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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 1021 **01 OCTOBER 2018**

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NUMBER PORTABILITY REGULATIONS

IN TERMS OF SECTION 68 READ WITH SECTION 4 OF THE ELECTRONIC COMMUNICATIONS ACT (ACT NO 36 OF 2005), AS AMENDED.

The Independent Communications Authority of South Africa ("**the Authority/ICASA**") has in terms of section 68 (1) (b) read with section 4 of the Electronic Communications Act (Act no. 36 of 2005), as amended, developed the Number Portability Regulations including the Reasons Document.

A copy of the Reasons Document is available on the Authority's website (www.icasa.org.za) and in ICASA Library at 164 Katherine Street, Pin Mill Farm, Sandton, Block D, Ground floor during the Authority's office hours.

Rubben Mohlaloga
Chairperson

Date: 26/09/2018

1. DEFINITIONS

In these Regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned-

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

"block operator" means a licensee that has been allocated a number block under the National Numbering Plan;

"calling line identification" has the meaning assigned to it in the Numbering Plan Regulations, as amended;

"national number portability database" means a database that manages the porting transaction between the recipient and donor operator to port a number/ number block, by keeping and updating a record of all ported number/ number block at any given time in order to inform the routing of calls to the ported number/ number block by licensees;

"donor operator" means a licensee from which the number/ number block is being or has ported out;

"functional specification" means a regulation determining the rules applicable to licensees for the implementation, management and performance of number portability;

"geographic number" has the meaning assigned to it in the Numbering Plan Regulations, as amended;

"invalid number port" is defined as when a subscriber has been unknowingly or unwittingly ported;

"licensee" means a person or entity issued with an individual electronic communications services (I-ECS) licence;

"mobile number" has the meaning assigned to it in the Numbering Plan Regulations, as amended;

"mobile service" has the meaning assigned to it in the Numbering Plan Regulations, as amended;

"non-geographic number" has the meaning assigned to it in the Numbering Plan Regulations, as amended;

"Numbering Plan Regulations" Means the Numbering Plan Regulations Notice

No. 370 of 24 March 2016 Gazette No. 39861;

"**number portability**" has the meaning assigned to it in the Act;

"**number portability routing code**" means a "D" code that is used to identify the recipient operator of a ported number;

"**ordering system specification**" means a specification of the procedures by which a recipient operator and a donor operator exchange information between each other in order to provide number portability to a subscriber, including the information to be sent, the format of the information, the means of communication, the times when communications may be sent, the time limits for responses and the handling of error conditions;

"**recipient operator**" means a licensee to whom a number/number block has been ported in and provides a service to a subscriber number after porting;

"**Subscriber**" has the meaning assigned to it in the Act;

"**Subscriber equipment**" has the meaning assigned to it in the Act;

"**subscriber identity module (SIM)**' is an integrated circuit that encrypts voice and data transmissions and securely stores the international mobile subscriber identity (IMSI) number so that a subscriber can be identified and authenticated by their respective network.

2. PURPOSE OF THESE REGULATIONS

The purpose of these Regulations is to ensure:

(1) that there are measures for the introduction of number portability, including:

(a) the creation of a national number portability database; and

(b) cost allocation and cost recovery among licensees.

(2) Protection of subscribers' rights in relation to number porting;

(3) effective functionality of number portability;

(4) access and routing of communication to and from ported numbers;

(5) that number portability occurs in an efficient manner without unreasonable delays or disruption of services; and

3. SCOPE OF THESE REGULATIONS

These Regulations apply to all licensees with number allocations.

4. APPLICATION OF NUMBER PORTABILITY

Number Portability shall apply to the following allocated numbering ranges:

(1) geographic numbers;

(2) non-geographic numbers in the following National Destination Codes (NDCs); 086, 080 and 087; and

(3) mobile numbers as classified by the Numbering Plan Regulations.

5. NUMBER PORTABILITY FOR GEOGRAPHIC NUMBERS

(1) A Licensee that has been allocated a block of geographic numbers, must offer number portability to subscribers who have been assigned a block of ten or more numbers (in multiples of 10, 100, 1000 and 10 000) within the same allocated block(s) provided that-

(a) no numbers within the block to be ported, are assigned to other subscribers;

(b) a number block is ported as a complete range and no individual numbers are ported from the assigned number block; and

(c) the network termination points remain within the geographic boundaries

associated with the allocated number block.

(2) A Licensee that has been allocated geographic numbers must offer number portability to subscribers who have been assigned individual geographic numbers provided that- the network termination point remains at a location that conforms to the geographic boundaries associated with the number block.

6. NUMBER PORTABILITY FOR MOBILE AND NON-GEOGRAPHIC NUMBERS

(1) A Licensee that has been allocated mobile and non-geographic numbers in the 086, 080 and 087 NDCs numbers must offer number portability to its subscribers who have been assigned such numbers.

(2) Non-geographic numbers in the 080 and 086 NDC may only be ported as an assigned individual number.

(3) A recipient operator may request to port an assigned number block of ten or more numbers (in multiples of 10, 100, 1000 and 10 000) of non-geographic numbers (080, 086 and 087) provided that:

(a) no numbers within the assigned block to be ported are assigned to other subscribers;

(b) the assigned number block is ported as a complete range and no individual numbers are ported from the assigned number block;

7. ORDERING SYSTEM SPECIFICATION

(1) The implementation of number portability for all applicable numbering ranges must conform to the ordering system specification published by the Authority in the Government Gazette.

(2) An ordering system specification, that caters for all the applicable porting number ranges, shall be developed, reviewed and maintained by the Authority in consultation with licensees and other interested parties, including user organisations.

8. PORTED NUMBERS

(1) A recipient operator must, either through a third party or the internet, provide a functionality that will allow a subscriber the ability to confirm if a number has been ported.

(2) The obligation as contemplated in sub regulation (1) must only provide confirmation of the ported status of a number.

9. ROUTING

(1) A Licensee that originates or routes a call to a ported number must ensure that:

(a) the call is routed to the licensee currently serving the number; and

(b) any value of the original calling line identification (CLI) remain unchanged by the routing process.

(2) In order to ensure correct routing and billing of calls to ported numbers, all licensees must make use of the number portability routing code, irrespective of whether the call is routed directly or indirectly.

(3) A Licensee that offers number portability to its subscribers or that route and terminate calls to ported numbers, must apply to the Authority for the assignment of a number portability routing code.

(4) A Licensee must ensure it receives, stores and updates at least daily a local copy of its database of ported numbers for the purposes of originating, routing and receiving calls to and from ported numbers.

(5) In the event that a ported number or number block ceases to be active on the recipient operator's network, the recipient operator must within three (3) months and in writing return the number or number block to the block operator.

(6) The recipient operator who was serving the number or number block contemplated in sub-regulation (5) must not re-assign the number or number block to another subscriber.

(7) The donor operator must upon receipt of the number/number block contemplated in sub-regulation (3) quarantine the number/number block for at least one (1) month.

10. COST RECOVERY AND CHARGING

(1) A Licensee must bear the set-up costs for the implementation and provisioning of number portability.

(2) No payments must be made for rejected or unsuccessful ports.

(3) Per-subscriber porting fees between licensees must be cost based.

(4) A donor operator must not charge subscribers when the latter ports their numbers.

(5) Recipient operator may charge a subscriber for successful ports.

(6) In the event that the recipient operator charges a subscriber for successful ports, the recipient operator must declare the said charges to the subscriber prior initiating the port.

11. PRINCIPLES FOR PORTED NUMBERS SERVICES

(1) A recipient operator must not request to port a number for any subscriber unless it has received a verified request from that subscriber.

(2) To promote transparency and alert subscribers that a number has been ported, the call-originating operator must issue a warning to the calling subscriber before connecting the call.

(3) The call-originating operator must not charge the calling subscriber for the duration in which the warning is being applied. The warning must comprise of three audible beeps.

12. COMPLAINTS

The processes and procedures for resolving subscriber complaints are provided for in the End User Subscriber Charter Regulations developed in terms of section 69 (3) of the Act.

13. CONTRAVENTIONS AND PENALTIES

(1) A licensee:

(a) contravening regulation 5(1) and (2), 6 (1), (2) and (3) of these Regulations shall be liable to a fine no less than R 300,000.00 but not more than R 1, 500, 000.00.

(b) contravening regulations 2, 4, 5 and 7(1) of Schedule A of these Regulations, shall be liable for a fine of not less than R 500,000.00 but not more than R 2,000,000.00.

(c) contravening regulations 9, 3 and 6 of Schedule A of these Regulations shall be liable for a fine of not less than R 500,000.00 but not more than R 1,000,000.00.

(d) contravening any other regulation other than regulations mentioned above shall be liable for a fine not less than R 50, 000.00 but not more than R299, 000.00.

(2) A licensee that contravenes regulation 8, 10(6) and 11(2) shall be subject to name-and-shame publication for non-compliance on the Authority's website and other media platforms identified by the Authority. In addition, the licensee

may be required to conduct an awareness campaign on Number Portability, at the cost of the licensee, in various national media platforms as determined by the Authority.

14. SHORT TITLE AND COMMENCEMENT

These Regulations are called the Number Portability Regulations, 2018 and will come into effect at a date to be determined by the Authority by notice in the Government Gazette.

15. REPEALED REGULATIONS

The Number Portability Regulations, 2005, published in Government Gazette number 28091, dated 30 September 2005, shall be repealed, in their entirety, on the date these Regulations come into effect.

SCHEDULE A

FUNCTIONAL SYSTEM SPECIFICATION ("FSS") FOR NUMBER PORTABILITY

1. SCOPE FOR PORTING

This functional specification applies to:

(1) the portability of geographic, non-geographic numbers and mobile numbers; and

(2) all licensees that have been allocated portable numbers.

2. PORTING PROCEDURE

(1) Number porting process is recipient-led and shall be initiated when a subscriber submits a porting request to the recipient operator as detailed in the ordering system specification.

(2) The porting times to support number portability shall include Monday to Friday from 09H00 to 17H00 and Saturday from 09H00 to 13H00, excluding public holidays.

(3) When the recipient operator receives a request for number portability, it must advise:

(a) the subscriber to retrieve any message or any other information stored in the Subscriber Identity Module (SIM) card that could be lost when the account is closed; and

(b) the subscriber to retrieve any message or any other information stored in the Customer Premises Equipment (CPE) that could be lost when the account is closed.

(4) Recipient operator must advise the subscriber that any credit, unused allowances, bundled services, data credits and any third-party services used by the subscriber on the donor operator's network will no longer be available once the number is ported.

3. INFORMATION REQUIRED FOR PORTING

(1) Requests to port a number or number blocks from a pre-paid account must include a valid assigned number or number block;

(2) Where the account holder is a legal entity, the request to port a number or number block from a pre-paid account must include:

(a) valid assigned number or number block;

(b) approval from the nominated accounting officer;
(c) contact number of the nominated accounting officer; and
(d) identity Document/card or Passport of the nominated accounting officer.

(3) Requests to port a number or number block from a post-paid subscriber shall include:

(a) valid assigned number or number block; and
(b) account statement from the donor operator.

(4) Where the account holder is a legal entity the request to port a number or number block from a post-paid account must include:

(a) valid assigned number or number block;
(b) account statement from the donor operator;
(c) approval from the nominated accounting officer;
(d) contact number of the nominated accounting officer; and
(e) identity Document/card or Passport of the nominated accounting officer.

4. PORT VALIDATION PROCESS

(1) A donor operator shall validate a mobile number porting request by means of a one-time-pin (OTP). The OTP shall be valid for four (4) hours, after which if no response to the OTP is sent, the port request is rejected.

(2) The OTP, as contemplated in sub regulation 1 of the schedule, shall be structured as follows: *"(Donor operator name) has received a request from (Recipient operator name) to port this number: (subscriber number). If this information is correct, please send the following OTP: xxxxx. This OTP is valid for 4 hours, after which failure to respond to this message, shall result with the port request being rejected."*

(3) A subscriber shall not be charged for the OTP validation as contemplated in sub regulation (1) of this schedule.

(4) A donor operator may seek independent confirmation from the subscriber in the case of:

(a) accounts of more than one number;
(b) accounts held by legal entities other than natural persons; and
(c) as may be determined by the Authority and published in the GG or the website.

(5) The confirmation sought by the donor operator, as listed in sub-regulation (4), shall not constitute a ground to reject or decline a port request.

(6) The port validation processes, including the confirmations as contemplated in sub regulation (4) of this, shall not exceed a period of seven (7) hours from the time the donor operator receives the port request from the recipient operator.

5. REASONS FOR PORT REJECTION

(1) A donor operator may reject a request to port only on the following grounds:

(a) the information required to initiate a port request as contemplated in regulation 3 of this schedule, is not provided or is incorrect;
(b) the subscriber did not respond to the OTP as contemplated in regulation 4(1) of this schedule;
(c) the number or number block is not valid on the donor operator's network;
(d) the number is excluded from number portability in Regulation 3,
(e) the account number is invalid (post-pay only);
(f) the classification of the account does not match, example a request is made under the pre-pay procedure for a post-pay account;
(g) the account was in arrears and/or suspended at the time of the port request;
(h) the number is already subject to a porting process;
(i) the number has already been ported within one (1) calendar month; and
(j) the geographic number or number block is being ported to an area not within the geographic boundary (ONN) associated with the number/number block.

(2) The donor operator, in response to its port validation request, receives a response from the subscriber that the port request in invalid.

(3) At the time when a donor operator rejects a request, it must report the reason for the rejection to the recipient operator within nine (9) hours of receiving the request.

(4) A donor operator shall not reject a request to port a number or number block for a post pay account as a result of penalties incurred for an early termination of a contract, nor may the donor operator delay the port until the monies are collected.

(5) A donor operator must not reject a request to port a mobile number on a pre-pay or post-pay account because the subscriber's terminal is locked to the operator's network.

6. PORT REVERSAL

In the event that a port has been deemed an invalid port and the subscriber did not timeously respond to the OTP, as contemplated in regulation 4(1) and (2) of this schedule, the port must be reversed immediately.

7. ACTIVATION FOR PORTED NUMBERS

(1) The procedure for number portability shall result in the ported number or number block being activated on the network of a recipient operator before the number or number block is de-activated on the network of the donor operator.

(2) With the exception of the port validation and confirmation processes, the donor operator must respond to requests from a recipient operator, and effect any actions

requested, as soon as possible and/or within a period of one (1) hour.

(3) Where network operators synchronise changes to their networks, the changes shall be made at a time of low network traffic to be agreed between the operators and specified in the ordering system specification and shall be completed within one (1) hour.

8. QUALITY SERVICES FOR PORTING

(1) The call set-up time for a call to a ported number must not be increased when compared to the set-up time for a call, on the same network, to a non-ported number.

(2) The one-way transmission time for a call to a ported number must not be increased when compared to the one-way transmission time for a call, on the same network to a non-ported number.

9. SUBSCRIBER'S SERVICE PROFILE

A donor operator is not required to disclose a subscriber's service profile to the recipient operator.

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