COMPLAINTS AND COMPLIANCE COMMITTEE

DATE OF HEARING: 26 SEPTEMBER 2023,
9 SEPTEMBER 2024,
7 AUGUST 2025 AND
30 OCTOBER 2025

CASE NO: 454/2023

IN THE MATTER BETWEEN:

MOBILE TELEPHONE NETWORKS PROPRIETARY LIMITED — **COMPLAINANT**

V

SESSION TELECOMS PROPRIETARY LIMITED — **RESPONDENT**

CCC MEMBERS:

Judge Thokozile Masipa – Chairperson
Councillor Catherine Mushi – Member
Mr Peter Hlapolosa - Member
Mr Monde Mbanga - Member
Mr Thato Mahapa - Member
Mr Paris Mashile – Member
Ms Ngwako Molewa - Member

FROM THE OFFICE OF THE CCC:

Meera Lalla – Acting CCC Coordinator
Thamsanqa Mtolo - CCC Assessor
Amukelani Masia – CCC Administrator

LEGAL REPRESENTATION FOR PARTIES

For the Complainant - Ms K Hofmeyer SC

For the Respondent - APJ Els SC & AA Basson

JUDGMENT

Judge Thokozile Masipa

INTRODUCTION

[1] A report by Johannes Sekele, Technical Officer: Gauteng Region and the Investigation Team Leader, dated 12 January 2023 commenced in this manner:

> *"The purpose of this report is to inform the Executive Regions and Consumer Affairs and the Acting Chief Executive Officer (ACEO) of the findings that the team came to after its investigation on the complaint lodged by Mobile Telecommunications Network (Pty) Ltd ("MTN") against Paw Paw Wireless (Pty) Ltd (also known as Sessions Telecoms (Pty) Ltd for improper use of numbers and interconnect bypass and to give recommendations."*

[2] It was this report above that was the precursor to the complaint against the Respondent, that was referred to the CCC for adjudication in terms of section 17C(1)(b)(i) of the ICASA Act.

HISTORICAL BACKGROUND

[3] This matter has a long history. The first time the CCC heard the matter was on 26 September 2023. From the onset it became clear, that for the CCC to arrive at a just and fair decision on the matter, Call Data Records ("CDRs"), which allegedly contained information related to the alleged contraventions before the CCC, were a vital piece of evidence. For that reason, the Respondent was afforded an opportunity to produce the said CDRs. Notably, this evidence had been requested before by the Investigation Committee appointed by the Authority.

[4] An interesting feature was that, although the Respondent did not deny the relevance, importance, or existence of the CDRs, it dragged its feet and seemed reluctant to comply with the request.

[5] The result was that, four hearings later, from September 2023 to October 2025, and after a number of postponements at the instance of the Respondent, the CDR issue had still not been properly resolved, as only a portion of the requested CDRs had been produced.

[6] This was strange, to say the least. I say this because CDRs serve as the fundamental evidence to track how numbering resources are being utilised by a licensee.

[7] In the present case, where the Respondent had consistently denied any involvement in contravening the Numbering Plan Regulations, CDRs play a critical forensic role.

[8] More importantly, CDRs can serve to prove that the licensee was not involved as alleged. They can act as an alibi or prove that the traffic did not originate from or pass through their network.

[9] It is against this background that the evidence in this matter, especially that concerning CDRs, which form the bulk of the evidence, ought to be evaluated.

[10] The importance of this shall become clearer, later, when the final analysis of the CDRs, that were eventually presented, is examined.

The Concluding Hearing
And Additional Written Submissions

[11] Hearings took place on 26 September 2023, 9 September 2024, 7 August 2025 and 30 October 2025.

[12] On 30 October 2025, the CCC sat for the last time in this matter. After hearing oral submissions, the CCC gave the parties a directive to submit additional written submissions in support of their oral arguments, also setting out the chronology of events.

[13] On or about the 11 November 2025, both counsel for the Complainant and counsel for the Respondent submitted their written submissions to the office of the CCC.

[14] Soon, thereafter, counsel for MTN raised an objection against the written submissions of the Respondent. The basis of the objection was that the Respondent's written submissions were not what was requested, but an attempt by the Respondent to re argue the matter.

[15] The Respondent denied this, stating that the objection on behalf of MTN had no basis.

[16] An analysis of the written submissions by the Respondent showed that the Respondent went to lengths to reargue the case. This is not what the parties were requested to do. The parties had more than enough time, during protracted proceedings, to each present their case.

[17] Indulgence after indulgence was granted to the Respondent to, ***inter alia***, collate the necessary information so as to enable it to argue its case properly. Allowing the Respondent another bite at the cherry, would be unfair to MTN. In addition, it would make a mockery of the doctrine or principle of finality.

[18] For all the above reasons, the CCC decided to uphold the objection and not admit the Respondent's additional written submission.

THE PARTIES

[19] MTN is the holder of both Individual Electronic Communications Services (IECS) and Individual Communications Network Services (IECNS) licences with the licence number: 0172/IECS/JAN/09 and 0172/IECNS/JAN/09 respectively. It shall be referred to as the Complainant or MTN.

[20] SESSION TELECOM, formerly Paw Paw Wireless (Pty) Ltd, is the holder of both an Individual Electronic Communications Service (IECS) and an Individual Electronic Communications Network Service (IECNS) licences with licence numbers 0394/IECS/MAY/2009 and 0394/IECNS/MAY/2009 respectively, issued by the Authority for the provision of electronic communications services in South Africa. It shall be referred to as the Respondent or Sessions.

FACTUAL BACKGROUND

[21] On 14 April 2020, ICASA received a complaint against Session from MTN. After an analysis of the complaint, ICASA wrote to Paw Paw Wireless on 13 May 202? affording the Respondent as opportunity to respond to the complaint.

[22] MTN alleged that Session was contravening the Numbering Plan Regulations through improper use of numbers. Session was also allegedly guilty of interconnect bypass activities which constitute a breach of the Numbering Plan Regulations.

[23] On 3 June 2020, Paw Paw Wireless submitted its response. In providing said response, the Respondent did not provide the requested CDRs[1].

[24] On 2 November 2020, after a thorough analysis and investigation, ICASA elected to afford the respondent a further opportunity to provide further information and to address the specific allegations, which it deemed as not having been addressed[2]. These specifically included the provision of CDRs. Paw Paw was afforded until 11 November 2020 to submit the required CDRs.

[25] On 10 November 2020, ICASA received the submission from Paw Paw and summarized it as follows:

"…Paw Paw Wireless (Pty) Ltd when requested to submit the CDRs between itself and MTN which contains attributes such a time, duration, completion status, originating and destination numbers from 01 January 2019 until April 2020 decided to submit CDRs containing information which relate to only two dates 28 and 29 March 2019".

It is this alleged failure that resulted in the referral of the complaint to the CCC.

[26] What the Respondent was allegedly doing, in MTN's view, constituted non-compliance with the underlying statutes of the ICASA Act, 13 of 2000 ("the ICASA Act"). In particular the noncompliance is in terms of section 68 of the ECA numbering plan.

[27] Pursuant to section 4(3) (n) of the ICASA Act, MTN requested the Authority to

[1] Paragraph 5 of the ICASA Investigation Report.

[2] Ibid, para 8, and in particular, paragraph 8.8 in relation to the CDRs.

investigate the conduct of the Respondent. The report above, was the result of that investigation.

SUMMARY OF THE COMPLAINT

[28] ***Complaint 1***

Improper use of numbers

[29] ***Complaint 2***

The Interconnect Bypass Activities which constitute a breach of the Numbering Plan Regulations

[30] MTN alleged that the Respondent was involved in the following activities:

30.1 contravention of the regulations to the Electronic Communications Act 36 of 2005 ("the ECA"), particularly the Numbering Plan Regulations, 2016 ("the Numbering Plan Regulations");

30.2 undermining the purpose/s sought to be achieved pursuant to legislation such as the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 71 of 2002 ("RICA").

30.3 causing significant revenue losses to the South African Revenue Service ("SARS"). [I interpose to state that the issue of revenue losses to SARS was not for the CCC to determine, as that issue did not fall within its jurisdiction in terms of the empowering statute. For that reason, nothing more needed to be said about this issue].

30.4 are prejudicing MTN and detrimentally impacting on MTN's electronic communications network, including causing congestion on its network which in turn impacts on good faith end-users thereof;

30.5 have a direct detrimental impact on consumers/end users, aside from the impact attributable to the congestion on MTN's network.

THE NUMBERING PLAN REGULATIONS

[31] The Numbering Plan Regulations provide that — the purpose of such regulations include, ***inter alia***, to -

31.1 provide for the efficient use and allocation of numbers (Regulation 2(a); and

31.2 provide a scheme of identification to ensure that the electronic communications are correctly and efficiently directed to the point of reception for which they are intended (Regulation 2(b);

[32] The Numbering Plan Regulations provide general conditions relating to the use and management of the assignment of numbers, which apply to all allocations made by the Authority:

32.1 the allocation must be used for the purpose specified in the application and within the designated range for use (Regulation 6(3)(a));

32.2 the allocation shall be used in accordance with any specific conditions made by the Authority (Regulation 6(3)(e);

32.3 a licensee shall not make use of numbers that have not been allocated to them or which the Authority has not authorised them to use (Regulation 6(3)(f));

32.4 a licensee shall ensure that all numbers allocated to them are used efficiently and effectively (Regulation 6(3)(g)).

DEFENCE

[33] Session stated that it, as interconnect partner and licensee, would always abide by and adhere to the regulations. Session stated that it further enforced this to all its partners, customers and external parties, with which it has a direct or indirect relationship.

[34] Session insisted that it did not condone, encourage, or create any business relationship with any direct customer or partner that would jeopardise its own

business interests, or any other partner who deals with Session Telecoms.

[35] A thorough analysis of the responses from Session, reveals the following:

[35.1] The summary of the defence by the Respondent was that it had not contravened any of the Regulations that it had allegedly contravened.

[35.2] It had always used the allocation of numbers by the Authority for the purpose specified in the application and within the designated area range for use.

[35.3] In addition, it had used the allocation in accordance with specific conditions made by the Authority.

[35.4] Moreover, the Respondent had not made use of any numbers that were not allocated to it or which the Authority had not authorised it to use.

[35.5] The Respondent further stated that it had ensured that all numbers allocated to it, were used effectively and efficiently.

[36] To a question as to how this was done in practical terms, the Respondent was not able to give a satisfactory answer. A bare denial, unsupported by credible evidence, cannot displace a prima facie case established through objective technical analysis.

EVIDENCE, DISCUSSION AND ANALYSIS

Evidence

[37] Evidence that Session was contravening the ECA and the Numbering Plan Regulations of 2016, was presented to the CCC in various ways.

[38] Such evidence was provided by the Investigation Committee/Task Team appointed by the Authority. Evidence was also obtained from CDRs (both submitted and omitted), and from MTN's own investigation and analysis of the CDRs. Oral evidence was presented by Mr. Teens Moolman on behalf of Session, while Mr. Brian Kenneth Rowe, the MD of and expert from Sixty Degrees, presented expert and rebutting

evidence on behalf of MTN.

Investigating Committee Report

[39] As a starting point, the Authority appointed the Investigation Committee/Task Team to investigate the complaint against Session. The findings of this Committee were filed with the CCC where the Committee gave a damming report against the Respondent. The report followed in-depth investigations during which the Respondent was afforded an opportunity to answer.

[40] The Investigation Committee conducted a thorough investigation and compiled a telling report relating to the role of the Respondent in the allegations against it. Even at that stage of the investigation, the Respondent failed to submit any evidence after the Investigation Committee had specifically requested it to do so. And when Session eventually submitted limited information, (as shall be shown later), that information was found to be wanting.

[41] After thoroughly analysing the responses from the Respondent, the Team was not satisfied and stated that the Respondent had not dealt with the allegations raised by MTN in its complaint.

[42] Consequently, on 2 November 2021, the Task Team investigating the complaint requested that Session disclose CDRs relevant to the complaint and the investigation. The CDRs were to include time, duration, completion status, originating numbers covering the period from January 2019 to April 2020.

[43] Instead of providing CDRs for the specific period mentioned, Session disclosed CDRs only for two days, that is for 28 and 29 March 2019. This raised serious concerns regarding the seeming reluctance by the Respondent to disclose all the CDR's requested, that is, from 1 January 2019 to April 2020.

First Hearing

[44] When the matter was first heard by the CCC on 26 September 2023, the same request was made to Session in respect of the CDRs which were still incomplete. At that hearing, the Respondent gave an undertaking to provide the outstanding CDRs.

As a result, the matter was adjourned to the 9 September 2024 to enable the Respondent time to collate the information requested.

Second Hearing

[45] On 9 September 2024, Session provided CDRs only for January 2020. The Respondent claimed that this was a ***bona fide*** error but failed to explain how such an error had occurred.

Third Hearing

[46] On 7 August 2025, it became apparent that the CCC would have to determine the issues without the complete set of CDRs.

Investigations by MTN

[47] Although the data was incomplete, MTN was able to analyse it, and, in the process was able to unearth a concealment of illicit activities.

[48] The investigation by MTN involved the use of an external (international) party, Sixty Degrees.

[49] Notably, the credentials of MTN's external expert were not attacked. There was also no attack or reservations concerning the methodology used by MTN. Unchallenged expert evidence, where credible and methodologically sound, must be accepted unless it is inherently improbable, which is not the case here.

[50] Lastly, and more importantly, no evidence was presented on behalf of Session to rebut the evidence from MTN. The details of such evidence are set out later in this judgment.

Call Data Records ("CDRs")

[51] Considering the nature of MTN's complaint against the conduct of Session, the call data records ("the CDRs"), were a relevant and vital piece of evidence. While the CDRs were necessary to support the allegations against Session, they, on the other

hand, could also have exonerated Session from any wrongdoing, if Session's defence was valid.

[52] At this stage, it is necessary to analyse the conduct of Session in presenting its case. During argument, Session created an impression that this was *"an industry-wide problem"* which was beyond its control, but that it could be resolved if Session and MTN worked together to address it.

[53] However, this proved to be mere lip service as the conduct of Session belied its expressed intention to resolve the problem. I say this because when an opportunity arose for Session to work together with MTN, by producing the CDRs as requested, Session dragged its feet and eventually failed to submit the full set of the CDRs concerned. Relevant to the failure of Session to cooperate with MTN are the following common cause factors:

- the complaint was lodged at the back of the data which MTN had in its possession.
- Such data provided its visibility into connection between MTN and Session.
- What was missing to complete the picture, was the CDR data within Session's possession.
- This data gives one further step of visibility down the chain of connections.

- This is because Session's ***"from numbers"*** is a visibility that MTN's own data does not get, and, in particular, the identity of, for example, the customer behind those numbers.
- MTN does not have access to that information, but Session does.

It is a well-established principle that where a party fails to produce evidence within its exclusive possession and control, the decision-maker is entitled to draw an adverse inference against that party.

[54] Considering the relevance of this information, which was not disputed, and considering its important role, (that it could have confirmed the allegations against Session or it could have exonerated it), one would have expected Session to gladly cooperate by providing such evidence or at least explain why this was not possible. Sadly, Session chose not to cooperate.

The Analysis of the Data by MTN

[55] Once Session decided to submit the data, albeit incomplete, MTN set about analysing it. Once prima facie evidence of irregular routing and numbering misuse was established through MTN's analysis, the evidentiary burden shifted to the Respondent to rebut such evidence through full disclosure of its call data records.

[56] MTN's analysis showed that there were blank ***"from numbers".*** There were ***"from numbers" with*** alphanumeric characters. There were ***"from numbers"*** with less than 8 characters and others with more than 11 characters. Furthermore, there were ***"from numbers"*** that are protected numbers.

[57] The question was what the CCC was supposed to make of the missing data from within this data set. The answer to this question was to be found in the analysis by MTN.

[58] To determine whether such analysis was reliable, it became necessary for the CCC to examine how exactly the analysis was conducted.

[59] While MTN was analysing the data provided, it tried to run a comparison between, on the one hand, the calls that its Test Calling Generation ("TCG") testing had shown to be involved in bypass, with, on the other hand, the call records of Session, now provided in its CDR pack.

[60] That analysis showed, ***inter alia***, that, of 4751 calls from 90 unique Session's numbers implicated in bypass manipulation, only 3305 were matched within the data set provided by Session. This means that 1446 hits for CLI manipulation was not in the data set provided by Session. **[I interpose to state that the missing set of data was not explained by Session.]**

[61] Secondly, and more seriously, in my view, having run the tests that MTN did on the data provided, it uncovered that a certain set of numbers, that is 22 numbers, had been completely excluded from the list of ***"from numbers"*** requested by MTN.

[62] This raised an additional serious concern since during the course of its analysis, MTN had narrowed the scope of one request. It went back to its test results and identified

the key ***"from numbers"*** in respect of which that CLI manipulation had been detected. MTN then asked Session for a much more limited category of data to cover that more limited set that had come up with positive hits for bypass. But when the Respondent produced that limited set requested by MTN, it was found that 22 numbers had been excluded. **[Again, no explanation for this was forthcoming from the Respondent]**

[63] Since these are numbers that MTN's TCG testing had positively identified as being involved in CLI manipulation one would have expected Session to explain why the 22 numbers were excluded when they had been positively implicated in CLI manipulation. The fact that there was not even an attempt to offer an explanation served as another red flag.

[64] The only reasonable inference that could be drawn from this was that the missing 22 numbers had been deliberately left out of the list, to conceal the role played by Session in the mischief which is the subject of this hearing.

[65] The CCC took into account the fact that the data in Session's possession would have served either to make or break its defence. That the requested data was not provided and that 22 numbers identified in the CLI manipulation were missing only served to weaken Session's credibility and confirm the allegations against it.

[66] More worrisome was that, even in that incomplete data set that Session produced, MTN was able to identify a concentration of bypass within that data set in four resellers. This means that 80 percent of the bypass that was occurring, pursuant to TCG testing over the relevant period, was concentrated in four resellers.

[67] This is an indication that since 2020, when the allegations of bypass were made, Session showed no interest and made no effort to investigate when the data was ripe and current. Had Session done its own investigation then, it would have discovered who the culprits were and would have been in a position to take the necessary action against them.

[68] It has to be noted, once again, that the findings from MTN's investigation and analysis were not contradicted.

[69] Instead of contradicting the above, Session tried to defend itself by stating that MTN was itself guilty of not complying with its licence.

[70] According to Session, *"the events complained of by MTN are an industry-wide issue and that despite MTN's insistence that systems were available to curb the compromises, these compromises still occurred on MTN's network."*

[71] The problem with this finger-pointing exercise is that it is not a defence that can assist Session. Even if such conduct may be prevalent within the industry, each licensee bears an independent obligation to comply with the regulatory framework. The existence of an industry-wide challenge does not absolve the Respondent from its own compliance responsibilities.

[72] The evidence against the Respondent was overwhelming and warranted an answer from Session. A response to argument and evidence against it, therefore, would have been more useful than an attempt to hide behind MTN's alleged misconduct.

[73] In any event, we are here specifically dealing with a complaint against Session and that is the reason for this hearing. If Session has a complaint against MTN's conduct, it is at liberty to file such complaint but that would be a separate issue to be determined on another occasion.

[74] Session also raised a defence that MTN was guilty of shifting the goal post in respect of the request for data. There is no merit in this submission. This is supported by Session's own inconsistent conduct throughout the proceedings.

[75] More than once, proceedings had to be postponed at the instance of Session because it had failed to produce the data it had undertaken to produce. Each time Session apologised for what it termed a "***bona fide error"*** and never once said that it had produced what was requested, but MTN was shifting the goalposts by requiring something different.

SUMMARY

[76] It bears repeating that the manner in which the Respondent conducted its case left a lot to be desired. Session gave every conceivable excuse for its failure to produce

the requested information. Nonetheless, although issues such as customer confidentiality and claims that MTN altered its requirements were raised, these concerns lacked substantive merit. I say this because although such concerns were adequately addressed by MTN, that did not move Session, as it perpetuated the pattern of simply refusing to provide the required information.

[77] When the Investigation Committee (Task Team) investigated the allegations against Session, it concluded that Session had failed to deal with the allegations raised by MTN in its complaint. As a result, the Team decided to afford the Respondent a further opportunity to address the allegations in a very specific and direct manner. Hence the request for the CDRs in the possession of Session. Sadly, Session failed to take advantage of this opportunity just as it failed to make use of many others that followed.

[78] The Team's analysis of the data submitted, confirmed its inadequacy, its incompleteness and even insofar as what was contained within it, obvious breaches of the numbering plan regulations.

[79] This was confirmed by MTN's investigations when it analysed Session's limited set of data that was eventually submitted.

[80] The analysis of the TCG test results revealed that 4,751 calls from unique Session numbers were detected in CLI manipulation. But when MTN compared those test results to the Disclosed Data, it was only possible to match 3 305 of the 4751 bypass calls to calls included in the Disclosed Data. This raised a concern that what Session has included in the Disclosed Data was, itself, incomplete.

[81] In addition to the missing numbers that were flagged by TCG testing, the analysis revealed that 22 numbers included in the truncated list of "***From Numbers***" provided by MTN were absent from the Additional Data. There was no explanation for such exclusion.

[82] TCG testing detected 105 instances of CLI manipulation in relation to these numbers, being almost four (4) detections per number. Session's failure to include these specific "*From Numbers*" in the Additional Data is damning evidence of an attempt by Session to conceal evidence which would assist the CCC to make a fair

and just decision. I say this because a high rate of CLI manipulation was detected in relation to these very numbers.

[83] Lastly and more importantly, the analysis also showed that four resellers, in the Additional Data, accounted for 80% of the *"From Numbers"* for which CLI manipulation was detected by TCG testing namely: — "Teleforge - Nugui", Bizvoip, Upstream and VCA.

[84] This is a strong indication that from the beginning, Session adopted a cavalier attitude towards the issues complained of in this matter. Had Session properly taken measures to control the fraud committed by these resellers, their conduct could have been detected and abated.

Witnesses

[85] Oral evidence by Mr. Moolman, did nothing to assist the Respondent's case. During one of the proceedings, he could not even explain how he came to the hearing without having established that Session had submitted all the requested information it had undertaken to provide.

[86] Mr. Brian Kenneth Rowe is the MD of Six Degrees, a company that specialises in providing telecoms voice fraud prevention solutions. While Mr. Rowe acknowledged that fraud in telecommunications was indeed a serious problem, he stated that companies such as Six Degrees had shown that this is not an insurmountable problem as systems can be developed to enable real-time detection, that would make it possible to curb the problem effectively.

CONCLUSION

[87] The evidence from the CDR data, coupled with the oral evidence from the witnesses of both parties, and the unsatisfactory manner in which Session conducted its case, suggests that Session's case is indefensible.

[88] Having regard to the totality of the evidence before it (both oral and documentary evidence), the CCC has been persuaded that the charges against Session have been proven. The CCC has also been persuaded that MTN has made out a case for

the relief that it sought.

FINDING

[89] In the result, the CCC makes the following findings:

89.1 Session breached Regulation 6(3)(f) of the Numbering Regulations in that it used invalid Numbers (i.e. numbers with less than 8 (eight) characters or more than 11 (eleven) characters). It also used numbers that had not been allocated to it at the time.

89.2 Session breached Regulation 6(3)(g) in that it failed to ensure that all numbers allocated to it are used efficiently and effectively. Session's allocated numbers are not being efficiently and effectively used for the purpose for which they were intended. In addition, Session is not directing communications to MTN's network efficiently and is not using MTN's network and services efficiently. The conduct described above is also indicative of broader non-compliance with the regulatory framework governing the proper use and management of numbering resources

AGGRAVATING AND MITIGATING FACTORS IN RESPECT OF SANCTIONS

[90] For the CCC to reach a fair and just decision in recommending a sanction, it took into account the nature and seriousness of the noncompliance, circumstances under which the noncompliance occurred, the consequences of the noncompliance, steps taken by the Respondent to remedy the noncompliance, and steps taken by the Respondent to ensure that a similar noncompliance did not occur in future. I shall deal with each in turn.

The Nature and Gravity of the Noncompliance

[91] Noncompliance with the Numbering Plan Regulations under the ECA is very serious. Numbering Plan Regulations are essential legal frameworks that govern the allocation and management of telecommunication numbers. They are the foundation of modern communications, acting as a digital roadmap that ensures the safety, integrity, and privacy of citizens.

[92] Efficient numbering is essential for national security, public safety and consumer trust. It, therefore, makes sense that any licensee which contravenes the Numbering Regulations should face heavy penalties. In the present case what makes the noncompliance even more serious is Session's deliberate attempt to conceal crucial evidence from the CCC, thereby obstructing the course of justice. Such conduct alone is reason enough to subject Session to intense scrutiny in the form of ongoing monitoring by the Monitoring Division and regular reporting by Session to ICASA.

Circumstances Under Which the Noncompliance Occurred

[93] Circumstances under which the noncompliance occurred are not clear. What is clear is that the complaints in this matter have been of concern for quite some time. In 2020, MTN informed Session of these concerns with the hope that Session would do something to resolve them, but that did not happen. It was this lack of progress in resolving the concerns that triggered a complaint to the Authority.

Consequences of the Noncompliance

[94] Every noncompliance has consequences. However, in the present case, the CCC is unable to say with certainty what the consequences of the specific noncompliance are. This is because the CCC has neither the skills nor the resources to measure the effects of the noncompliance.

[95] Nonetheless, general consequences for failure to comply with the Regulations, though well known, are worth repeating. Notably the cost of noncompliance frequently far outweighs the effort to comply as will be seen in the present matter. Noncompliance in general, carries serious legal, financial and reputational implications for the offender.

[96] Offending licensees, who breach the Numbering Plan Regulations under the Electronic Communications Act (ECA), can expect significant financial and non-monetary penalties issued by ICASA. Fines range from a minimum of R300 000 up to R3 000 000 per infringement.

Steps Taken by The Respondent To Remedy The Noncompliance

[97] Since the Respondent distanced itself from any wrongdoing, no steps were taken by it to remedy the noncompliance. Session's refusal to admit any fault on its part and take accountability as a licensee for any oversight, was viewed by the CCC as an indication that the Respondent lacked remorse, which is an aggravating factor.

[98] In addition, and more seriously, it might mean that Session lacks insight into the seriousness of the charges against it. In instances of this nature the likelihood of a licensee repeating the noncompliance are higher. This would justify the need to monitor the activities of the respondent closely for a period.

Steps Taken By the Respondent To Ensure That Similar Noncompliances Did Not Occur In Future

[99] Similarly, The Respondent showed no interest at all in taking steps to ensure that similar non compliances did not re-occur. This is puzzling as, throughout the proceedings, Session played victim. When the data analysis by MTN revealed that the origin of the mischief could be traced to only four resellers, one would have expected Session to have done something about it or at least give an undertaking to do something. Regrettably, Session did nothing. This is again indicative of a cavalier attitude on the part of Session, which calls for a heavy sanction.

[100] Numbers are a national resource and are not owned by licensees. They remain the property of ICASA. There is a very good reason for that. ICASA, as the Regulator, has the power and capacity to regulate the telecommunications industry and see to it that the scarce resources are managed and utilised properly. That authority is exercised through the establishment of the Numbering Plan Regulations in terms of section 68 of the ECA.

[101] The importance of the Numbering Plan Regulations cannot be overemphasised. They are crucial for managing the nation's telecommunication numbers as a scarce resource, ensuring efficient allocation, fair access for service providers, and protection for consumers.

[102] It is, therefore, not surprising that noncompliance can lead to severe financial and

non-financial penalties for the offending licensee.

[103] In the present case, a recommendation of stringent penalties to remedy the various breaches by the Respondent is warranted. I say this because not only did Session fail to comply with the Regulations, but it went to great lengths to attempt to conceal crucial evidence, by failing to provide CDRs as requested. In my view, this is an aggravating factor, which calls for stringent measures.

RECOMMENDED ORDER IN TERMS OF SECTION 17E(2) OF THE ICASA ACT

[104] For purposes of determining an appropriate sanction, the Committee considers the contraventions as constituting a continuing breach of the Numbering Plan Regulations, rather than discrete infringements per transaction, given the nature of the evidence before it.

[105] In terms of section 17E(2) of the ICASA Act the CCC recommends to the Authority the following order to be issued against the Respondent, in this case, Session.

105.1 Direct the Licensee to desist from further contravention of the regulations set out in the Charge Sheet.

105.2 Grant an Order barring Session numbers in accordance with Regulation 9(2) read with Regulation 9(1) of the Numbering Plan Regulations to prohibit Session from routing communications from or to affected numbers to avoid any further harm to MTN, and barring of identified numbers linked to the contraventions.

105.3 That the Authority utilises its power in terms of Regulation 7(1) of the Numbering Plan Regulations, to withdraw the affected numbers;

105.4 that the Authority imposes a penalty in terms of Regulation 25 of the Numbering Plan Regulations, being an amount of

R3 000 000.00 for contravention of Regulation 6(3)(f); and

R3 000 000.00 for contravention of Regulation 6(3)(g)

105.5 That the fine is payable as follows:

25% of the total fine amount is payable immediately within 7 days of the issuing/publication of ICASA's decision

105.6 The balance of the fine is payable in 3 equal instalments, with the first payment due within 90 days of the due date of the first payment, and every subsequent payment due within a further 180 and 270 days from that date.

105.7 In determining the appropriate penalty, the Authority is to take into account
(a) the seriousness of the contravention,
(b) the Respondent's failure to cooperate with the investigation,
(c) the likely duration of the conduct,
(d) the potential financial benefit derived, and
(e) the need for deterrence within the sector.

105.8 Direct that the Authority closely monitors Session's on-going conduct to ensure that the Order issued is complied with.

105.9 Direct that Session submits a written report to the Authority, once every month for a period of twenty-four (24) months, in respect of its obligations in terms of the Numbering Plan Regulations, including, Call Data Records and call termination activity in respect of international call traffic received by or routed through its network.

TMMasipa

Judge Thokozile Masipa
Chairperson of the CCC

20 May 2026

Date