



## Independent Communications Authority of South Africa

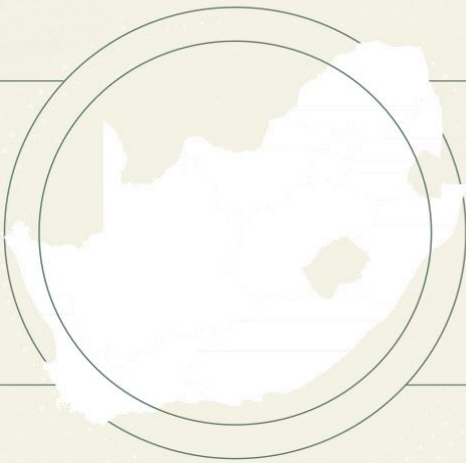
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**March 2024**



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

**2023/2024**

Important notice: The compliance information contained in this report, is for the financial year 2023/2024. However, the financial information of Licensees, is for 2022/2023 (always reported a year in arrears because it is the latest available information).



INDEPENDENT COMMUNICATIONS  
AUTHORITY OF SOUTH AFRICA

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## **1. EXECUTIVE SUMMARY**

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

Based on the above, 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-five (65) ECS/ECNS Licensees have complied with the relevant legislation, Regulations and their respective licence terms and conditions. The sixty-five (65) Licensees comprise forty (40) Individual Licences and twenty - five (25) Class Licensees. The Licensees' sample is representative of a broad range of Licensees, i.e. small, medium, major, top earners.

## 2. **ACRONYMS**

Acronym	Description
CCC	Complaints and Compliance Committee
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 ECS-ECNS compliance analysis and assessment for the year in review has taken into consideration the compliance submissions received from Licensees in accordance with the prevailing legislation relevant licence terms and conditions and various Regulations outlined in this report.

Table 1 below displays the Licensees that were monitored during the 2023/2024 financial year. The level of compliance per Licensee is demonstrated in the relevant sections of the report.

**Table 1: Monitored Licensees**

No.	Licensee	Licence Type	Financial Year-end
1.	Ask Internet Technologies	Class	February
2.	Accessglobal Communication (Pty) Ltd	Individual	February
3.	Axxess DSL (Pty) Ltd	Individual	March
4.	Balwin Fibre (Pty) Ltd	Class	February
5.	Blue Shadow Investments (Pty) Ltd	Class	February
6.	Brilliant Telecommunications (Pty) Ltd	Individual	March
7.	Broadband Infracore	Individual	March
8.	BT Communication (Pty)Ltd	Individual	March
9.	Bundu Networx (Pty) Ltd	Class	February
10.	CELL C Limited	Individual	December
11.	Compatel Africa (Pty) Ltd	Individual	December
12.	Comsol Network (Pty) Ltd	Individual	February
13.	C-Way Computers CC	Individual	February
14.	Cybersmart (Pty) Ltd	Individual	February
15.	Draadloze Broadband Internet (Pty) Ltd	Class	February
16.	Eden Wireless (Pty) Ltd	Class	February
17.	Enyuka Internet Access	Class	February
18.	EOH Mthombo	Individual	February
19.	Equation Business Solutions (Pty) Ltd	Class	February
20.	Faircape Communications t/a Faircom	Class	February
21.	Fibresky (Pty) Ltd	Class	February
22.	First Technology (Pty) Ltd	Individual	February
23.	Gateway	Individual	December
24.	GS Telecom	Individual	March
25.	Huge Telecoms (Pty) Ltd	Class	February
26.	Hymax Talking Solutions (Pty) Ltd	Class	September
27.	Iconnect SA (Pty) Ltd	Individual	February
28.	Info-Gro	Individual	July
29.	InfoStream Technologies	Class	February
30.	Internet Solutions	Individual	February
31.	JSDAAV ZA Telecoms	Individual	February
32.	KAB Technologies	Class	February
33.	Kingsley Technologies (Pty) Ltd	Class	February
34.	LBJ Groenewald	Class	February
35.	Liquid Telecommunications South Africa (Pty) Ltd	Individual	February

<b>No.</b>	<b>Licensee</b>	<b>Licence Type</b>	<b>Financial Year-end</b>
36.	Metro Fibre (Pty) Ltd	Individual	February
37.	Mobile Telephone Networks (Pty) Ltd (MTN)	Individual	December
38.	Mzansi Lesetta Media	Individual	February
39.	Neofibre	Class	February
40.	North Coast Wireless	Class	February
41.	Orange Business South Africa (Pty) Ltd	Individual	December
42.	Paratus Telecommunications (Pty)Ltd	Class	March
43.	Pindrop	Class	February
44.	Platformity CC	Individual	March
45.	Platoon Trade and Investment	Individual	March
46.	Premium Wireless	Class	February
47.	Radiospoor (Welkom) (Pty) Ltd	Individual	March
48.	Rain Networks (Pty) Ltd	Individual	February
49.	Reflex Communications (Pty)Ltd	Individual	March
50.	RSA Web Internet Services	Individual	March
51.	Seacom	Individual	December
52.	Sentech	Individual	March
53.	Smartcall Technology (Pty) Ltd	Individual	March
54.	SMS Portal (Pty) Ltd	Individual	March
55.	Telemedia	Individual	February
56.	Tertiary Education and Research Network of South Africa	Individual	March
57.	Tradepage (Pty)Ltd	Individual	March
58.	True Trade	Class	March
59.	Verbisource (Pty) Ltd	Individual	February
60.	Verizon South Africa (Pty)Ltd	Class	April
61.	Vodacom	Individual	March
62.	Web Africa (Pty)Ltd	Individual	March
63.	Work online Communications (Pty) Ltd	Class	March
64.	Xnet Internet Services (Pty)Ltd	Individual	March
65.	Xtranet Internet Services CC	Individual	March

Figure 1 below illustrates the numbers of Licensees assessed for compliance over the last eleven years.

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

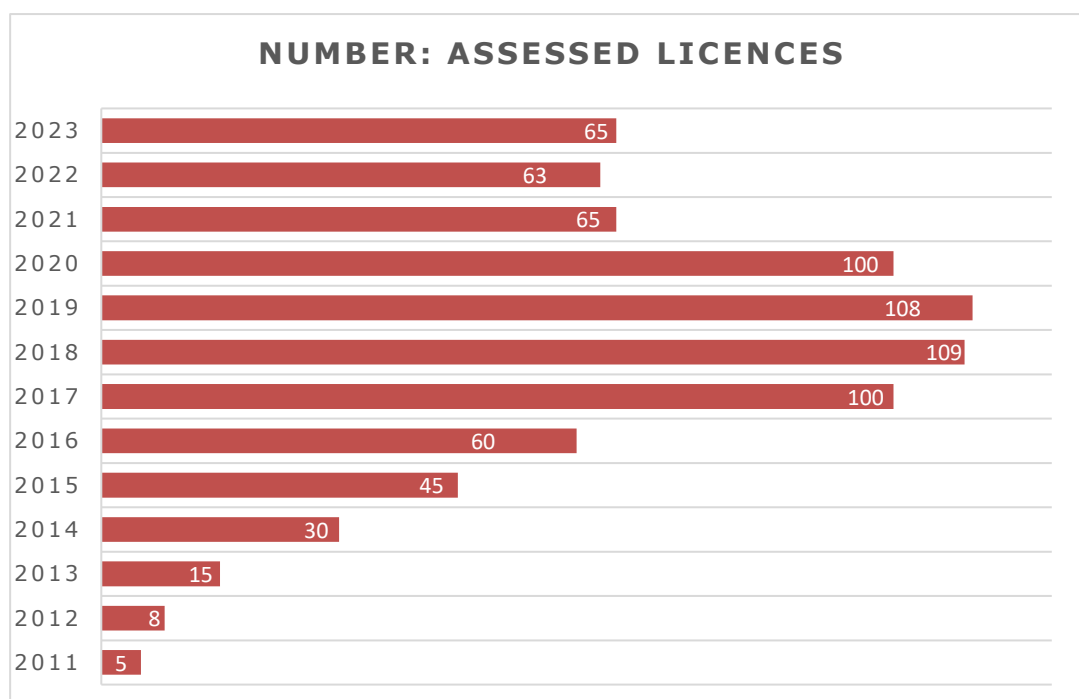


Table 2 below shows the financial year ends of the sixty-five Licensees that were assessed and reported on. It is evident from the table below that most of the Licensees' financial year end is February, followed by March with the least common months being April, July, September and December. A licensee's financial year end influences the payment of licence fees and USAF contribution to the Authority. The requirement in terms of the General License Fee Regulations, 2012 states 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	35
March	22
April	1
July	1
September	1
December	5

Licensees are required to provide at 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 General Licence Fees Regulations, 2012 and the Universal Service and Access Fund Regulations, 2011). The financial forecasts are later be reviewed against the actual finalised/audited financials when those are made



available to the Authority in accordance with the General Licence Fees Regulations.

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

In accordance with its mandate outlined in chapter 3 of the ECA, the Authority issues and grants ECS and ECNS licences, to any eligible applicant. Thereafter, to the has a duty to ensure that Licensees comply with their legislative and regulatory obligations together with their respective licence terms and condition. The legislative framework also provides for “resellers”<sup>1</sup> which are entities that provide electronic communications services yet they do not require a licence and accordingly, those will be granted exemptions.

The ECS and ECNS Licensees provide services such as, 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. The Other Licensees provide data services as Internet Service Providers (ISPs)

Table 3 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

<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.

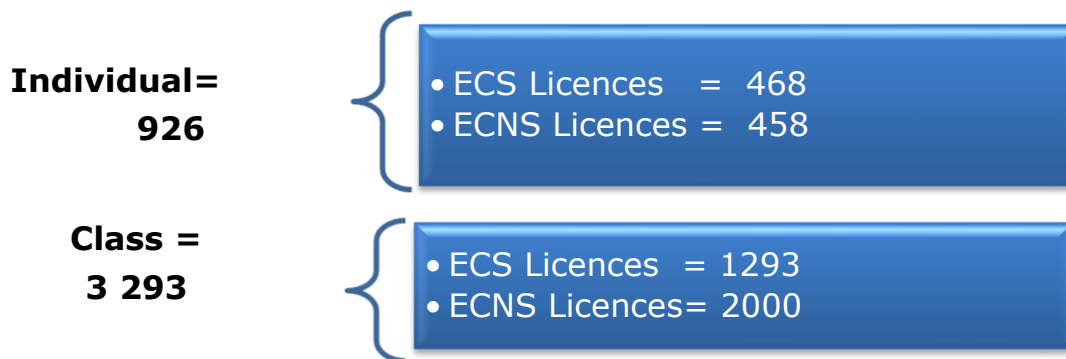
3.	Compliance Procedure Manual Regulations, 2011 (CPMR)
4.	Regulations on Standard Terms and Conditions for Individual Licences, 2010
5.	Regulations on Standard Terms and Conditions for Class Licences, 2010
6.	Processes and Procedures Regulations for Individual Licences, 2010
7.	Processes and Procedures 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

In accordance with the Authority's records as at 13 February 2024, the Authority had issued a total of four thousand two hundred and nineteen (4 219) 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.

Annually, the ECS-ECNS Compliance Unit endeavours to compile annual reports for large, medium, and small licensees, categorized as Individual and Class. The Unit compiles reports for all major Licensees such as Vodacom, MTN, Cell C, RAIN, and Liquid Telecoms. However, concerning medium and small licensees, the Unit compiles reports on a rotating basis annually to provide an overview of compliance for those Licensees and to avoid reporting on the same licensees each financial year.

**Figure 2: Number of Licensees**

**TOTAL NUMBER OF LICENSEES : 4 219**



## **5. COMPLIANCE FINDINGS**

Flowing from the compliance monitoring that was conducted for the financial year 2023/2024, the findings with respect to selected licensees is 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 as per relevant percentages detailed on a sliding scale of revenue licensees have generated from their licensed services (the sliding scale is shown on table 4, below)<sup>3</sup>:

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

According to the said Regulations, the payable licence fees are calculated using the formula below:

“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)”.

<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.*

**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 further requirement is that the financials either be audited or signed off by their Accounting Officer<sup>5</sup>.

Where Licensees fail to pay within the prescribed time, interest will be charged on the amount due. Non-payment of fees constitutes non-compliance and could result in a referral to the Complaints and Compliance Committee (CCC).

In as far as the period under review is concerned, the highest GLF licence fees paid by a single licensee, amounts to R210,064,955.00 and the lowest being R64.40. The GLF Regulations do not exempt any licensee from payment of licence fees, regardless of the amount generated from licensed services. Any Licensee that for whatever reason may not generate any revenue have to prepare a nil-revenue report from their auditors for submission to the Authority.

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

On the other hand, the USAF Regulations<sup>6</sup> prescribe that Licensees must pay an annual contribution of 0.2% of their annual turnover (as a general percentage, which may be reduced to lesser percentages in instances of Licensees that qualify for certain deductions provided for in the Regulation). The Regulations also provide for contributions by Licensees, to the Universal Service and Access Fund (USAF). The calculations and contributions for USAF must similarly be done within six months of the financial year end of each Licensee. Where any Licensee may fail to pay within the prescribed period,

<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.

interest will also be charged on the amount due.

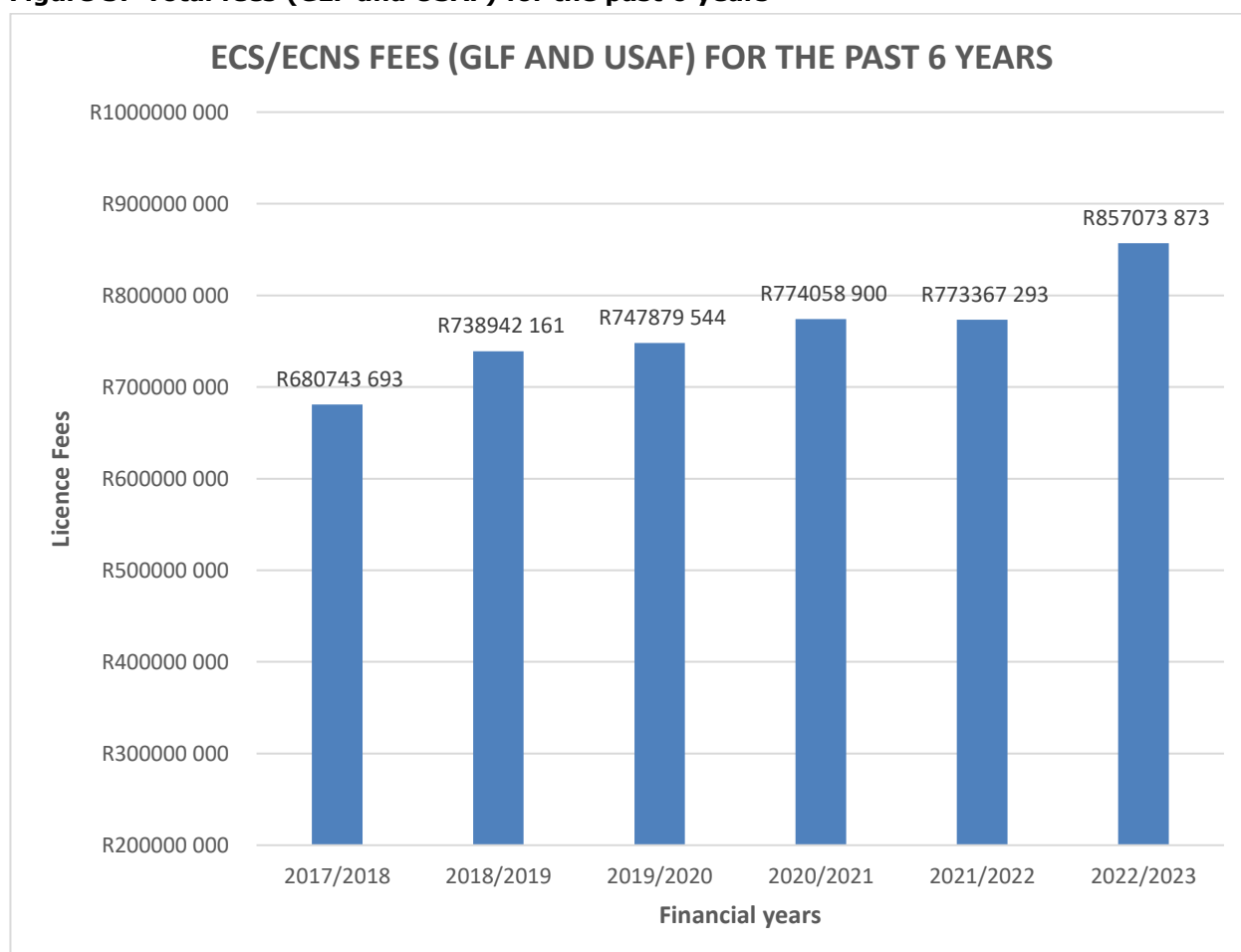
For the current assessment period, the USAF contributions paid range from R99,089,200.00 as the highest, with R 85.86 as the lowest.

Table 5 below shows total fees (GLF and USAF) paid by the sixty-five Licensees reported on.

**Table 5: Total Fees (GLF and USAF) collected for the 2022/2023 Financial Year**

Fees	Amount
GLF	R589,791,069.8
USAF	R267,282,803.5
<b>Total Fees Collected</b>	<b>R857,073,873.3</b>

**Figure 3: Total fees (GLF and USAF) for the past 6 years**



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

#### 5.3.1 Mainstream schools:

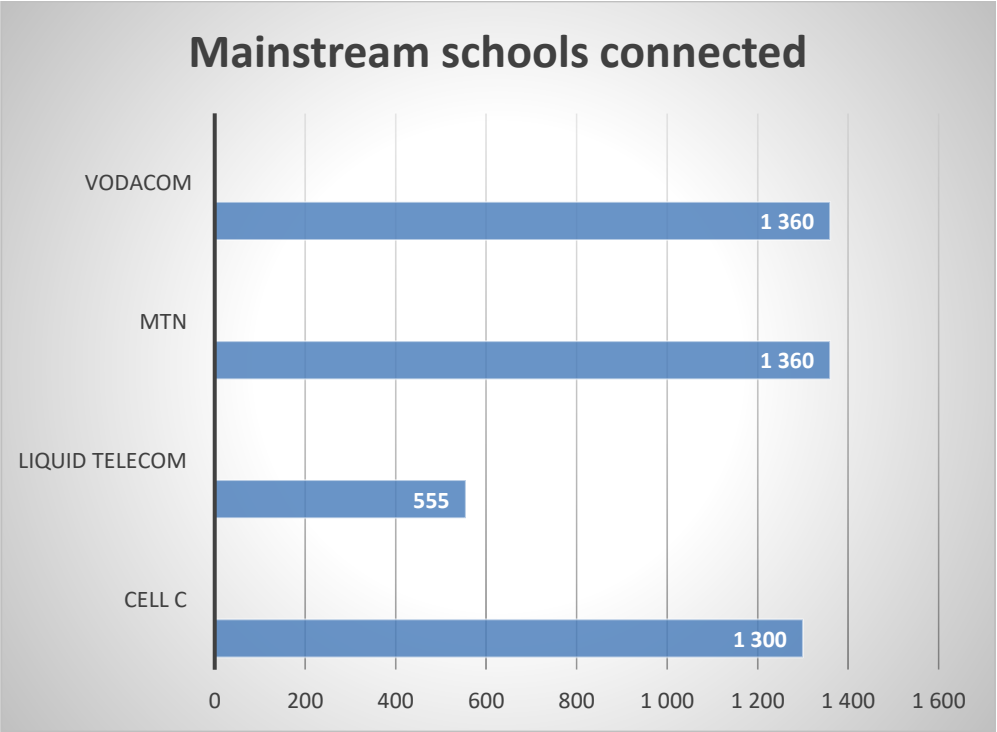
The Universal Service and Access Obligations (USAOs) are mandatory stipulations imposed on operators/Licensees, requiring, inter alia, network rollout or the provision of facilities or services to under-serviced areas and communities.

Not all Licensees had USAO obligations imposed on them. The obligations are applicable to only seven<sup>7</sup> licensees (Cell C, MTN, Vodacom, Liquid Telecoms, Sentech, Rain and Telkom).

It is noteworthy that the rollout with respect to the Mainstream schools has been completed in the previous financial years and the Compliance Unit continues to receive compliance reports that indicate continued maintenance of rolled out schools.

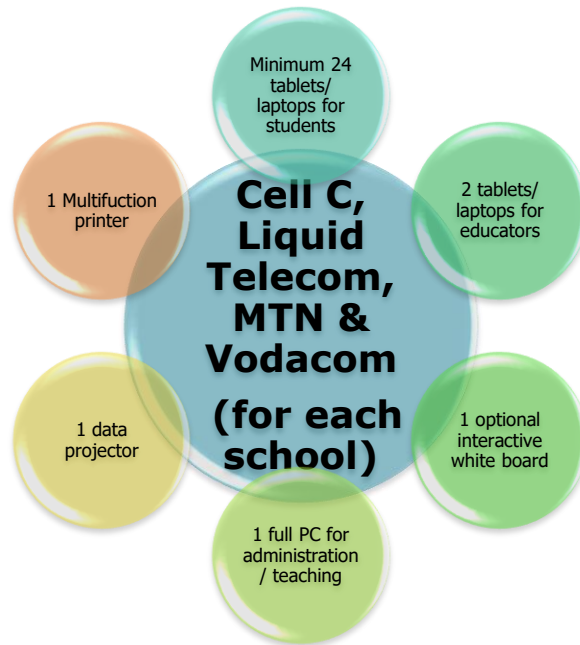
Figure 4 below details the Mainstream Schools where USAOs were rolled-out by Cell C, Liquid Telecoms, MTN and Vodacom.

**Figure 4: Mainstream schools rolled out:**



**Figure 5: Tools and equipment each Licensee has rolled out (mainstream schools)**

<sup>7</sup> Cell C, Liquid Telecom (formerly Neotel), MTN, Vodacom, Telkom, Sentech and Rain (formerly WBS)  
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The diagram above shows the various equipment each Licensee has rolled out or provided to the participating schools.

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

To ensure a process that was informed by a broad range of relevant stakeholders, the Authority in 2017 commenced consultative discussions with organisations representing people with disabilities, government departments i.e. the Department of Telecommunications and Postal Services (DTPS) at the time 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 the four (4) relevant Licensees (Vodacom, MTN, Cell C and Liquid Telecom) and gave each licensee one (1) LSEN school to connect as a pilot project.

Subsequent to the groundwork that Licensees engaged in as part of preparing for this roll-out, Licensees then connected their pilot schools and thereafter, each Licensee provided the Authority with feedback of experiences encountered 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 6 : Connectivity obligations: Schools for Learners with Special Educational Needs (LSEN)**

Licensee	Schools allocated	Schools connected	Comment
	140	140	Roll-out completed.
	140	86	Roll-out underway.
	102	93	A new list of schools has been provided to Liquid Telecoms, as the previous DBE list that had been allocated was that of private schools.
	108	16	The Authority continues to engage Cell C to finalise its roll – out. The Licensee maintains its commitment to the roll-out despite its financial difficulties.

### 5.3.3 Universal Service Obligations (USAOs) (Other Licensees)

In 2016 the Authority constituted a Universal Service and Access Obligation Council Committee with the objective of amend the USAOs of Telkom, Sentech and Rain.

**Table 7 : USAO – Other Licensees**

	Sentech is currently connecting ten CET sites in the Western Cape and Gauteng provinces, respectively. The close-up report of the connected college site is only due at the end of March 2024.
	Rain is currently connecting ten CET sites in Western Cape and Gauteng province. The close-up report of the connected college site is only due at the end of March 2024.
	A list of one hundred and seventy-eight (178) Thusong Service Centres was provided to the Authority by DCDT. These are the centres that Telkom must provide connectivity to, when the process to amend the legacy obligations is finalised and agreed to. The process to amend Telkom obligations remains underway.



#### **5.4 Compliance Procedure Manual Regulations (CPMR)<sup>8</sup>**

The key objective of the Compliance Procedure Manual Regulations is to streamline the submission of compliance information. The required compliance information is captured into forms that Licensees are then required to complete periodically and submit to the Authority.

The various compliance forms give a picture of Licensees' 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 has as its main objective the ascertainment of Licensees' basic company information and the structure. This enables the Authority to have a better picture of 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.

Pursuant to the publication of the Regulations in respect of the Limitations of Control and Equity Ownership by HDGs, 2021<sup>9</sup>, bigger Licensees are required to ensure an attainment of the minimum 30% equity shareholding stake in line with the requirements of section 9 (2) (b) of the ECA.

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

**Shareholding:** It still clear that a lot of both individual and class Licensees do not have the 30% of its staff ( more especially shareholding) being from historically disadvantaged groups.

Historically, the uptake in relation to HDG ownership by Licensees has been 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

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<sup>8</sup> Published in *Government Gazette* No. 34863 dated, 15 December 2011.

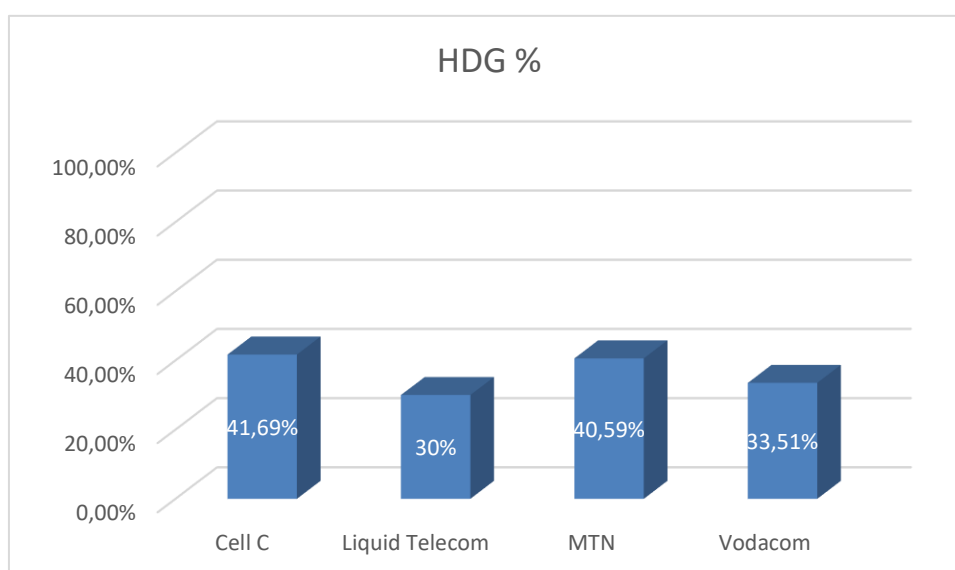
<sup>9</sup> Published in *Government Gazette* No. 44382 dated, 31 March 2021.

in terms of section 13 of the ECA and/renew their licence in terms of section 11 of the ECA, however as indicated above, there should be a gradual improvement of this from 1 April 2024, with the coming into effect of the of the coming into effect of the Limitations of Control and Equity Ownership by HDGs, 2021.

### 5.5.3 Historically disadvantaged groups (HDGs) Shareholding

The HDG shareholding percentage of five major licensees are shows the comply with the 30% minimum that will be applicable from, 01 April 2024, as illustrated below.

**Figure 8: Main Licensees - HDG Shareholding**



Despite the aforementioned points, it remains evident that the overall female shareholding within the industry is significantly lower when compared to the country's demographics. Table 6 below illustrates a sample of small Licensees in terms of their HDG.

**Table 6: HDG (other Licensees)**

No.	Name	%HDG	% Woman-owned
1.	Ask Internet Technologies	0%	0%
2.	Balwin Fibre (Pty) Ltd	0%	0%
3.	Bundu Networx (Pty) Ltd	100%	90%
4.	Compatel Africa (Pty) Ltd	0%	0%

No.	Name	%HDG	% Woman-owned
5.	C-Way Computers CC	0%	0%
6.	Cybersmart (Pty) Ltd	25.88%	12.94%
7.	Fibresky (Pty) Ltd	0%	0%
8.	First Technology (Pty) Ltd	51%	30%
9.	Global Network Systems (Pty) Ltd	0%	0%
10.	Metro Fibre (Pty) Ltd	30.1	12.05
11.	Hymax Talking Solutions (Pty) Ltd	30%	0%
12.	Iconnect SA (Pty) Ltd	30%	0%
13.	KAB Technologies	0%	0%
14.	LBJ Groenewald	0%	0%
15.	Pindrop	22.72%	0%
16.	Switch Telecom (Pty) Ltd	15%	15%
17.	Tru Trade 105 (Pty) Ltd	0%	0%
18.	Boland Connect (Pty) Ltd	0%	0%
19.	CMC Networks	30%	0%
20.	Community Monitoring Services (Pty) Ltd	0%	0%
21.	Digital Dynamix cc	50%	50%
22.	I Sky Wifi (Pty) Ltd ta Skynology	0%	0%
23.	iCtel (Pty) Ltd	0%	0%
24.	Infinity Wireless (Pty) Ltd	0%	0%
25.	InterActive Systems Designs (Pty) Ltd	0%	0%
26.	Izwi Technology Group (Pty) Ltd	0%	0%
27.	Jenny Internet (Pty) Ltd	0%	0%
28.	Metacom (Pty) Ltd	9%	9%
29.	MikrotikSA Network cc	0%	0%
30.	Telviva (Pty) Ltd	14.36%	14.84%

#### **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 that White people especially males still lead, followed by Black, Indian and Coloured people.

**Table 7: Management figures**

Licensee name	Female	Male	Blacks	Coloured	Indians	Whites	Total
Broadband Infracore	14	12	25	1	0	0	26
MTN	649	407	479	108	217	252	1 633
Liquid Telecom	43	70	31	15	8	37	173
Sentech	26	52	61	17	1	9	105
Vodacom	33	183	85	38	79	99	432
Cell C	26	74	36	18	11	35	164
Telkom	474	810	537	119	163	465	2 031

#### **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 5.1 and 5.2, above.

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

This form creates a platform for Licensees provision of information with respect to E-rate services provided. 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>10</sup>, something that is beyond the control of the Authority.

<sup>10</sup> Published in *Government Gazette* No. 31979 dated, 3 March 2009.

### 5.5.7 Other Forms

In addition to the Forms mentioned above, there are a few more forms that apply to ECS/ECNS licensees. These forms are also analysed for purposes of ensuring compliance. In as far as this financial year is concerned, there were no major compliance concerns picked up from these forms mentioned in Figure 9 below, to necessitate any further action such as an inspection or investigation.

**Figure 9: 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: Complants report</b>	•provides information in relation to the extent to which licensees receive complaints and how they are attended to.

## 5.6 End User and Subscriber Service Charter Regulations, 2009<sup>11</sup>

### 5.6.1 Network Availability

The End User and Subscriber Service Charter Regulations (EUSSC Regulations) create various compliance obligations ( more details contained below) for Licensees to report on the performance of their network availability.

<sup>11</sup> Published in *Government Gazette* No 32431 – dated, 24 July 2009.  
**ECS/ECNS Annual Compliance Report 2023/2024**

The report below (table 9) paints a picture of compliance with the EUSC Regulations by key industry players i.e. Liquid Telecom, MTN, Vodacom, Broadband Infraco and Telkom.

**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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	Fixed: 95% = Compliant  Fixed Wireless: 95% = Compliant	Fixed: 99% = Compliant  Fixed Wireless: 98% = Compliant  Mobile services = 94.03%  = Not Compliant (Impossibility of performance – loadshedding)	Fixed (Wireline) Services : 99.96% = Compliant  Fixed Wireless Services: 95.7% = Compliant  Optical Line Terminal: 99.58% = Compliant  Mobile Services: 99.50% = Compliant	No info = (followed up)	No info = (followed up)	Fixed :98.35 % = Compliant
<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.					
	<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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	Fixed: 95% = Compliant  Fixed Wireless: 95% = Compliant	Fixed wireless Services : 95% = Compliant  85.8% Mobile Services  = Not compliant (Impossibility of performance (Loadshedding )	Fixed (Wireline) Services : 99.96% = Compliant  Fixed Wireless Services: 95.7% = Compliant  Optical Line Terminal: 99.58% = Compliant	No info = (followed up)	No info = (followed up)	No info = (followed up)
<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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023



Findings	<p>Enterprise: 90% = Compliant</p> <p>Non-enterprise: 95%</p> <p>= Compliant</p>	<p>Mobile : 98.58%</p> <p>= Compliant</p>	<p>Fixed Services Residential Services: 96.60%</p> <p>= Compliant</p> <p>Business Services: 95.70%</p> <p>= Compliant</p> <p>Fixed Wireless Services : 99.98%</p> <p>= Compliant</p> <p>ENTERPRISE TECHNOLOGY</p> <p>Fixed Service: 97.80%</p> <p>= Compliant</p> <p>Business: 92%</p> <p>= Compliant</p> <p>Fixed Wireless Services: 96.3%</p> <p>= Compliant</p> <p>Fixed Services – Residential Services: 96%</p> <p>= Compliant</p> <p>Business Services: 95%</p>	No info = (followed up)	No info = (followed up)	No info = (followed up)
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			= 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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	95% Fixed wireless activated within 48 hours  = Compliant	46.15 hrs over 99% activated within 48hrs  = Compliant	100% activation within 48 hours – Mobile  = Compliant	No info = (followed up)	No info = (followed up)	No info = (followed up)
<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 2023	March – Aug 2023	Feb – July 2022	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	Website, SMS & telephone  = Compliant	Website and displayed at MTN Stores  = Compliant	No info = followed up	No info = followed up	Website  = Compliant	Telephone and Email  = 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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	Compliant	0.81% = Compliant	No info = followed up	No info = followed up	No info = followed up	0.65% over a no more than 3% target = compliant
<b>Regulation 12</b>						
	Operator assisted calls must be answered within three (3) minutes averaged over twelve (12) months. <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 2023	March – Aug 2022	Feb – July 2023	Feb – July 2023	Feb – July 2022	April – Sept 2023
Findings	No info = Followed up	MTN Prepaid call centres = 20.83 seconds; MTN Post-Paid call centres = 31 seconds; Enterprise call centre = 77.42 seconds; and Supersonic = 177.75 seconds, <b>averaged</b>	No info = Followed up	No info = followed up	No info = followed up	100% of calls answered in 3 minutes = Complaint

		<b>(annually) over the target of 3 min (i.e., 180 seconds):</b> = 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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	Not Indicated = Followed up	Indicated = Compliant	No info = followed up	No info = followed up	Indicated = Compliant	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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	Fixed : 90% cleared within 5 days' target  =Not compliant	Mobile Services: 96.89%	No Info – (followed up)	No info = followed up	Fixed =97.47% Mobile=98.09% = Compliant	100% over a 90% target = Compliant

	(matter taken up with Licensee)	cleared within 24 hrs = Compliant  Fixed Services: 91% cleared = 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 2023	March – Aug 2023	Feb – July 2022	Feb – July 2023	Feb – July 2023	April – Sept 2022
Findings	No info = followed up	= Not Compliant  Licensee reports to have embarked on a battery deployment exercise to mitigate the number of faults reported.	No info = followed up	No info = followed up	Fixed=93.28% Mobile=96.66% = 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 Infraco</b>

Reporting period	Feb – July 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	No info – (followed up)	Indicated = Compliant	No Info = (followed up)	No info = followed up	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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	No info = followed up	Indicated = Compliant	No info = followed up	No info = followed up	Indicated = Compliant	Indicated = Compliant
<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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	No info = followed up	Indicated = Compliant	No info = followed up	No info = followed up	No info = followed up	Acknowledged within three (3) days = Not Compliant ( matter to be taken up with Licensee)
<b>Regulation 12(7)</b>						
	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 2023	March – Aug 2023	Feb – July 2022	Feb – July 2023	Feb – July 2023	April – Sept 2023
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 (12)</b> 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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	No info ( followed up)	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 2023	March – Aug 2023	Feb – July 2023	Feb – July 2023	Feb – July 2023	April – Sept 2023
Findings	Licensee no longer provides services to	No info = followed up	Indicated = Compliant	No info = followed up	No info = followed up	Indicated = Compliant

	individuals, services are currently provided to businesses.					
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## **5.7 Interconnection Agreements**

In accordance with section 39 of the ECA, interconnecting Licensees are obliged 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. 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>12</sup>; and (iii) the Call Termination Regulations<sup>13</sup>, as amended.

Part of the review process Compliance to take 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 financial year under review, the Authority has received and approved thirteen (13) interconnection agreements for review and approval.

## **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>14</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.

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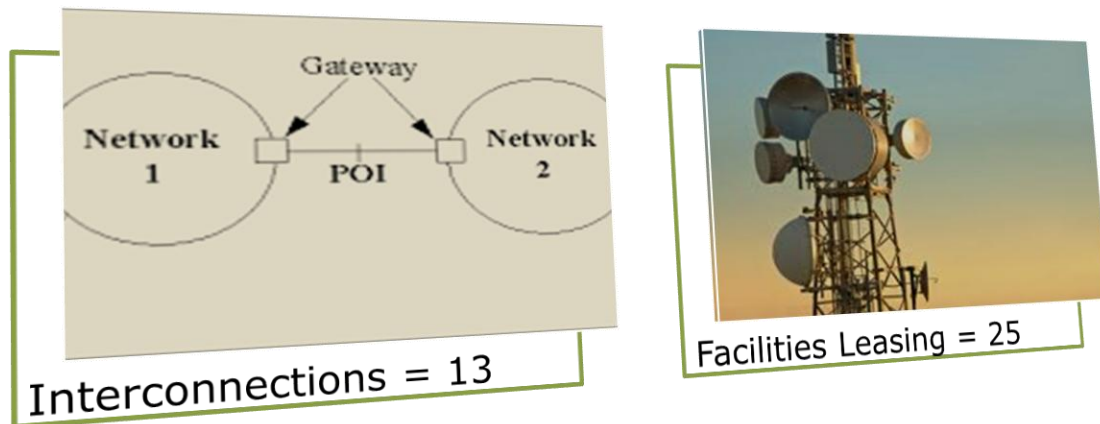
<sup>12</sup> Interconnection Regulations as published in *Government Gazette* No. 33101 of 9 April 2010.

<sup>13</sup> Call Termination Amendment Regulations, 2017 published in *Government Gazette* No. 41132 dated 22 September 2017.

<sup>14</sup> Electronic Communications Facilities Leasing Regulations, 2010.

The Authority has received and approved twenty-five (25) facilities leasing agreements for review and approval.

**Figure 10: Interconnection & Facilities Leasing Agreements numbers:**



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

Where a Licensee may contravene any regulatory obligation or as provided for in legislation, Regulations or licence terms and conditions, the ECS/ECNS Compliance Unit does its best to guide the relevant Licensee in an endeavour to ensure compliance. Where there is repeated non-compliance or blatant unwillingness to comply, then the Unit would refer the matter to the CCC for adjudication.

The ECS/ECNS Compliance Unit commences the process by sending a notice indicating to the Licensee that there is a potential contravention, outlining the details of the said potential non-compliance. The relevant Licensee is then invited to make written representations in response to the potential non-compliance in line with fair administrative justice. This process also enables the ECS/ECNS Compliance Unit to investigate all aspects of the potential contravention prior to the matter being referred to the CCC.

Once the written representation is received and analysed, the ECS/ECNS

Compliance Unit will determine whether it is indeed a contravention and where it is, the matter will be referred to the CCC.

During the current financial year, only one Licensee has been referred to the CCC.

## **7. NON- RESPONSIVE LICENSEES**

In its attempt to communicate with Licensees for a variety of compliance requirements/obligations, the ECS/ECNS Compliance Unit has encountered instances whereby e-mails that are sent to certain Licensees return undelivered. There were three hundred and eighty-one (381) of these Licensees. Several alternative ways were used in an endeavour to contact/trace these Licensees and all in vain.

The Unit then took a decision to have these published in a Government Gazette notifying the relevant Licensees of their obligation to contact the Authority with the outstanding compliance submissions or alternatively indicate to the Authority if these Licensees were no longer operational. For those that would indicate that they are no longer operational, that would enable the Authority to guide them on the relevant processes that would need to be followed.

The Government Gazette concerned was published on 3 August 2023, with a deadline for those Licensees to respond to the Authority by no later than 29 September 2023. A few of the Licensees requested an extension of the deadline to, 30 October 2023, which was then granted.

After the 30 October 2023, a total of two hundred and forty-two (242) had still not responded and only seventy-one (71), had responded. The other twenty-nine (29) were Licensees that were no longer operational (some having surrendered their licences and others having transferred theirs).

The two hundred and forty-two that have still not responded, the Unit has approached the Communications Department in the Corporate Division, to request assistance to consider having a wider publication, to reach those Licensees before drastic steps ( for instance suspending/revoking such Licences are considered). The

discussions with the Communications Unit resulted in an agreement that Communications would assist us in :

- ✓ regular publication of the Notice on the ICASA social media platforms calling upon the remaining non- responsive Licensees to come forward.
- ✓ Looking at alternative ways to publish the notice in an endeavour to reach those Licensees.

Regard should be had however to the fact that whatever steps that will follow subsequent to the second-round of publication of the notice, that will be done in consultation with Legal, to ensure that the process takes into account all the relevant considerations including fair administrative justice.

## **8. CONCLUSION**

8.1 The ECS/ECNS Compliance Unit has monitored compliance with respect to a broad range of compliance aspects on a number of both individual and class Licensees and to be able to report on the 65 covered herein.

8.2 Compliance levels are generally satisfactory despite even more Regulations being promulgated. The new additions/amendments to existing Regulations, often than not, create compliance teething challenges as Licensees would on occasion be grappling with seeking to comply therewith. However, Compliance dept continues to assist Licensees to be aware of their obligations as shown below.

(a) Publishing a government gazette annually that reminds Licensees of the dates within which financial forecasts are required, for the Authority to bill them accordingly (for optimum revenue collection). And the result is high financial compliance.

(b) Sending by email reminders to Licensees regarding any new Regulations or commencement date for compliance with other Regulations such as the HDGs Regulations where Licensees must comply therewith by 31 March 2024.

**MARCH 2024**