



---

## SUBMISSION BY MWEB CONNECT (PTY) LTD (“MWEB”) ON THE DRAFT END-USER AND SUBSCRIBER SERVICE CHARTER REGULATIONS

---

### 1. INTRODUCTION

1.1 MWEB thanks the Independent Communications Authority of South Africa (“the Authority”) for providing us the opportunity to submit our comments on the draft End-User and Subscriber Service Charter Regulations (“the draft Regulations”).

### 2. COMMENTS

#### A. Definitions:

2.1 The use of the word “disruption” causes confusion in the definition of “Disconnection”, considering that the definition of “Fault” also makes reference to “disruption”. We therefore propose the definition reads as follows ““Disconnection” means a process whereby a subscriber’s service is suspended **[disrupted]** or terminated by the service provider”.

2.2 The definition of “Fault” should clearly refer to a failure on the licensee’s network as many licensees rely on and are dependent on the services/networks of upstream providers and a failure on the upstream provider’s network will result in disruptions and degradation of services of the licensee. Therefore, the definition should read ““Fault” means failure of the licensee’s [a] network which results in disruptions or degradation of services”.

2.3 The definition of “Fixed Wireline Service” is not adequate to define the services that fall within that category. The definition requires further clarity and the use of examples of the different types of services under the definitions would assist in identifying them better.

2.4 The definition of “Installation” does not properly explain what is meant by installation. We propose that the definition reads ““Installation” means making available the network infrastructure on the end-user interface side”, which

definition is very similar to the definition of installation in the existing End-User and Subscriber Service Charter Regulations (“existing or current regulations”). Since there is a definition for installation the definition of “Service Installation” is redundant.

2.5 MWEB requires clarity on the definition of “Quality of Service Measurements”.

## **B. General**

2.1 It is noted that the average time to install services in draft Regulation 4.3 for Fixed Wireless and Fixed Wireline services has decreased to 95% within 20 days, whereas the current regulations require an average of 90% installation and activation within 30 days and 10% within 40 days. It is important to consider the type of services offered by licensees in determining the average timeframes. This requirement should be reviewed and we recommend that various services be grouped according to the nature of installation and average installation periods should be determined per type of installation. Alternatively, at the very least, the time periods outlined in the current regulations should remain.

2.2 The draft Regulations do not indicate a distance for the calculation of latency. The regulations should clearly indicate that calculations are required for a national destination or specify an international region to which the measurement applies, as latency to various international destinations will obviously differ depending on their distance away from South Africa. Delay ratio has the same meaning as latency and therefore the requirement to report on delay ratio is redundant.

2.3 Draft Regulation 10 requires a rebate of rental whereas the definition of rebate refers to subscriptions. These should be aligned for the sake of consistency.

2.4 Draft Regulation 4.5 reads “Connectivity Failure Rate For Fixed Wireless, Fixed Wireline, Mobile, Internet And Broadband Services”, which causes uncertainty as, for example, internet may be provided over a fixed wireless service. There is a definite need for further clarity in the definitions.

2.5 It is noted that various requirements from other existing regulations have been incorporated in the draft Regulations. For example, parts of the draft billing Regulation (7) appears in the Regulations Regarding Standard Terms and

Conditions for Individual Licences whilst other parts of that draft Regulation appear in the Code of Conduct for Electronic Communications and Electronic Communications Network Services Licensees. There is no explanation for the duplication of the provisions of those regulations. There are also certain differences as compared to the existing regulations. These should be aligned for certainty.

- 2.6 It is noted that draft Regulation 7.2 b) requires that websites visited be part of itemised billing. This differs from the current requirement in the Regulations Regarding Standard Terms and Conditions for Individual Licences. Further. In terms of s78 of the Electronic Communications and Transactions Act 2002, there is no general obligation for service providers to monitor data which it transmits or stores and there is no general obligation to actively seek facts or circumstances indicating unlawful activity. In terms of this provision, end-users are given confidentiality. Requiring a licensee to provide itemised billing of websites visited is contrary to this provision and will be seen as monitoring of the activities of the end-user. Certainly, this was not the intention of the Authority.
- 2.7 The time period for the resolution of complaints has been reduced in the draft Regulations. Whereas the current regulations require complaints to be resolved within 14 days, the draft Regulations have reduced this period by using the words "14 calendar days". Licensees will properly investigate a complaint before reaching a resolution, and the investigation may involve liaising with various internal and external parties. Considering this and the likelihood of public holidays that may shorten the period for resolution even further, we propose that the current time period of "14 days", which are in effect working days, remain (The Electronic Communications Act, 2005 defines "days" as "working days unless otherwise specified").
- 2.8 MWEB submits that there should be proper screening before a complaint is referred to Alternate Dispute Resolution ("ADR"). Licensees may be situated in a particular province and attending mediation procedures across provinces will prove extremely expensive and a strain on resources. The complaint and the resolution offered by the licensee should be evaluated to determine whether there is merit and there should be a reasonable monetary threshold before a matter is referred to ADR.

- 2.9 In the draft Regulations, the frequency of reporting on escalated complaints has been increased from bi-annually to monthly. This will prove to be burdensome for licensees and we are unclear as to the reasoning for the increased frequency in reporting. Reference to 13(a) in draft Regulation 9. b) appears to be an error.
- 2.10 The draft Regulations introduces “rebates”. We do not believe that the introduction of rebates will benefit the end-user in the long term. Licensees will spend considerable amounts of money to build more reliability into their networks (in some cases unnecessarily) in order to prevent having to pay rebates and the costs incurred in these exercises will inevitably be passed on to the end-user. Regulations such as the End-User Subscriber Service Charter Regulations set the standard for service levels and there is sufficient penalty within the Regulations/draft Regulations to deter licensees from treating end-users unfairly.
- 2.11 Draft Regulation 11 refers to technical parameters, however these are not outlined in the draft Regulations. Section 3.1 of Schedule 2 of the draft Regulations is titled Technical Parameters, however there is no further detail in this section.
- 2.12 Requiring licensees to publish a list of non-cleared faults on their websites, print and broadcast media will prove costly to the licensee. Licensees should be required to publish the non-cleared faults on their websites only.
- 2.13 Draft Regulation 15. b) should refer to Schedule 1 and not Schedule 2.
- 2.14 The fifth bullet under Complaint Resolution Time in Schedule 1 should be deleted as this is a repetition of the fourth bullet.
- 2.15 The first bullet under Fault Clearance Rate in Schedule 1 is confusing. We request this be reworded to provide clarity.
- 2.16 It is noted that the targets and reporting periods in the draft Regulations do not match the requirements as per Schedule 2 of the draft Regulations. For example, draft Regulation 8.1 f) provides that a licensee must resolve all complaints within 14 calendar days and Schedule 2 indicates the target as 21 working days. Whilst 7.2 of the draft Regulations requires 90% of billing complaints be resolved within 14 calendar days with a quarterly reporting

period, 3.2 of Schedule 2 states that 90% of billing complaints shall be resolved within 4 working days averaged over 6 months. The targets for installation and for activation in Schedule 2 do not match the targets outlined in 4.3 of the draft Regulations. The fault clearance target rate for fixed wireless services in Schedule 2 is indicated as 80% within 24 hours and 10% within 5 working days. This differs from the requirement in draft Regulation 4.4. The target rate in draft Regulation 4.4 reflects that 90% clearance is required within 3 days. We therefore request that the reporting requirements in the draft Regulations and Schedule 2 of the draft Regulations be aligned.

### **3. CONCLUSION**

- 3.1 We are confident that our submission will be considered and we are eager to be a part of any related consultative process.
- 3.2 For any further information please contact Prishnee Singh at [psingh2@mweb.com](mailto:psingh2@mweb.com).