

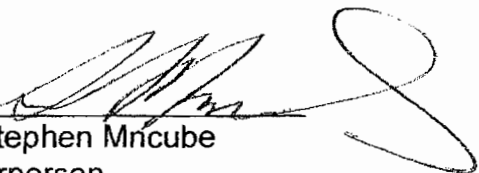
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**GENERAL NOTICE**

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**NOTICE 1015 OF 2010****INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA****“CALL TERMINATION REGULATIONS”  
PURSUANT TO SECTION 67(4) OF THE ELECTRONIC  
COMMUNICATIONS ACT NO. 36 OF 2005**

I, Stephen Mncube, Chairperson of the Independent Communications Authority of South Africa hereby publish the regulations set out in the Schedule in terms of section 4 read with section 67(4) of the Electronic Communications Act No. 36 of 2005.



Dr Stephen Mncube  
Chairperson

## SCHEDULE

**“CALL TERMINATION REGULATIONS”  
PURSUANT TO SECTION 67(4) OF THE ELECTRONIC  
COMMUNICATIONS ACT NO. 36 OF 2005**

**1. DEFINITIONS**

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act or the ICASA Act has the meaning so assigned, and the following words and expressions shall have the meaning set out below:

**“ON”** means a geographic area code as specified in Regulation 6 of the Numbering Plan Regulations;

**“Authority”** means the Independent Communications Authority of South Africa;

**“the Act”** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

**“ECNS”** means an electronic communications network service as defined in the Act;

**“ECS”** means an electronic communications service as defined in the Act;

**“Fixed voice call termination service”** means a wholesale voice call termination service provided by an ECNS or ECS licensee to a fixed location, and includes such a service provided by a licensee providing call termination using fixed wireless services;

**“ICASA Act”** means the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000);

**“Mobile voice call termination service”** means a wholesale call termination service provided by an ECNS or ECS licensee to mobile subscriber equipment enabled by wireless technology;

**“Reference Interconnection Offer”** or **“RIO”** means a document, approved by the Authority, setting out the standard terms and conditions for interconnection agreements;

**“Retail service”** means a service offered by an ECS licensee to end-users;

**“SMP”** means significant market power as defined in section 67(5) of the Act;

**“Wholesale service”** means a service that an ECS or ECNS licensee offers other ECS or ECNS licensees.

## 2. PURPOSE OF REGULATIONS

The purpose of these Regulations is to: -

- (a) Define and identify the wholesale call termination markets that exist within the borders of the Republic of South Africa;
- (b) Set out the methodology used to determine the effectiveness of competition in such markets;
- (c) Declare licensees that have SMP;
- (d) Set out the pro-competitive measures the Authority imposes to remedy market failure in the relevant markets found to have ineffective competition;
- (e) Set out the schedule for periodic review of the relevant markets and the effectiveness of competition in such markets.

## 3. MARKET DEFINITION

- (1) The markets in which the Authority intends to impose pro-competitive measures, if such markets are found to have ineffective competition are the markets for mobile and fixed wholesale call termination services in the Republic.
- (2) These markets are categorised according to the type of service provided to the end-user and are defined as follows:
  - (a) Market 1: The market for wholesale voice call termination services to a mobile location on the network of each licensee who offers such a service within the Republic.
  - (b) Market 2: The market for wholesale voice call termination services to a fixed location on the network of each licensee who offers such a service within the Republic, consisting of:
    - i. The market segment for wholesale voice call termination to a fixed location within an 0N geographic area code; **and**
    - ii. The market segment for wholesale voice call termination to a fixed location between 0N geographic area codes.

#### **4. METHODOLOGY**

In determining the effectiveness of competition in the wholesale voice call termination markets, the Authority has applied the following methodology:

- (a) the identification of relevant markets and their definition according to the principles of the Hypothetical Monopolist Test, taking into account the non-transitory (structural, legal, or regulatory) entry barriers to the relevant markets and the dynamic character and functioning of the relevant markets;
- (b) the assessment of licensees' market shares in the relevant markets; and
- (c) the assessment on a forward-looking basis of the level of competition and market power in the relevant markets.

#### **5. EFFECTIVENESS OF COMPETITION**

Pursuant to regulation 4, the Authority has determined that competition in the wholesale voice call termination markets, as defined in regulation 3, is ineffective.

#### **6. SMP DETERMINATION**

The Authority determines that every licensee that offers wholesale voice call termination services has SMP in its own market.

#### **7. PRO-COMPETITIVE TERMS AND CONDITIONS**

- (1) The Authority has identified the following market failures in the respective wholesale voice call termination markets:
  - (a) a lack of the provision of access
  - (b) the potential for discrimination between licensees offering similar services
  - (c) a lack of transparency
  - (d) inefficient pricing
- (2) All licensees must comply with the following pro-competitive terms and conditions to overcome the market failures identified in regulation 7(1):

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- (a) Compliance with the provisions of the Interconnection Regulations (Government Gazette No. 33101 of 2010)
- (b) Compliance with the Compliance Manual Regulations to be prescribed by the Authority.
- (c) Charge fair and reasonable prices for wholesale voice call termination consistent with Appendix B
- (3) The Authority has determined that additional pro-competitive terms and conditions are necessary to correct the market failures identified in regulation 7(1), which are to be imposed on the following licensees:
- (a) Licensees that have historically benefitted from the allocation of more efficient lower band spectrum.;
- (b) Licensees that benefit from economies of scale and scope in maintaining a share of total minutes terminated in the respective markets of greater than 25 per cent as of June 2009.
- (4) The Authority determines that the following licensees have these characteristics:
- (a) Market 1:
- i. MTN
  - ii. Vodacom
- (b) Market 2:
- i. Telkom
- (5) All licensees referred in regulation 7(4) of these regulations must comply with the following additional pro-competitive terms and conditions
- (a) Publication of a Reference Interconnection Offer (RIO)
- i. Licensees identified in regulation 7(4) must submit a RIO to the Authority for approval within forty five (45) days of promulgation of these Regulations.
  - ii. The RIO must comply with the requirements set out in Appendix A.
  - iii. The Authority will assess a RIO submitted by a licensee within thirty (30) days of its submission.
  - iv. Where the Authority determines that a RIO submitted by a licensee is not consistent with these regulations, the Authority will direct the licensee to amend the relevant terms

- and conditions of the RIO within a period determined by the Authority which period must not exceed thirty (30) days.
- v. If a licensee receives no written communication from the Authority regarding the assessment of its RIO within the thirty (30) day period stipulated in regulation 7(5)(a)(v), the RIO is deemed to be approved.
  - vi. The RIO will become effective upon approval by the Authority.
  - vii. Provided that all requirements in the RIO are met by both an interconnection seeker and provider, a request for interconnection based on the RIO must be concluded within fifteen (15) days of such a request for interconnection unless otherwise agreed between the licensees.
  - viii. A licensee identified in Regulation 7(4) must publish the approved version of its RIO on its website within five (5) days of receiving notice of approval from the Authority.

(b) Price Control: Cost oriented pricing

- i. For the period 01 March 2011 to 01 March 2014, any licensee identified in Regulation 7(4)(a) must charge the wholesale voice call termination rates to a mobile location as specified in Table 1:

**Table 1: Wholesale voice call termination rates to a mobile location (Market 1)**

	Peak	Off-peak
01-Mar-11	R 0.73	R 0.65
01-Mar-12	R 0.56	R 0.52
<b>01-Mar-13</b>	<b>R 0.40</b>	<b>R 0.40</b>

- ii. For the period 01 March 2011 to 01 March 2014, any licensee identified in Regulation 7(4)(b) must charge the wholesale voice call termination rates to a fixed location as specified in Table 2:

**Table 2: Wholesale voice call termination rates to a fixed location (Market 2)**

	Within ON area code		Between ON area code	
	Peak	Off-peak	Peak	Off-peak
01-Mar-11	R 0.20	R 0.12	R 0.28	R 0.19
01-Mar-12	R 0.15	R 0.12	R 0.25	R 0.19
<b>01-Mar-13</b>	<b>R 0.12</b>	<b>R 0.12</b>	<b>R 0.19</b>	<b>R 0.19</b>





















































