



Independent Communications Authority of South Africa

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**Report on Compliance Inspections relating to the
Code of Conduct Regulations, 2007**

1. PURPOSE

The purpose of this report is to present the findings of the inspections conducted by the Authority during the period December 2015 and February 2016 to assess compliance by Electronic Communications Service (ECS) licensees' retail outlets with the Regulations on Code of Conduct for Licensees of 2007 ("**the Regulations**").

2. BACKGROUND

As per the Authority's Annual Performance Plan 2015/16, the Regions division was tasked to conduct inspections to ascertain ECS/ECNS Licensees' compliance with the requirements of the Regulations.

The key objectives of the Regulations are to:

- Prescribe guidelines that set acceptable standard of conduct by licensees in their relations with consumers; and
- Protect the rights of consumers in the electronic communications sector.

In order to ensure consistency across all outlets the Regulations were used to develop an inspection form / questionnaire for the inspectors to complete when conducting the inspections. Some of the questions required mere observation in

order to be completed, yet others necessitated that the inspectors play a mystery shopper role.

In total, one hundred and sixty-two (162) outlets were inspected. The sample comprised:

- Thirty percent (30%) Vodacom outlets,
- Twenty-six percent (26%) MTN,
- Seventeen percent (17%) Cell C,
- Nine percent (9%) Telkom, and
- The balance consists of 'other' Licensees.

The category of 'other Licensees' includes *inter alia* service providers and retailers such as Altech Autopage, Game, Incredible Connection and Virgin Mobile. The regional distribution of the outlets inspected is as follows:

	Vodacom	MTN	Cell C	Telkom	Other
EC	5	7	3	1	3
WC	6	3	5	2	12
KZN	10	8	6	2	
MP	3			2	
FS/NC	2	2	1	2	
GP	22	23	13	5	14

3. DISCUSSION

The findings can be summarized as follows:

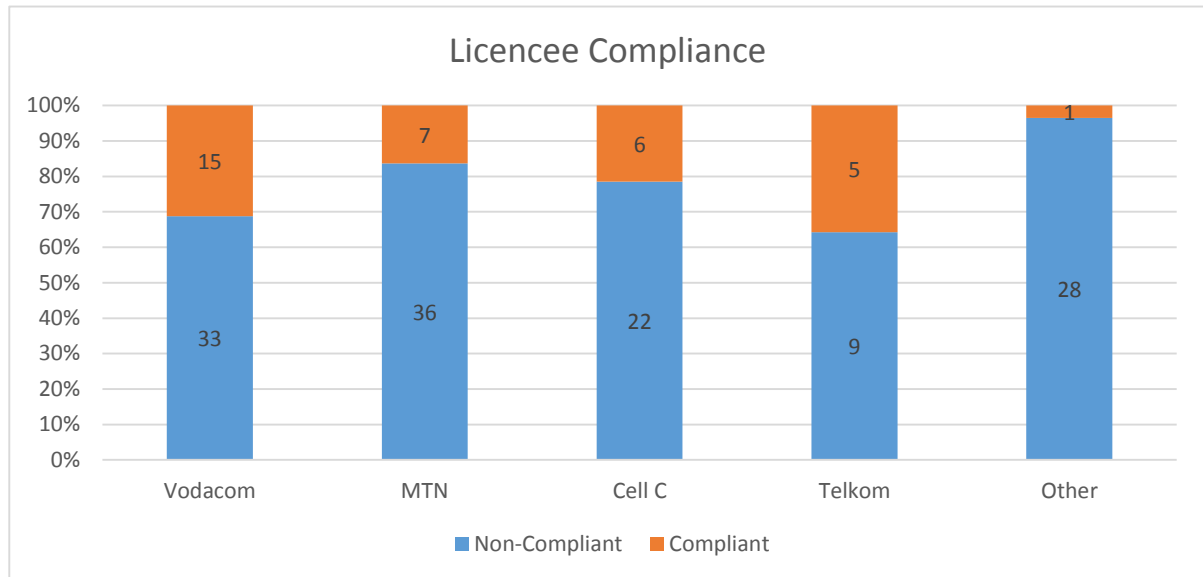


Figure 1: Overall Compliance

In the sample of outlets selected, the licensee with the highest level of non-compliance was MTN with eighty-four percent (84%), followed by Cell C at seventy-nine percent (79%) and Vodacom at sixty-nine percent (69%). The licensee with the lowest percentage of non-compliance was Telkom with a non-compliance rate of sixty-four percent (64%).

3.1 Key Areas of Non-compliance

3.1.1 The key area of non-compliance relates to the availability and visibility of the Code of Conduct in the retail outlets. This requirement is set out in terms of clause

3.2 of the Regulations. Sixty seven percent (67%) of the outlets inspected were non-compliant.

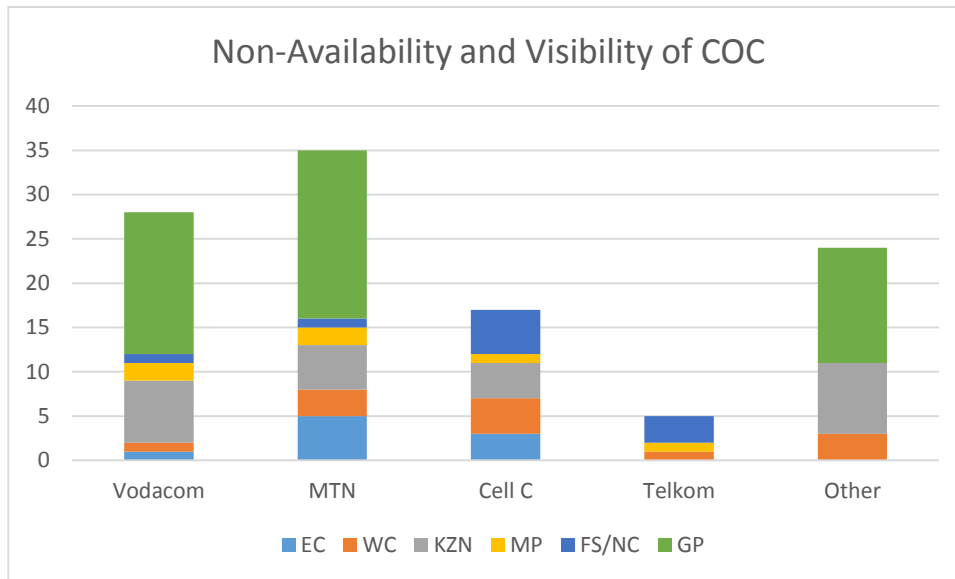


Figure 2: Non-availability and or visibility of Code of Conduct in-store

3.1.2 The compliance with regards to availability and visibility of the consumer complaints process in the outlets was only thirty-six percent (36%), therefore just under two thirds of the outlets did not have the consumer complaints process displayed in full view of their customers. This requirement is set out in terms of clause 3.13 of the Regulations which states that Licensees must prominently display their complaints handling procedures for consumers to note, including the option to refer the complaint to the Authority.

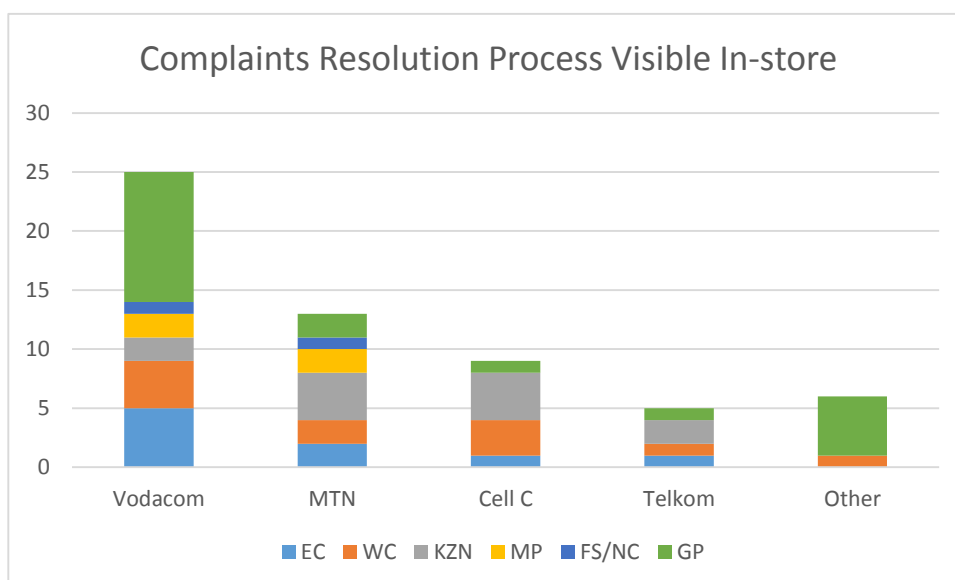


Figure 3: Display of Complaints Resolution Process

3.1.3 Code of Conduct not available for printing in English and at least one (1) or more official languages.

In the majority of outlets (57%), the code could not be made available in all official languages as per the requirements of clause 3.3 of the Regulations. As depicted in Figure 4, Vodacom was the most compliant on this measure (46% non-compliance), followed by Telkom at 50% non-compliance. The most non-compliant group of licensees in terms of making the code available in the required languages are the smaller players (other).

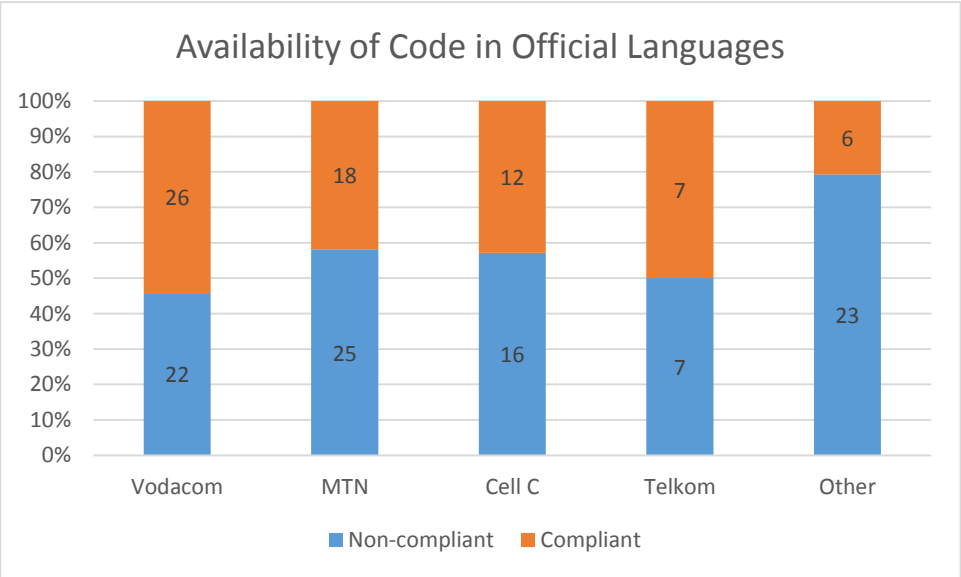


Figure 4: Availability of Code in All Official Languages

3.2 Challenges in Conducting the Inspections

The following challenges were experienced by the inspectors in conducting the inspections:

- The outlet Managers are not aware about ICASA and its mandate
- Outlet Managers are not aware about the code of conduct inspections taking place¹
- Some of the outlet Managers are not even aware that the Regulations exist
- Some of the outlet Managers were reluctant to give ICASA access to their premises to conduct inspections as they were not aware of ICASA and its mandate.

4. RECOMMENDATIONS

4.1 Recommendations in respect of Licensees' conduct and compliance

Insofar as licensees are concerned, the following is recommended:

4.1.1. The results are to be treated as a baseline and no immediate enforcement action to be taken against the non-compliant Licensees

4.1.2. Licensees are to be advised of the outcome in order for them to educate and inform all their retail outlets of the obligations with respect to the Regulations. The licensees are afforded until the 30th of June 2016 to remedy all areas of non-compliance.

4.1.3. Should the licensee fail to remedy the non-compliance within the stipulated time-frames, the Authority shall institute enforcement action as per the provisions

of the Electronic Communications Act No. 36 of 2005 read with the Independent Communications Authority of South Africa No. 13 of 2000.

4.1.5. This report has also be shared with the National Consumer Commission in accordance with the Memorandum of Agreement concluded the Authority and the NCC.

4.1.6. Finally, the report shall be published on the ICASA website to create awareness for both consumers and retailers about the Regulations.