By email

Attention: The Chairperson (Call Termination Review)
Email: CTR2021@icasa.org.za

10 May 2024

RAIN'S SUBMISSION ON THE DRAFT CALL TERMINATION AMENDMENT REGULATIONS, 2014

1. Introduction

1.1. The Independent Communications Authority of South Africa ("ICASA") published draft amendments to the Call Termination Regulations of 2014 on 22 March 2024 ("Draft Regulations") requesting written comments by 10 May 2024. This follows a phased review process that began on 28 May 2021 whereby ICASA published its intention to review the pro-competitive conditions imposed on some licensees in the voice market. The review of the pro-competitive conditions was concluded by publication of the Findings Document on 28 March 2022.

1.2. Post the publication of the Findings Document, ICASA conducted a cost modelling process and engaged with the main voice operators. Consequently, ICASA has proposed new rates that wholesale voice call termination operators should charge each other as set out in the Draft Regulations. The proposed call termination rates effectively:

1.2.1. phase out asymmetry between large and small operators;

1.2.2. allow all new entrants in the voice market to qualify for asymmetry for a limited period of three years after entry into the market; and

1.2.3. allow all operators to charge reciprocal international termination rates for voice calls originating outside South Africa.

2. Comments on the Draft Regulations

2.1 Rain (Pty) Ltd ("rain") joined the voice market in May 2023 and subsequently entered into interconnection agreements with the other mobile operators abiding by the prescribed call termination rates as a small operator. In terms of the Draft Regulations, rain would qualify as a new entrant in the wholesale voice market and benefit from the asymmetry to ease the impact of higher costs of entering the market voice later than large and small operators.

2.2 rain welcomes ICASA's stance of allowing new entrants to benefit from asymmetrical rates for three years upon entry into the market. A period of asymmetry will grant rain an opportunity to recover the higher costs associated with being a new entrant such as higher network roll-out costs and lower volumes of traffic on its network upon entry. It will also enable rain to attain a level where it can compete on similar footing with operators who have been in the wholesale voice market for longer.

2.3 rain is also of the view that the small operators who have existed longer in the wholesale voice market and have enjoyed more than 12 years of asymmetry should not be granted a further period of asymmetry outside of the 1-year transitional period as that would further distort competition.

2.4 We note that there is a misalignment on asymmetry in the transitional period from 1 July 2024 to 30 June 2025, being that a small operator would be able to charge R 0.09 (9 cents), whilst in this period a new entrant would be charging a maximum of R0.07 (7 cents). The impact will be that new entrants, such as rain, will incur higher termination costs than small operators for calls terminated on the small operators' network, essentially allowing small operators to benefit from asymmetry to the disadvantage of new entrants. This would be contrary to ICASA's efforts of ensuring new entrants counter the disadvantages of lower economies of scale through asymmetrical charges for the first three years upon entry into the market.

2.5 To remedy this unintentional effect, we propose that should any portion of a new entrant's three years of entry into the market overlap with the transitional period of 1

July 2024 – 30 June 2025, the new entrant should be permitted to charge a termination rate of R0.09 (9 cents) during that period to align with the rate for small operators.

3. Conclusion

rain is in support of the proposed general decrease of termination rates in the Draft Regulations and welcomes a three-year asymmetry period for new entrants in the mobile voice market. However, we request that ICASA amend the Draft Regulations to allow new entrants to charge the same termination rate as small operators during the 1-year transitional period to ensure the mobile wholesale voice market is not further distorted to the detriment of new entrants such as rain.

Yours faithfully

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