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GENERAL NOTICE

NOTICE 1485 OF 2008**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**

The Independent Communications Authority of South Africa ("the Authority"), hereby gives notice that it intends to make Carrier Pre-selection regulations in terms of section 4(4) read with section 42 of the Electronic Communications Act (ECA), 2005 (No. 36 of 2005).

1. A copy of the proposed regulations is available on the Authority's website (www.icasa.org.za) and in the ICASA Library at 164 Katherine Street, Pin Mill Farm, First Floor, Block D between 10h00 and 16h30, on working days only.

2. Interested persons are hereby invited to submit written comments or written representations with regards to the proposed regulations only and **NOT** the explanatory note as contained in Annexure A, to be received **by no later than 16h30 on 09 January 2009** by post, hand delivery or facsimile transmission for the attention:

Mr Tana Kekana
Independent Communications Authority of South Africa,
Private Bag X10002,
Sandton 2146,
Or at,

Block A,
Pin Mill Farm,
164 Katherine Street,
Sandton 2146;

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E-mail: tkekana@icasa.org.za cc: mphala@icasa.org.za

3. Oral hearings in terms of section 4(6) of the Act will be held from **the 21 to 22 January 2009**. Persons making written representations are requested to indicate if they wish to make oral submissions and the estimated duration thereof must not to exceed 45 minutes.
4. All written representations submitted to ICASA pursuant to this notice will be made available for inspection by interested persons at the ICASA library and copies of such representations will be obtainable on payment of the prescribed fee
5. The final regulations will be published in the Government Gazette.

SCHEDULE

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates-

- (i) **“Act”** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);
- (ii) **‘Access Code’** means a short number prefix or code of not less than three digits that identifies the ECS Licensee chosen to handle the call.
- (iii) **‘Call Origination’** means that segment of a call made under CPS Phase 1 or CPS Phase 2 from the subscriber’s end of the exchange line or air interface to the point of interconnection.
- (iv) **‘Carrier Pre-Selection Code’** means an Access Code added by the Providing ECNS Licensee under CPS Phase 2.
- (v) **‘Carrier Selection Code’** means an Access Code added by the subscriber or their subscriber equipment under CPS Phase 1.
- (vi) **‘CPS Phase 1’** means the process whereby a subscriber to one ECS or ECNS Licensee may access the services of another ECNS Licensee or ECS Licensee that uses the facilities of an ECNS licensee other than the one used by the first ECS Licensee on a call-by-call basis by adding a short Access Code to the front of a dialled number. The Access Code may be added either manually by the subscriber during the dialling process or automatically by subscriber equipment such as an auto-dialler.
- (vii) **‘CPS Phase 2’** means the process whereby a subscriber to one ECS or ECNS Licensee may access the services of another ECNS Licensee or ECS Licensee that uses the facilities of an ECNS Licensee other than the one used by the first ECS Licensee by designating its choice of ECS Licensee, with the choice being effected by the ECNS Licensee to which the subscriber is connected.
- (viii) **‘Eligible Subscriber’** means a subscriber who is entitled to use CPS Phase 1 and CPS Phase 2.
- (ix) **‘Ordering System Specification’** means a detailed specification of the procedures for ordering CPS Phase 2 by a subscriber, and the subsequent interactions between the various ECS and ECNS Licensees including the procedures for handling errors and unauthorised orders.
- (x) **‘Providing ECNS Licensee’** means an electronic communications network service licensee that is required in terms of these regulations to make the necessary electronic communications facilities available for the

implementation and proper functioning of carrier pre-selection using CPS Phase 1 or CPS Phase 2.

- (xi) **'Providing ECS Licensee'** means an electronic communications service licensee that is required in terms of these regulations to provide its subscribers with access to the electronic communications services of another electronic communications service licensee.
- (xii) **'Requesting ECNS Licensee'** means an electronic communications network service licensee that provides a network service to a Requesting ECS Licensee.
- (xiii) **'Requesting ECS Licensee'** means an electronic communications service licensee that is entitled in terms of these regulations to request access to the subscribers of another electronic communications service licensee.
- (xiv) **'Selected ECNS Licensee'** means the electronic communications network service licensee that provides a network service to a Requesting ECS Licensee and was/is selected by a subscriber for a given call under CPS Phase 1 or CPS Phase 2.
- (xv) **'Selected ECS Licensee'** means the electronic communications service licensee that provides a service that uses carrier pre-selection and was selected by a subscriber for a given call under CPS Phase 1 or CPS Phase 2.
- (xvi) **'Slamming'** means the practice of switching a subscriber's Selected ECS Licensee or Selected ECNS Licensee without the subscriber's knowledge or consent, or after obtaining consent but based upon misrepresentation or deceptive practices.
- (xvii) **'Winback'** means a Providing ECS Licensee contacting subscribers to offer discounts, free services or other inducements in order to convince such subscribers not to change to another ECS Licensee or revert to their original ECS Licensee in the first 2 months after requesting CPS Phase 1 or CPS Phase 2, but does not include offers made in general to subscribers by means other than in person or by telephone.

2. Purpose of these regulations

To establish a carrier pre-select framework and to determine the electronic communication services and the electronic communications facilities available for implementation thereof.

3. The electronic services subject to carrier pre-selection

3.1 All outgoing calls are subject to CPS Phase 1 and will be known as CPS Phase 1 services, excluding:-

- (a) Calls connected via a call attendant;
- (b) Reverse charge calls;

- (c) Calls to the 080 and 09 number ranges;
 - (d) Calls to short code numbers; and
 - (e) Calls to destinations that are reachable only on-net.
- 3.2 The classes of services subject to CPS Phase 2 are the following:-
- (a) All outgoing international calls, or
 - (b) All outgoing national calls excluding calls wholly within the same local area code, excluding:-
 - (i) Calls connected via a call attendant;
 - (ii) Reverse charge calls;
 - (iii) Calls to the 080 and 09 number ranges;
 - (iv) Calls to short code numbers; and
 - (v) Calls to destinations that are reachable only on-net.
- 3.3 Subscribers may choose one class or the other or both and may further choose a different Requesting ECS Licensee for each class of calls in terms of regulation 3.2 above.
- 3.4 Eligible Subscribers exclude the following categories:-
- (a) Subscribers who are being provided with a temporary service;
 - (b) Pre-pay subscribers
 - (c) Subscribers with payphone lines;
 - (d) Subscribers with Community Service Telephones;
 - (e) Subscribers with services that are the subject of special requirements under the Universal Service Obligations; and
 - (f) Subscribers whose accounts are suspended.
- 4 Framework for carrier pre-selection**
- 4.1 All electronic communications service licensees may act as Requesting ECS Licensees for either or both CPS Phase 1 and CPS Phase 2.
- 4.2 All electronic communications network service licensees may act as Requesting ECNS Licensees for either or both CPS Phase 1 and CPS Phase 2.
- 4.3 All electronic communications service licensees must act as Providing ECS and cooperate where/when necessary to permit the provision of CPS Phase 2 in an efficient and non-discriminatory manner, and without undue delay provided such ECS licensees:-
- (a) provide outgoing switched telephony services to subscribers, and

- (b) serve the subscribers directly through their own access facilities or through the access facilities of an electronic communications network service licensee that is required to support carrier pre-selection.
- 4.4 Electronic communications service licensees with less than 100 000 subscribers are exempt from the requirements to support CPS Phase 2
- 4.5 All electronic communication network service licensees must act as Providing ECNS Licensees for CPS 1 provided that such ECNS Licensees:
- (a) have the capability to handle switched voice calls from the subscribers;
and
 - (b) provide access facilities to which a subscribers may directly connect and use their subscribe equipment with a subscriber having a number in the ranges 01, 02, 03, 04, 05, 07, 08 or number ranges allocated for similar services in the future.
- 4.6 All electronic communications network service licensees must act as Providing ECNS for CPS Phase 2 provided that such ECNS Licensees:-
- (a) have the capability to handle switched voice calls from subscribers;
 - (b) provide such access facilities to one million or more subscribers; and
 - (c) provide access facilities to which subscribers may connect their subscriber equipment, and use such equipment with the subscribers having a number in the ranges of 01, 02, 03, 04, 05 or number ranges allocated for similar services in the future.
- 5 Requirements to provide CPS Phase 1**
- 5.1 All Providing ECNS Licensees for CPS Phase 1 must establish CPS Phase 1 within 2 (two) months of receiving a request in writing for the establishment of such a facility from a Requesting ECS Licensee via a Requesting ECNS Licensee.
- 5.2 The facilities required for CPS Phase 1 include:-
- (a) the establishment of interconnection for Call Origination; and
 - (b) the means to interpret Access Codes and route calls to the relevant interconnection points.

6. Requirements to provide CPS Phase 2

- 6.1 All Providing ECNS Licensees and ECS Licensees for CPS Phase 2 must cooperate to establish CPS Phase 2 within 10 (ten) months of receiving a request in writing for the establishment of such a facility from a Requesting ECS Licensee via a Requesting ECNS Licensee. The 10 month period includes time for testing and validation.
- 6.2 The facilities required for CPS Phase 2 may include, but are not limited to:-
- (a) the inter-operator procedures for ordering CPS Phase 2 for individual subscribers in accordance with the Ordering System Specification;
 - (b) the establishment of interconnection for Call Origination;
 - (c) the means to add Carrier Pre-Selection Codes to the calls made by the subscriber and to route such calls to the relevant interconnection points; and
 - (d) the ability of subscribers to override their pre-selections by adding a Carrier Selection Code on a call-by-call basis. The Carrier Selection Code may identify the Providing ECS Licensee or any ECS Licensee who offers service by CPS Phase 1.
- 6.3 All providing ECS Licensees must upon request of a Requesting ECS Licensee via a Requesting ECNS Licensee send written notice to all their Eligible Subscribers informing them that CPS Phase 2 is available from the Requesting ECS Licensee. Such written notices may be sent in conjunction with a bill and must be sent within four months of receiving the request for the notices to be sent.
- 6.4 The Authority may approve a pro-forma notice which must indicate:-
- (i) where orders for the services of Requesting ECS Licensees for CPS Phase 2 services may be placed; and
 - (ii) where further information may be obtained.
- 6.5 The notices must not include comments on the services offered by the Requesting ECS Licensee or the Requesting ECNS Licensee. Each Requesting ECS Licensee may request the notices contemplated in this regulation to be sent once.
- 6.6 The ordering system for handling per subscriber orders for CPS Phase 2 shall conform to an Ordering System Specification to be prepared by all prospective Providing ECS Licensees and ECNS Licensees and all prospective Requesting ECS Licensees and ECNS Licensees. The ordering system must be designed to accommodate additional parties.
- 6.7 ECS Licensees and ECNS Licensees must complete the Ordering System Specification (OSS) and lodge same with the Authority within three (3) months

of the coming into force of these regulations. The lodgement will be considered by the Authority in accordance with objectives and principles of the Act, Failure to lodge the OSS by ECNS and ECS licensees within the prescribed period may result to the imposition by the Authority of an interim specification.

7. Payments between the licensees

- 7.1 The Requesting ECNS Licensee must pay the Providing ECNS Licensee a non-returnable CPS Phase 2 order payment to be specified by the Providing ECNS Licensee which must be credited against future charges. Such charges must not exceed R100,000. Payment must be an integral part of the placing of the order.
- 7.2 The Requesting ECNS Licensee must pay the Providing ECNS Licensee a data amendment charge per exchange affected for the means to interpret Access Codes and route calls to the relevant interconnection points.
- 7.3 The Requesting ECNS Licensee must furthermore pay the Providing ECNS Licensee a per-network order charge when placing an order for CPS Phase 2 and subsequently an annual per-network charge for CPS Phase 2.
- 7.4 The Requesting ECNS Licensee must pay the Providing ECNS Licensee the per-subscriber order charges or per-subscriber change charges for CPS Phase 2. Where the service to the subscriber is provided through a separate ECS Licensee, these charges may include charges to be passed to the Providing ECS Licensee for order validation.
- 7.5 The Requesting ECNS Licensee must pay the Providing ECNS Licensee call charges for Call Origination under CPS Phase 1 and CPS Phase 2.
- 7.6 All the above charges must be based for the first two years on estimates of the costs and must be approved by the Authority. After two years the charges must be adjusted to match the actual audited costs incurred.
- 7.7 No other charges may be payable between the licensees for CPS Phase 1 or CPS Phase 2 without the approval of the Authority.

8. Payments by subscribers

- 8.1 The Providing ECS Licensee and the Providing ECNS Licensee must not charge subscribers:-
 - (a) for calls that are handled by CPS Phase 1 or CPS Phase 2;
 - (b) for any request for CPS Phase 2; or

(c) any change to their pre-selection arrangements except as provided for in sub-regulation 12 (2) and sub-regulation 13(3).

8.2 Nothing in these regulations may be interpreted to prohibit the Requesting ECS Licensee from offering a subscriber an inducement to change ECS Licensees.

9. Cost recovery for the initial set-up cost

9.1 Each Providing ECS Licensee that provides CPS Phase 1 and whose retail prices are controlled by regulation may apply to the Authority to have the audited set-up costs of CPS Phase 1 taken into account in the next revision of their price control.

10. Service and other requirements

10.1 The Requesting ECS Licensee and the Requesting ECNS Licensee may not order CPS Phase 2 or change any CPS Phase 2 arrangements for any subscriber unless it has received a request from the said subscriber in written form or in a form acceptable to the Authority. The Requesting ECS Licensee and the Requesting ECNS Licensee must not engage in Slamming.

10.2 The Providing ECS Licensee and the Providing ECNS Licensee must not engage in Winback. Within two days of receiving an order for CPS Phase 2 in respect of a subscriber, the Providing ECS Licensee or the Providing ECNS Licensee may send one letter (commonly known as an anti-slamming letter) to the subscriber to inform them that CPS Phase 2 has been ordered and to inform them what action to take to cancel the order if they have not requested the order. The format of the letter must be approved by the Authority.

10.3 All Providing ECNS Licensees must report to the Authority at the end of each quarter, their performance against the list of quality of service parameters as follows:-

(a) For each order to establish the facilities for CPS Phase 1: The duration from the instant of a valid order being received by the Providing ECNS Licensee to the instant when the CPS Phase 1 facility is available for operational traffic;

(b) For each order to establish the facilities for CPS Phase 2: The duration from the instant of a valid order being received by the Providing ECNS Licensee to the instant when the CPS Phase 2 facility is available for operational traffic;

(c) For orders to apply or change the CPS Phase 2 service for subscribers: The times by which the fastest 90% of orders are completed, i.e. the duration from the instant of a valid order being received by the Providing ECNS Licensee to the instant when the CPS Phase 2 facility is enabled

for operational traffic from the subscriber concerned. The time must be measured in lapsed days (including all public holidays and weekends); and

- (d) The Authority may publish the performance figures either individually or in a form designed to facilitate a comparison of different ECNS Licensees. Nothing prevents ECNS licensees from publishing their own performance figures.
- 10.4 Except where otherwise indicated, disputes relating to CPS Phase 1 and CPS Phase 2 must be handled in accordance with the arrangements for interconnection.
- 10.5 Where a Providing ECNS Licensee fails to effect CPS 1 or CPS 2 within the timescales specified in regulations 5 or 6, the Requesting ECNS Licensee may apply to the Authority for alternative technical arrangements to be provided and the Providing ECNS Licensee must provide such arrangements as the Authority may determine without charge to the Requesting ECNS Licensee.
- 11. System capacity**
- 11.1 Providing ECNS Licensees must design their systems so that each switch is able to support at least 50 Requesting ECNS Licensees under CPS Phase 1 and at least 20 Requesting ECNS Licensees under CPS Phase 2.
- 12. Routing for CPS Phase 1**
- 12.1 Where a Carrier Selection Code assigned in accordance with the national numbering plan to identify another ECNS Licensee is prefixed to the called party number on the subscriber side of the network termination point, the Providing ECNS Licensee must route the call to a point of interconnection agreed to with the ECNS Licensee identified by the Carrier Selection Code. The Providing ECS Licensee must not charge the subscriber for the call.
- 12.2 Where no code is prefixed to the called party number, or where any code prefixed is not assigned in accordance with the national numbering plan, or where the Carrier Selection Code identifies the Providing ECNS Licensee, the Providing ECNS Licensee is responsible for the routing of the call and the Providing ECS Licensee may charge the subscriber accordingly.
- 13. Routing for CPS Phase 2**
- 13.1 Where a subscriber has elected to have calls of a particular class routed by CPS Phase 2, the Providing ECNS Licensee must prefix the called party number with the relevant Carrier Pre-Selection Code and must route the call

to a point of interconnection agreed with the ECNS Licensee who has been pre-selected for that class of calls. The Providing ECS Licensee must not charge the subscriber for this call.

- 13.2 Where a Carrier Selection Code assigned in accordance with the national numbering plan to an ECNS Licensee other than the Providing ECNS Licensee is prefixed to the called party number on the subscriber side of the network termination point for a call of a class for which the subscriber has elected to use CPS Phase 2, the Providing ECNS Licensee must route the call to a point of interconnection agreed with the ECNS Licensee identified by the Carrier Selection Code. The Providing ECS Licensee must not charge the subscriber for this call.
- 13.3 Where any code prefixed is not assigned in accordance with the national numbering plan, or where the Carrier Selection Code prefixed identifies the Providing ECNS Licensee, the Providing ECNS Licensee is responsible for the routing of the call and the Providing ECS Licensee may charge the subscriber accordingly.
- 13.4 The additional time delay in call set-up due to the analysis of the called party number and the addition of any Carrier Pre-Selection Code may not exceed 200ms unless otherwise approved by the Authority.

14. Requesting licensees

- 14.1 Where a Requesting ECNS Licensee requests the establishment of CPS Phase 1 or CPS Phase 2 services from a Providing ECNS Licensee, the Providing ECNS Licensee must:-
- (a) in the case of CPS Phase 1, enable calls to be routed within its network to the correct interconnection point using the relevant Carrier Selection Code or Carrier Pre-Selection Code by the date when the interconnection arrangements with the Requesting ECNS Licensee are brought into service or within ten (10) days of the request for CPS Phase 1, whichever is later;
 - (b) in the case of CPS Phase 2, ensure that its per-subscriber ordering system is ready to take orders from the first Requesting ECNS Licensee by the date when the interconnection arrangements with the Requesting ECNS Licensee are brought into service or within ten (10) months of the request for CPS Phase 2, whichever is later; and
 - (c) in the case of CPS Phase 2, ensure that its per-subscriber ordering system is ready to take orders from any Requesting ECNS Licensee other than the first Requesting ECNS Licensee by the date when the interconnection arrangements with the Requesting ECNS Licensee are brought into service or within sixty (60) days of the request for CPS Phase 2, whichever is later.

15. Time limits for adding subscribers or modifying arrangements under CPS Phase 2

- 15.1 The per-subscriber ordering system between the Requesting and Providing ECNS Licensees must be designed so that the time between the subscriber initially requesting CPS Phase 2, or requesting a modification to its arrangements, and relevant calls starting to be routed to the relevant Selected ECNS Licensee does not exceed ten (10) days.
- 15.2 The per-subscriber ordering system between the requesting and Providing ECNS Licensees must be designed so that the time between the subscriber requesting the cessation of CPS Phase 2 services and relevant calls ceasing to be routed to the Selected ECNS Licensee does not exceed five (5) days.

16. Contraventions and Penalties

- 16.1 A licensee who fails to comply with these regulations is guilty of an offence and is subject to the imposition of a fine of a maximum of R20 000.00 by the Authority, in addition to any sanctions as provided for in section 17E of Independent Communications Authority of South Africa Act (Act No 13 of 2000).

17. Short title and commencement

These regulations are called the **CARRIER PRE-SELECTION Regulations, 2008** and will come into force on the date of publication in the Government Gazette.

18. Repeal of the regulations

- 18.1. The Carrier Pre-Selection regulations published in Government Gazette Number 975 dated 24 June 2005 are hereby repealed.
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