

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE 902 OF 2017



Independent Communications Authority of South Africa

Pinmill Farm, 164 Katherine Street, Sandton

Private Bag X10002, Sandton, 2146

DRAFT CODE FOR PERSONS WITH DISABILITIES REGULATIONS FOR FURTHER PUBLIC COMMENTS

1. PROCESS

The Authority held provincial workshops on 20 June to 03 July 2014 in six provinces i.e. Kwa-Zulu Natal, Limpopo, Western Cape, Eastern Cape, Northern Cape and Mpumalanga wherein the Authority made oral presentations to stakeholders and organisations representing persons with disabilities. Interested parties were afforded the opportunity to make comments on the contents of the draft regulations. The Authority further held public hearings on 10 to 11 July 2014 at its head office in Sandton.

Subsequently, the draft regulations were published for public comments on 14 November 2014. Interested parties were given 30 working days to submit written comments on the published draft regulations. Submissions were received from various stakeholders. The stakeholders' inputs have been taken into consideration and the draft regulations are revised accordingly.

These draft regulations are being published with the intention of providing all interested stakeholders a further opportunity to submit their comments and recommendations. The Authority will consider all comments and recommendations received to ensure public participation in its regulatory processes.

The Independent Communications Authority of South Africa (hereinafter referred to as "the Authority") hereby gives notice in terms of sections 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) (hereinafter referred to as the "ICASA Act"), read with sections 4(1), 4(4) and 70 of the Electronic Communications Act, 2005 (Act No. 36 of 2005),

regarding its intention to prescribe a Code for Persons with Disabilities contained in the schedule attached herewith.

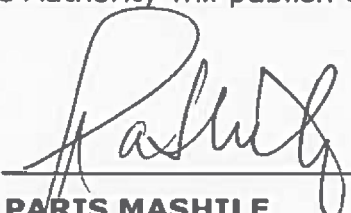
A copy of the proposed draft regulations is also available on the Authority's website at <http://www.icasa.org.za> and in the Authority's Library at 164 Katherine Street, Pinmill Farm, Block D, Sandton, during the Authority's normal office hours.

Interested persons are invited to submit written representations on the draft regulations within Twenty-one (21) working days of the date of publication of this notice by either registered mail, hand delivery, facsimile transmission or electronically (in Microsoft Word) for the attention of Ms Nditsheni Hangwani, Code for Persons with Disability Project Leader at: ICASA, Private Bag X10002, Sandton, 2146 Or ICASA, Block D, Pinmil Farm, 164 Katherine Street, Sandton, 2146 Or Fax:(011) 566 3417 or E-mail: nhangwani@icasa.org.za

All written representations submitted to the Authority pursuant to this notice will be made available for inspection by interested persons at the Authority's library and copies of such representations will be obtainable on payment of the prescribed fee.

At the request of any person who submits written representations pursuant to this notice, the Authority will determine whether such representations or any portion thereof is confidential in terms of section 4D of the ICASA Act. If the request for confidentiality is refused, the person making the request will be allowed to withdraw such representations or portion thereof.

The Authority will publish the final regulations in the government gazette.



PARIS MASHILE
ACTING CHAIRPERSON

DATE...15/11/2017...

DRAFT REGULATIONS ON CODE FOR PERSONS WITH DISABILITIES

SCHEDULE

1. DEFINITIONS

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

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

"Accessibility" means the ability by person with disabilities to equally access and benefit from broadcasting and electronic communications services;

"Accessibility Services" means a service such as Audio Description, Audio Captioning, Audio-visual Content; Closed Captioning and Subtitles;

"Applicable Channels" means all audio-visual channels broadcast by a licensee except a third party channel(s) and channels consisting predominantly of live programming content such as news, reality or sport;

"Audio Description" means a verbal explanation of key visual elements in media and live productions;

"Audio Captioning" means a function that provides captions that are read aloud and reflected as speech. Audio captioning may also be called "audio subtitles" or "spoken subtitles" in the case of foreign language dialogue;

"Closed Captioning" means a process of converting the audio content of television broadcast or other production into text and displaying the text on a screen or monitor;

"Disability" means long-term or recurring physical, speech, hearing and visual impairment;

"Sign language" means a language that uses a system of manual, facial, and other body movements as the means of communication;

"Subtitle" the means by which both the audio dialogue and sound representations of a video programme are made visible on demand by the user via on-screen text that is synchronized with the audio content;

"Regulations" means these Regulations on Persons with Disabilities, as amended from time to time;

"Third Party Channel" means a channel which is produced or packaged by any person other than the relevant broadcasting service licensee or its affiliate;

"Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design;

"Year 1" means the twelve-month period commencing on the date on which these Regulations come into operation in accordance with regulation 12 of the Schedule to these Regulations. In respect of migrating broadcasting service licensees, **"Year 1"** means the twelve-month period commencing on the date of the final switch-off of the analogue signals.

2. PURPOSE OF THE REGULATIONS

The purpose of these regulations is to prescribe a Code for Persons with disabilities, to be adhered to by Electronic Communications Service (ECS); and Broadcasting Service (BS) licensees aimed at ensuring that persons with disabilities have access to ECS and BS.

3. SCOPE OF REGULATIONS

These Regulations apply to ECS and BS licensees.

4. BASIC STANDARDS FOR BROADCASTING SERVICE LICENSEES

- (1) A broadcasting service licensee must implement the following Accessibility Services on Applicable Channels: -
 - (a) Audio Description, as prescribed in these Regulations; and
 - (b) Subtitles, Audio Captioning or Close Captioning, as prescribed in these Regulations.
- (2) A broadcasting service licensee must implement the minimum level applicable to the relevant Accessibility Service applicable to its broadcasting service licence category, as prescribed in these Regulations.

Subtitles:

- (3) A Broadcasting service licensee which provides Subtitles must:
 - (a) provide Subtitles as near synchronous to speech as is practicable;
 - (b) reflect the spoken word with the same meaning;
 - (c) construct Subtitles to contain all obvious speech and sound effects;
 - (d) construct Subtitles which contain easily read sentences, and commonly used sentences in a tidy and sensible format;
 - (e) give proper contrast between foreground and background colours.
- (4) A broadcasting service licensee that provides Subtitles must implement the following minimum percentages of total Subtitles, measured across its broadcasting service on Applicable Channels:

Minimum Subtitling requirements				
	Public	Commercial free to air	Subscription	Community
Year 1	10%	5%	2.5%	2%
Year 2	10%	5%	2.5%	2%
Year 3	20%	10%	5%	4%
Year 4	30%	15%	7.5%	6%
Year 5	40%	20%	10%	8%
Year 6	50%	25%	12.5%	10%
Year 7	60%	30%	15%	12%
Year 8	70%	35%	17.5%	14%
Year 9	80%	40%	20%	16%
Year 10	80%	40%	20%	16%

Audio Captioning:

- (5) A broadcasting service licensee which provides Audio Captioning must implement the following minimum percentages of total Audio Captioning, measured across its broadcasting service on Applicable Channels:

Minimum Audio Captioning requirements				
	Public	Commercial free to air	Subscription	Community
Year 1	5%	2.5%	1.25%	1%
Year 2	5%	2.5%	1.25%	1%
Year 3	10%	5%	2.5%	2%
Year 4	15%	7.5%	3.75%	3%
Year 5	20%	10%	5%	4%
Year 6	25%	12.5%	6.25%	5%
Year 7	30%	15%	7.5%	6%
Year 8	35%	17.5%	8.75%	7%

Year 9	40%	20%	10%	8%
Year 10	40%	20%	10%	8%

Audio Description:

- (6) A broadcasting service licensee which provides Audio Description must implement the following minimum percentages of total Audio Description, measured across its broadcasting service on Applicable Channels:

Minimum Audio Description requirements				
	Public	Commercial free to air	Subscription	Community
Year 1	2%	1%	0.5%	0.4%
Year 2	4%	2 %	1%	0.8%
Year 3	6%	5%	1.5%	1.25%
Year 4	8%	3%	2%	1.6%
Year 5	20%	4%	2.5%	2%
Year 6	10%	5%	2.5%	2%
Year 7	10%	5%	2.5%	2%
Year 8	10%	5%	2.5%	2%
Year 9	10%	5%	2.5%	2%
Year 10	10%	5%	2.5%	2%

Closed Captioning:

- (7) A broadcasting service licensee which provides Closed Captioning must implement the following minimum percentages of total Closed Captioning, measured across its broadcasting service on Applicable Channels:

Minimum Closed Captioning requirements				
	Public	Commercial free to air	Subscription	Community
Year 1	5%	2.5%	1.25%	1%
Year 2	5%	2.5 %	1.25%	1%

Year 3	10%	5%	2.5%	2%
Year 4	15%	7.5%	3.75%	3%
Year 5	20%	10%	5%	4%
Year 6	25%	12.5%	6.25%	5%
Year 7	30%	15%	7.5%	6%
Year 8	35%	17.5%	8.75%	7%
Year 9	40%	20%	10%	8%
Year 10	40%	20%	10%	8%

5. BASIC STANDARDS FOR ELECTRONIC COMMUNICATIONS SERVICE (ECS) LICENSEES

Universal Designed Products and Services:

- (1) An ECS licensee must ensure that all electronic communications devices ready for purchase are Universally Designed to cater for the needs of persons with disabilities.

Hearing Aid Compatibility Requirements for Fixed Line Handsets:

- (2) An ECS licensee must ensure that all its fixed line telephones being offered to the public have hearing aid compatibility. Some of the requirements and features to be included on telephones are as follows:
 - (a) a standard rental telephone handset which includes one-touch dial memory, a lightweight handset and a built-in hearing aid coupler;
 - (b) a telephone which amplifies the incoming caller's voice to suit the listener;
 - (c) a telephone which amplifies the speaker's voice, allowing the speaker to adjust the speech level to suit the listener;
 - (d) a hands-free telephone for a person who cannot hold a telephone handset;

- (e) an ancillary telecommunications product which has adjustable volume, tone and pitch controls to assist the user to hear the telephone ringing;
- (f) an ancillary telecommunications product which allows the connection of a second piece of equipment (e.g. a visual signal alert) in parallel with the existing telephone;
- (g) an ancillary telecommunications product in which the telephone handset is cradled, providing hands-free operation;
- (h) a telephone adapting device which allows a person with cochlear implant to have access to the standard telephone service.

Visually Impaired or Blind Aid Compatibility Requirement for Mobile Handsets:

- (i) **Customized Displays** - An ECS licensee must make provision for wireless device screens with better contrast, illumination, larger font size and magnifying functionalities;
- (j) **Alternate formats** - An ECS licensee must make provision for product information and billing in alternate formats (Braille, large print, electronic (plain text or HTML, audiocassette etc.) upon request. Accessible manuals should be available from the operators or accessed through the operators' website;
- (k) **Braille** - An ECS licensee must make provision for phones that have built-in, or that make use of applications that have the capability of connecting via Bluetooth to a Braille device. When set up, it should support navigation and text input from a Braille keyboard;
- (l) **Screen Reader** - An ECS licensee must make provision for a screen access application that provides individuals, who are blind or visually impaired, with the ability to read the text that is displayed on the computer screen with a speech synthesizer;

- (m) **Voice Recognition** - ECS licensees must provide options for consumers to interact with their phone using their voice, or voice recognition;
- (n) **Automatic Responses** - ECS licensees must provide a program on wireless devices to answer automatically or redial certain calls or messages;
- (o) **Hands-free or One-Touch** - ECS licensees must provide a hands-free device with a speakerphone, or assign certain functions to one button for dialing or other pre-programmed functions.

6. GENERAL REQUIREMENTS FOR COMMUNICATION AND INFORMATION PROVISION TO PERSONS WITH DISABILITIES

- (1) **Free directory enquiries:** ECS licensees must provide free directory services for consumers who are unable to use a printed directory because of a disability;
- (2) **Emergency services:** ECS licensees should provide special numbers for emergencies services for person with disabilities. Access should be provided to fire, police, disaster management and ambulance emergency services;
- (3) **Priority fault repairs:** ECS licensee must prioritise an urgent need to repair a handset for a disabled customer.
- (4) **Customer Service Staff:** A licensee must ensure that there are trained employees who can provide customer service and communicate with persons with disabilities in its stores;
- (5) **Demonstration of equipment:** A licensee must ensure that it provides a demonstration in respect of the use of the equipment to persons with disabilities who visit a store before they purchase, where reasonably necessary.

(6) Access to information:

- (a) Licensees must ensure that, where practicable, they provide upon request printed material outlining accessible products for persons with disabilities in simple and reader friendly languages in their stores. Brochures, videos and other information should be provided to organisations that work with deaf persons on a regular basis to ensure information is displayed on information stands and targeted to deaf persons.
- (b) Advertisements and promotions for products and services specifically designed for persons with disabilities should be made available in accessible formats to relevant organisations of and for persons with disabilities in every province and upon request.

(7) Access to facilities:

Licensees must ensure that they reasonably accommodate persons with disabilities in all their facilities.

7. PROMOTION OF AWARENESS AND COMPLIANCE

- (1) A licensee must at least twice a year conduct awareness campaigns, seeking to address among others the rights of persons with disabilities, issues of Accessibility, design, affordability and information on products.
- (2) A licensee may collaborate with organisations and associations representing persons with disabilities on awareness programmes.

8. COMPLAINTS PROCESSES FOR ALL CATEGORIES OF DISABILITY

Licensees should develop complaints processes for persons with disabilities. These processes should be made available to all organisations representing persons with disabilities.

9. COMPLIANCE REPORTING

Licensees must submit annual reports to the Authority, sixty (60) days after the end of the licensee's financial year, on the nature and extent of the licensee's compliance with these Regulations.

10. CONTRAVENTIONS AND PENALTIES

Failure to comply with these Regulations will result in the imposition of a fine not exceeding R5 000 000, 00 (five million rand).

11. REPEALED REGULATIONS

The Code on Persons with Disabilities Regulations published in Government Gazette No. 30441 of 2007 is hereby repealed.

12. SHORT TITLE AND COMMENCEMENT

- (1) These Regulations are called the Code for Persons with Disabilities Regulations, 2017 and shall come into effect 18 months after publication in the Government Gazette.
- (2) An existing terrestrial television broadcasting service licensee which is migrating from analogue to digital terrestrial transmission will be required to begin complying with these Regulations with effect from the date of the final switch-off of analogue signals gazetted by the Minister.