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GOVERNMENT NOTICE

DEPARTMENT OF COMMUNICATIONS

No. R. 1248

26 November 2001

REGULATIONS: FEES AND CHARGES IN THE PUBLIC SWITCHED TELECOMMUNICATIONS SECTOR.

In terms of section 96 (6) of the Telecommunications Act, 1996 (Act No. 103 of 1996), I, Ivy Matsepe-Casaburri, Minister for Communications hereby approve and publish the regulations in the Schedule made by the Independent Communications Authority of South Africa (ICASA) in terms of section 96 (1) read with section 45, of the said Act.

**IVY MATSEPE-CASABURRI****MINISTER**

26 November 2001

SCHEDULE

1. Definitions

In these regulations a word or expression shall have the meaning assigned to it in terms of the Telecommunications Act, 1996 (Act No. 103 of 1996), and, unless the context indicates otherwise –

“average residential bill” means the average bill for residential customers obtained through a statistical sampling approach developed by Telkom and assented to by the Authority.

“basket services” means the telecommunication services listed in Schedule A to which price regulation applies.

“business day” means any day except a Saturday, Sunday or Public holiday

“customer premise equipment” means an item of equipment approved under Chapter IV of the Act, which does not form part of the Public Switched Telecommunication Network, but is connected or intended to be connected, to Terminal Connection Equipment, whether fixed or portable, and by means of which signals are initially transmitted or ultimately received.

“effective date” means the date on which these regulations are promulgated by the Minister

“exchange line” means a local line provided to connect a Terminal connection point to the Local Exchange

"ISDN" means Integrated Services Digital Network, which is defined as Switched Services Digital Network providing end-to-end digital connection for simultaneous transmission of voice and/or data over multiple multiplexed communication channels and employing transmission that conforms to internationally defined standards.

"local exchange area" means a geographically defined area within which all exchange lines are connected to, and served by, the same Local Exchange.

"local exchange" means that part of a telecommunication system comprised in the Local Access Network installed in the local exchange area to provide switched Local Access Telecommunication Services to customers connected Local Lines comprised in that local exchange area.

"n" means the number of services in the basket.

"operator" means any person licensed to provide a telecommunications service pursuant to a licence of a type referred to in section 34 (2) of the Act.

"price control period" means a period which shall be calculated from the date of promulgation of these regulations until a new regulatory regime has been prescribed.

"price control year" means a 12 month period commencing on the first of January ending on the 31st of December of any year.

"PSTS" means Public Switched Telecommunications Services.

“public pay telephone” means apparatus (including any kiosk, booth, acoustic hood, shelter or other similar structure in which that apparatus may be installed) at which public pay telephone services are made available to the public or segments of the public, and which contains a device to accept payment for those services.

“RC” means Revenue Change.

“residential sub-basket” means telecommunication services made available to residential customers including line rental, local calls, national calls and international calls. Payphones will also form part of this sub-basket.

“t” means the current year in the Price control period.

“terminal connection point” means any point within an item of Terminal Connection Equipment at which signals are conveyed to or from one or more items of customer premises equipment.

2. Application of these regulations

- (1) These regulations shall be applicable to fees and charges (together “prices”) payable, pursuant to the Telecommunications Act as amended, to Telkom for the telecommunications services listed in Schedule A (“the basket services”), as such may be modified from time to time in accordance with the provisions of these regulations.
- (2) These regulations shall be effective as from the effective date and shall remain in force for a period of at least eighteen (18) months or until such time that a new regulations regime is prescribed.

3. General Price Control Formula

- (1) Telkom shall ensure that in each price control year the price charged for the basket services shall be set so as to satisfy the criteria in the formulae set forth below:

$$(RC_{(t)}/RR_{(t-1)}) 100 \leq \Delta CPI_{(t-1)} - X_{(t)}$$

- (2) The level of $X_{(t)}$ shall be set at 1.5% until reviewed by the Authority. This review shall commence after the promulgation in the gazette of the Chart of Accounts and Cost Allocation Manual regulations or by 1 June 2002 whichever date is the earliest.

Where:

(t): is the current year in the price control period

(t-1): is the preceding year

$X_{(t)}$: is the productivity factor

$\Delta CPI_{(t-1)}$: is the year-on-year change in the Consumer Price Index, which is defined as follows:

$$\Delta CPI_{(t-1)} = ((CPI_{(t-1)} - CPI_{(t-2)}) / (CPI_{(t-2)})) 100$$

Where:

(t-2): is the year preceding (t-1)

$CPI_{(t-2)}$ is the Consumer Price Index for the month of September the year (t-2).

$CPI_{(t-1)}$: is the Consumer Price Index for the month of September of year (t-1)

$RC_{(t)}$: is the total Revenue Change, which is calculated as follows:

$$RC_{(t)} = \sum_{i=1 \text{ to } n} RC_{(i,t)}$$

Where:

n : is the number of services in the basket

$RC_{(i,t)}$: is the revenue change of the i-th service in year (t), which is calculated as follows:

$$RC_{(i,t)} = RR_{(i,t-1)} \Delta P_{(i,t)}$$

Where:

$RR_{(i,t-1)}$: is the Reported Revenue of Telkom for the i-th service in the basket from the relevant financial year ended 31 March commencing with 31 March, 2001 for the first year and each subsequent financial year ended 31 March for the duration of the Price control period.

$\Delta P_{(i,t)}$: is the average percentage change in the unit tariff of the i-th service, in year (t), which is defined as follows:

$$\Delta P_{(i,t)} = [(Average \text{ unit tariff of the } i\text{-th service at the end of year (t)} / (Average \text{ unit tariff of the } i\text{-th service at the end of year (t-1)) - 1] 100;$$

$RR_{(t-1)}$: is the reported revenue of Telkom, in year (t-1), of all the service in the basket, and is calculated as follows:

$$RR_{(t-1)} = \sum_{i=1 \text{ to } n} RR_{(i, t-1)}$$

A worked example of the formula set out in 3 (1) above is illustrated in Schedule B to these regulations.

4. Residential sub-basket

(1) Telkom shall implement a residential sub-basket consisting of the following elements: Line rental, Local calls, National calls, International calls. Payphones will also be subject to this sub-cap.

(2) Telkom will determine an Average Residential Bill, which will be used in determining the level of increase applicable to residential customers.

(3) The weighted-average annual rate increase for the sub-basket of basic residential services shall be set to satisfy the criteria in the formula below:

$$\Delta CPI_{(t-1)} \cdot X_{(t)}$$

where $x_{(t)} = 1.5\%$

(4) The level of $X_{(t)}$ shall be set at 1.5% until reviewed by the Authority. This review shall commence after the promulgation in the gazette of the Chart of Accounts and Cost Allocation Manual regulations or by 1 June 2002 whichever date is the earliest.

5. Carry over

Telkom shall be allowed to carry over to the next price control year any unused part of the allowed tariff increase. The unused part of the allowed tariff increase in both the general and the residential baskets will lapse if not used in the next price control year.

6. Tariff Filing

- (1) Telkom shall file the rates as well as the relevant terms and conditions with the Authority pursuant to which it proposes to offer Public Switched Telecommunication Services that are subject to these regulations.
- (2) Such tariffs shall be filed at least 30 business days before the proposed date on which such rates are to become effective in a form specified by the Authority.
- (3) If the Authority does not deliver to Telkom a notice in writing of disapproval at least 15 business days before the proposed effective date of the rates, the rates shall be deemed approved.
- (4) The Authority may disapprove the proposed tariffs only where;
 - (a) The calculations contain mathematical errors; or
 - (b) The terms and conditions violate applicable laws, including, without limitation, policy directions, regulations and the Rate Regime, in a material respect.

7. Changes to the Basket Services

- (1) Subject to subsections (2) and (3) below, Telkom shall be entitled to add or replace telecommunication services in respect of the basket services only if such telecommunication services are either:
 - (a) Wholly or substantially in substitution of an existing telecommunication service; or
 - (b) Wholly or substantially in substitution of an existing package offering of existing telecommunication services or of elements of existing telecommunication services. For the avoidance of doubt, a package offering of existing telecommunication services would include a scheme the effect of which would be to reduce the licensee's standard prices, as published in accordance with these regulations, including, without limitation, a residential low user scheme.
- (2) Telkom shall notify the Authority in writing of its intention to add or replace a telecommunication service in respect of the basket services pursuant to subsection (1) above at least 30 business days before the proposed date on which such service will be implemented.
- (3) The Authority shall inform Telkom in writing of its approval or disapproval of changes to the basket services proposed by the licensee in terms of subsection (1) above at least 15 business days before the proposed date on which such service will be implemented.

8. Maximum Prices

- (1) With effect from the effective date, prices may not exceed the limits set pursuant to these regulations.
- (2) Prices for any of the basket services set pursuant to these regulations may be adjusted by Telkom from time to time during the price control period in which it is to apply in accordance with these regulations and the provisions of its licence, but may not be increased in real terms by a margin of more than five percent based on the Consumer Price Index for September of year (t-1) except where specific approval has been received from the Authority for a higher margin of increase. Specific approval for increases of more than 5% in real terms will only be considered in exceptional instances where a clear case on cost grounds has been made by Telkom to the Regulator.

9. Value Added Taxes

Prices set pursuant to these regulations are exclusive of any value-added tax, which may be levied in addition to the Prices.

10. Publication of Prices

- (1) Publication of the details of tariffs shall be made by:
 - (a) Sending a copy of the relevant details to the Authority;
 - (b) placing the relevant details in every registered office of the licensee so that it is available for inspection, free of charge, by members of the public, as soon as practicable after sending a copy of them to the Authority;

- (c) sending a copy of the relevant details (or extracts of them as may, in the circumstances, be appropriate) to any person in the Republic who requests a copy; and
- (d) including a pro forma statement indicating the effect of the proposed increases on the bills to customers with the statements to customers prior to the implementation of such tariffs, where possible;

SCHEDULE A**Basket services**

The following services shall be comprised in the basket services:

1. Installation Services

1.1 The installation and bringing into service of exchange lines to residential customers.

1.2 The installation and bringing into service of exchange lines to business.

1.3 The installation and bringing into service of direct dialling inward/outward exchange lines to business customers:

1.3.1 analogue lines;

1.3.2 2 MBPS digital lines.

1.4 The installation and bringing into service of ISDN exchange lines.

1.4.1 basic rate access;

1.4.2 primary rate access.

1.5 The installation and bringing into service of exchange lines to switched telematic services:

1.5.1 telex services;

1.5.2 teletex services;

1.5.3 Saponet-P services.

2. Rental Services

2.1 The provision and maintenance of exchange lines to residential customers.

2.2 The provision and maintenance of exchange lines to business customers.

2.3 The provision and maintenance of direct dialling inward/outward exchange lines to business customers:

2.3.1 analogue lines;

2.3.2 2 MBPS digital lines.

2.4 The provision and maintenance of ISDN exchange lines to business customers:

2.4.1 basic rate access;

2.4.2 primary rate access

2.5 The provision and maintenance of access lines to switched telematic services:

2.5.1 telex services;

2.5.2 teletex services;

2.5.3 Saponet-P services.

2.6 The provision and maintenance of point-to-point telecommunication circuits leased to customers for the provision of private circuits or for use in Private Telecommunication Networks:

2.6.1 fixed rental element, if any;

2.6.2 distance dependent rental element, if any;

2.6.3 capacity/bandwidth dependent rental element, if any;

but excluding any circuits made available to an operator in terms of any agreement for interconnection services.

3. Call Services

3.1 Calls made to and from terminal connection points within the same local exchange area (local calls) served by an automatic or manual exchange:

3.1.1 from an item of customer premises equipment;

3.1.2 from a public pay telephone

3.2 Calls made from a terminal connection point in a local exchange area served by a manual or an automatic exchange to a network providing a mobile telecommunication service:

3.2.1 from an item of customer premises equipment;

3.2.2 from a public pay telephone

3.3 Calls made from a terminal connection point in a local exchange area served by an automatic or manual exchange to a terminal connection point in another local exchange area via the national long-distance telecommunication network:

3.3.1 from an item of customer premises equipment, per each long distance metering band;

3.3.2 from a public pay telephone, per each long distance metering band.

3.4 International calls made from a terminal connection point in a local exchange via the international telecommunication network per country of destination.

3.5 Calls made by means of the networks providing switched telematic services:

3.5.1 Telex calls per each distance band;

3.5.2 Teletex calls per each distance band;

3.5.3 Saponet-P services.

3.6 Directory information services

3.7 Telephone operator services

4. Excluded Services

The following services are not included in the basket services:

4.1 Interconnection Services;

4.2 Value Added Network Services;

4.3 Mobile Cellular Telecommunication Services;

4.4 emergency services;

4.5 customer premises equipment; and

4.6 services that are eliminated by the Authority from the basket services from time to time.

SCHEDULE B**Example Calculations of $\Delta\text{CPI}_{(t-1)} - X_{(t)}$**

| Service | Reported Revenue In year $_{(t-1)}$ $\text{RR}_{(t-1)}$ (a) | Average Unit tariff at the year end $_{(t-1)}$ (b) | Average Unit tariff at the year end $_{(t)}$ (c) | Price Change 0 measured over year $\Delta P_{(t)}$ (d) | Revenue Change in year (t): $\text{RC}_{(t)}$ (e) |
|-----------|---|---|---|---|--|
| Service 1 | 100.0 | 1 | 1.1 | 10% | 10.0 |
| Service 2 | 200.0 | 2 | 1.9 | -5% | -10.0 |
| Service 3 | 150.0 | 3 | 3 | 0% | 0.0 |
| Service 4 | <u>300.0</u> | 40 | 42 | 5% | <u>15.0</u> |

Total

Reported

Revenue

 $\text{RR}_{(t-1)} = \underline{750.0}$

Total

Revenue

Change

 $\text{RC}_{(t)} = \underline{15.0}$

Where:

$$(d) = (c/b - 1) * 100$$

$$(e) = (a) * (d)$$

Example calculation of $\Delta\text{CPI}_{(t-1)} - X_{(t)}$:Assumed $\Delta\text{CPI}_{(t)} = 5.0\%$

$$(\text{RC}_{(t)} / \text{RR}_{(t-1)}) 100 \leq \Delta\text{CPI}_{(t-1)} - X_{(t)}$$

$$(15.0 / 750.0) 100 \leq 5.0\% - 1.5\%$$

$$2.0\% \leq 3.5\%$$

Summary

Since the change in the revenue basket is equal to $\Delta \text{CPI}_{(t-1)} - x_{(t)}$ the proposed price changes are acceptable.

Notes

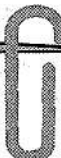
- The requirement to respond at least 15 business days before proposed tariffs become effective as indicated in Section 4 above, is as a result of the Licence issued to Telkom.
 - Reported Revenue, in respect of the General Price Formula, is sourced from Telecom's statutory accounts.
 - The revenue change is notional revenue and does not equate to changes in the real revenue due to the tariff changes.
-

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