



## **Numbering Plans and Number Portability - One of the keys to effective competition in South Africa**

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The passage of the Electronic Communications Act (EC Act) in 2005 paved the way for South Africa to join the ever growing group of nations embracing competition to ensure universal service. Traveling down that road, however, has been long.

In an article published in December 2008, on the eve of the conversion of licenses, we discussed the implications of recent court decisions on the imminent changing market place and suggested some regulatory priorities for 2009, including regulations for interconnection, carrier pre-selection, number portability and rights of way.

In this article we look specifically at the current situation in respect of the numbering plan and number portability, focusing on the needs of new entrants, in particular the hundreds of former value added network services (Vans) licensees that now have electronic communications services (ECS) and electronic communications network services (ECNS) licences with the same rights as those held by the incumbent licensees.

### **NUMBERING**

Chapter 11, section 68 of the EC Act, concerns numbering. Section 68(1) provides that Icasa must prescribe a numbering plan for the efficient use and allocation of numbers, and to accommodate the various protocols used and services provided by licensees. In terms of section 68(2), the numbering plan must consist of a scheme of identification to ensure that electronic communications are correctly and efficiently directed to the point of reception for which they are intended. And in terms of section 68(4), the numbering plan must be non-discriminatory.

Looking to the future, section 68(7) of the EC Act enjoins Icasa to prescribe matters relating to a framework, including a schedule, for transforming the numbering plan to a

non-geographic numbering system and implementing electronic numbering allowing the interoperation between telephone numbers and the Internet domain name system.

Icasa has not prescribed numbering plan regulations in terms of section 68(1) of the EC Act. However, there are numbering regulations that Icasa made in terms of the Telecommunications Act, which are still in force and effect, published by the Minister of Communications as No R 455 in Government Gazette 28839 dated 15 May 2006. However, as these regulations were promulgated under the Telecommunications Act, which provided for a far different market structure, including licences for PSTS and MCTS specifically mentioned in the regulations, the regulations need to be amended.

## **NUMBER PORTABILITY**

The EC Act defines number portability as -

the ability of subscribers to an electronic communications service or persons providing a service pursuant to a licence exemption, to retain their existing numbers without impairment of quality, reliability, or convenience when switching from one electronic communications service licensee to another electronic communications service licensee.

Section 68 of the EC Act, which concerns numbering plans, also concerns number portability. Section 68 provides that Icasa was required to prescribe measures to ensure that number portability was introduced in 2005 or soon thereafter, as far as is practicably possible. The Telecommunications Act also required number portability to be introduced in 2005.

The regulations are supposed to inter alia, allocate responsibility between ECNS and ECS licensees for the implementation of number portability to ensure effective functionality, ensure access and routing within electronic communications networks, and allow licensees to assign numbers to subscribers and transfer numbers when subscribers change services in an efficient manner.

Icasa has not prescribed number portability regulations in terms of section 68 of the EC Act. However, there are number portability regulations that Icasa made in terms of the Telecommunications Act, which are still in force and effect, published by the Minister of Communications as No R 963 in Government Gazette 28091 dated 30 September 2005. The functional specification for geographic number portability was published in Notice 889 of 2007 in Government Gazette 30089 dated 13 July 2007.

Those regulations, as they were made in terms of the Telecommunications Act, distinguish between geographic and non-geographic (but mobile only) numbers. In terms of the Telecommunications Act, number portability was defined as - a capability whereby a subscriber to a telecommunication service who so requests can retain his or her telephone number when changing service from one public switched telecommunication service licensee to another public switched telecommunication service licensee or one mobile cellular telecommunication service licensee to another mobile cellular telecommunication service licensee.

In contrast, the EC Act defines number portability so that any to any number portability may be effected.

The implementation of number portability is dependent on ordering system specifications to be negotiated between operators and published by Icasa for public comment. This process has not been completed in respect of geographic number portability. Mobile number portability has been implemented in terms of the number portability regulations, which include functional specifications for mobile number portability, and ordering system specifications for mobile number portability.

It is almost certain that individual ECS licensees will have non-discriminatory rights in respect of number portability in respect of any new number portability regulations made by Icasa in terms of section 68 of the EC Act. This is a requirement of section 68. However, whether such licensees have rights under the existing number portability regulations made in terms of the Telecommunications Act, however, is not an easy question to answer. Therefore there is an urgent need for Icasa to promulgate new regulations.

## **CONCLUSION**

The conversions of licences by the statutory deadline of 19 January 2008 by Icasa heralded in a great wave of momentum for an ever increasing competitive electronic communications industry in South Africa.

The momentum should not be lost. Icasa's priorities should include, within the next three to six months, completing regulations relating to numbering and number portability.

A non-discriminatory and forward-looking numbering plan is critical for the effective allocation of numbers in South Africa in a new competitive market place. Regulations ensuring efficient number portability is one of the keys to facilitating the success of new entrants.

The existing numbering plan is adequate to allow Icasa to immediately begin processing the backlog of applications for geographic numbers from former Vans licensees. Icasa should however begin also to propose a new non-discriminatory and forward-looking numbering plan. Icasa should also make it an priority to initiate a proceeding to promulgate number portability regulations, as to implement the existing ones raises too many potentially litigious difficulties.

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