees are initially not familiar with new regulations and struggle to comply. However, the Unit's approach to the ever-increasing regulatory obligations, is to assist licensees to ultimately achieve full compliance.

Additionally, despite the interruption that was brought about by the COVID-19 pandemic which had a negative impact on compliance levels, for the 2021/2022 financial year reporting, the situation appears to have improved considerably.

## 2. **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.  |
| DTPS      | Department of Telecommunications and Postal Services  |
| 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                |

### 3. **INTRODUCTION**

The compliance analysis and assessment conducted during the period under review has taken into account the following aspects amongst others: financial compliance (i.e. submission of financial information /reports and payments of annual licence fees as well as Universal Service and Access Fund (USAF) contributions) . Additionally, the submission by the Licensees made in terms of the prescribed Forms as per the Compliance Procedure Manual Regulations (CPMR) 2011 and the assessment of the information provided on the Universal Service Obligations.

Table 1 below shows the list of Licensees monitored during the 2021/2022 financial year. The level of compliance by the monitored Licensees as assessed is reflected in the relevant sections of this report.

**Table 1: Monitored Licensees**

| No. | Licensee                                  | Licence Type | Financial Year-end |
|-----|---|--------------|--------------------|
| 1.  | CMC Networks (Pty) Ltd                    | Individual   | March              |
| 2.  | Dira Ka Thata Computers (Pty) Ltd         | Individual   | February           |
| 3.  | I Sky Wifi (Pty) Ltd t/a Skynology        | Class        | February           |
| 4.  | ICT Globe Management (Pty) Ltd            | Individual   | February           |
| 5.  | Infinity Wireless (Pty) Ltd               | Class        | February           |
| 6.  | Interexcel World Connection (Pty) Ltd     | Individual   | February           |
| 7.  | Jenny Internet (Pty) Ltd                  | Individual   | February           |
| 8.  | Jumbo Technologies (Pty) Ltd              | Class        | February           |
| 9.  | Keter Technologies (Pty) Ltd              | Class        | February           |
| 10. | Kosh Communication Services (Pty) Ltd     | Individual   | March              |
| 11. | Global Network System (Pty) Ltd           | Class        | February           |
| 12. | Lucert Technologies (Pty) Ltd             | Class        | February           |
| 13. | Mobile Telephone Networks (Pty) Ltd (MTN) | Individual   | December           |
| 14. | Mopani Wireless (Pty) Ltd                 | Class        | February           |
| 15. | Network Platforms (Pty) Ltd               | Class        | February           |
| 16. | Vodacom                                   | Individual   | March              |
| 17. | Sentech                                   | Individual   | March              |
| 18. | Broadband Infraco                         | Individual   | March              |
| 19. | Iclix CC                                  | Individual   | March              |

| No. | Licensee                              | Licence Type | Financial Year-end |
|-----|---------------------------------------|--------------|--------------------|
| 20. | RSA Web Internet Services             | Individual   | March              |
| 21. | Telemedia                             | Individual   | February           |
| 22. | Skygistics                            | Individual   | November           |
| 23. | FFG Connection CC                     | Individual   | March              |
| 24. | Amobia Communications                 | Individual   | March              |
| 25. | Sevenstone Investment                 | Individual   | February           |
| 26. | 45 Degrees                            | Individual   | February           |
| 27. | Amadwala Trading 5                    | Class        | February           |
| 28. | Clear Access (Pty) Ltd                | Individual   | February           |
| 29. | Cybersmart (Pty) Ltd                  | Individual   | February           |
| 30. | First Technology (Pty) Ltd            | Individual   | February           |
| 31. | Fibresky (Pty) Ltd                    | Class        | February           |
| 32. | Global Network System (Pty) Ltd       | Individual   | February           |
| 33. | Iconnect SA (Pty) Ltd                 | Individual   | February           |
| 34. | KAB Technologies                      | Class        | February           |
| 35. | Liquid Telecoms                       | Individual   | February           |
| 36. | Rain Networks (Pty) Ltd               | Individual   | February           |
| 37. | Neofibre                              | Individual   | February           |
| 38. | Internet Uncapped                     | Individual   | February           |
| 39. | EOH Mthombo (Pty) Ltd                 | Individual   | February           |
| 40. | Airpark Beaufort West                 | Individual   | February           |
| 41. | CT-NET                                | Individual   | February           |
| 42. | Metro Fibre Networx (Pty) Ltd         | Individual   | February           |
| 43. | Internet Solutions                    | Individual   | February           |
| 44. | Dimension Data                        | Individual   | February           |
| 45. | WIOCC South Africa (Pty) Ltd          | Individual   | December           |
| 46. | Telkom SOC Limited                    | Individual   | March              |
| 47. | Network for Next Generation (Pty) Ltd | Individual   | February           |
| 48. | VTS Connect (Pty) Ltd                 | Individual   | February           |
| 49. | V O Connect (Pty) Ltd                 | Individual   | March              |
| 50. | Scan RF (Pty) Ltd                     | Individual   | July               |
| 51. | AT & T South Africa (Pty) Ltd         | Individual   | December           |
| 52. | Orange Business (Pty) Ltd             | Individual   | December           |
| 53. | Avoxi (Pty) Ltd                       | Individual   | December           |
| 54. | Xpress Wireless (Pty) Ltd             | Individual   | March              |
| 55. | Comsol (Pty) Ltd                      | Individual   | July               |
| 56. | Cell C                                | Individual   | December           |
| 57. | China Telecom South Africa (Pty) Ltd  | Class        | December           |
| 58. | Computate IT (Pty) Ltd                | Class        | February           |
| 59. | BSS Digital and Electronics CC        | Class        | February           |
| 60. | Borwood Communications (Pty)Ltd       | Class        | February           |
| 61. | SMS Cellular Services (Pty) Ltd       | Class        | February           |
| 62. | BareMetal Computer Traders (Pty) Ltd  | Class        | February           |
| 63. | Balwin Properties (Pty) Ltd           | Class        | February           |

Figure 1 below illustrates the numbers of licensees assessed for compliance over the last ten years.

**Figure 1: Graph of number of licensees assessed to date.**

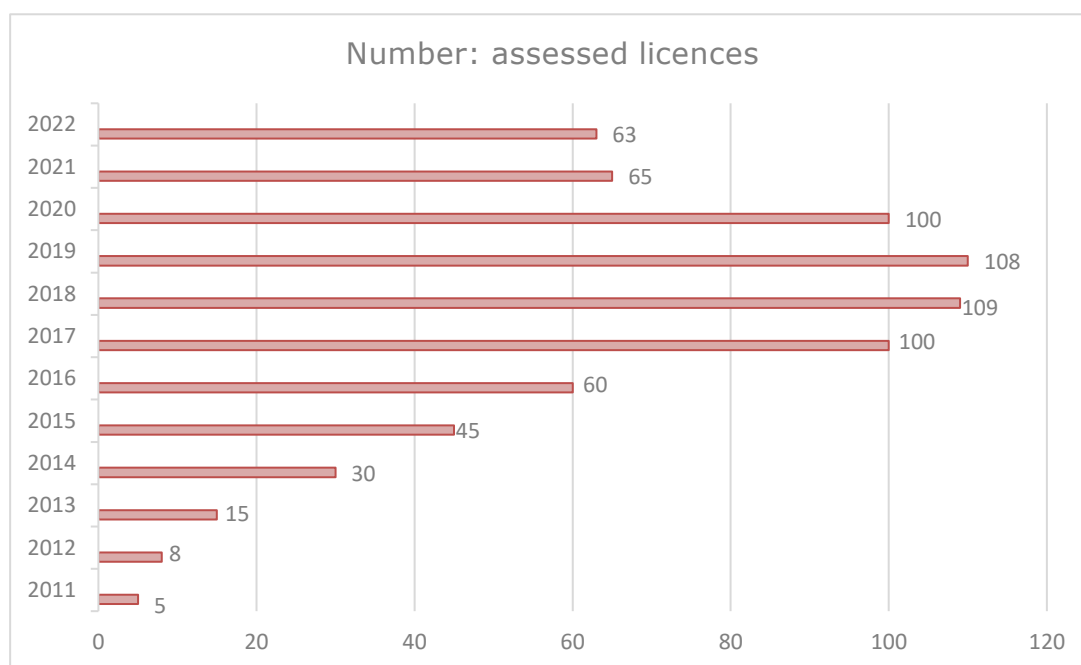


Table 2 below reflects the spread of the financial year ends of the 63 licensees. From the said table it is evident that most of the Licensees' financial year end is February, followed by March with the least common months being July, November and December. The financial year end influences the payment of licence fees and USAF contribution as well as the conclusion of the Authority's compliance assessment. The General License Fee Regulations provide 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 | 41                  |
| March    | 12                  |
| July     | 02                  |
| November | 01                  |
| December | 07                  |

The Authority requires Licensees to provide on their financial year end, financial forecasts of the licence fees and USAF contributions that they expect to pay (in line with the provisions of the applicable Regulations). The financial forecasts will later be reviewed against the actual finalised financials (and where applicable, audited), when those are made available to the Authority as per the requirements of the General Licence Fees Regulations.



#### 4. **LEGISLATIVE AND REGULATORY CONSIDERATIONS**

The mandate of the Authority among other, is to grant ECS and ECNS licences and to ensure that Licensees comply with their legislative and regulatory obligations. ECS/ECNS licences are granted and issued under chapter 3 of the ECA. The legislative framework also provides for “resellers”<sup>1</sup> which are entities that provide electronic communications services and do not require a licence.

The services that are provided by ECS and ECNS licensees are voice, data and network (i.e. infrastructure) both at wholesale and retail. Licensees like CELL C MTN and Vodacom, provide mobile voice services as their core business. Liquid, Telkom and Rain provide predominantly, fixed wireless and data services. However, in recent years, Telkom has also acquired a firm footprint in the mobile wireless network. The other ECS and ECNS licensees provide data services as ISPs (internet service providers).

The table below lists the key legislative and regulatory tools used, for compliance assessment.

**Table 3: Terms of reference - legislation and Regulations**

| No. | 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.                                  |
|     | <b>Regulations</b>   |
| 1.  | ICASA General Licence Fees Regulations, 2013   |
| 2.  | Universal Service and Access Fund Regulations, 2011  |
| 3.  | Compliance Procedure Manual Regulations, 2011 (CPMR)   |

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<sup>1</sup> 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

add value to such electronic communications network services or electronic communications services.

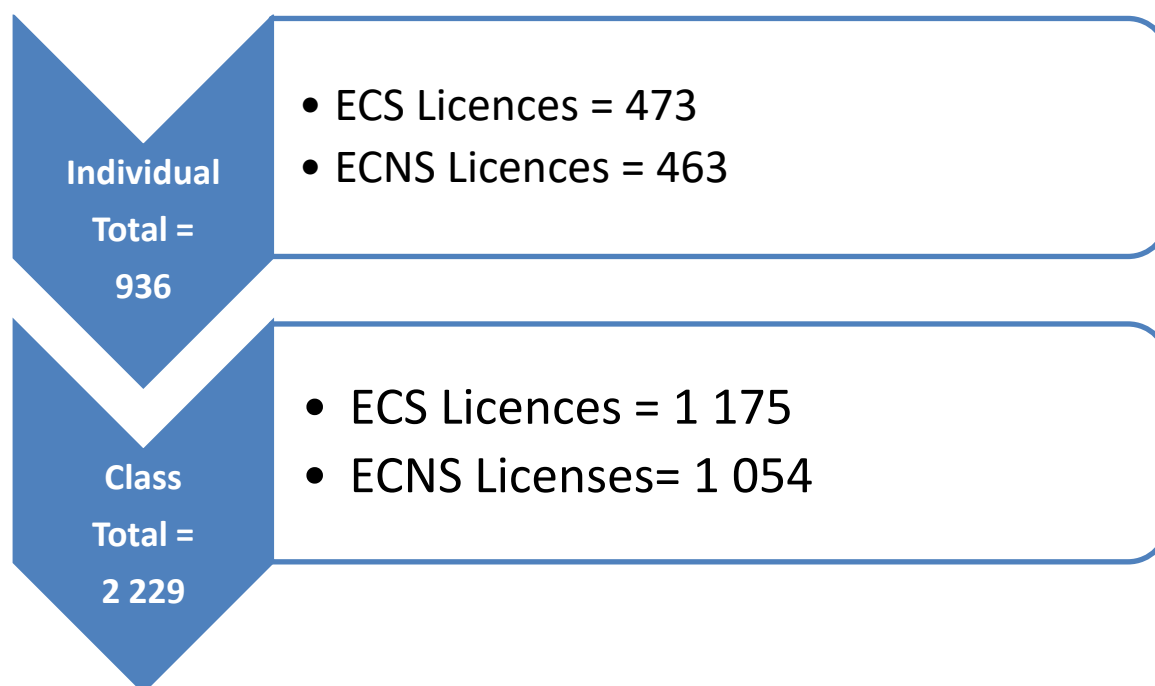
|     |   |
|-----|---|
| 4.  | Regulations on Standard Terms and Conditions for Individual Licences, 2010              |
| 5.  | Regulations on Standard Terms and Conditions for Class Licences, 2010                   |
| 6.  | Processes and Procedures Regulations for Individual Licences, 2010                      |
| 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  |

As at 13 February 2023, the Authority's records show that the Authority had issued a total of three thousand one hundred and sixty five (3 165) Individual and Class licences broken down as reflected in figure 2 below. In some instances, Licensees hold more than one licence especially the class licences.

When selecting Licensees that are reported on annually, the Division ensures the following. i.e. that:

- ✓ the majority of Licensees reported on are Individual Licensees;
- ✓ The biggest Licensees ( e.g. Vodacom, MTN, Cell C and Liquid Telecoms) are always included;
- ✓ the list comprises of a broad range of Licensees (large, medium and small, within the respective categories of Individual and Class );
- ✓ there is a rotation of licensees ( except for the biggest) to avoid reporting on the same; and
- ✓ the report reflects both fully compliant and non-compliant licensees to ensure that the report paints a full picture.

**Figure 2: Number of Licensees**



In addition to the legislative and regulatory framework indicated above, monitoring takes into account the terms and conditions applicable to ECS/ECNS Licensees. These include where applicable, specific Universal Service Obligations (USO's) as outlines in section 4 below.

## **5. COMPLIANCE FINDINGS**

The findings of the monitoring exercise for the selected licensees are outlined below.

### **5.1. General Licence Fees Regulations, 2012<sup>2</sup> (GLF)**

The GLF Regulations provide a framework for the payment of licence fees from a percentage of revenue licensees have generated from their licensed services, through a sliding scale (see table 4, below)<sup>3</sup>:

#### **Extract from GLF Regulations<sup>4</sup>**

As per the said Regulations the payable licence fees are calculated using the formula below:

<sup>2</sup> Published in *Government Gazette* No. 36323 dated, 28 March 2013.

<sup>3</sup> Per Schedule 2 of ICASA General Licence Fees Regulations, 2012.

<sup>4</sup> *Ibid.*

“Pa = Payable Annual Licence Fee

R = Revenue from licenced services

B = applicable percentage per table below dependent on license revenue  
in accordance with this schedule read with regulation 3(1)”.

**Table 4: Formula - calculation of licence fee**

| <b>Licensed Revenue</b>      | <b>Percentage</b> |
|------------------------------|-------------------|
| <b>R</b>                     | <b>B</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%             |

The GLF Regulations require that Licensees submit their financial statements and make payments to the Authority, by no later than six months after their financial year end. The requirement is that the financials either be audited or signed off by their Accounting Officer<sup>5</sup>. 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 charged on the amount due. Persistent non-payment of fees constitutes non-compliance and could result in referral to the CCC.

For the period in review the highest licence fees paid by a single licensee, amounts to 178,237,680.00 and the lowest being R48.93. The GLF Regulations do not exempt any licensee from payment of licence fees, regardless of the amount generated from licensed services. It is worth noting though that most Licensees have submitted their financials and have accordingly paid per the invoices.

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

The USAF Regulations<sup>6</sup> prescribe that licensees must pay an annual contribution of 0.2% of their annual turnover to the USAF fund. (It’s a general

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<sup>5</sup> Per Schedule 3 of ICASA General Licence Fees Regulations, 2012.

<sup>6</sup> USAF Regulations, 2011 published in *Government Gazette No. 34010* dated, 10 February 2011.

percentage, which gets reduced to lesser percentages in instances of Licensees that qualify for certain deductions provided for in the Regulations). 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 current assessment period, the USAF contributions paid range from R83,316,096.00 as the highest, with R 62.24, as the lowest.

At the time of writing this report, of the sixty-three (63) Licensees monitored, only 5 had still not submitted their ALF/USAF. There will be follow up with Licensees with outstanding compliance submissions, to ensure full compliance by the end of the financial year, failing which, those that not submit, might be referred to the Authority's Complaints and Compliance Committee (CCC), for a hearing and adjudication.

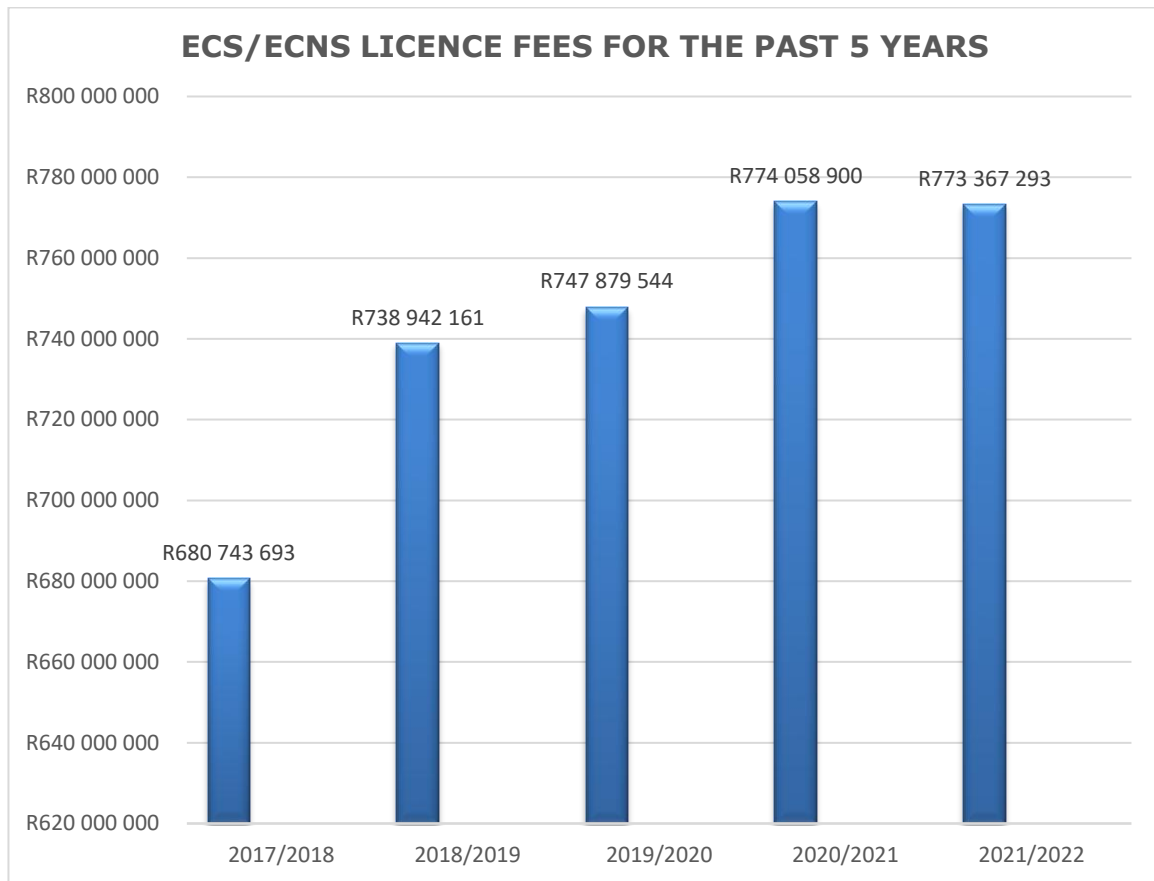
**Table 5: Total Licence Fees<sup>7</sup> Collected for the 2021/ 2022 Financial Year**

| <b>Fees</b>                 | <b>Amount</b>           |
|-----------------------------|-------------------------|
| GLF                         | 526, 172, 178.26        |
| USAF                        | 247, 195, 114.01        |
| <b>Total Fees Collected</b> | <b>773, 367, 292.27</b> |

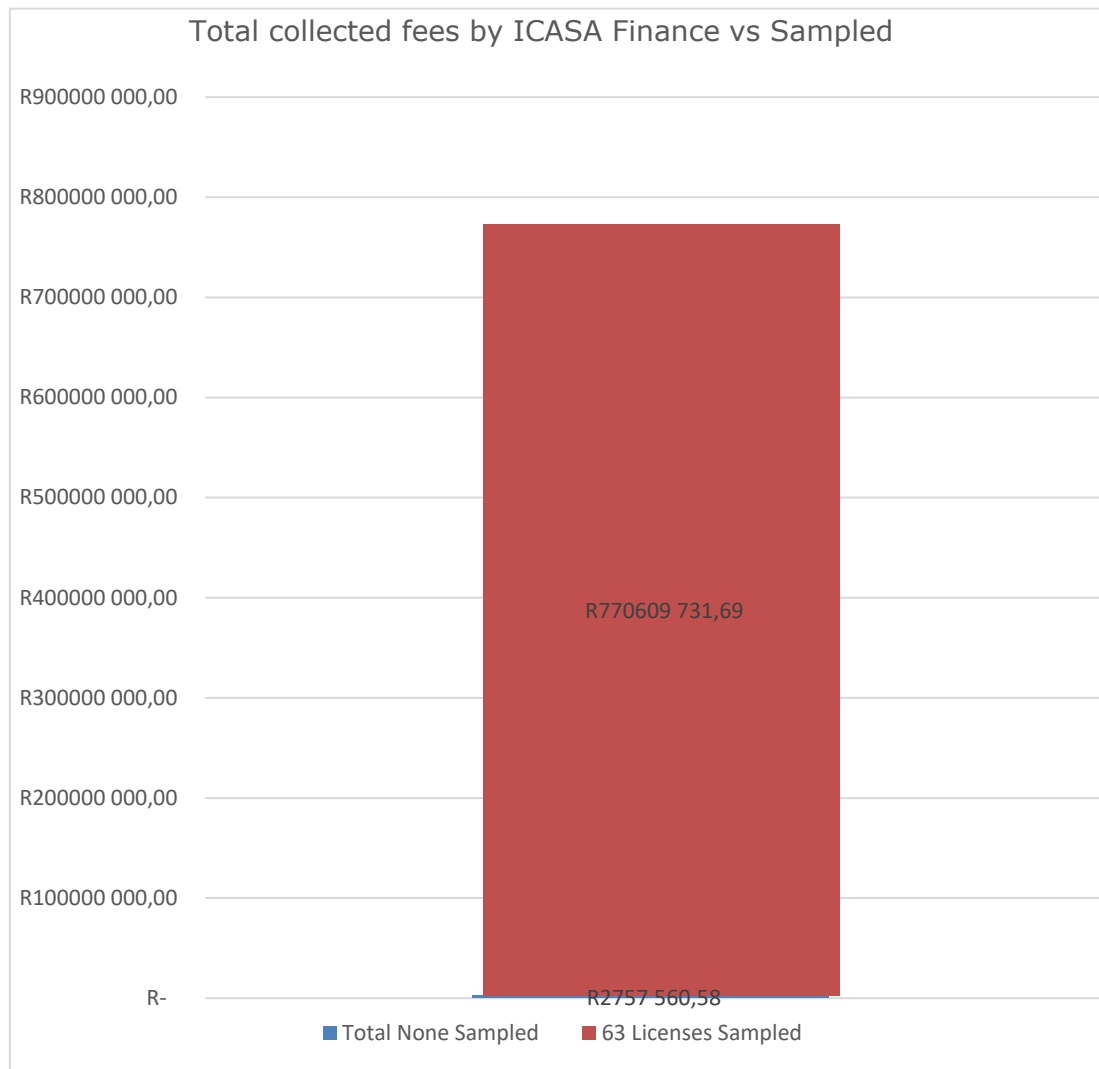
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<sup>7</sup> Licence fees for all ECS/ECNS Licensees that paid for the period mentioned.  
**ECS/ECNS Compliance Annual Report 2022/2023**

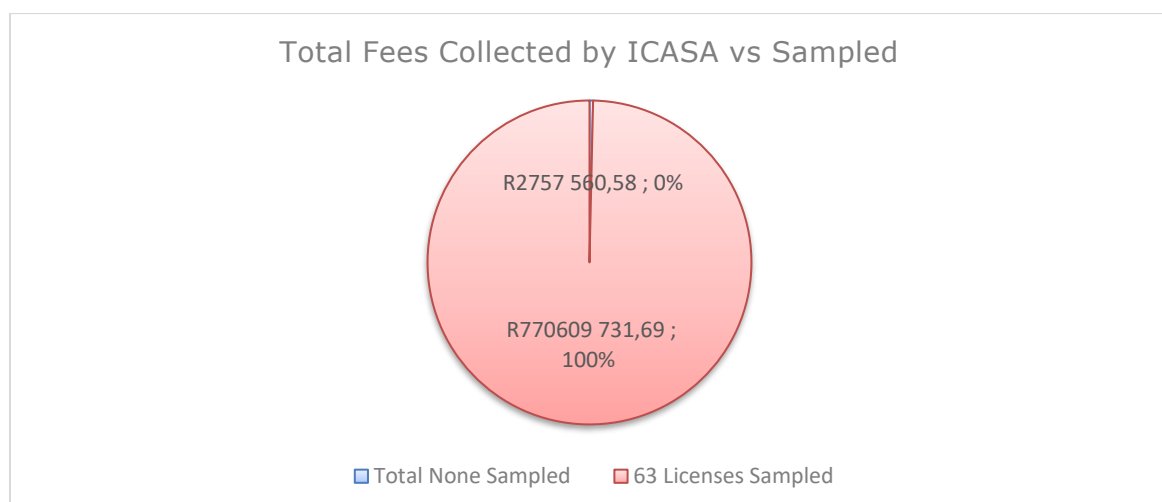
**Figure 3: Licence fees for the past 5 years**



**Figure 4.1 :Licence fees demonstrating the share from the 63 Licensees**



**Figure 4.2 :Licence fees demonstrating the share from the 63 Licensees**



### 5.3. **Universal Service and Access Obligation (USAO)**

#### 5.3.1 **Mainstream schools:**

Universal Service and Access Obligations (USAOs) refers to mandatory deliverables required of operators/Licensees, requiring inter alia, network roll-out or that they provide certain facilities or services to under-serviced areas or communities.

Universal service obligations “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”<sup>8</sup>.

In so far as USAOs are concerned, only seven<sup>9</sup> licensees (Cell C, MTN, Vodacom, Liquid Telecoms, Sentech, Rain and Telkom) have USAOs as part of their licence conditions. The USAOs as amended<sup>10</sup> 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. The USAOs are generally for the benefit of Mainstream Schools, Schools for Learners with Special Educational Needs (LSEN) and Technical and Vocational Educational Training (TVET) institutions.

The rollout with respect to the Mainstream schools has been completed in the previous financial years, the Compliance Unit then continues monitoring the roll-out with respect to the remaining two areas.

Figure 5 below details the Mainstream Schools where USAOs were rolled-out by Cell C, Liquid Telecoms, MTN and Vodacom.

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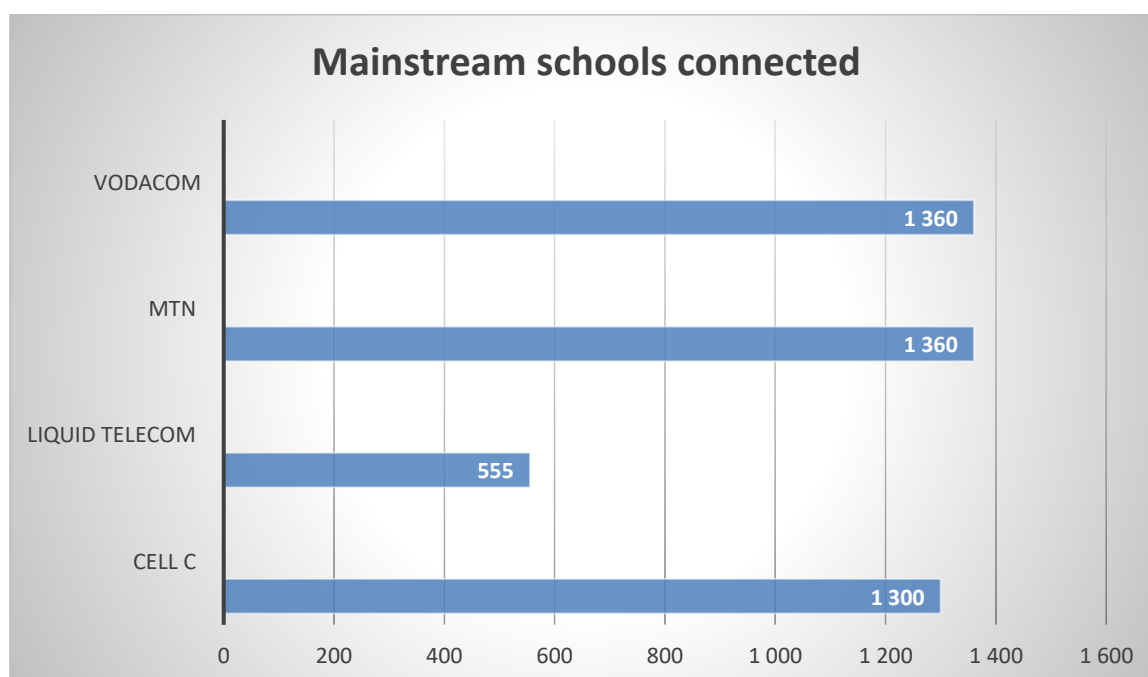
<sup>8</sup> <http://thornton.co.za/resources/telelaw10.pdf>

<sup>9</sup> Cell C, Liquid Telecom (formerly Neotel), MTN, Vodacom, Telkom, Sentech and Rain (formerly WBS)

<sup>10</sup> Amended by the Authority on 18 March 2014 and effective from 1 April 2014.

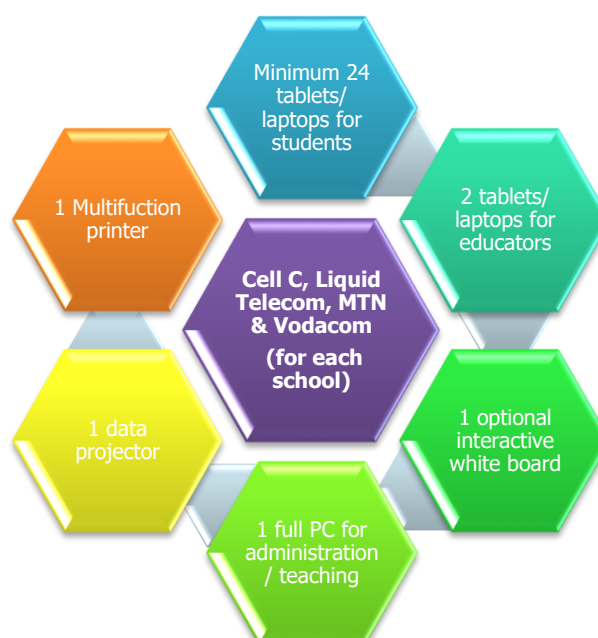


**Figure 5: Mainstream schools rolled out:**



**Figure 6: Tools and equipment each Licensee has rolled out (mainstream schools)**

Below are the various equipment rolled-out by each licensee:

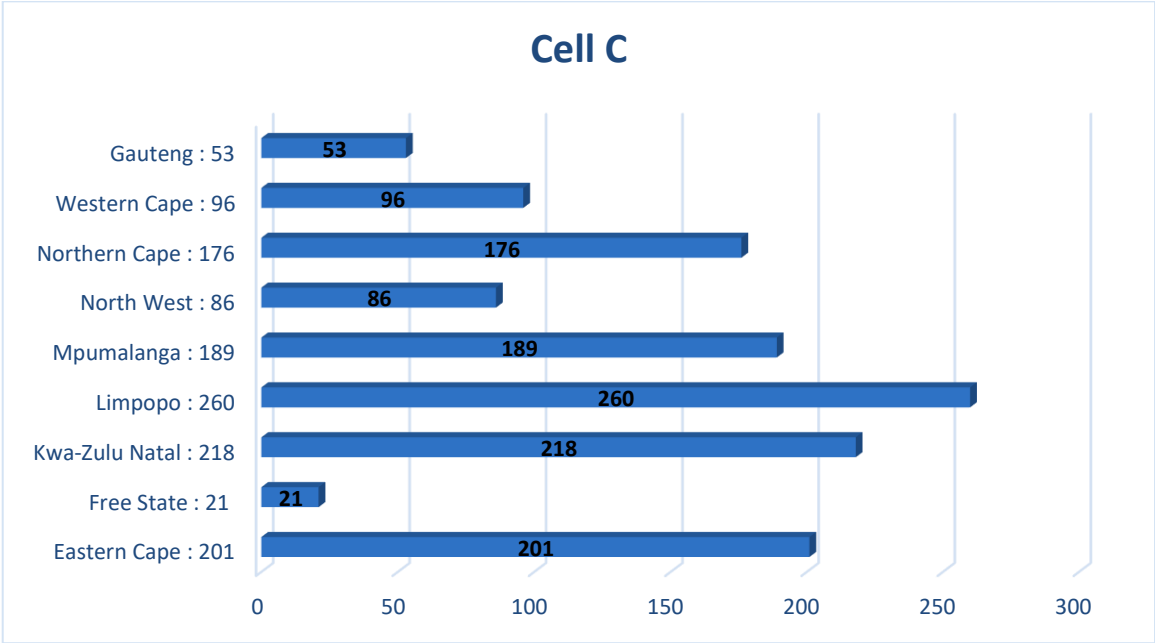


### **5.3.2 Connectivity: Mainstream Schools<sup>11</sup>**

<sup>11</sup> 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.

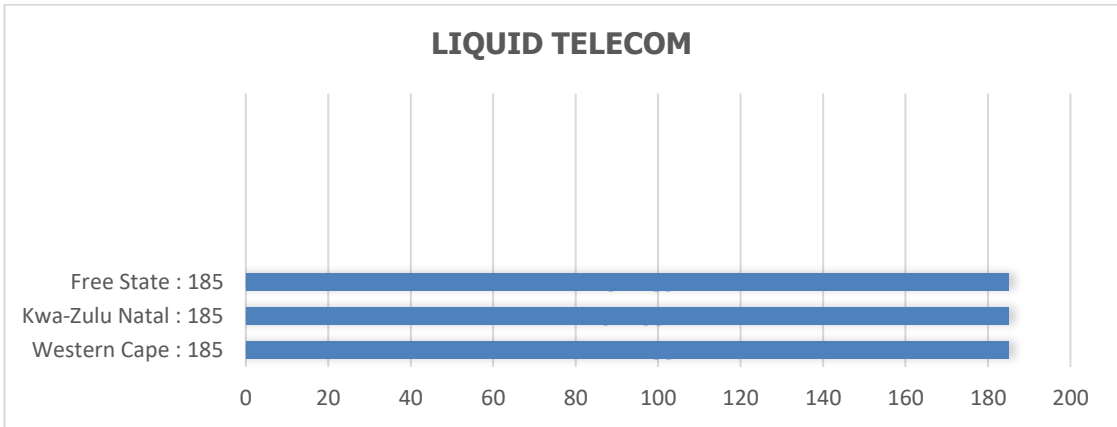
5.3.2.1 **Cell C:** The licensee has connected a total of **one thousand three hundred (1 300)** mainstream schools as per their allocation.

**Figure 7 : Cell C total connections by province (1 300) – mainstream schools**



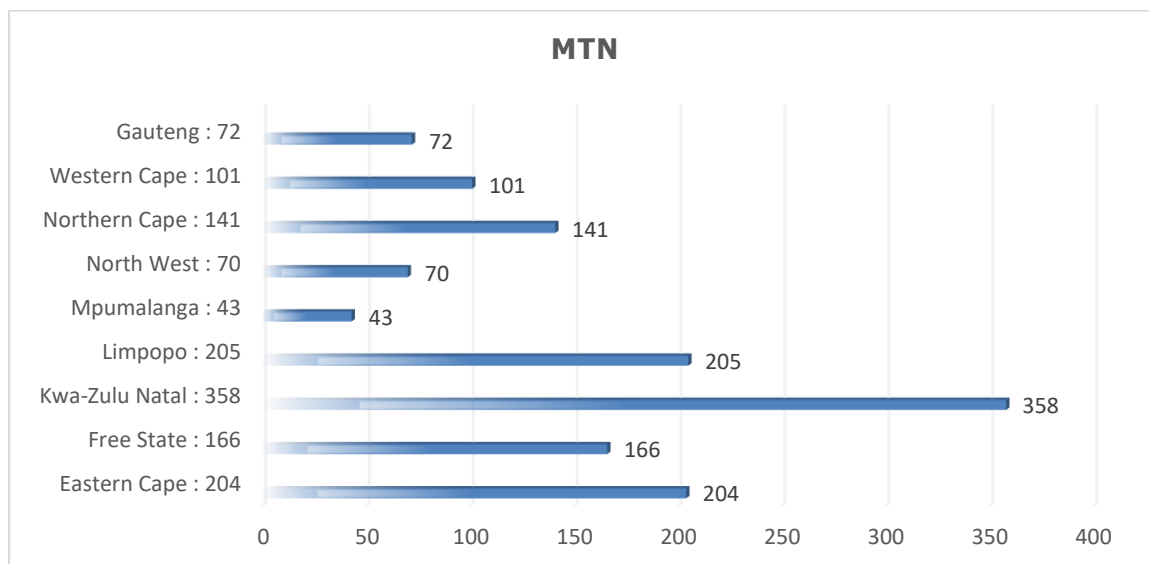
5.3.2.2 **Liquid Telecom** (formerly Neotel): Liquid Telecom has a total of **five hundred and fifty-five (555)** schools connected. The lower number is informed by the target that was allocated to the licensee.

**Figure 8: Liquid Telecom total connections by province (555) – mainstream schools**



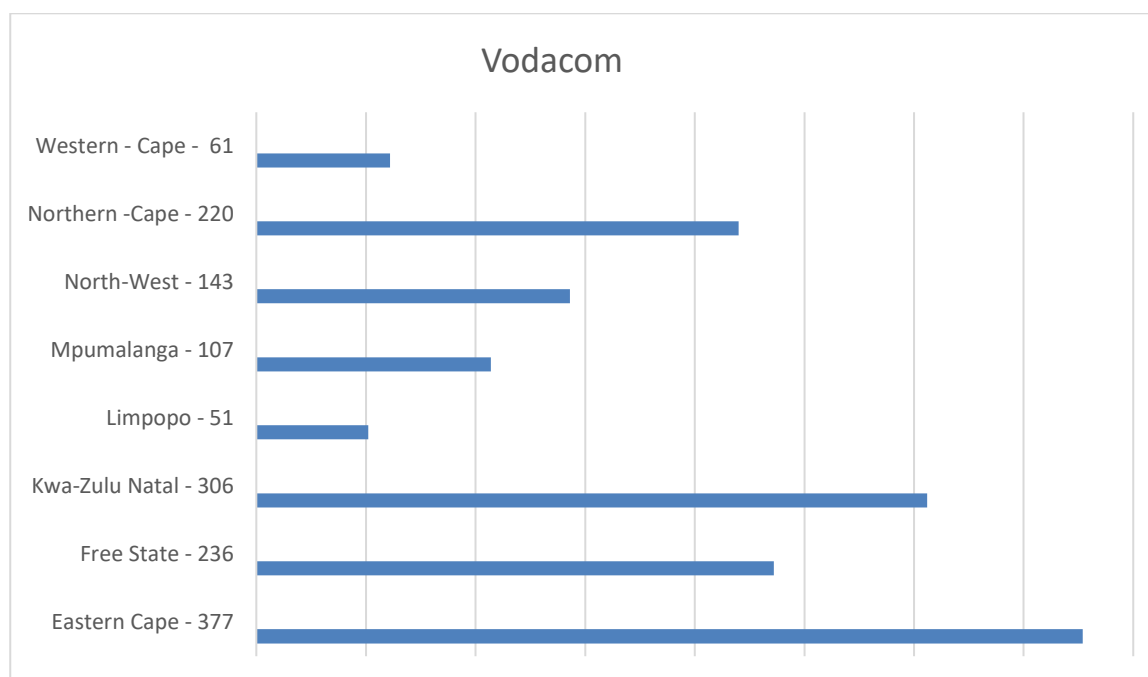
5.3.2.3 **MTN:** The licensee has also completed its allocated mainstream schools, with a total number of schools being **one thousand three hundred and sixty (1 360)**.

**Figure 9 : MTN total connections by province (1 360) – mainstream schools**



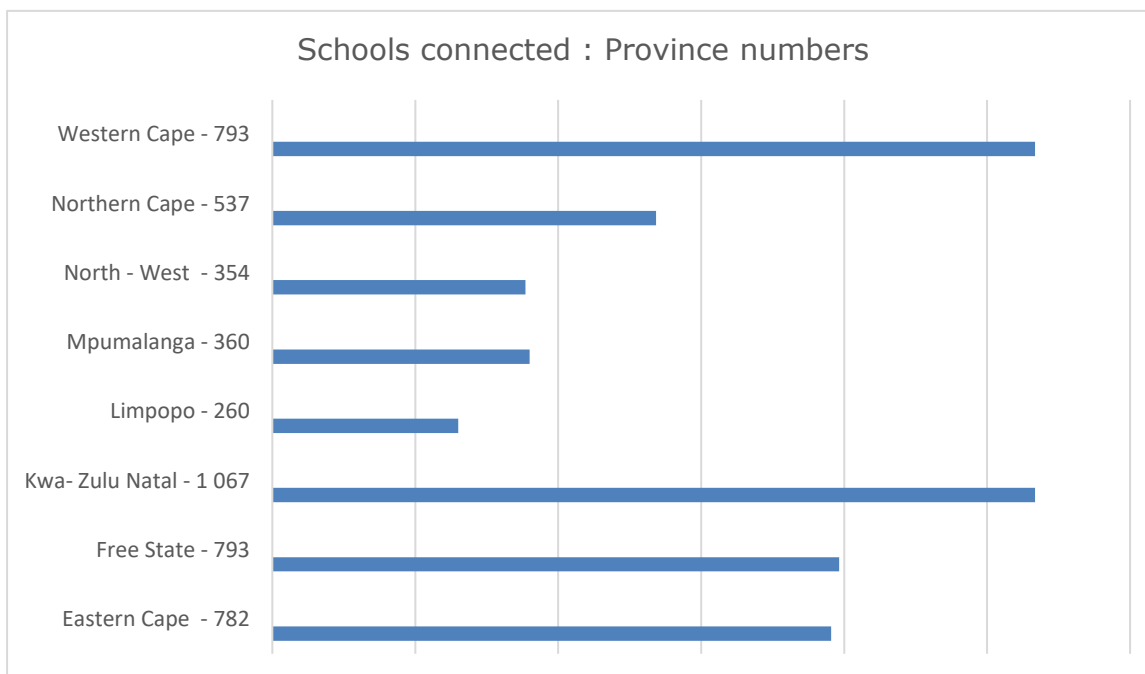
**5.3.2.4 Vodacom:** The licensee was required to connect 1 360 mainstream schools however, Vodacom has exceeded that requirement and has **connected 1 501 mainstream schools.**

**Figure 10 : Vodacom total connections by province: Mainstream schools (1 501)**



Below is figure 11, demonstrating the total number of mainstream schools connected by province and by respective licensees.

**Figure 11: Total Number of Mainstream schools connected by Province**



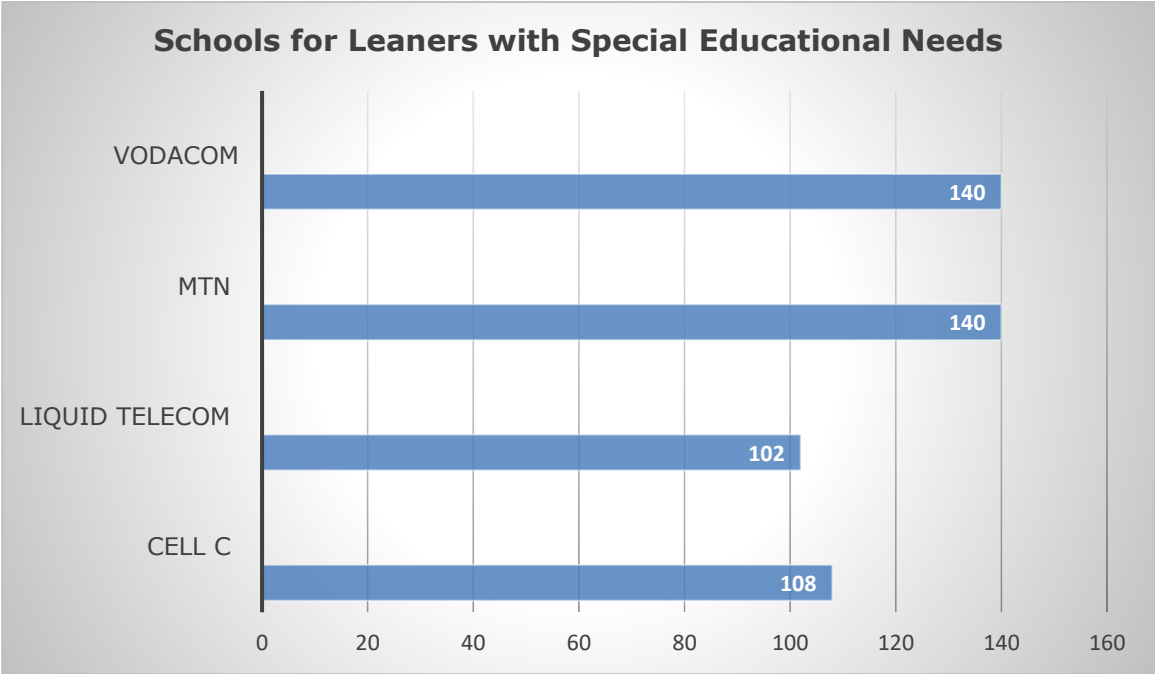
It is crucial to note that in certain instances, a Licensee may not have coverage in a certain area, hence the no coverage on figure 11 above. However no coverage does not necessarily imply that schools in that area also do not receive connectivity at all as the Licensee responsible could be using other alternatives such as roaming. Even in areas where all licensees do not have coverage, the rollout still remains helpful as the schools can access education material offline, as there are preloaded Department of Education electronic textbooks that the system enables students and teachers to access even without connectivity (this was designed with that objective as some areas struggle with consistent connectivity).

### **5.3.3 Connectivity: Schools for Learners with Special Educational Needs (LSEN)**

In 2017, the Authority had consultative discussions with organisations representing people with disabilities, the then Department of Telecommunications and Postal Services (DTPS), and the Department of Education (DoE), to develop and finalise the draft specifications for LSEN. On 01 September 2017, 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.

Licensees connected their pilot schools, which informed the project going forward. Having learned from the pilot, the Authority gave a go-ahead to Licensees to proceed with the roll-out. All other Licensees have since completed the roll-out with the exception of Cell C, which the Authority is working with to ensure the finalisation of the roll-out.


**Figure 12 : Connectivity obligations: Schools for Learners with Special Educational Needs (LSEN)**





**5.3.4    Universal Service Obligations (USAOs) (Other Licensees)**

The Universal Service and Access Obligation Council Committee was constituted in 2016, to amend the USAOs for Licensees, Sentech and Rain.

**Table 6 : USAO – Other Licensees**

|   |  |
|---|--|
|  | <p>The Authority published the Sentech USAO obligations in January 2022 . These obligations will be rolled out as soon as Sentech has been able to secure the equipment that is required for the roll-out. The Authority remains in constant communication these Licensees to track the progress towards roll-out.</p> |
|---|--|

|   |  |
|---|--|
|  | <p>The Authority published the Rain USAO obligations in March 2022 . These obligations will be rolled out as soon as Rain has been able to secure the equipment that is required for the roll-out. The Authority remains in constant communication with both Licensees, to track the progress towards roll-out.</p>  |
|  | <p><b>Telkom's</b> obligations were initially to provide connectivity as follows:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• 120 000 (one hundred and twenty thousand) public payphones, which Telkom installed.</li> </ul> <p>The Authority is in the process of reviewing the Telkom USO obligations emanating from a request from Telkom based on the following factors:</p> <ul style="list-style-type: none"> <li>• changed circumstances in the market i.e. widespread prevalence of mobile phones, unavailability of the company to manufacture and produce public payphones;</li> <li>• vandalism of public payphones;</li> <li>• escalating maintenance costs; and</li> <li>• changes in technology making public payphones less relevant.</li> </ul> <p>An initial consultation took place and stakeholders agreed on further engagement. The DoH was not co-operative in that it did not respond to several requests for the DoH participation in the process ( even after the matter was escalated to office of the Authority's former CEO.</p> <p>After consultation with the DCDT, it was decided that the DoH obligations be abandoned and rather that the connectivity roll-out be extended to the Thusong Service Centres. Consultative meetings and planning with Telkom is progressing towards this roll – out. Once finalised those obligations will accordingly be gazetted.</p> |

#### **5.4 Compliance Procedure Manual Regulations (CPMR)<sup>12</sup>**

The Compliance Procedure Manual Regulations came into being with the intention being to streamline the submission of compliance information. The required information was consolidated into forms that licensees complete periodically and submit to the Authority.

The forms in the CPMR outline the requisite compliance information that licensees must provide, to give 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.

#### **5.5 Form 1: Shareholding and Staff component**

Form 1 is intended to ascertain licensees' basic company information and 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 in the ICT sector for purposes of attaining the 30% shareholding quota, in line with the requirements of section 9 (2) (b) of the ECA and to comply with the Regulations in respect of the Limitations of Control and Equity Ownership by HDGs, 2021<sup>13</sup>.

In further pursuance of that objective (i.e. transformation in the ICT sector), section 13(1) 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.

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<sup>12</sup> Published in *Government Gazette* No. 34863 dated, 15 December 2011.

<sup>13</sup> Published in *Government Gazette* No. 44382 dated, 31 March 2021.

### **5.5.2 Form 1 - Findings**

**Shareholding:** Since the requirement to have 30% HDG shareholding was introduced after the licence conversion process which has become an added requirement by the Regulations on HDGs, many licenses do not have any or they have very little HDG as part of their equity ownership.

Section 92 (1) of the ECA provided that licences be converted on no less favourable terms, hence the limitation on the Authority to insist on all licensees having the 30% minimum shareholding requirement by HDGs at the time.

The uptake in relation to HDG ownership by licensees is slow as the requirement presently only applies to new licences, applicants looking to (i) transfer control or ownership, (ii) cede or (iii) lease their licence in terms of section 13 of the ECA and/renew their licence in terms of section 11 of the ECA.

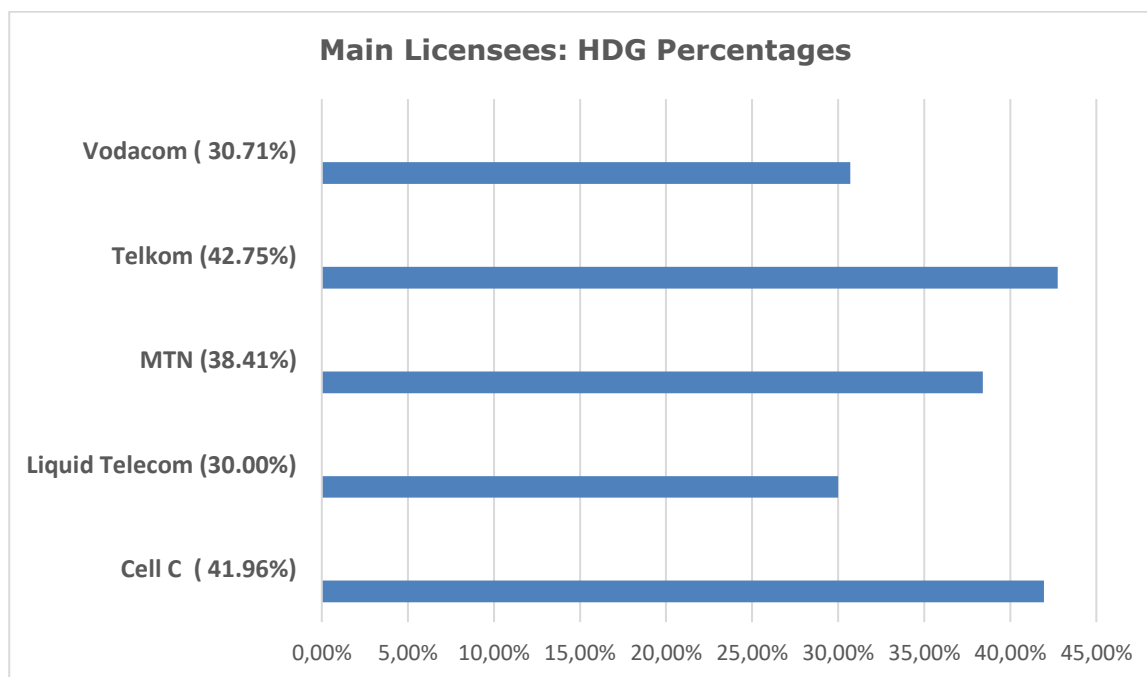
The requirements in terms of section 31(1) of the ECA, together with the Regulations on HDGs will go a long way assist with the increase in HDG ownership. Therefore, the expectation is that the HDG numbers will in time grow and align with the objectives of the ICT policy, to benefit the previously disadvantaged.

### **5.5.3 Historically disadvantaged groups (HDGs) shareholding**

The percentage of equity by HDGs in the five major licensees is as provided by licensees and verified by their registration certificates at the Company and Intellectual Property Commission (CIPC). Therefore, the HDG shareholding of the said major licensees, is further illustrated in figure 13, below.

**Figure 13: Main Licensees - HDG Shareholding**





Having analysed the Forms received from Licensees, it is generally apparent that women shareholding within the industry, though it exists, it is still at a significantly lower level looking at the country demographics. Table 6 below, shows a sample of the not so big licensees in terms of their HDG:

**Table 7: HDG (other licensees)**

| No. | Name                                      | Individual or Class | % HDI  | % Woman-owned |
|-----|---|---------------------|--------|---------------|
| 1.  | 45 Degrees Holdings                       | Individual          | 100%   | 0%            |
| 2.  | Amadwala Trading 5                        | Class               | 0%     | 0%            |
| 3.  | Clear Access (Pty) Ltd                    | Individual          | 38.93% | 2.23%         |
| 4.  | Cybersmart (Pty) Ltd                      | Individual          | 29.13% | 0%            |
| 5.  | First Technology (Pty) Ltd                | Individual          | 30%    | 0%            |
| 6.  | Fibresky (Pty) Ltd                        | Class               | 0%     | 0%            |
| 7.  | Global Network System (Pty) Ltd           | Individual          | 0%     | 0%            |
| 8.  | Iconnect SA (Pty) Ltd                     | Individual          | 30%    | 0%            |
| 9.  | KAB Technologies                          | Class               | 0%     | 0%            |
| 10. | Marinus Robert Aling t/a MD Wireless      | Class               | 0%     | 0%            |
| 11. | Network & Computing Consultants (Pty) Ltd | Individual          | 42%    | 42%           |
| 12. | Speedstream                               | Class               | 0%     | 0%            |

|     |                          |            |    |    |
|-----|--------------------------|------------|----|----|
| 13. | Switch Telecom (Pty) Ltd | Individual | 0% | 0% |
| 14. | LBJ Groenewald           | Individual | 0% | 0% |

**Table 8: Staff Numbers – Sample**

| <b>Licensee name</b> | <b>Female</b> | <b>Male</b> | <b>Blacks</b> | <b>Coloured</b> | <b>Indians</b> | <b>Whites</b> | <b>Total</b> |
|----------------------|---------------|-------------|---------------|-----------------|----------------|---------------|--------------|
| Broadband Infraco    | 17            | 39          | 51            | 1               | 0              | 4             | 56           |
| MTN                  | 1 854         | 1 887       | 2 272         | 471             | 500            | 498           | 3 741        |
| Liquid Telecom       | 261           | 502         | 318           | 94              | 128            | 223           | 763          |
| Sentech              | 71            | 221         | 228           | 18              | 10             | 36            | 317          |
| Vumatel              | 140           | 246         | 175           | 45              | 39             | 127           | 386          |
| Vodacom              | 1 130         | 1 251       | 1 260         | 482             | 258            | 381           | 2 381        |
| Cell C               | 565           | 654         | 721           | 167             | 178            | 155           | 1 219        |
| Telkom               | 4 019         | 8 448       | 6 057         | 1 626           | 1 222          | 3 562         | 12 467       |

#### **5.5.4 Management distribution**

Looking at licensees that were assessed for the period under review, as has been the case in the previous years, management is led by men at a far greater majority than women.

On the other hand, figures pertaining to race (management) still indicate a lead by White people especially males, followed by Black, Indian and Coloured people.

#### **5.5.5 Form 2: General Licence Fees and 3: Universal Service and Access Fund**

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

### 5.5.6 **Form 4: E - Rate**

The form requires that 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 concerned 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<sup>14</sup>.

Licensees previously recommended that the issue of 50% e-rate, be resolved prior to commencement of the obligations as it threatens the adoption and usage of the solution. To date there is no firm resolution on the matter by those concerned.

### 5.5.7 **Other Forms**

**Figure 14: Other forms**

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

The other forms that apply to ECS/ECNS licensees analysed for purposes of ensuring compliance. The ECS/ECNS Compliance received and assessed many of the forms mentioned above and it is noteworthy that no major compliance concerns were picked up, to necessitate a further inspection at

<sup>14</sup> Published in *Government Gazette* No. 31979 dated, 3 March 2009.  
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the premises of Licensees, for purposes of ascertaining the veracity of the content of the respective forms.

## **5.6 End User and Subscriber Service Charter Regulations, 2009**<sup>15</sup>

### **5.6.1 Network Availability**

Licensees also have an obligation to make submissions on their compliance with the EUSSC Regulations in relation to their network availability.

To this end the Compliance Department working together with the Engineering and Technology Division met with a number of licensees to seek clarity on the methodologies used to arrive at the network availability figures below.

In relation to the Service Charter, the report will sample and report on the role and performance of key industry players i.e. Liquid Telecom, MTN, Vodacom, Broadband Infraco and Telkom. The submissions are summarised in table 8, below.

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<sup>15</sup> Published in *Government Gazette* No 32431 – dated, 24 July 2009.  
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**Table 9: Network availability figures**

| <b>Regulation 9(1)</b> | An average of 95% of network service availability over a period of six (6) months.                                |  |   |                           |  |  |
|------------------------|---|--|---|---------------------------|--|--|
|                        | <b>Liquid Telecom</b>   | <b>MTN</b>   | <b>Vodacom</b>  | <b>Cell C</b>             | <b>Telkom</b>  | <b>Broadband Infraco</b>                   |
| Reporting period       | Feb – July 2022   | March – Aug 2022   | Feb – July 2022   | Feb – July 2022           | Feb - July 2022  | April – Sept 2022                          |
| Findings               | <p>95% Fixed = compliant</p> <p>Fixed Wireless: 95%</p> <p>= Compliant</p>  | <p>96% Fixed services = compliant</p> <p>96% Mobile services = Compliant</p> | <p>99.64% Fixed (Wireline) Services</p> <p>Diginet Fibre (IP Connect and LAN Connect Fibre)</p> <p>Microwave 100% Fixed Wireless Services</p> <p>98% Optical Line Terminal</p> <p>100% Mobile Services =Compliant</p> | <p>93.50% = Compliant</p> | <p>Mobile=89.75% = Not compliant</p> <p>Fixed=99.92% = Compliant</p> | <p>98.88 % over 95% target = Compliant</p> |
| <b>Regulation 9(2)</b> | 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 2022    | March – Aug 2022   | Feb – July 2022  | Feb – July 2022       | Feb - July 2022                                  | April – Sept 2022            |
| Findings         | 95%<br>= Compliant | 95% Fixed wireless Services = Compliant<br><br>91% Mobile Services = Not compliant (Impossibility of performance (Loadshedding) = Notice/s in terms of Section 16 of the End-user and Subscriber Service Charter Regulations submitted to the Authority) | 99.64% Fixed (Wireline) Services<br>Diginet<br>Fibre (IP Connect and LAN Connect Fibre)<br>Microwave<br>100% Fixed Wireless Services<br>98% Optical Line Terminal<br>100% Mobile Services<br><br>= Compliant | 97.80%<br>= Compliant | Fixed and Mobile services = 92.2%<br>= Compliant | Not applicable (ECNS holder) |

| <b>Regulation 9(5)</b> | Average time to install service – attain 90% success rate within thirty (30) days.     |                           |  |                           |  |   |
|------------------------|--|---------------------------|--|---------------------------|--|---|
|                        | <b>Liquid Telecom</b>  | <b>MTN</b>                | <b>Vodacom</b>   | <b>Cell C</b>             | <b>Telkom</b>  | <b>Broadband Infraco</b>                            |
| Reporting period       | Feb – July 2022  | March – Aug 2022          | Feb – July 2022  | Feb – July 2022           | Feb - July 2022  | April – Sept 2022                                   |
| Findings               | Enterprise:<br>90%<br><br>= Compliant<br><br>Non-enterprise:<br>95%<br><br>= Compliant | 98.77%<br><br>= Compliant | 96% Fixed Services Residential Services<br><br>91% Business Services<br><br>96.3% Fixed Wireless Services<br><br>ENTRERPRISE TECHNOLOGY<br><br>99.1% Fixed Service<br><br>92% Business<br><br>96.3% Fixed Wireless Services<br><br>96% Fixed Services – Residential Services | 99.99%<br><br>= Compliant | Residential:<br>99.48% = Compliant<br><br>Business:<br>93.62%<br><br>= Compliant | 100% (in 2 days) over 90% target<br><br>= Compliant |

|                        |   |   |  |                            |  |  |
|------------------------|---|---|--|----------------------------|--|--|
|                        |   |   | 91% Business Services<br>100% Mobile Services<br>= Compliant |                            |  |  |
|                        |   |   |  |                            |  |  |
| <b>Regulation 9(5)</b> | Activation within 48hrs (after installation) Fixed Business =90%, Fixed Res 95%. Fixed wireless = 95%. Mobile = 99%       |   |  |                            |  |  |
|                        | <b>Liquid Telecom</b>   | <b>MTN</b>  | <b>Vodacom</b>   | <b>Cell C</b>              | <b>Telkom</b>                              | <b>Broadband Infraco</b>                           |
| Reporting period       | Feb – July 2022   | March – Aug 2022  | Feb – July 2022  | Feb – July 2022            | Feb - July 2022                            | April – Sept 2022                                  |
| Findings               | 95%<br><br>= Compliant  | 46.65 hrs over 99% activated within 48hrs target<br><br>= Compliant | 100% activation within 48 hours – Mobile<br><br>= Compliant  | 99.28 %<br><br>= Compliant | Fixed and Mobile =99.62%<br><br>=Compliant | 100% activation within 48 hours<br><br>= Compliant |
|                        |   |   |  |                            |  |  |
| <b>Regulation 11</b>   | Licensee is required to indicate its communication method with customers if it is unable to provide the relevant service. |   |  |                            |  |  |
|                        | <b>Liquid Telecom</b>   | <b>MTN</b>  | <b>Vodacom</b>   | <b>Cell C</b>              | <b>Telkom</b>                              | <b>Broadband Infraco</b>                           |
| Reporting period       | Feb – July 2022   | March – Aug 2022  | Feb – July 2022  | Feb – July 2022            | Feb - July 2022                            | April – Sept 2022                                  |



|                      |  |  |  |                                       |                        |  |
|----------------------|--|--|--|---------------------------------------|------------------------|--|
| Findings             | Website, SMS & telephone<br>= Compliant  | website and displayed in all MTN Stores<br>= Compliant | SMS messaging<br>= Compliant                       | Website and App<br>= Compliant        | Website<br>= Compliant | Telephone Email<br>= Compliant                     |
| <b>Regulation 12</b> |  |  |  |                                       |                        |  |
|                      | The percentages of connectivity failure rate must not exceed an average of 3% of all connections, over a period of six (6) months. |  |  |                                       |                        |  |
|                      | <b>Liquid Telecom</b>  | <b>MTN</b>   | <b>Vodacom</b>                                     | <b>Cell C</b>                         | <b>Telkom</b>          | <b>Broadband Infraco</b>                           |
| Reporting period     | Feb – July 2022  | March – Aug 2022                                       | Feb – July 2022                                    | Feb – July 2022                       | Feb - July 2022        | April – Sept 2022                                  |
| Findings             | = Compliant  | 0.68%<br>= Compliant                                   | 0.27% over a no more than 3% target<br>= Compliant | No info = Followed up                 | No Info = Followed up  | 0.12% over a no more than 3% target<br>= Compliant |
| <b>Regulation 13</b> |  |  |  |                                       |                        |  |
|                      | Operator assisted calls must be answered within three (3) minutes averaged over twelve (12) months.<br><b>(No % target)</b>        |  |  |                                       |                        |  |
|                      | <b>Liquid Telecom</b>  | <b>MTN</b>   | <b>Vodacom</b>                                     | <b>Cell C</b>                         | <b>Telkom</b>          | <b>Broadband Infraco</b>                           |
| Reporting period     | Feb – July 2022  | March – Aug 2022                                       | Feb – July 2022                                    | Feb – July 2022                       | Feb - July 2022        | April – Sept 2022                                  |
| Findings             | No info = Followed up  | 173 HV prepaid = 30.67 seconds,                        | 100% of calls answered in 3 minutes<br>= Complaint | 99.99% of calls answered in 3 minutes | No info = Followed up  | 100% of calls answered in 3 minutes<br>= Complaint |

|                      |   |  |   |                       |                       |   |
|----------------------|---|--|---|-----------------------|-----------------------|---|
|                      |   | Gen general prepaid = 50.17 seconds, HVPPCC the high value post-paid = 80.17 seconds, averaged over the target of 3 min: = Compliant |   | = Compliant           |                       |   |
|                      |   |  |   |                       |                       |   |
| <b>Regulation 12</b> | Licensee to indicate if network monitoring centre is available, where it is situated and how it operates. |  |   |                       |                       |   |
|                      | <b>Liquid Telecom</b>   | <b>MTN</b>   | <b>Vodacom</b>  | <b>Cell C</b>         | <b>Telkom</b>         | <b>Broadband Infraco</b>                              |
| Reporting period     | Feb – July 2022   | March – Aug 2022   | Feb – July 2022   | Feb – July 2022       | Feb - July 2022       | April – Sept 2022                                     |
| Findings             | No Indicated = Followed up  | Indicated = Compliant  | Network monitoring Centre located in Midrand<br>Indicated = Compliant | Indicated = Compliant | Indicated = Compliant | Network monitoring centre is in Woodlands Drive, Wood |

|                         |  |  |   |                       |   |  |
|-------------------------|--|--|---|-----------------------|---|--|
|                         |  |  |   |                       |   | mead, operate for 24 hours.<br><br>Indicated = Compliant |
| <b>Regulation 8</b>     | Maintenance of an average of 90% fault clearance rate for all faults reported within three (3) days. |  |   |                       |   |  |
|                         | <b>Liquid Telecom</b>  | <b>MTN</b>                                 | <b>Vodacom</b>                            | <b>Cell C</b>         | <b>Telkom</b>                                 | <b>Broadband Infraco</b>                                 |
| Reporting period        | Feb – July 2022  | March – Aug 2022                           | Feb – July 2022                           | Feb – July 2022       | Feb - July 2022                               | April – Sept 2022  |
| Findings                | 90% cleared within 5 days' target<br><br>=Compliant  | 95.7% cleared within 24 hrs<br>= Compliant | 100% over a 90% target<br><br>= Compliant | No info = followed up | Fixed =93.28%<br>Mobile=96.66%<br>= Compliant | 100% over a 90% target<br>= Compliant                    |
| <b>Regulation 9</b>     | The remaining 10% of faults reported must be cleared within six (6) days of reporting of the fault.  |  |   |                       |   |  |
|                         | <b>Liquid Telecom</b>  | <b>MTN</b>                                 | <b>Vodacom</b>                            | <b>Cell C</b>         | <b>Telkom</b>                                 | <b>Broadband Infraco</b>                                 |
| Reporting period        | Feb – July 2022  | March – Aug 2022                           | Feb – July 2022                           | Feb – July 2022       | Feb - July 2022                               | April – Sept 2022  |
| Findings                | No info = Compliant  | Indicated = Compliant                      | N/A                                       | No info = followed up | Fixed=93.28%<br>Mobile=96.66%<br>= Compliant  | N/A  |
| <b>Regulation 12(3)</b> | Licensee must indicate a point of entry for complaints.  |  |   |                       |   |  |
|                         | <b>Liquid Telecom</b>  | <b>MTN</b>                                 | <b>Vodacom</b>                            | <b>Cell C</b>         | <b>Telkom</b>                                 | <b>Broadband</b>   |

|                          |  |                       |                       |                       |                       | <b>Infraco</b>           |
|--------------------------|--|-----------------------|-----------------------|-----------------------|-----------------------|--------------------------|
| Reporting period         | Feb – July 2022  | March – Aug 2022      | Feb – July 2022       | Feb – July 2022       | Feb - July 2022       | April – Sept 2022        |
| Findings                 | Licensee no longer provides services to Individuals; services are provided to businesses. Individually dealt with in terms of contracts and service level agreements with the customers. | Indicated = Compliant | Indicated = Compliant | Indicated = Compliant | Indicated = Compliant | Indicated = Compliant    |
|                          |  |                       |                       |                       |                       |                          |
| <b>Regulation 12 (4)</b> | Licensee must indicate the complaints handling procedure   |                       |                       |                       |                       |                          |
|                          | <b>Liquid Telecom</b>  | <b>MTN</b>            | <b>Vodacom</b>        | <b>Cell C</b>         | <b>Telkom</b>         | <b>Broadband Infraco</b> |
| Reporting period         | Feb – July 2022  | March – Aug 2022      | Feb – July 2022       | Feb – July 2022       | Feb - July 2022       | April – Sept 2022        |
| Findings                 | Licensee no longer provides services to Individuals; services are provided to businesses.  | Indicated = Compliant | Indicated = Compliant | Indicated = Compliant | Indicated =Compliant  | Indicated = Compliant    |

|   |  |                       |                       |                      |                       |                          |
|---|--|-----------------------|-----------------------|----------------------|-----------------------|--------------------------|
|   | Individually dealt with in terms of contracts and service level agreements with the customers.   |                       |                       |                      |                       |                          |
| <b>Regulation 12 (6)</b> Licensee must acknowledge receipt within forty -eight (48) hrs                     |  |                       |                       |                      |                       |                          |
|   | <b>Liquid Telecom</b>  | <b>MTN</b>            | <b>Vodacom</b>        | <b>Cell C</b>        | <b>Telkom</b>         | <b>Broadband Infraco</b> |
| Reporting period  | Feb – July 2022  | March – Aug 2022      | Feb – July 2022       | Feb - July 2022      | Feb - July 2022       | April – Sept 2022        |
| Findings  | Licensee no longer provides services to Individuals; services are provided to businesses. Individually dealt with in terms of contracts and service level agreements with the customers. | Indicated = Compliant | Indicated = Compliant | No info= followed up | No info = followed up | Indicated = Compliant    |
| <b>Regulation 12(7)</b> Licensee must indicate how many complaints were resolved within fourteen (14) days. |  |                       |                       |                      |                       |                          |
|   | <b>Liquid Telecom</b>  | <b>MTN</b>            | <b>Vodacom</b>        | <b>Cell C</b>        | <b>Telkom</b>         | <b>Broadband Infraco</b> |
| Reporting period  | Feb – July 2022  | March – Aug 2022      | Feb – July 2022       | Feb - July 2022      | Feb - July 2022       | April – Sept 2022        |

|   |  |                       |                       |                                  |                       |                          |
|---|--|-----------------------|-----------------------|----------------------------------|-----------------------|--------------------------|
| Findings  | Licensee no longer provides services to Individuals; services are provided to businesses. Individually dealt with in terms of contracts and service level agreements with the customers. | Indicated = Compliant | Indicated = Compliant | Information included = Compliant | No info – followed up | Indicated = Compliant    |
| <b>Regulation 12 (12)</b>   |  |                       |                       |                                  |                       |                          |
| Licensee must indicate how many complaints were referred to the Authority for resolution. |  |                       |                       |                                  |                       |                          |
|   | <b>Liquid Telecom</b>  | <b>MTN</b>            | <b>Vodacom</b>        | <b>Cell C</b>                    | <b>Telkom</b>         | <b>Broadband Infraco</b> |
| Reporting period  | Feb – July 2022  | March – Aug 2022      | Feb – July 2022       | Feb – July 2022                  | Feb - July 2022       | April – Sept 2022        |
| Findings  | Licensee no longer provides services to individuals; services are currently provided to businesses.  | Indicated = Compliant | Indicated = Compliant | No info = followed up            | No info = followed up | Indicated = Compliant    |
| <b>Regulation 12 (12)</b>   |  |                       |                       |                                  |                       |                          |
| 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 2022   | March – Aug 2022  | Feb – July 2022       | Feb – July 2022       | Feb - July 2022       | April – Sept 2022     |
| Findings         | Licensee no longer provides services to individuals, services are currently provided to businesses. | No info = being finalised - (according to the licensee, it could not provide the stats due to incorrect reporting, case duplications , and erroneous systems based on SLA notices by ICASA Complaint Unit. MTN has since escalated the matter to the Authority (ICASA), | Indicated = Compliant | Indicated = Compliant | No info = followed up | Indicated = Compliant |

|  |  |   |  |  |  |  |
|--|--|---|--|--|--|--|
|  |  | and it has<br>not yet<br>received<br>correct SLA<br>Notices<br>from ICASA |  |  |  |  |
|--|--|---|--|--|--|--|



### 5.6.2 Loadshedding Impact on network availability : Longitudinal Analysis

With the loadshedding stages having gone up ( i.e. with an implication of more hours of power being off) Licensees have when submitting their network availability reports in terms of regulation 9 and notice in terms of 16 ( regarding impossibility of performance) of the End -User and Subscriber Service Charger Regulations indicated the basis of the network unavailability being a direct result of loadshedding.

The above reports by Licensees have further been corroborated by articles such as the following:

- ✓ In accordance with Techcentral<sup>16</sup> *"Load shedding is proving to be a hugely expensive problem for South Africa's mobile operators, which are battling day in and day out to keep their networks running during extended periods without electricity"*;
- ✓ *"The ongoing loadshedding is significantly hampering the telecommunications companies' ability to provide consistent, reliable communications services"*<sup>17</sup> ;
- ✓ *"South Africa's protracted and more frequent power cuts are having a significantly negative impact on the country's mobile network operators. Although the industry has proactively spent billions of rand in backup power solutions for network stability and continuity, customers are increasingly becoming frustrated when they experience a drop in network performance during higher levels of loadshedding"*<sup>18</sup>.

## 5.7 Interconnection Agreements

Section 39 of the ECA obliges Licensees to submit, for the Authority's review, any interconnection agreement that they have entered into, no later than seven (07) days from the date of signature of the agreement.

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<sup>16</sup> <https://techcentral.co.za/the-terrible-toll-of-load-shedding-on-sas-mobile-networks/219424/> - article by Techcentral, published on 23 January 2023

<sup>17</sup> <https://www.engineeringnews.co.za/article/telcos-feeling-pressure-of-sustained-levels-of-loadshedding-2023-02-24> - article by Engineering News, published 24 February 2023

<sup>18</sup> <https://it-online.co.za/2022/12/22/sustained-loadshedding-puts-pressure-on-network-operators/> - article by IT-online published 22 December 2022.

The Authority's review of the submitted agreements is undertaken in line with the provisions of (i) section 39 of the ECA; (ii) the Interconnection Regulations<sup>19</sup>; and (iii) the Call Termination Regulations<sup>20</sup>, as amended.

The review takes into account factors such as financial and technical feasibility, quality of service, non-discrimination and transparency by the interconnection providers towards interconnection seekers. In the event that one or more of the required principles are not adhered to, the ECS/ECNS Compliance Unit will notify the parties to rectify the non-compliance to ensure that the agreement meets the set regulatory requirements. In instances of legislative or regulatory non-compliance, the contravention may be referred to the CCC, for hearing and adjudication.

For the period under review ( financial year), the Authority has received 22 interconnection agreements for review and approval. Only 20 out of the 22 received were reviewed and approved within the legislated timeframe.

## **5.8 Facilities Leasing Agreements**

Section 43 of the ECA creates an obligation on Licensees to file their agreements on the leasing of their electronic communications facilities. Upon review of the facilities leasing agreements, the ECS/ECNS Compliance Unit must ensure that licensees comply with the provisions of the ECA and the Facilities Leasing Regulations<sup>21</sup>. Where there is non-adherence to any of the legislative or regulatory requirements, the lodging party will be notified and afforded an opportunity to provide additional information and/or to clarify the area concerned.

The Authority has received 11 facilities leasing agreements for review and approval. Only 10 out of 11 were review and approved within the prescribed timeframe.

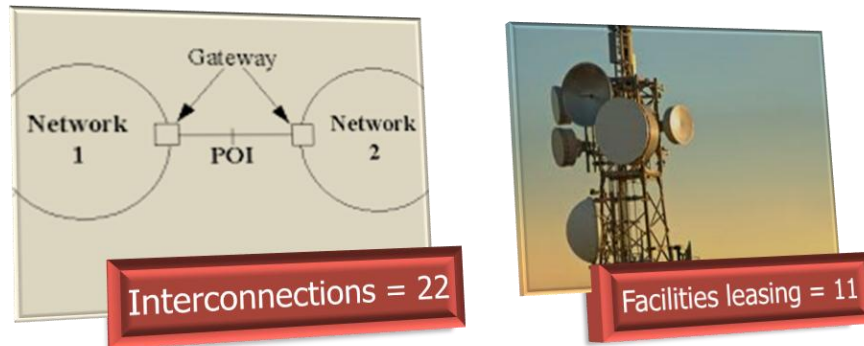
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<sup>19</sup> Interconnection Regulations as published in *Government Gazette* No. 33101 of 9 April 2010.

<sup>20</sup> Call Termination Amendment Regulations, 2017 published in *Government Gazette* No. 41132 dated 22 September 2017.

<sup>21</sup> Electronic Communications Facilities Leasing Regulations, 2010.

**Figure 15: Interconnection & Facilities Leasing Agreements numbers**



## **6 REFERRAL TO THE COMPLAINTS AND COMPLIANCE COMMITTEE (CCC)**

A Licensee that may contravene or does not comply with any of the provisions of the applicable legislation and/or Regulations, will be referred to the CCC for hearing and adjudication. However, prior to the referral to the CCC, where instances of non-compliance are identified, the ECS/ECNS Compliance Unit will communicate with the relevant Licensee and accordingly guide them with a view to ultimately achieving compliance.

In cases of gross and or repeated contravention(s), a referral will be made to the CCC for investigation, hearing and adjudication. However, to ensure a fair administrative process, a letter will be written to the Licensee concerned, 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.

During the current financial year, no Licensee was referred to the CCC as major compliance was attained through Licensee submissions and rigorous follow ups as well as providing assistance to any Licensee that may have had some or other difficulty to comply with the relevant legislative and regulatory obligations.

## **7 CONCLUSION**

- 7.1 In the financial year under assessment, the ECS/ECNS Compliance Unit has by and large managed to monitor compliance over a broad range of compliance aspects and report on 63 class and individual Licensees.
- 7.2 There is a considerable improvement on compliance with their legislative, regulatory obligations and licence terms and conditions by most Licensees, which is encouraging. The improvement is looked at generally comparing it to the previous years and also taking into account the compliance dip that occurred as a result of the disruption brought on by COVID-19 pandemic.
- 7.3 During and at the height of the pandemic, fewer submissions were received, and Licensees had to deal with disruptions to their normal operations than they were accustomed to before, Licensees re-organised their work schedule to set up work from home protocols and the fatalities they experienced, all of which had a negative impact on the compliance levels.
- 7.4 The improved levels of compliance are demonstrated by more compliance submissions and more payments received. The improvement is looked at by comparing to the previous years (pre the COVID -19 pandemic) and taking into account the compliance dip that occurred as a result of disruption brought on by the COVID -19 pandemic. It is expected that compliance by all Licensees will improve for the better as the operating environment returns to normal.

**MARCH 2023**