
**Vodacom (Pty) Ltd's Written Submission in Response to the Draft Code for Persons with
Disabilities Regulations**

(Notice 317, Government Gazette 43418 of 12 June 2020)

Vodacom's Submission on Draft Code for Persons with Disabilities Regulations

INTRODUCTION

Vodacom (Pty) Ltd ("Vodacom") welcomes the opportunity to comment on the Draft Code for Persons with Disabilities Regulations ("Draft Regulations") published by the Independent Communications Authority of South Africa ("ICASA" and or "the Authority") in terms of Notice 317, Government Gazette No. 43418 of 12 June 2020.

Vodacom confirms its willingness to participate in any further consultative process which the Authority may undertake in this regard. We set out below our comments.

GENERAL COMMENTS

Inclusivity

Vodacom supports the inclusion of persons with disabilities and recognises the importance of creating accessibility to information and communication services to such persons in a cost effective manner. As such it is important that our services are accessible to all our customers including persons with disabilities. In this regard, Vodacom has been providing a wide range of products and services to persons with disabilities since 2004.

According to Stats SA (Census 2011) the majority of persons with disabilities have not attained a tertiary qualification and only a minority of persons with disabilities participate in the labour market. Linked to this Stats SA reports that persons without disabilities earn more than persons with disabilities and that the more severe one's disability the less income they earn i.e. "disability severity and type of disability determines one's income." it is for this reason that Vodacom recommends the use of the Universal Service and Access Fund (USAF) for purposes of providing a subsidy to persons with disabilities in order for the disabled community to be able to access electronic communications services in a cost effective manner and ensure their participation in the digital society.

Vodacom Initiatives to address the Needs of Persons with Disabilities

Vodacom has been providing a range of accessible products and services for the disabled community since 2004 and has a dedicated webpage on the Vodacom website. Promoting the digital inclusion of disabled persons fits in well with our purpose-led strategy as we are continuously pursuing the upliftment of vulnerable groups within the broader society. Vodacom has a dedicated department that consists of passionate disabled

¹ Stats SA Census Report, 2011

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persons who design and drive accessibility initiatives in order to promote the inclusion of persons with disabilities in South Africa.

In order for Vodacom to adequately serve persons with disabilities, amongst others, we provide a platform where persons with disabilities are able to voluntarily register their disability on the Vodacom website in order to access special deals. Please refer to <https://www.vodacom.co.za/vodacom/services/specific-needs> for more information. Information on other initiatives that Vodacom has undertaken is covered in this submission.

SPECIFIC COMMENTS

Definitions

The definition of "disability" currently proposed is not inclusive and does not encompass all disabilities. Vodacom recommends that the Authority adopts the United Nations definition which reads as follows: *"persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others²."*

Stats SA also adopted a broad definition of "disability" being *"the loss or elimination of opportunities to take part in the life of the community, equitably with others that is encountered by persons having physical, sensory, psychological, developmental, learning, neurological or other impairments, which may be permanent, temporary or episodic in nature, thereby causing activity limitations and participation restriction with the mainstream society³."*

Basic Standards for ECS Licensees

Universally Designed Products and Services

It is not clear to Vodacom what is meant by all devices? Does it refer to all mobile phones, or does it also refer to all hardware products such as routers, notebooks, laptops and tablets?

Vodacom submits that it is impossible to ensure that all the devices that are available for purchase by its customers are universally accessible. This is due to the fact that Vodacom's ability to impose such measures on manufacturers is limited. As the designers of devices, manufacturers should be held responsible for compliance with global frameworks such as the United Nation Convention on the Rights of Persons with Disabilities (CPRD) which includes having to ensure that devices are accessible for disabled persons. Vodacom

² United Nations Convention on the Rights of Persons with Disabilities and Optional Protocol

³ Profile of Persons with Disabilities in South Africa, Stats SA Census 2011

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does however make an effort to communicate the needs of its disabled customers to the relevant manufacturers. Furthermore imposing a blanket requirement on all devices will ultimately be to the detriment of South African consumers as there would be a limited number of devices which meet the prescribed specifications thereby limiting the choice of devices available on the market.

On the other hand, imposing these requirements on all devices may lead to an increase in the cost of devices particularly because the majority of devices that are universally designed are smart devices which are more expensive than basic or feature phones. Recognising that the majority of these devices are not always affordable especially for persons with disabilities who generally have low incomes, Vodacom submits that the USAF must be utilised to subsidise universally designed devices for persons with disabilities in terms of Section 88(1) of the Electronic Communications Act No. 36 of 2005 which provides that *"The money in the Universal Service and Access Fund must be utilized exclusively for the payment of subsidies –*

(a) For the assistance of needy persons towards the cost of the provision to, or the use by, them of broadcasting, electronic communications network services and electronic communications services"

Vodacom submits that the Authority should rather require that licensees provide a range of devices including devices that are universally designed to cater for the needs of persons with disabilities. In this way, licensees would ensure that some of the devices that are ready for purchase are actually universally designed.

In order to create awareness on the devices that are available, Vodacom commits to ensuring that it includes a list of universally designed devices that available to its customers on its website.

Hearing Aid Compatibility Requirements for Fixed Line Handsets

It is not clear to Vodacom what is meant by "fixed line handsets". In this regard, Vodacom recommends that the Authority defines this term to eliminate any ambiguity.

Visual Aid Compatibility Requirements for Mobile Handsets

The majority of smartphones manufacturers are already creating products that are inclusive and have various accessibility support features. For example Apple devices have braille commands with voiceover, and live listen. Samsung also supports with S voice which enables users to receive text messaging by voice and to send text messaging using the voice command. More importantly the Android OS and Android Go OS which is found in all entry smartphones supports accessibility features such as talk back braille keyboard and braille back feature and select to speak to mention a few. Vodacom smartphones sold especially in the entry space operate on Android and Android Go OS at an entry price point of from R399.

National Relay System (NRS)

During the workshop that was held on 6 and 7 June 2019, ICASA was urged to conduct a regulatory impact assessment on the NRS. ICASA has not demonstrated how the Draft Regulations were informed by any form of impact assessment neither has ICASA demonstrated that sufficient demand exists for the NRS and whether or not it is preferred over other alternatives such as Whatsapp video calling or instant messaging.

During the above-mentioned workshop, it was agreed that all the relevant stakeholders first need to have a full understanding of what the NRS entails, how it would work, what funding options are available and identify key stakeholders. It was also agreed that stakeholders must reach a common understanding on the following prior to implementation of the service:

- That a trial period be pursued in order to test the Video Relay Service (VRS) technology and establish the viability of such a service in an emerging market such as South Africa
- Type of hardware and software to establish the level of compatibility with GSM technology in South Africa
- The broadband speeds required
- Impact of the Protection of Personal Information Act 2013 on the service - how a user's privacy will be protected as a third party (sign language interpreter) may have access to confidential information
- Authentication processes as organizations are required by law to only communicate with the customer / account holder directly
- The role of deaf and hearing impaired organizations in creating awareness on this new service amongst their members in South Africa as all potential VRS users have grown up without VRS and must be educated about the benefits of VRS
- Various VRS service providers will have to be investigated so that the best and most affordable solution can be offered for such a service

ICASA has not provided any information regarding the progress that it has made towards conducting an in-depth study on the items listed above as agreed at the June 2019 workshop.

Vodacom urges ICASA to consult all the relevant stakeholders to ensure that sign language users are comfortable to use the NRS and that it adequately addresses the needs of persons who communicate via sign language. Our research has shown that:

- South African Sign Language (SASL), like many other spoken and signed languages contains variety. The variety in SASL is primarily in the vocabulary, with a measure of grammatical variation as well. At

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the extremes of the dialect continuum there would be users who are mutually unintelligible, however, one can argue that for the vast majority various levels of comprehension can be attained;

- deaf people are hesitant and skeptical and therefore the service would need to be genuine, reliable and of a high standard, to ensure that it is widely adopted;
- existing relay services for sign language users should be explored – we recommend that ICASA engage the National Institute for the Deaf (NID) in this regard;
- the cost of data could be a barrier for adoption;
- NRS is a complex system that would require on the one-hand end-users to be technically savvy and on the other the availability of highly skilled interpreters who are familiar with the variety of sign language;
- the best platform to access the system would be through an application; and
- ICASA should consult ALL the major Deaf organisations and key stakeholders in South Africa in order to ensure inclusion of all deaf communities, including but not limited to NID, Deaf Community of Cape Town (DCCT), DeafSA, South African Translators Institute (SATI), South African Sign Language Interpreting National Centre (SASLINC), South African National Deaf Association (SANDA), Schools for the Deaf and SA Disability Alliance (SADA)

It is not clear whether the Authority envisages a national relay system that would entail one call centre being established by a single vendor to which ECNS licensees would connect or whether each ECNS licensee would be required to establish its own relay system servicing its own customers.

Lastly, Vodacom submits that the NRS (on the basis of a thorough regulatory impact assessment) should be funded through the Universal Service and Access Fund.

General Requirements for Communication and Information Provision to Persons with Disabilities for I-ECS Licensees

Free directory services

Vodacom currently provides directory inquiry services to all its customers however these services are provided at a fee. It is not clear to Vodacom on what basis persons with disabilities should be offered these services for free. Vodacom submits that it should be allowed to charge a nominal fee for the provision of this service to all its customers in order to recover the costs that are associated with the provision of the service. To the extent that persons with disabilities are not able to afford this service, Vodacom submits that they should be provided with a subsidy from the USAF.

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Emergency services

Vodacom launched two free emergency services solutions in partnership with ER24 for customers who are unable to use voice emergency services, i.e. deaf, hearing impaired, hard of hearing and speech impaired persons. Please refer to the link below for further details on Vodacom's SMS emergency service - <https://www.vodacom.co.za/vodacom/services/specific-needs-persons-with-communication-barriers>.

- 2018 – SMS Emergency Service
- 2019 – 112 Emergency App

Priority fault repairs

Vodacom already prioritises devices that are booked in for repairs by persons with disabilities.

Customer Service Staff

Recognising that persons with disabilities have needs that are different from persons without disabilities, Vodacom set up a dedicated contact centre (082 12580) for persons with any disability and their families and friends.

Whilst Vodacom appreciates the importance of its staff being able to communicate with persons with disabilities in order to adequately serve these customers, Vodacom is not in a position to ensure that it has staff that is able to communicate with all persons with disabilities in all its stores. It has not been feasible for Vodacom to provide all its staff at the stores with sign language training due to high staff turnover in the stores as the retail business is fluid in nature. In addition, and as stated in the preceding section, sign language users use specific dialects – for example, a Xhosa speaking sign language user cannot be assisted by an English sign language interpreter. In a country where there are 11 official languages, this requirement will be practically impossible to comply with.

It is important to note that sign language users are in the minority – about 1 in 4 persons use sign language. The vast majority are hearing impaired, meaning they wear hearing aids and have cochlear implants, many also lip read and are able to speak. In Vodacom's experience, people who can only communicate via sign language will in most instances take an interpreter (a family member, friend, or colleague) with them to a store to interpret, alternatively they communicate with staff by writing basic words on a piece of paper (as many sign language users are unable to read or write properly) without the intervention of a sign language interpreter.

Having said that Vodacom has consistently placed a focus on training frontline staff to provide excellent customer service to disabled consumers. Vodacom's training team within Learning & Development unit has

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included Specific Needs within the Retail Hero Training Programme and staff can also do training on-line. This is all done to create sensitivity and awareness with the staff who interface with all our customers including those with disabilities.

Vodacom therefore recommends that rather than requiring licensees to ensure that their customer service and retail staff are trained to communicate with persons with disabilities, licensees should rather be required to conduct sensitivity training to all its staff to ensure that staff are adequately equipped to assist customers with disabilities.

Demonstration of equipment

Through its Smart Digi Training Centres and partnerships with disabled organizations, Vodacom is able to demonstrate and train end-users on how to use the latest smartphones and applications.

Access to information

Vodacom's Specific Needs Office already has in place a number of initiatives aimed at providing a seamless service to its customers. These include:

- Communicating special deals and information to disabled people's organizations in a user-friendly manner;
- Communicating the use of a new service to deaf persons via a video in sign language format;
- Ensuring that the Vodacom App is accessible for visually impaired persons;
- Ensuring that the Vodacom website is accessible for visually impaired persons who use screen readers;
- Conducting direct communication campaigns with registered disabled persons;
- Communicating cheaper data bundle offers to disabled customers;
- Provision of a newsletter to disabled organizations reflecting offers and services;
- An ongoing process where disabled customers provide feedback about queries or complaints on the Vodacom portal.

Compliance Reporting

It is not clear to Vodacom precisely what ECS licensees will be required to report on – Vodacom requests clarity in this regard. Licensees are already required to report on their compliance with existing regulations that affect persons with disabilities through Form 7C of the Compliance Procedure Manual Regulations (CPMR). Vodacom therefore recommends that in order to avoid any duplication, that the CPMR rather be updated with the reporting requirements of these regulations and not require licensees to submit a separate report.

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Contraventions and Penalties

Vodacom submits that a fine of 10% of annual turnover for everyday of contravention is excessive and not proportionate to the contravention.

Conclusion

Vodacom supports the provision of equivalent access to and choice of electronic communications services by all people including persons with disabilities. We urge the Authority to conduct much greater research and consultations with all affected stakeholders. This would assist the Authority to correctly identify and understand what the needs of persons with disabilities are especially those who are hearing or speech impaired in order to ensure that the services that are prescribed by these Draft Regulations, particularly the NRS, suitably address those needs, can be beneficial for the intended users, be capable of being widely adopted and create a seamless and pleasant user experience.