

(28 March 2023 – to date)

ELECTRONIC COMMUNICATIONS ACT 36 OF 2005

(Gazette No. 28743, Notice No. 364 dated 18 April 2006. Commencement date: 19 July 2006) [Proc. No. R29, Gazette No. 29044]

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

END-USER AND SUBSCRIBER SERVICE CHARTER REGULATIONS 2016

General Notice 189 in Government Gazette 39898 dated 1 April 2016. Commencement date: 1 April 2016.

As amended by:

Important Publisher's Note – Refer to Government Notice 582 in Government Gazette No. 41696 dated 11 June 2018 for the notice regarding the suspension of the effective date of the End-User and Subscribers Service Charter Amendment Regulations, 2018 (GenN 233 in Government Gazette No. 41613 dated 7 May 2018).

General Notice 233 in Government Gazette 41613 dated 7 May 2018. Commencement date: 1 March 2019 [GNR 286 in Government Gazette 42266 dated 28 February 2019]

Government Notice R128 in Government Gazette 42225 dated 12 February 2019. Commencement date: 1 March 2019 – unless otherwise indicated [GNR 286 in Government Gazette 42266 dated 28 February 2019]

Government Notice R128 in Government Gazette 42225 dated 12 February 2019. Commencement date of various regulations: 12 April 2019 – unless otherwise indicated [GNR 286 in Government Gazette 42266 dated 28 February 2019]

Government Notice 3207 in Government Gazette 48318 dated 28 March 2023. Commencement date: 28 March 2023

I, Nomvuyiso Batyi Acting Chairperson of the Independent Communications Authority of South Africa ("the Authority") hereby publish the Regulations in terms of section 4 read with section 69(3) of the Electronic Communications Act, 2005 (Act No. 36 of 2005).

(Signed)

Nomvuyiso Batyi
Acting Chairperson

Prepared by:

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1. DEFINITIONS

In these Regulations any word or expression to which a meaning has been assigned in the Act bears that meaning unless the context otherwise indicates.

“Act” means the Electronic Communications Act, 2005 (Act No. 36 of 2005), as amended;

“Alternative Dispute Resolution” means a process or mechanism that helps resolve an end-user’s complaint through mediation;

“Application Throughput” means the average data transfer rate, after a data link has been successfully established, measured throughout the entire connection time to the service;

(Definition of “Application Throughput” inserted by regulation 2.1 of GN 3207 of 2023)

“Authority” means the Independent Communications Authority of South Africa established by section 3 of the ICASA Act 13 of 2000;

(Definition of “Authority” inserted by regulation 2.1(a) of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Availability of ECS” means the proportion of time that a licensee’s network services are operational;

“Availability of ECNS” means the proportion of time that a licensee’s network resources are available to an end-user;

“Call Setup” means activities that occur during the time a call is being established, but not yet connected;

“Call Setup Success Ratio” the percentage of calls that are successfully set up as a percentage of the total call attempts;

“Call Setup Time” means time interval from the instant a user initiates a network connection request until a complete message indicating call disposition is received by the calling terminal;

“Complaint” means an expression of dissatisfaction resulting from a licensed service;

“Complainant” means a person who lodged a complaint to the Authority;

“Data bundle” means a set amount of data for a set price;

(Definition of “Data bundle” inserted by regulation 2.1(b) of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Dropped Call” means a call which is established and assigned a traffic channel but dropped prior to the deliberate completion by the user due to network problems;

“Dropped Call Ratio” means the proportion of incoming and outgoing calls, which, once correctly established and having been assigned a traffic channel, is dropped or interrupted prior to the deliberate completion by the end-user;

“ECNS” means electronic communications network service;

“ECS” means electronic communications service;

“Fault” means failure of a network which results in disruptions or the degradation of services to an end-user that can directly be attributed to the ECNS licensee;

“Fault Clearance” means the successful resolution of a fault;

“File Transfer Protocol (FTP) Average Download Throughput” means the average of the data transmission speed achieved for a given number of samples, when downloading a file, using file transfer protocol;

(Definition of “File Transfer Protocol (FTP) Average Download Throughput” inserted by regulation 2.2 of GN 3207 of 2023)

“File Transfer Protocol Average Upload Throughput” means the average of the data transmission speed achieved for a given number of samples, when uploading a file, using file transfer protocol;

(Definition of “File Transfer Protocol Average Upload Throughput” inserted by regulation 2.2 of GN 3207 of 2023)

“Fixed Wireless” means the operation of wireless devices or systems at any fixed location;

“Fixed Service” means a radio communication service between specified fixed points;

“Hybrid plans” means a service in terms of which an end-user pays monthly subscription that includes allocation of voice minutes, SMS and data services and allows an end-user to purchase additional voice minutes, SMS and data services.

(Definition of “Hybrid plans” inserted by regulation 2.1(c) of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Hypertext Transfer Protocol (HTTP) Average Download Throughput” means the average of the data transmission speed achieved for a given number of samples, when downloading a file using hypertext transfer protocol;

(Definition of “Hypertext Transfer Protocol (HTTP) Average Download Throughput” inserted by regulation 2.3 of GN 3207 of 2023)

“Hypertext Transfer Protocol Average Upload Throughput” means the average of the data transmission speed achieved for a given number of samples, when uploading a file, using hypertext transfer protocol;

(Definition of “Hypertext Transfer Protocol Average Upload Throughput” inserted by regulation 2.3 of GN 3207 of 2023)

“Hypertext Transfer Protocol (HTTP) Service Non-accessibility” means the probability that a subscriber cannot establish a Packet Data Protocol (PDP) Context within a given time, and access the service successfully;

(Definition of “Hypertext Transfer Protocol (HTTP) Service Non-accessibility” inserted by regulation 2.3 of GN 3207 of 2023)

“ICASA Act” means the Independent Communications Authority of South Africa Act, of 2000 (Act No. 13 of 2000) as amended;

“Installation” means making available a requested fixed line service to an end-user;

“Latency” means the delay, or round-trip time required for a packet to travel from the source to the destination and back;

(Definition of “Latency” inserted by regulation 2.4 of GN 3207 of 2023)

“Major network outage” means an outage that affects one or more entire district municipalities and last four hours or more and disrupts emergency call processing for any period.

(Definition of “Major network outage” inserted by regulation 2.5 of GN 3207 of 2023)

“Major service outage” means any network condition that causes 1,000 or more customers to be out of service for 30 or more minutes; causes an unplanned outage of, or completely isolates a central office for 30 or more minutes; or disrupts 911 emergency call processing for any period.

(Definition of “Major service outage” inserted by regulation 2.5 of GN 3207 of 2023)

“Mean opinion score (MOS)” provides a numerical measure of the human-judged overall quality of voice or video sessions, judged on a scale from 1 (bad) to 5 (excellent);

(Definition of “Mean opinion score” inserted by regulation 2.5 of GN 3207 of 2023)

“Mobile Services” means a radio-communications service between land stations or between mobile stations;

“Out-of-bundle” means a rate that an end-user is charged upon depletion of the allocated bundle;

(Definition of “Out-of-bundle” inserted by regulation 2.1(d) of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Packet Data Protocol (PDP)” means a packet data connection over which the User Equipment (UE) and the network can exchange IP packets;

(Definition of “Packet Data Protocol (PDP)” inserted by regulation 2.5 of GN 3207 of 2023)

“Point of Sale” means a physical service outlet where a transaction has been concluded or a transaction concluded electronically;

“Post-paid plans” means a service in which an end-user pays monthly subscription and usage charges at the end of each month for the allocation of voice minutes, SMS and data services;

(Definition of “Post-paid plans” inserted by regulation 2.1(e) of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Qualifying Service” means application made by end-users on service provided by a licensee in an area where there is coverage;

“Quality of Service” means the total characteristics of a Fixed, Fixed Wireless or Mobile electronic communications service that results in a defined level of service to an end-user;

“Quality of Service Measurements”

(Definition of “Quality of Service Measurements” deleted by regulation 2.2 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Rebate” means the deduction from an amount payable by an end-user as a result of service disruptions which affected the ability of an end-user to use a service;

“Reporting Period” means prescribed period for which a licensee must measure specific parameters and/or report to the Authority;

“Round Trip Time (RTT)” means the time required for a packet to travel from a source to its destination and back, and is used to measure the delay on a network at a given time;

(Definition of “Round Trip Time (RTT)” inserted by regulation 2.6 of GN 3207 of 2023)

“Service Activation”

(Definition of “Service Activation” deleted by regulation 2.2 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Service Activation Time”

(Definition of “Service Activation Time” deleted by regulation 2.2 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Service Installation” means connecting an end-user service point to the network, making the service available to an end-user;

“SMS End-to-End Delivery Success Rate” means the ratio of ‘received to sent’ test SMSs, from one mobile device to another mobile device, excluding duplicate received and corrupted test SMSs;

(Definition of “SMS End-to-End Delivery Success Rate” inserted by regulation 2.7 of GN 3207 of 2023)

“SMS End-to-End Delivery Time” means the time between sending an SMS to an SMS Centre and receiving the very same SMS on another mobile device;

(Definition of “SMS End-to-End Delivery Time” inserted by regulation 2.7 of GN 3207 of 2023)

“SMS Transmission Ratio” means the proportion of SMS’s transmitted completely without errors between network termination points;

“Speech Quality” means the condition of the conversational speech without noise and echo interference;

“Unstructured Supplementary Service Data (or USSD)” means a Global System for Mobile communication technology that is used to send text between a mobile phone and an application program in the network;

(Definition of “Unstructured Supplementary Service Data (or USSD)” inserted by regulation 2.1(f) of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

“Video Streaming Completion Success Rate” means the proportion of times that the video is reproduced until the end, out of the number of times that reproduction is started, expressed as a percentage. The prerequisite for this parameter is that the streaming reproduction has started successfully;

(Definition of “Video Streaming Completion Success Rate” inserted by regulation 2.8 of GN 3207 of 2023)

“Video Streaming Service Access Time” means the time between requesting a video stream from a portal and receiving the first stream data packet at the terminal. The first data packet refers to Transmission Control Protocol (TCP);

(Definition of “Video Streaming Service Access Time” inserted by regulation 2.8 of GN 3207 of 2023)

“Video Streaming Reproduction Cut-off Ratio” means the probability that a successfully started video stream reproduction is ended by a cause other than the intentional termination by the user;

(Definition of “Video Streaming Reproduction Cut-off Ratio” inserted by regulation 2.8 of GN 3207 of 2023)

“Video Streaming Set-up Success Rate” means the ratio of successful video stream reproduction starts to user requests for the stream. The prerequisite for this parameter is that the PDP Context is activated;

(Definition of “Video Streaming Set-up Success Rate” inserted by regulation 2.8 of GN 3207 of 2023)

“Web Page Access Success Rate” means the number of times that the subscriber can successfully access a web browsing service out of the total number of attempts, expressed as a percentage;

(Definition of “Web Page Access Success Rate” inserted by regulation 2.8 of GN 3207 of 2023)

“Web Page Completion Success Rate” means proportion of times that a web page is successfully retrieved, once the download has already started, out of the total number of times that the service is accessible, expressed as a percentage;

(Definition of “Web Page Completion Success Rate” inserted by regulation 2.8 of GN 3207 of 2023)

“Web Page Download Time” means the time needed to retrieve the content of a web page successfully.

(Definition of “Web Page Download Time” inserted by regulation 2.8 of GN 3207 of 2023)

2. PURPOSE OF THE REGULATIONS

The purpose of these Regulations is to:

Prepared by:

- (a) Prescribe minimum standards for electronic communications services to an end-user by:
 - (i) an individual or class ECNS licensee; and
 - (ii) an individual or class ECS licensee
- (b) Ensure that the quality of service offered to an end-user is in accordance with the prescribed service parameters; and
- (c) Protect the rights of end-users in the electronic communications sector by:
 - (i) providing an end-user with sufficient information to enable informed decisions;
 - (ii) ensuring the efficient and effective resolution of complaints; and
 - (iii) facilitating redress to an end-user where appropriate.

3. SCOPE AND APPLICATION OF THE REGULATIONS

These Regulations are applicable to:

- (a) class and individual ECNS licensees; and
 - (b) class and individual ECS licensees.
- (2) These Regulations do not apply to mobile virtual network operators, resellers and internet of things (or machine to machines).

(Regulation 3 substituted by regulation 2 of Government Notice R128 in Government Gazette 42225 dated 12 February 2019, with effect from 1 March 2019)

4. PROVISION OF INFORMATION TO END-USERS

At the point of contracting

- (1) A licensee and its agents must inform an end-user at the point of sale, or prior to contracting of the following where applicable:
 - (a) contract terms and conditions;
 - (i) deposit;

- (ii) connection fee;
 - (iii) administrative fees;
 - (iv) insurance costs;
 - (v) in and out-of- bundle rates;
 - (vi) hardware costs;
 - (vii) the possibility of tariff changes during the contract term;
 - (viii) rules for early termination of a contract prior to expiry of the contract term;
 - (ix) rules for the carryover of voice minutes and data;
 - (x) fair usage policies;
 - (xi) date and period of invoicing;
- (b) complaints handling procedure.
- (2) A licensee must conduct random checks on points of sale and service outlets to monitor compliance with the requirement to provide information to end-users as contained in sub-regulation (1).
- (Regulation 4(2) substituted by regulation 3.1 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)*
- (3) A licensee must report to the Authority on the findings of the random checks, and the report must include the following:
- (a) schedule of random checks;
 - (b) areas where random checks were conducted;
 - (c) findings from the random checks; and
 - (d) remedial measures implemented to address non-compliance identified.
- (4) Reports in terms of sub-regulation (3) must be submitted to the Authority in February and in August of every year.

(Regulation 4(4) added by regulation 3.2 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

5. PROMOTIONS

- (1) A licensee must lodge its promotional tariffs and the duration of the application of the promotional tariffs with the Authority no less than seven (7) days prior to its launch, or any periods of extension.
- (2) A licensee must provide an end-user with all relevant information in clear and simple language, across all platforms used to communicate the promotion. The information to be provided must include the following;
 - (a) terms and conditions of the promotion, including eligibility and fair usage policies;
 - (b) duration of the promotion;
 - (c) obligations of the end-user at the expiry of the promotion and
 - (d) all applicable fees associated with the promotion.
- (3) A licensee must include in its compliance report details of all promotions during a reporting period, including the following:
 - (a) the number of end-users that participated in the promotion during that period;
 - (b) duration of the promotion; and
 - (c) the number of times that the promotion has been extended and the duration of the extensions.
- (4) Reports in terms of sub-regulation (3) must be submitted to the Authority in February and in August of every year.

(Regulation 5(4) added by regulation 4 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

6. INTERNATIONAL ROAMING

- (1) A licensee must send a welcome message to an end-user roaming internationally via SMS or any agreed method with the following information:
 - (a) service care contact details;
 - (b) voicemail retrieval number and applicable rates;

- (c) roaming networks available;
 - (d) charges applicable to incoming and outgoing voice, data services and SMS's; and
 - (e) summary of the terms and conditions for roaming.
- (2) A licensee must ensure that all of the terms and conditions, including deposits, credit limits and tariffs in respect of international roaming are:
- (a) sent to an end-user upon activation of international roaming;
 - (b) stated clearly in simple language on the licensee's website and must be easily accessible.
- (3) A licensee must send the terms and conditions via an agreed method with an end-user who activates international roaming.

7. AWARENESS OF THE CHARTER AND COMPLIANCE

A licensee must:

- (a) develop an end-user friendly version of the end-user and subscriber service charter in simple language and;
- (b) publish an end-user version of the end-user and subscriber service charter on its website and must be available and/or displayed at its service outlets.

8. BILLING

Itemised Bill

- (1) A licensee must provide a detailed itemised bill to its post-paid end-users upon request indicating the following information:
- (a) bundled calls (i.e. inclusive voice minutes of an end-user's tariff plan), specifying for each call, "0 cents" for in bundle calls, date, time, duration and recipient number;
 - (b) calls incurring a charge, specifying for each call, date, time, duration, recipient number and cost;
 - (c) bundled SMS' (i.e. inclusive SMS' of end-user's tariff plan), specifying for each SMS, "0" cents for in bundle SMS' date, time and recipient number;

- (d) SMS' incurring charges, specifying charges applicable, date, time and recipient number;
 - (e) in-bundle data (i.e. inclusive data of an end-user's tariff plan), must specify for each data session, "0" cents for in bundle data, date, time and, the total data used;
 - (f) out of bundle data specifying charges applicable date, time and total data used;
 - (g) any additional charges incurred by the end-user shall be listed in the "detailed itemised bill"; and
 - (h) applicable billing period with clear start and end dates.
- (2) A licensee must create online systems to enable end-users to access and retrieve their electronic statements containing the detail set out in sub-regulation 8(1).
- (3) The detailed itemised bill must be provided at a cost related to the mode of delivery.

Provision of Pre-Paid Usage Report

- (4) A licensee must provide a pre-paid end-user with a usage report within 14 days of a request, after the necessary validation to confirm the authenticity of the end-user. The usage report must be sent via e-mail or by post in accordance with the end-user's request.
- (5) A licensee must keep billing records for a minimum period of three (3) months, unless a longer time period is prescribed in other applicable legislation.
- (6) Charges levied by the licensee, for the provision of a detailed usage report to pre-paid end-users must be limited to cost recovery.
- (7)

(Regulation 8(7) deleted by regulation 5 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

8A. VOICE AND SMS SERVICES

- (1) A licence must send usage depletion notifications via SMS, push notification or any other applicable means when usage reaches 50%, 80% and 100% depletion of voice and/or SMS bundles. End-users must be provided with an option to opt-out of voice and SMS usage notifications.

(Regulation 8A(1) substituted by regulation 3.1 of Government Notice R128 in Government Gazette 42225 dated 12 February 2019, with effect from 12 April 2019)

- (2) A Licensee must provide end-users who are on post-paid plans with an option to buy additional voice services or SMS services at any time.
- (3) Where an end-user who is on a post-paid or hybrid tariff plan and whose voice and SMS services are depleted does not buy additional voice services or SMS services, a licensee must provide such end-user with an option not to access the relevant depleted services and allow such end-user access to emergency services, customer care services, and incoming voice calls, incoming SMSs and any other free services.

(Regulation 8A inserted by regulation 6 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

8B. DATA SERVICES

Out of bundle billing practices:

- (1) A Licensee must ensure that an end-user is:
 - (a) sent data usage depletion notifications via SMS, push notification or any other applicable means when usage reaches 50%, 80% and 100% depletion of data bundles. End-users must be provided with an option to opt-out of data usage notifications;

(Regulation 8B(1)(a) substituted by regulation 4.1 of Government Notice R128 in Government Gazette 42225 dated 12 February 2019, with effect from 12 April 2019)

- (b) provided with an option to buy additional data bundles via the USSD platform, push notification, or any other applicable means at any time;
 - (c) provided with an option via SMS, push notification, USSD or any other applicable means to opt-in or opt-out of out-of-bundle data usage.

(Regulation 8B(1)(c) substituted by regulation 4.2 of Government Notice R128 in Government Gazette 42225 dated 12 February 2019, with effect from 12 April 2019)

- (d)

(Regulation 8B(1)(d) repealed by regulation 4.3 of Government Notice R128 in Government Gazette 42225 dated 12 February 2019, with effect from 12 April 2019)

- (2) Where an end-user does not opt-in to out-of-bundle data charge as per regulation 8B(1)(c) above, a Licensee must not permit any out-of-bundle data usage by an end-user until such time that an end-user purchases new data bundles or opt-in to out-of-bundle usage. In the event that an end-user does not make an election, whether to opt-in or opt-out of out of bundle usage, the Licensee may either immediately terminate data services or continue to provide data services, provided that the provision of the service shall be on the same terms and conditions applicable under in-bundle usage.

(Regulation 8B(2) substituted by regulation 4.4 of Government Notice R128 in Government Gazette 42225 dated 12 February 2019, with effect from 12 April 2019)

Roll over of unused data and transfer of data

- (3) A Licensee must provide end-users with an option to roll over unused data before expiry date. In the event of unused data being rolled over, a Licensee shall in the first instance apply data usage against the rolled over data until that data is fully depleted, and thereafter against the newly allocated data.
- (4) A Licensee must provide an end-user with an option to transfer data to other end-users utilising services of the same Electronic Communications Service licensee.

(Regulation 8B(4) substituted by regulation 4.5 of Government Notice R128 in Government Gazette 42225 dated 12 February 2019, with effect from 1 March 2019)

(Regulation 8B inserted by regulation 6 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

8C. CONSUMER EDUCATION AND AWARENESS

- (1) A Licensee must conduct educational awareness campaigns aimed at:
 - (a) educating end-users on the use of smart phones;
 - (b) educating end-users on how to use data; and
 - (c) educating end-users on a broad range of products and services offered.
 - (d) Educating end-users on cybersecurity and on the protection of personal information.
(Regulation 8C(1)(d) added by regulation 3.1 of GN 3207 of 2023)
- (2) A Licensee must conduct at least four (4) educational awareness campaigns per annum.
- (3) The Authority may, from time to time, in writing, order or direct Licensees to issue consumer advisories on specific issues which the Authority may deem relevant and necessary for the protection of end-users. Such directives may include, but are not limited to: fraudulent SIM swaps, fraudulent number porting, billing, or any other issues which affect consumers, and which require immediate dissemination.
(Regulation 8C(3) added by regulation 3.2 of GN 3207 of 2023)

(Regulation 8C inserted by regulation 6 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

9. QUALITY OF SERVICE

Prepared by:

Network and service availability will be measured using the parameters listed in sub-regulations 9(1) to (2) below.

Availability of ECNS

(1) The applicable measurement parameters for ECNS:

Parameter	Target	Reporting Period
Fixed services	95% network and service availability averaged over 6 months	6 monthly
Fixed wireless services	95% network and service availability averaged over 6 months	6 monthly
Mobile services	95% network and service availability averaged over 6 months	6 monthly

Availability of ECS

(2) The applicable measurement parameters for ECS:

Parameter	Target	Reporting period
Fixed Wireless services	95% service availability averaged over 6 months	6 monthly
Mobile services	95% service availability averaged over 6 months	6 monthly

(3) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulations (1) and (2) twice annually, in February and August, of each year. Reporting must be in accordance with the format prescribed or otherwise requested by the Authority from time to time.

Installation and Activation of Services to Qualifying Service Applicants

(4) The parameters set out in sub-regulation (5) are applicable to the installation and activation of fixed, fixed wireless and mobile services.

Time to Install and Activate Services

(5) The applicable measurement parameters:

Parameter		Target	Reporting Period
Installation			
Fixed Services	Residential Services	95% installed within 30 days, from the date of request	6 monthly
	Business Services	90% successfully installed within 30 days from the date of request	6 monthly
Activation			
Fixed Wireless		95% activated within 48 hours	6 monthly
Mobile Services		99% activated within 48 hours	6 monthly

- (6) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulation (5) twice annually, in February and August. Reporting must be in accordance with the format prescribed or otherwise required by the Authority from time to time.
- (7) A licensee must report non-compliance with targets contained in sub-regulation (5) above in the following manner:
- (a) the number of applications not installed or activated within the prescribed timeframes above;
 - (b) category of service (residential or business), and geographic areas where applications were not installed or activated within the prescribed timeframes; and
 - (c) reasons for the variance resulting in non-compliance with the prescribed targets.

Fault Clearance

- (8) The parameters set out in sub-regulation (9) are applicable to fault clearance.
- (9) The applicable measurement parameters:

Parameter	Target	Reporting Period
Fixed	90% of faults cleared within (5) days.	6 monthly
Mobile Services	95% of faults cleared within 24 hours	6 monthly

- (10) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulation (9) twice annually, in February and August, of each year. Reporting must be in accordance with the format prescribed or otherwise required by the Authority from time to time.

(11) A licensee must report non-compliance with targets contained in sub-regulation (5) above in the following manner:

- (a) the number of faults not cleared within the timeframes prescribed in sub-regulation (9);
- (b) cause of the faults not cleared; and
- (c) reasons for the variance resulting in non-compliance with the prescribed targets.

Measurement Parameters for Fixed, Fixed Wireless and Mobile Services

(12) The parameters set out in sub-regulation 9(13) are applicable to fixed, fixed wireless and mobile services.

(Regulation 9(12) substituted by regulation 4 of GN 3207 of 2023)

(13) The applicable measurement parameters are as follows:

Parameter	Threshold
VOICE SERVICE	
Average Call Setup Success Ratio	≥ 98 %
Average Call Setup Time	≤ 9 seconds
Average Dropped Call Ratio	≤ 3%
Average Speech Quality Mean Opinion Score (MOS)	≥ 3
Average SMS End-to-End Delivery Success Rate	≥ 98%
Average SMS End-to-End Delivery Time	≤ 10s
DATA SERVICES	
Application Throughput	Average value of Download ≥ 5 Mbit/s
File Transfer Protocol (FTP) Average Download Throughput	Average value of Download ≥ 5 Mbit/s
File Transfer Protocol (FTP) Average Upload Throughput	Average value of Upload ≥ 1,5 Mbit/s
Hypertext Transfer Protocol (HTTP) Average Download Throughput	Average value of Download ≥ 5 Mbit/s
Hypertext Transfer Protocol Average Upload Throughput	Average value of Upload ≥ 1,5 Mbit/s
Round Trip Time RTT (Latency)	Average value ≤ 100ms
Average Speech Quality Mean Opinion Score (MOS)	≥ 3.5
Minimum Signal Strength	≥ -105 dBm

Parameter	Threshold
END USER TEST CASES	
Web Page Access Success Rate	≥ 95 %
Web Page Completion Success Rate	≥ 95 %
Web Page Download time	≤ 5 sec
Video Streaming Set-up Success Rate	≥ 95 %
Video Streaming Completion Success Rate	≥ 95 %
Video Streaming Reproduction Cut-off Ratio	≥ 95 %

(Regulation 9(13) substituted by regulation 4 of GN 3207 of 2023)

- (14) A licensee must submit a compliance report to the Authority in respect of the parameters listed in sub-regulation (12) twice annually, in February and August, of each year. Reporting must be in accordance with the format prescribed or otherwise required by the Authority from time to time.
- (15) A licensee must submit a report on non-compliance with targets contained in sub regulation (12) above in the following manner:
- (a) number of targets not achieved within the prescribed connectivity failure rates above;
 - (b) actual data transmission speeds achieved as per the prescribed targets; and;
 - (c) reasons for the variance.

10. ELECTRONIC COMMUNICATIONS NETWORK MONITORING

- (1) An ECNS Licensee must monitor its electronic communications network twenty-four (24) hours a day, seven (7) days a week.
- (2) The Authority will monitor Quality of Service performance provided by Licensees, at any given time, or on an ad-hoc basis by means of drive tests, walk tests, probes and/or counters. A Network Performance Monitoring System (NPMS) will be used for the purpose of analysing raw network performance data provided by the Licensees in compliance with applicable statute laws including but not limited to RICA and POPIA.
- (3) The frequency of the Quality of Service audits referred to in Regulation 10(2), as well as the applicable Licensee(s), the services, parameters, reporting areas and reporting periods that require audits, are at the sole discretion of the Authority, and will not be advertised in advance.
- (5) A Licensee shall provide raw network performance data post hoc to the Authority upon request.

(Regulation 10 substituted by regulation 5 of GN 3207 of 2023)

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11. SERVICE UPGRADES AND NETWORK OUTAGES

- (1) A Licensee must notify affected end-users via SMS, and on Social Media platforms, or its own website, seven (7) days before, of any planned service interruptions due to service or system upgrades. The default must be that the end-users are opted in, but provided with the option to opt out (or to opt back in again if they have previously opted out).
- (2) A Licensee must notify the Authority and its customers, via Social Media platforms, SMS and its website, of any major network outage that results in poor quality of service as soon as it occurs.

(Regulation 11 substituted by regulation 6 of GN 3207 of 2023)

12. COMPLAINTS

- (1) An end-user must first lodge a complaint with the relevant licensee or agent.
- (2) An end-user may lodge a complaint with the Authority only in the following instances:
 - (a) when the end-user disputes the outcome of the resolution of the complaint; or
 - (b) when a licensee has failed to respond, or has not adequately responded to the complaint within the prescribed period.

Licensee's Complaint's Handling Process

- (3) A licensee must designate and publicise a point of entry for complaints to be lodged by an end-user.
- (4) A licensee must include the complaints handling procedures on:
 - (a) its websites;
 - (b) display boards at the licensee or agent's service outlets;
 - (c) on the invoice for post-paid end-users; and
 - (d) alternate platforms available to pre-paid end-users.
- (5) A licensee that does not have service outlets, must notify end-users of where to find its complaints handling process.
- (6) A licensee must acknowledge receipt of the complaint from an end-user within forty eight (48) hours by:

- (a) allocating a reference number to each complaint; and
 - (b) communicate the reference number to the complainant telephonically, via text or e-mail.
- (7) A licensee must resolve all complaints lodged by an end-user within fourteen (14) days of receipt.
- (8) A licensee must advise the end-user that s/he may lodge a complaint with the Authority in the following instances:
- (a) when an end-user disputes the outcome of the resolution of the complaint;
 - (b) when a licensee has failed to resolve the complaint in terms of sub-regulation 6.
- (9) A complaint will be considered closed by the Authority:
- (a) when the end-user is satisfied with the outcome of the resolution as proposed by the licensee; or
 - (b) after the complaint has been referred to the Authority's ADR Committee and has been closed by the ADR Chairperson in writing.
- (10) A licensee is entitled to demand payment of subscriptions fees in terms of the contractual agreement with the end-user, except for the disputed portion of the end-user's bill.

Billing Complaints

- (11) Where an end-user lodges a billing complaint, the following procedures must be followed:
- (a) a licensee must not suspend the service of an end-user while the investigation of a disputed bill is pending;
 - (b) a licensee must not hand over an end-user's account to collection agencies and impose penalties or charge interest on the disputed unpaid portion of the bill until the complaint has been closed in terms of sub-regulation (9).

Disputed Complaints Lodged with the Authority

- (12) A licensee must:
- (a) acknowledge receipt of the complaint escalated by the Authority within forty eight (48) hours; and
 - (b) resolve each complaint escalated by the Authority in writing within fourteen (14) days of receipt thereof;

(c) provide the Authority with written confirmation on how the escalated complaint was resolved.

- (13) A licensee must in its compliance report provide details on the steps implemented to mitigate the top three (3) complaints six (6) monthly.

13. ALTERNATIVE DISPUTE RESOLUTION (ADR)

- (1) A complaint may be referred to the Authority's alternative dispute resolution should a licensee not be able to resolve the complaint in terms of regulation 12.

(Regulation 13(1) substituted by regulation 7 of General Notice 233 in Government Gazette 41613 dated 7 May 2018, with effect from 1 March 2019)

- (2) The ADR may be chaired by a Councillor or other suitably designated person/s.
- (3) The ADR will address complaints on a national basis.
- (4) The Authority will inform parties of the venue and time when an ADR session will take place.
- (5) The outcome of an ADR session is the final step in the complaints resolution process facilitated by the Authority, unless non-compliance has been recognized.

14. REBATE

- (1) Subject to regulation (9), an end-user is entitled to a rebate if he/she has not received services in terms of a contract entered into with a licensee to which payment has already been effected for the services.
- (2) The rebate is limited to the days of service lost prorated against the end-user's subscription.
- (3) A licensee that provides a mobile service must offer a reconnect service to an end-user on a per minute tariff plan for dropped calls.
- (4) The service must be provided at no additional cost to an end-user.

15. SERVICE CARE LINE CENTRE

- (1) A licensee must provide an end-user care service.
- (2) Calls to service care line centre must at be no cost to an end-user.
- (3) A licensee must provide help to end-users in as many languages as is practicable.

- (4) A licensee must ensure accessibility of services by persons with disabilities.
- (5) A licensee must answer end-user service calls within three (3) minutes.

16. IMPOSSIBILITY OF PERFORMANCE

- (1) In the event that a licensee fails to provide end-users with service due to circumstances beyond its control for a period more than two (2) hours, a licensee must:
 - (a) As soon as it becomes aware of the outage:
 - (i) notify the Authority in writing;
 - (ii) issue a public notice to affected end-users;
 - (b) Indicate timeframes within which end-users should expect the service to be restored; and
 - (c) Submit a report to the Authority detailing the event/s that lead to the impossibility of performance, including:
 - (i) the cause of the outage;
 - (ii) steps taken to minimise a repeat of the outage, if applicable; and
 - (iii) steps taken to inform end-users of the outage.

17. COMPLIANCE REPORTING

A licensee must submit compliance reports of these regulations in accordance with the prescribed or required reporting templates.

18. CONTRAVENTION AND PENALTIES

- (1) A licensee who is found to be non-compliant with these regulations will be subject to
 - (a) a fine;
 - (b) a non-monetary penalty; or
 - (c) a fine and a non-monetary penalty.

Monetary penalties

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- (2) A licensee that contravenes any part of these regulations, is liable to a fine not exceeding R5 000 000 (five million rand).

Non-Monetary penalties

- (3) The non-monetary penalty may include the publication of non-compliance on the licensee and the Authority's websites as well as awareness campaigns in national newspapers, radio and/or television and additional platforms as determined by the Authority.

19. REPEAL OF REGULATIONS

Name of Regulation	Provision being repealed
1. End-user and Subscriber Service Charter Regulations as published in Government Gazette No. 32431 of 2009.	Entirely

20. SHORT TITLE AND COMMENCEMENT

These Regulations are called the End-user and Subscriber Service Charter Regulations 2016 and will come into operation on the date of publication in the *Government Gazette*.