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CONTENTS • INHOUD*No.**Page
No. Gazette
 No.***GENERAL NOTICE****Independent Communications Authority of South Africa***General Notice*

1112	Electronic Communications Act (36/2005): Regulations regarding the Provisions of Asymmetrical Digital Subscriber Line (ADSL) services	3	29141
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GENERAL NOTICE

NOTICE 1112 OF 2006



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA ELECTRONIC COMMUNICATIONS ACT, 2005,

REGULATIONS REGARDING THE PROVISION OF ASYMMETRICAL DIGITAL SUBSCRIBER LINE (ADSL) SERVICES.

I, Mr. Paris Mashile, Chairperson of the Independent Communications Authority of South Africa, has under section 4 (1) of the Electronic Communications Act, 2005 (Act No. 36 of 2005), approved Regulations in the Schedule made by the Independent Communications Authority of South Africa under section 4 of the said Act.

Paris Mashile

Chairperson of ICASA

SCHEDULE

1. Definitions

In these regulations any expression or word to which a meaning has been assigned by the Electronic Communications Act, 2005 (Act No 36 of 2005) (hereinafter referred to as “the Act”) shall have the same meaning in these regulations, unless the context otherwise indicates:-

“**ADSL**” means Asymmetric Digital Subscriber Line.

“**Broadband**” means an always-on data connection that is able to support various interactive services, and has the ability of a minimum download speed of 256 Kilo bits per second.

“**Installation**” means all cabling of equipment on the customer side of the network interface.

“**Installation and bringing into service Charge**” means the initial charges in respect of costs relating to the set-up and connection of a subscriber to the network for ADSL services.

“**Internet Service Provider (ISP)**” means any person who provides access to, or any other service related to, the Internet to another person, whether or not such access or service is provided under and in accordance with an electronic communication service licence issued to the first mentioned person under Chapter 3 of the Electronic Communications Act.

“Jitter” means an abrupt and unwanted variation of one or more signal characteristics which is caused by varying time delays in the circuit path from component to component in the signal path.

“Local Bandwidth usage” means the data that can be transferred from South African based Internet protocol addresses.

“Price Cap Regulation” means regulation No. R 27772 of 06 July 2005 which determines the manner of fees and charges for telecommunications services in the Public Switched Telecommunications Services (PSTS) sector.

“SNO” means SNO (Pty) Ltd incorporated in terms of the Companies Act, 61 of 1973.

“TELKOM” means TELKOM (Pty) Ltd incorporated in terms of the Companies Act, 61 of 1973.

2. Fees and Charges

2.1 The structure of an ADSL tariff shall comprise of an installation and bringing into service charge, a monthly rental for provisioning and maintenance of ADSL lines and a bandwidth charge.

2.2 The installation charge shall be levied once off at the inception of the services.

3. Consumer Protection Issues

3.1 Subscribers who enlisted for the ADSL service prior to the introduction of the monthly cap shall have an election to abide by, terminate the contract

for the service upon notice to the Telkom, SNO or ISPs or vary the terms and conditions in relation to the monthly cap.

- 3.2 Subscribers that have reached the monthly cap shall be allowed to top-up their monthly cap without the need to purchase a new user account. This provision shall not in any way be used to prevent subscribers who choose to purchase new accounts once their monthly cap has been reached from doing so, should they wish to do so.
- 3.3 Telkom, SNO and ISPs shall inform subscribers, at least on a weekly basis, of their bandwidth usage until the monthly cap has been reached.
- 3.4 Local bandwidth usage shall not be subject to the cap.
- 3.5 Telkom or SNO shall publish updated information on ADSL-enabled exchanges in the white pages of the telephone directory or electronic directory.
- 3.6 Telkom or SNO shall install the ADSL service within thirty (30) working days of receipt of an application if the applicant qualifies and resides within an ADSL- enabled exchange area.

4. Throughput Speeds

- 4.1 Telkom, SNO and ISPs shall guarantee minimum broadband speeds for the ADSL service in order to ensure that the service does not lose its broadband character.
- 4.2 Any services provided with speeds lower than those defined as Broadband, shall not be advertised as Broadband services.

5. Port Prioritisation

Telkom, SNO and ISPs shall not be allowed to impose port prioritisation on their subscribers.

6. Key Performance Indicators

6.1 Telkom, SNO and ISPs shall on a quarterly basis publish on its website the contention ratio as a commitment to good business practice.

6.2 Telkom, SNO and ISPs shall publish on its website, on a quarterly basis, Key Performance Indicators comprising of at least Packet Losses, Average latency and jitter for the provided ADSL service as a commitment to good business practise.

7. 24 Hour ADSL Service reset.

7.1 Telkom, SNO and ISPs shall not periodically reset the ADSL service.

7.2 Any reset required for the service maintenance shall be done with a prior notification of at least seven (7) days to the subscribers and by notification on the website.

8. Service Level Agreements

Telkom, SNO and the ISPs shall enter into service level agreements with subscribers. Such agreements shall determine among others:-

- (i) complaint processes and procedures;
- (ii) dispute resolution mechanisms;
- (iii) turn around times in effecting repairs;

- (iv) penalties for failure to effect repairs in time and issues related thereto; and
- (v) guaranteed minimum downstream data rate for local loop length of a given distance.

The Authority may, at the request of any party wishing to conclude a service level agreement contemplated herein, intervene to resolve any dispute in instances where a service level agreement cannot be concluded within sixty (60) days.

9. Repeal and Amendment of Regulations

This Regulation shall not in any manner be construed to repeal and amend the Price Cap Regulation or any other Regulation.

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