

201[] **ELECTRONIC COMMUNICATIONS** **S.R.O .[#]**
(CONSUMER PROTECTION) REGULATIONS
(Specific Rules on Consumer Protection in the Electronic Communications Sector)

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ELECTRONIC COMMUNICATIONS (CONSUMER PROTECTION) REGULATION

(Specific Rules on Consumer Protection in the Electronic Communications Sector)

Part I PRELIMINARY

1. [Short Title] [Citations]

These Regulations may be cited as the Electronic Communications (Consumer Protection Regulations) 201[-].

2. Commencement

These Regulations shall come into force on the date of publication in the “Gazette”.

3. Interpretation

(1) In these Regulations—

“Act” means the Electronic Communications Act, 201[];

“consumer” means a user or end-user of an electronic communications service;

“disability” means—

- (a) total or partial loss of a bodily function;
- (b) total or partial loss of a part of a body;
- (c) malfunction of a part of the body including a mental or psychological disease or disorder; or
- (d) malformation or disfigurement of part of the body;

“headline representation” means a lead phrase, title or sentence in an advertisement or promotion, of an electronic service offered by a licensee;

“retail customer” means a consumer, other than a licensee, who —

- (a) is obliged to pay periodically or on demand for an electronic communications service; and/or
- (b) has entered into an agreement for the provision of an electronic communications service;

“retail customer contract” means a retail customer contract approved under Regulation 7;

“single price” means the minimum quantifiable price for the supply of the electronic communications services or facilities at the time of the representation;

“small online advertising” means an online strip, a banner or tile advertising or the equivalent;

“special promotion” means an offer of limited duration, limited quantity or offered to a limited sub-set of consumers, such as discounts off electronic communications facilities or components of electronic communications services;

“text advertising” means any form of advertising using written words and includes –

- (a) a licensee-placed advertisement in a newspaper, magazine and press insert and licensee-generated flyer, leaflet, brochure and catalogue;
- (b) licensee-placed outdoor static large format advertising, including an advertisement displayed upon –
 - (i) public transport panels;
 - (ii) outdoor street furniture; or
 - (iii) billboards;
- (c) online advertisements on a licensee’s own website and licensee-placed advertising on other online sites, other than online strip, banner or tile advertising or the equivalent;
- (d) SMS advertisements by a licensee.

[(2) A word or expression that is used in these Regulations and is also used in the Act shall have in these Regulations the same meaning as it has in the Act unless the contrary intention appears.]

4. [Objective] [Purposes]

- (i) The [objective] [purpose] of these Regulations is to ensure reasonable quality of service regardless of geographical location;
- (ii) ensure access to free emergency telephone calls and to enable persons with disabilities or specific needs to access electronic communications services;
- (iii) ensure net neutrality so that consumers are able to access and disseminate any content which does not contravene public policy or fundamental rights, as well as to access applications and services of their choice;
- (iv) ensure that persons who use electronic communication services receive a written contract, which shall include specific details of tariffs and costs, and the manner in which the contract may be terminated if the licensee changes its terms;
- (v) ensure that each retail customer can reasonably and reliably have access to information and receive assistance with regard to queries relating to the licensee's services;
- (vi) ensure the implementation by the licensee of efficient procedures for the resolution of complaints and disputes with retail customers;
- (vii) avoid abusive solicitations and misleading advertising by a licensee;
- (viii) prevent unfair restrictions on retail customer choice and unduly burdensome retail customer contract terms and conditions;
- (ix) ensure high standards of privacy and confidentiality for personal data stored or transmitted over the electronic communication network;
- (x) support fairness, justice and respect in consumer relations between consumer and licensees.

Part II
PROVISION OF INFORMATION

5. Right to Information

A licensee shall—

- (a) provide or make available to consumers, information on its products and services that is clear, accurate, free of material omissions, relevant, current, comprehensive and where required, is delivered in a timely manner;
- (b) communicate with a retail customer in a manner that is appropriate to the consumer's communications needs including those with special needs; and
- (c) provide consumers with the ability to receive all relevant terms and conditions of its electronic communications services and products at no charge prior to concluding a contract by –
 - (i) viewing and downloading them from a public website;
 - (ii) accessing them in a physical format.

6. Publication of Information

A licensee shall publish the following –

- (a) description of the electronic communication services;
- (b) standard rates;
- (c) details of standard discounts and special and targeted tariff schemes in respect of –
 - (i) access;
 - (ii) where any subscription or periodic rental charge is applicable, details of which electronic communication services are included within such charges;
 - (iii) all types of usage charges;
 - (iv) any maintenance service; and
- (d) quality of service commitments and details on any compensation or refund policy; and
- (e) installation and maintenance policy.

Part III
RETAIL CUSTOMER CONTRACTS

7. Approval of Retail Customer Contracts

- (1) A licensee shall submit for the approval of the Commission a draft retail customer contract for approval, and may prescribe a timetable for review, approval and implementation of the terms of service.
- (2) A retail customer contract must describe the basic terms of the relationship between the licensee and its retail customers with respect to the provision and use of electronic communications services.

- (3) The Commission shall, acting on the recommendation of ECTEL, approve draft retail customer contracts, and may require changes that it considers appropriate.

8. Provisions for Retail Customer Contracts

A licensee shall—

- (a) make its retail customer contracts approved under regulation 7 available and provide a copy to the retail customer upon request at no charge;
- (b) retain the sections of its retail customer contracts that contain the terms of offers which are withdrawn by the licensee after the date that these Regulations come into force, for as long as retail customers continue to receive electronic communications services pursuant to the offers, to enable a response to consumer queries about offers which are no longer current; and
- (c) make available information about the activation and expiry date of any current retail customer contract that the retail customer has with the licensee for an electronic communications service upon the retail customer's request for this information from the licensee.

9. Clear Contractual Terms

A retail customer contract for the provision of electronic communications services shall specify the following minimum requirements in a clear, easily understandable and easily accessible form—

- (a) a description of the service to be provided;
- (b) a description of the commitment period, the minimum service period, if any, and any minimum notice period to be given by the retail customer prior to terminating the contract outside of the commitment period;
- (c) the detailed charges applicable to the service, including—
 - (i) any fixed recurring charges;
 - (ii) any one-time charges; and
 - (iii) usage charges (for voice calls, SMS messages, data download and upload, and all other usage-based services and applications);
- (d) a description of the circumstances in which service to the retail customer may be disconnected by the licensee;
- (e) any charges that may apply upon termination of the contract, whether within or outside of the minimum service period;
- (f) details of the minimum service quality standards for the service and any applicable compensation arrangements which shall apply if quality service levels are not met;
- (g) a description of the licensee's written complaints code and the dispute resolution procedure, including details of how a retail customer may lodge a complaint;

- (h) the terms applicable to payment for the services;
- (i) the maximum period of time between issue of the bill and payment, and any fees for late payment; and
- (j) the maximum period of time between issue of the bill and payment, and any fees for late payment, which shall not exceed a total of 5% of the original amount owing on the bill prior to inclusion of any late fees.

10. Charging of Retail Customer

A licensee shall not—

- (a) require a retail customer to pay a fee for an electronic communications service or product that the retail customer has not ordered;
- (b) charge a retail customer except for the charges specified by the licensee for the provision of an electronic communication service or product and agreed to by the retail customer under its contract.

11. Protection against Anti-Competitive Retail Customer Lock-In

(1) A retail customer contract for the provision of electronic communications services shall not -

- (a) include terms which have the effect that at the end of a retail customer's commitment period, the contract can be automatically renewed for a further commitment period without the licensee first obtaining the retail customer's express consent; or
- (b) enable the licensee to impose a charge on a retail customer for termination of a contract within the minimum service period if that charge is disproportionate in relation to the payments that are still to be paid by the retail customer for the remainder of the commitment period.

(2) A licensee shall—

- (a) provide a retail customer at least 21 days written notice, or such other notice as specified by the Commission, of any contractual service changes that are likely to—
 - (i) substantially reduce the benefit of the contract or service to the retail customer;
 - (ii) substantially increase the burden on the retail customer under the contract or service; or
 - (iii) in relation to the retail customer, make the benefit or burden of the contract or service substantially different from that previously represented or contracted for;
- (b) allow a retail customer to withdraw from the contract without penalty upon

receipt of the notice specified in paragraph (a); and

- (c) at the same time as the notice given in paragraph (a), inform the retail customer of the retail customer's ability to terminate the contract without penalty if the proposed change is not acceptable to the retail customer.
- (3) A licensee shall not tie electronic communication services in such a manner that a retail customer is required when purchasing one service to purchase another service that the retail customer does not require.

12. Cancellation of Contracts by Retail Customer - Minimum Terms

- (1) A retail customer may cancel his contract at any time by notifying the licensee.
- (2) A cancellation shall take effect a minimum of one day and maximum of three days following the date on which the licensee receives notice of the cancellation or on the date requested by the retail customer.
- (3) Where a retail customer cancels a contract before the end of the commitment period, the licensee shall not charge the retail customer a fee or penalty other than the early cancellation fee specified in this regulation.
- (4) When a subsidized device is provided as part of-
 - (a) a fixed-term contract, the early cancellation fee shall –
 - (i) not exceed the remaining value of the device subsidy that has not yet been reimbursed; and
 - (ii) be reduced by an equal amount each month, for the lesser of 24 months or the total number of months in the contract term, such that the early cancellation fee is reduced to \$0 by the end of the period.
 - (b) an indeterminate contract, the early cancellation fee shall –
 - (i) not exceed the remaining value of the device subsidy that has not yet been reimbursed; and
 - (ii) be reduced by an equal amount each month, over a maximum of 24 months, such that the early cancellation fee is reduced to \$0 by the end of the period.
- (5) When calculating the early cancellation fee, the value of the device subsidy shall be the lesser of –
 - (a) the retail price of the device minus the amount that the retail customer paid for the device when the contract was agreed to; and
 - (b) the lesser of the manufacturer's suggested retail price or the price set for the device when it is purchased from the licensee without a contract.
- (6) Where a subsidized device is not provided as part of a fixed term contract, the early cancellation fee shall –
 - (a) not exceed the lesser of \$50 or 10 percent of the minimum monthly charge for the remaining months of the contract, up to a maximum of 24 months;

- and
- (b) be reduced to \$0 by the end of the period.
- (7) A licensee shall not charge an early cancellation fee for indeterminate contracts other than as specified in sub-regulation 4(b).
- (8) Where a retail customer agrees to a contract which is subject to an early cancellation fee, a licensee shall offer the retail customer a trial period for a minimum of 15 calendar days to enable the retail customer to determine whether the service meets his needs.
- (9) The trial period under sub-regulation (8) shall start on the date on which the service begins.
- (10) A licensee may establish reasonable limits on the use of voice, text, and data services for the trial period.
- (11) During the trial period, retail customers may cancel their contracts without penalty or early cancellation fee if they have –
- (a) used less than the permitted usage;
 - (b) returned any device provided by the licensee, in near-new condition, including the original packaging; and
 - (c) paid any charges incurred for his or her actual usage during the trial period at the standard rates specified for a full contract.
- (12) Where a retail customer is a person with a disability or special needs, the licensee shall extend the trial period to at least 30 calendar days, and the permitted usage limits shall be at least double the licensee’s general usage limits for the trial period.
- (13) A licensee shall notify a retail customer on a fixed-term contract at least 90 calendar days before the end of the initial commitment period of the pending end of the contract and any terms on which the contract may be extended by the retail customer.
- (14) Where a licensee offers a retail customer a device upgrade, the licensee shall clearly explain to the retail customer any changes to the existing contract terms caused by accepting the new device, including any extension to the commitment period.

13. Billing

- (1) A licensee shall provide a bill to a retail customer.
- (2) A licensee who offers a direct debit facility shall ensure that its retail customers are able, on request, to verify all charges and direct debit authorization details.
- (3) A licensee shall provide retail customers with bills –
- (a) at least once every month at no charge;

- (b) in paper form unless the retail customer requests in electronic form;
 - (c) in electronic form, if the retail customer requests;
 - (d) that are in a plain, simple and easy-to-understand format; and
 - (e) that provide accurate information on the services provided, the amounts due for each service and the method of calculation or tariffs for any service on which bills are based, including the number, location, and duration of calls, number of SMS text messages, amount of data transmission, or other relevant measures of usage;
 - (f) that state payments made on the previous bill; and
 - (g) that state any deadline by which non-payment may result in disconnection.
- (4) Where a retail customer has requested to receive a bill in electronic form, a licensee shall ensure that electronic bills are accessible by that retail customer on request, for a minimum of at least the preceding twelve months of the billing cycle.

14. Plan with Pre-Set Included Value

- (1) A licensee shall provide electronic notification to a retail customer who has subscribed to a plan with a pre-set included usage or value, when the retail customer reaches 80% and 100% of the usage measure, monthly expenditure or other allowance permitted under that plan.
- (2) A notification under sub-regulation (1) shall –
- (a) be provided within 24 hours of reaching the allowance, except for roaming charges, notification for which shall be provided within 24 hours of receipt of such charge from a licensee’s roaming partners that are not connected entities; and
 - (b) be provided by email, SMS or other application; and
 - (c) clearly inform the retail customer that the limit of the relevant allowance has been reached and the implications for continued use of the service including charges that will then apply or will apply to future usage.
- (3) A licensee shall provide retail customers with the ability to prevent the limit of the relevant allowance from being exceeded, including through automatic restriction of service upon reaching the relevant allowance.

15. Facilitation by Licensees of Provision of Value-Added Services by Telephone

- (1) A licensee may, in relation to sales conducted through the telephone, impose upon retail customers a usage charge billed per minute commencing after the first minute of the call.
- (2) A licensee who conducts sales by telephone shall cause to be provided to retail customers information on the rate of charges and the ability to disconnect from the service before any charge is imposed.

Part IV
PRE-PAID SERVICES

16. Terms and Conditions

Every licensee shall publish on its website the terms and conditions of a pre-paid electronic communications service provided, sold, resold, issued, or distributed by such licensee or its distributor.

17. Prohibited Actions

A licensee that provides a pre-paid electronic communications service shall not do any of the following –

- (a) assess or deduct from the balance of a pre-paid electronic communications service card or pre-paid electronic communications service account or mobile telephone payment account any fee or other amount for use of the electronic communications service, except —
 - (i) the per minute rate or value for each particular destination called by the consumer;
 - (ii) the rate for the amount of data sent or received;
 - (iii) the rate for SMS sent or received; and
 - (iv) fees that are disclosed under its Terms and Conditions.

- (b) provide less data transmitted than promoted or advertised or provide fewer minutes than the number of minutes promoted or advertised, or charge a higher per megabit rate for data than the rate promoted or advertised or charge a higher per minute rate to a specific destination than the per minute rate to that specific destination promoted or advertised, on—
 - (i) the pre-paid electronic communications service card;
 - (ii) any point-of-sale material relating to the pre-paid electronic communications service;
 - (iii) any other advertising related to the pre-paid electronic communications service;
 - (iv) provide fewer minutes than the number of minutes announced, promoted, or advertised through any voice prompt or text message given by the licensee to a consumer at the time the consumer places a call to a dialed destination with a pre-paid telephone calling card or pre-paid telephone service;

- (c) Provide, sell, resell, issue, or distribute a pre-paid electronic communications service card or pre-paid electronic communications service that expires, except for promotional credit for which the SIM or credit expires —
 - (i) before the date that is 3 months after the date on which such card or service is first used;
 - (ii) in the case of a pre-paid electronic communications service card or pre-paid electronic communications service that permits a consumer to purchase

additional usage minutes or add additional value to the card or service, before the date that is 6 months after the date on which the consumer last purchased additional usage minutes or added additional value to the card or service.

Part V
ADVERTISING AND PROMOTIONS

18. Unfair Commercial Practices

- (1) A licensee shall include all conditions, limitations, qualifications or restrictions about an offer when advertising the offer in order to allow consumers to make informed choices and to avoid consumers being misled.
- (2) Notwithstanding the generality of sub-regulation (1), a licensee shall not engage in the following practices –
 - (a) use of headline representations as to a price or offer in circumstances where the overall impression of the price or offer is subsequently qualified by fine print terms and conditions that make it unlikely or impossible that a consumer, by the ordinary use of the service, could reasonably achieve the price or benefits offered in the headline representation;
 - (b) use of the term ‘unlimited’ or an equivalent term in an unqualified manner when referring to usage, unless the ordinary use of the service in [Contracting State] is genuinely unlimited and not subject to exclusions, including exclusions for various types of calls or usage, or selected parts of the network;
 - (c) use of the terms ‘no exceptions’, ‘no exclusions’ or ‘no catches’ or equivalent terms without sufficient disclosure when referring to a price or service offer, unless there are genuinely no exceptions to the offer;
 - (d) use of the term ‘free’ or an equivalent term to promote or advertise a handset or other device, hardware or service unless the cost of the handset or other device, hardware or service is not recovered from the retail customer over the life of the contract by way of higher charges, including by way of higher call charges, higher recurring charges, higher early cancellation fees, or similar charges, compared to the costs that will be payable by the retail customer over the life of the contract where the handset or other device, hardware or service are not provided free of charge;
 - (e) use of headline representations as to the price for a particular product or service, unless that product or service is available for purchase at the advertised price without being part of a bundled product or service, or the

advertised price is clearly identified as the price for that product or service when purchased as part of a bundled product or service;

- (f) use of headline representations as to prices for an offer, unless exclusions are prominently displayed;
 - (g) use of unqualified headline representations as to ongoing prices for specified data usage allowances in circumstances where the price for the data usage is likely to increase within a reasonable period of use;
 - (h) advertise or promote electronic communications network coverage unless the network coverage is generally available to consumers in the claimed coverage area;
 - (i) advertise or promote a periodic price to be paid for an electronic communications service without also prominently displaying, but not necessarily as prominent as the periodic price, the “single price”; and
 - (j) make claims in advertising in relation to broadband speed, network coverage and other performance characteristics of an electronic communications service unless the licensee is able to substantiate the claims.
- (3) A licensee shall publish on its website, its Fair Usage Policy, to assure all broadband retail customers that they enjoy the same experience and have access to a quick and reliable service at all times.

19. Clarity in Advertisements

- (1) A licensee shall provide a level of detail in its advertising that is appropriate to the manner in which the advertising is displayed to consumers.
- (2) Notwithstanding the generality of sub-regulation (1), a licensee shall—
 - (a) cause the principal message and the main terms to be clearly captured in the body of the advertising;
 - (b) ensure that use of any disclaimers do not negate the principal message and main terms of the advertising; and
 - (c) take into account the typical amount of time that consumers are able to view or hear, or both view and hear, the particular advertising in deciding how much information to include in the advertising.

20. Special Promotions

A licensee shall—

- (a) disclose the terms of any special promotion and any limitations on availability, quantities, or other constraints;
- (b) disclose the end date for the special promotion; and
- (c) where there are special eligibility requirements, such as the provision of coupons, bundling with other products and services, or restrictions on a

specific class of retail customers, the licensee shall disclose each requirement of the special promotion in a clear and easily visible manner.

21. Standard Charges for Text Advertising

- (1) A licensee, when advertising the price or dollar value of either an included value plan or a post-paid tariff for mobile telephone service using text advertising, shall prominently display the following three standard pricing elements when advertising an included value plan –
 - (a) the price, prior to any discounts being applied of making a one-minute standard national mobile call;
 - (b) the price (prior to any discounts being applied) of sending a standard national mobile SMS; and
 - (c) the price (prior to any discounts being applied) of using one megabyte of data within (Contracting State);
provided that if any of the above usages are unlimited, the licensee is not required to quote a standard price for the type of usage that is unlimited in the text advertising.
- (2) In the case of post-paid data plans with an included data allowance, the licensee shall prominently display in text advertising the price or dollar value of a post-paid service (prior to any discounts being applied) of using one megabyte of data within [Contracting State], provided that if unlimited usage is provided, the licensee is not required to quote a price per megabyte for the data usage that is unlimited.

22. Standard Charges for Brief Online Advertising

When advertising using brief online advertising the price or dollar value of either an included value plan or a post-paid tariff for mobile telephone service, a licensee shall ensure that the page to which the small online advertising links, displays more detailed pricing information and the standard pricing elements.

23. Disclaimers

- (1) A licensee shall ensure that disclaimers are clear and understandable, having regard to the type of advertising.
- (2) Notwithstanding the generality of sub-regulation (1), a licensee shall take the following actions –
 - (a) ensure that a disclaimer does not negate the principal messages of the advertising; and
 - (b) ensure that a disclaimer is clear and understandable, having regard to the type of advertising, including the medium or format used and its intended audience.

24. Fair Sales Practices

A licensee shall—

- (a) ensure that its sales representatives are appropriately trained to promote and sell its electronic communications services in a fair and accurate manner to assist consumers in making informed purchasing decisions;

- (b) ensure that the conduct of its sales representatives is monitored periodically to assess the manner in which they interact with consumers, and take steps to address emerging or systemic deficiencies in the sales conduct; and
- (c) monitor complaints about the sales conduct of the licensee's sales representatives and take steps to address and resolve areas of conduct generating multiple, repeated complaints.

25. Access for Persons with Disabilities and Special Needs

- (1) A licensee shall make information available about its electronic communications products and services specifically for consumers with disabilities or special needs and the manner in which the products and services operate.
- (2) A licensee shall—
 - (a) provide training to its sales representatives on the manner of interacting with disadvantaged or vulnerable consumers appropriately; and
 - (b) take appropriate measures to ensure that persons with disabilities or special need groups are able to access their premises and complaint handling procedures.
- (3) If a retail customer with physical disabilities or other special needs determines to be unsatisfactory the access provided to the products and services offered by the licensee for consumers with disabilities and special needs, or his or her access to the premises and complaint handling procedures of the licensee, the retail customer may submit a complaint to the licensee or the Commission using the form included in the schedule of these Regulations.
- (4) A retail customer with a disability or special needs shall be able to nominate or rescind the nomination of an individual who may engage with the licensee in respect of the retail customer's account, including with respect to the nominee –
 - (a) receiving the retail customer's bill;
 - (b) paying the retail customer's bill on the retail customer's behalf; and
 - (c) making enquiries about the retail customer's account on behalf of the retail customer.
 - (d) For the avoidance of doubt, the nominated individual referred to in sub-regulation (3) shall not be required to enter into a contract with the licensee and shall not be held legally liable by the licensee for the individual's actions on behalf of the retail customer.

26. Protection of Retail Customer Data and Information

- (1) A licensee shall protect data and information it holds relating to its retail customers and their communications, and shall not collect, use, retain or advertise any retail customer information unless the retail customer's prior written approval is obtained or as permitted by law.

- (2) A licensee shall ensure that all retail customer information submitted to it is accurate, complete and valid for use.
- (3) Retail customers shall have the right to review any of their information held by or on behalf of the licensee, and to require the licensee to correct any mistaken information.

27. Privacy and Confidentiality

A licensee shall–

- (a) identify the purposes for which retail customer information is collected at or before collection and shall not, unless permitted or required by law or with the consent of the person to whom the information relates, collect, use, maintain or disclose retail customer information for undisclosed or unauthorized purposes;
- (b) be responsible for retail customer information and retail customer communications records which are under its control or in its custody or that of its agents;
- (c) ensure that retail customer information and communications records are protected by security and technical safeguards that are appropriate to their sensitivity;
- (d) shall not disclose retail customer information to any person without the retail customer’s consent unless disclosure is lawfully required or permitted under the laws of [Contracting State];
- (e) shall retain and use all retail customer-specific information only for purposes specifically set out in the retail customer contract, or in accordance with directives or decisions made by the Commission or in accordance with applicable laws; and
- (f) shall ensure that retail customers’ information is accurate, complete and updated regularly for the purposes for which it is to be used.

28. Net Neutrality

- (1) A licensee shall comply with the principles of net neutrality.
- (2) A licensee shall ensure that its retail customers have the ability to access and disseminate information as well as access applications and services of their choice, thus facilitating the use of over the top services (OTT).

Part VI

COMPLAINTS HANDLING

29. Right to Submit Complaints

- (1) The retail customer has a right to communicate with the licensee regarding queries about its services or products or to complain about its services, products or any related matter.
- (2) A retail customer complaint may be made via toll free retail customer assistance telephone numbers, electronically, by fax or posted letters.
- (3) Notwithstanding sub-regulation (2), a retail customer may make a complaint using a complaint form available at all places of business or retail customer service centres of the licensee.

30. Complaint using Form

- (1) A written complaint pursuant to these regulations shall be in the Form set out in the Schedule.
- (2) A licensee shall make available copies of their complaint form together with a receptacle for its submission at all places of business and retail customer service centres.
- (3) A licensee shall prominently display a summary of its Complaint Handling Procedure at all of the licensee's places of operation, including sales outlets.
- (4) A licensee shall post the complaint form on its website using the prescribed Form of these Regulations.

31. Toll Free Retail Customer Care and Complaints

- (1) Every licensee shall implement dedicated toll-free retail customer care and complaint handling service telephone lines for all categories of services provided that at a minimum—
 - (a) they are available for a minimum of fifteen hours a day; and
 - (b) retail customer care and assistance services, which include fault clearance and complaint handling assistance, are provided.
- (2) A licensee shall bear all costs associated with its provision of the toll-free retail customer care and complaint handling service, including any interconnection costs.

32. Complaints Handling Procedure

- (1) These Regulations shall not apply to—
 - (a) complaints or specific retail customer issues that are the subject of legal action; or
 - (b) complaints made in respect of, or on behalf of consumers by entities levying fees or charges for their services, other than legal practitioners.
- (2) A licensee shall implement a complaint handling procedure that—
 - (a) is customer focused and easy to use;
 - (b) is free of charge, except for the provision of information where —
 - i. a former retail customer requests access to information held by the licensee about the former retail customer which was collected by the licensee more than 2 years prior to the date of the request; or

- ii. the free provision of the information in the form or quantities requested is inconsistent with the licensee's standard form retail customer contract;

in which circumstances, the licensee may levy a charge to recover its costs;

- (c) is approved by, and provides that the Chief Executive Officer or the designate of the licensee is responsible for ensuring its implementation and compliance in accordance with the requirements of these Regulations;
 - (d) is under the direction of a senior manager who is responsible for its day to day operation;
 - (e) clearly states that consumers or former retail customers have a right to make a complaint and that a proposed resolution of the complaint shall be accepted by a consumer or former retail customer before a licensee is required to implement it; and
 - (f) specifies the response times for individual steps in the management of complaints.
- (3) A licensee shall ensure that a complaint handling procedure under these Regulations shall —
- (a) set out how a retail customer or former retail customer can monitor the progress of a complaint;
 - (b) provide assistance to a retail customer or former retail customer to formulate, lodge and progress a complaint;
 - (c) set out the circumstances in which a complaint shall be treated as urgent and how the management of urgent complaints differs from other complaints.
- (4) Pursuant to sub-regulation (2) (b) the licensee shall inform the consumer or former retail customer at the time the complaint is made of —
- (a) the proposed charge and notify the consumer or former retail customer of the option to pursue the complaint and pay the charge or to discontinue the complaint;
 - (b) the options for external dispute resolution before levying any charge under this regulation.
- (5) A licensee shall not cancel a retail customer's electronic communications service solely because, being unable to resolve a complaint with the licensee, the retail customer pursued his options for external dispute resolution.

33. Complaints Management

- (1) The licensee shall treat all retail customers or former retail customers who make a complaint with fairness and courtesy, and their complaint shall be dealt with objectively and efficiently.
- (2) A licensee shall
 - (a) acknowledge a complaint—

- (i) immediately where the complaint is made in person or by telephone or that is submitted via the licensee's website or another website endorsed by the licensee for that purpose;
 - (ii) within 3 working days of receipt where the complaint is made by email;
- (b) implement a procedure for the identification and management of urgent complaints;
- (c) implement a procedure for the appropriate resolution of complaints including—
 - (i) ensuring relevant staff are aware of the potential remedies available to resolve a complaint;
 - (ii) tailoring any remedy offered to address the root cause of the complaint and to address the individual circumstances of the consumer or former retail customer where these have been advised to the licensee;
 - (iii) where the complaints are indicative of a wider problem or issue, addressing the root cause of the problem or issue;
 - (iv) resolving billing errors in current bills;
 - (v) delaying commencement of any legal proceedings while a complaint is being handled internally and for 7 working days after a consumer or former retail customer is advised of the outcome of their complaint;
 - (vi) advising the consumer or former retail customer of the proposed resolution of their complaint within 15 working days from the date the complaint is received in accordance with sub-regulation (2) (a); and
 - (vii) for urgent complaints, providing confirmation of the proposed resolution of the urgent aspects of the complaint and, if accepted by the retail customer, implementing the urgent aspects of the resolution within 3 working days of the date the complaint is received.
- (3) Where a licensee does not believe that the complaint can be resolved in 15 working days, or within 3 working days for the urgent aspects of an urgent complaint, the licensee shall advise the consumer or former retail customer before working day 15 or working day 3 for urgent complaints, of—
 - (a) the reasons for the delay;
 - (b) the specific timeframe for completion of the resolution;
 - (c) if the anticipated delay is a further 10 working days or more and is not the result of a declared mass service disruption, advising the consumer or former retail customer of their options for external dispute resolution;
 - (d) advising consumers or former retail customers of any delays to promised timeframes;
 - (e) providing a means for the consumer or former retail customer to monitor the complaint's progress;

- (f) advising consumers or former retail customers of the resolution of their complaint, as soon as practicable after the licensee completes its investigation of the complaint;
 - (g) days of the consumer's or former retail customer's acceptance of that resolution unless:
 - (i) otherwise agreed with the consumer or former retail customer; or
 - (ii) the actions are contingent on actions by the consumer or former retail customer that have not been completed;
 - (h) only closing a complaint with the consent of the consumer or former retail customer or if sub-regulations (4) or (5) have been complied with; and
 - (i) where a complaint is closed with the consent of the consumer or former retail customer, at the consumer's or former retail customer's requests, providing a written confirmation of the resolution of that complaint to be sent to the consumer or former retail customer within 5 working days.
- (4) Where a consumer or former retail customer informs the licensee that he is dissatisfied with the timeframes that apply to the management of a complaint or seek to have a complaint treated as an urgent complaint, the licensee shall —
- (a) inform the consumer or former retail customer of the licensee's internal prioritisation and internal escalation procedures;
 - (b) if, after internal prioritisation and internal escalation the consumer remains dissatisfied, inform the consumer of the options for external dispute resolution.
- (5) Where a consumer or former retail customer informs the licensee that he is dissatisfied with the progress or resolution of a complaint or asks about his options to pursue a complaint further, the licensee shall inform the retail customer or former consumer of—
- (a) the licensee's internal escalation procedure, if any; and
 - (b) the options for external dispute resolution, including the option to file a complaint with the Commission.

34. Complaints Analysis

- (1) A licensee shall implement procedures and undertake analysis of its complaint information to identify and prevent the recurrence of complaints arising from systemic issues.
- (2) Pursuant to sub-regulation (1), a licensee shall take the following actions —
 - (a) classify and analyze complaints at least every 3 months to identify recurring problems and issues including areas of non-compliance with these Regulations;
 - (b) monitor complaints to identify emerging issues requiring specific attention and address those as soon as practicable;
 - (c) monitor and record progress to address areas requiring attention; and
 - (d) if requested by the Commission, submit a report to the Commission every 3 months (or other such longer time period as specified by the Commission) in the format requested by the Commission summarizing the analysis of

complaints and actions taken to identify and correct emerging or systemic issues with respect to complaints.

- (e) A licensee shall ensure there is a procedure for the rapid and effective management of, and notification to appropriately senior management of any significant complaints or recurring complaints.

35. Complaints Record

- (1) The Complaints Record under section 64 (f) shall include —
 - (a) identification of the retail customer or former retail customer making the complaint, the nature of the complaint, the steps taken to address the complaint and the resolution, if any, of the complaint.
 - (b) The complaints records make and keep systematic records of complaints including —
 - (i) a unique reference number or such other means that will ensure the licensee's ability to subsequently identify the complaint and its subject matter;
 - (ii) the issues raised as part of the complaint;
 - (iii) the requested resolution;
 - (iv) the due date for a response;
 - (v) the results of an investigation;
 - (vi) the proposed resolution of the complaint including any associated commitments and the date this is communicated to the consumer or former retail customer;
 - (vii) the licensee's reasons for proposing its resolution;
 - (viii) the consumer's or former retail customer's response to the proposed resolution of the complaint, any reasons given by the consumer or former retail customer and if he has requested the resolution in writing, that this request has been made;
 - (ix) the implementation of any required actions;
 - (x) the underlying cause of the complaint; and
 - (xi) copies of any correspondence sent by or to the consumer or former retail customer;
- (2) monitor the progress of a complaint and any commitments made to the consumer or former retail customer in relation to a complaint.
- (3) The licensee shall retain the Complaints Record for at least two years.
- (4) A licensee shall ensure that personal information concerning a complaint is not disclosed to any relevant authority except as required to manage a complaint or with the express consent of the consumer or former retail customer.

SCHEDULE

(regulation 30)

COMPLAINT FORM TO LICENSEE

Please insert your details:

- 1. Mr. Mrs. Miss Ms other.....
- 2. First Names.....
- 3. Surname.....
- 4. Address.....
.....
- 5. Postal Address (if different from above)
.....
- 6. Address for service of documents (if different from above)
.....
.....
- 7. Daytime telephone contact number(s).....
- 8. Fax number(s).....
- 9. Email address.....

- 10. If an Attorney or Legal Counsel is acting for you please give details (all documents will be sent to your representative)
Name.....
Address.....
.....
Postal address (if different from above)
.....
Address for service (if different from above)
.....
Daytime telephone number (s).....
Fax number(s).....
Email address.....

- 11. **Please give the name and address of the Electronic Communications Provider against whom this complaint is being brought**

Name.....
Address.....
.....

- 12. Please give details/grounds of your complaint.....
.....
(please use additional paper if necessary)