

28 May 2018

ICASA

Per email: prioritymarkets2017@icasa.org.za

To whom it may concern

AMENDMENTS TO THE END-USER AND SUBSCRIBER SERVICE CHARTER REGULATIONS

1. ISPA refers to the End-User and Subscriber Service Charter Amendment Regulations 2018 as gazetted on 7 May 2018 (“**the Amendment Regulations**”).
2. ISPA has now had an opportunity to workshop the Amendment Regulations with its members, who have raised a number of concerns about practical implementation of certain of the provisions of the Amendment Regulations.
3. Such concerns in the main relate to the application of the Amendment Regulations to all licensees when they were clearly intended to remedy bill shock and other issues experienced by consumers when utilizing mobile data services. They also extend to the use of the term “end-user” in the Amendment Regulations, which term covers relationships between ECNS and ECS licensees as well as between licensees and licence-exempt resellers¹.
4. This is particularly the case with the requirement that a licensee must provide end-users with “an option to transfer data to other end-users on the same network”. While this is possible for vertically-integrated licensees like the mobile network operators – i.e. where both the licensee and the network are the same - ISPA members are confused as to how this is to be achieved in the fixed-line environment.
 - 4.1. Where two different ISPs or ECS licensees are providing services over the same third-party network, is it required that they also provide this option, i.e. to allow an end-user to transfer data from him herself using ISP A to another end-user using ISP B (on the same network)?

¹ These concerns are consistent with ISPA’s written submissions on the Amendment Regulations.

- 4.2. How should this option work where the two subscribers are on different packages (e.g. shaped business vs. unshaped home) and there is different pricing and terms and conditions applicable?
- 4.3. Members queried whether the term “network” is meant to refer to the term “electronic communications network” as defined in section 1 of the Electronic Communications Act 36 of 2005, or whether it extends to virtual networks operated by ECS licensees?
5. Notwithstanding the above ISPA members are all committed to complying with the Amendment Regulations. ISPA recognises the value of interventions relating to the roll-over of data and the manner in which data is attributed in a roll-over scenario. Similarly, ISPA welcomes the push for greater transparency relating to usage of data products, noting that neither roll-over or transparency is an issue in the fixed line ISP market (where it is trivial for a subscriber to cancel an account and move to another service provider). Similarly, out-of-bundle rate differentials and bill-shock are not features of the fixed line market.
6. Members have, however, requested that ISPA approach the Authority to request that the period allowed for them to implement the system and software changes required by extended in order to allow a reasonable time-frame for compliance to be attained.
7. In the circumstances ISPA requests that the Authority give due consideration to extending the date on which the Amendment Regulations will come into force until 7 August 2018. Members have submitted to ISPA that this would be an aspirational but attainable time-period within which to make the necessary changes.
8. Such an extension will allow ISPA members to be prepared to meet subscriber expectations relating to the Amendment Regulations and perhaps afford the Authority time to clarify the queries set out above.
9. ISPA looks forward to hearing from the Authority in this regard as a matter of urgency.

Regards

ISPA REGULATORY ADVISORS

(intended as an electronic signature)