

S.I. 35 of 2023**BROADCASTING AND TELECOMMUNICATION ACT, 2000***(Cap 19)***Broadcasting and Telecommunication (Mobile Number Portability)
Regulations, 2023****Arrangement of Regulations****Regulations**

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S.I. 35 of 2023**BROADCASTING AND TELECOMMUNICATION ACT, 2023***(Cap 19)***Broadcasting and Telecommunication (Mobile Number Portability) Regulations, 2023**

In exercise of the powers conferred by section 38 of the Broadcasting and Telecommunication Act, (Cap 19) the Vice-President, being the Minister responsible for broadcasting and telecommunication makes the following regulations —

Citation

1. These Regulations may be cited as the Broadcasting and Telecommunication (Mobile Number Portability) Regulations, 2023.

Application

2. These Regulations apply to all mobile operators.

Interpretation

3. In these Regulations, unless the context otherwise requires —

“Act” means the Broadcasting and Telecommunication Act,(Cap 19);

“all call query” means the process of interrogating the originating operator's local copy of the central reference database in order to route traffic to the operator which currently hosts the mobile number that the subscriber wishes to reach;

“business rules” means the rules defined by the Minister which set out the process for porting mobile numbers;

“central reference database” means the master database that is hosted, maintained, and updated in real time by the

clearinghouse, and stores data showing which operator currently hosts each mobile number;

“clearinghouse” means a national clearinghouse responsible for hosting, maintaining and updating the central reference database; controlling the flow of port orders between operators; sending status update messages to the subscriber who is porting his or her number and to the donor and recipient operators; and providing reporting functions to the Minister and to the operators;

“CLI” means the Caller Line Identity and is the telephone number of the calling or messaging party;

“donor operator” means the operator or its authorised agent which hosts the mobile number which the subscriber wishes to port, at the time the subscriber makes his or her porting request;

“embedded-SIM” means a programmable SIM card that is embedded directly into a mobile device or handset;

“Licences Act” means the Licences Act (*Cap 113*);

“mobile number portability” means a facility by which a subscriber of a mobile service can retain his or her existing mobile number, without any impairment of quality, reliability or convenience when changing from one operator to another operator, including portability from pre-paid to post-paid numbers or *vice versa*;

“mobile number” means a number designated for mobile services as defined under the numbering system established and maintained under the Act;

“mobile operator” means a person licensed under the Licences Act to provide mobile services to the public;

“MSISDN” means the Mobile Station International Subscriber

Directory Number, and is the mobile number used by the calling party to establish a call to the end user;

“operator’s routing database” means a real time database which stores data showing which operator currently hosts each mobile number; is hosted, and maintained by each operator; and is updated by the operator each time it receives a broadcast message from the clearinghouse confirming that the host operator for a number has changed;

“person” includes an individual, a partnership, an association, a joint venture, trust, body corporate or public body, by whatever name called;

“porting” means the process of changing, by a subscriber, of his or her mobile number or numbers, from one operator to another operator or from one mobile service to another, and the term “porting request” shall be construed accordingly;

“recipient operator” means the operator or its authorised agent, which provides the mobile service to which the subscriber wishes to port his or her number;

“operator” means a mobile operator;

“SIM” means the Subscriber Identity Module;

“SMS” means Short Message Service which enables a sending user to send a short message of a limited size to a receiving user through a short message centre;

“subscriber” means a person who subscribes to the services of an operator;

“win-back” means the process whereby an operator contacts a subscriber who has recently left and seeks to re-contract with him or her.

Obligation of operators to provide mobile number portability

4.(1) Every operator shall implement mobile number portability within 24 months from the date of the coming into operation of these Regulations, and offer mobile number portability to all subscribers, both pre-paid and post-paid and shall, upon request, provide it on a nondiscriminatory basis.

(2) Upon the coming into operation of these Regulations, every operator shall, as soon as practicable but not later than the period specified under subregulation (1), provide mobile number portability following the process defined in the business rules.

(3) The business rules under subregulation (2) shall be determined by the Minister in consultation with the operators.

(4) The Minister shall determine the business rules as soon as practicable but not later than 12 months from the date of the coming into operation of these Regulations.

(5) Every operator shall bear the cost of implementing mobile number portability under these Regulations, and in respect of any activity associated with the porting of the number undertaken or required to be undertaken by the operator except for the transaction fee provided for under regulation 12 (2).

Telecommunication service licence

5.(1) A telecommunication service licence is required for a person to operate as a clearinghouse and install and operate the systems required for a central reference database and port order processes.

(2) The mobile number portability working group constituted under regulation 19 (1) shall, for the purposes of these Regulations select a clearinghouse through the tender process.

(3) The application, processing and grant of a licence under subregulation (1) shall be in accordance with the Licences (Broadcasting and Telecommunication) Regulations, 2021.

(4) A clearinghouse licensed under subregulation (1) shall offer port order processing services and integrated central reference database services to operators in a non-discriminatory manner consistent with these Regulations and directives issued by the Minister.

(5) The clearinghouse shall maintain records of all mobile numbers ported and all porting transactions for a minimum period of 7 years from the date and time the numbers are ported and of the porting transactions, and shall provide those records to the Minister and operators upon request.

(6) The operators shall share all costs associated with the implementation of the clearinghouse in accordance with the business rules established under regulation 4.

(7) The clearinghouse shall contract directly with the operators and its infrastructure may be based in Seychelles or in another country.

Right of subscriber to request mobile number portability

6.(1) A subscriber who wishes to port his or her mobile number to a new operator otherwise known as the recipient operator, may make a request using the porting request form as specified in the business rules.

(2) A porting request under subregulation (1) shall be accompanied by —

- (a) the last bill of the donor operator, in the case of a post-paid subscriber; and
- (b) the National Identity Card or Seychelles driving licence or passport for establishing the identity of the applicant as the subscriber of the number to be ported.

(3) A request for porting may be made during the office hours of any working day.

Obligation of recipient operator to initiate mobile number portability upon request

7.(1) Upon receipt of the request from a subscriber under regulation 6, the recipient operator shall immediately —

- (a) verify that the porting request is complete and accompanied by all required documents set out in regulation 6; and
 - (b) verify that that the subscriber matches the person specified on the National Identity Card or Seychelles driving licence or passport.
- (2) The recipient operator shall, on being satisfied that the requirements of subregulation (1) are met —
- (a) advise the subscriber of the porting timeframe and the likely impact of porting the number, including that the subscriber may have an outstanding liability on his or her handset, may be subject to an early termination charge, and may lose any unused pre-paid credit or some services currently provided by the donor operator;
 - (b) forward the porting request, through an automated system, to the clearinghouse for processing and effecting the porting of the number; and
 - (c) issue the subscriber a new SIM card or, where the subscriber has a handset that contains an embedded SIM, send a new profile with the ported number.
- (3) Subject to subregulation (2), the recipient operator shall transfer only the following information to the clearinghouse in order to initiate the porting request —
- (a) the MSISDN subject to the porting request;
 - (b) the name of the donor operator; and
 - (c) whether the account type is pre-paid or post-paid.
- (4) The recipient operator shall not charge any fee for porting or for any of the actions specified in in subregulations (1), (2) or (3).

Subscriber to confirm porting request

8.(1) The subscriber shall confirm his or her wish to port his or her number by sending, within one day, free of charge, an SMS text message to the clearinghouse from the number to be ported, to a nominated short-code number as specified in the business rules.

(2) A subscriber who fails to confirm his or her wish to port within one day shall be required to make a porting request afresh under regulation 6.

(3) The subscriber shall not be allowed to cancel or amend his or her porting request after sending the confirmation SMS under subregulation (1).

Obligation of clearinghouse to process porting request

9.(1) On receipt of a subscriber confirmation SMS message, the clearinghouse shall look for a match between the CLI of the message and the MSISDN included in a recipient operator porting request.

(2) The clearinghouse on finding a matched MSISDN under subregulation (1) shall perform the following initial validation checks on the porting request —

- (a) whether the donor operator identified in the customer porting request form is correct for the MSISDN;
- (b) whether the MSISDN is already subject to a pending porting request; and
- (c) whether the MSISDN is within a porting restriction period.

(3) If all of the validation checks in subregulation (2) are passed, the clearinghouse shall notify the donor operator that it must authorise or reject the porting request.

(4) If any of the validation checks under subregulation (2) fails, the clearinghouse shall send an SMS text message to the subscriber notifying him or her that his or her porting request has failed.

Obligation of donor operator to authorise porting request

10.(1) Upon receipt of the validated request under subregulation 9(3), the donor operator shall authorise or reject the request within 4 hours.

(2) The donor operator shall not reject the authorisation request unless the number under the porting request —

- (a) is under request for change of registration details of the mobile number; or
- (b) is reported as stolen or lost by the subscriber, or is subject to court proceedings or arbitration or a police investigation associated with fraud.

(3) Where the donor operator does not authorise the request, the donor operator shall notify the clearinghouse and provide a defined rejection code, and the clearinghouse shall then send a "port request failed" SMS to the subscriber, forward the donor operator reject response to the recipient operator and close the port request.

Obligations to complete the porting process request

11.(1) Upon receipt of the authorisation from the donor operator, the clearinghouse shall immediately issue necessary instructions to the recipient operator and the donor operator for completing the porting process.

(2) Upon receipt of instructions under subregulation (1), the recipient operator shall, within 4 hours of receipt of instructions, activate the mobile number on its network and inform the clearinghouse accordingly.

(3) Upon receipt of the confirmation under subregulation (2) the clearinghouse shall, immediately —

- (a) send an SMS message to the number to be ported which informs the subscriber that his or her number has been ported and invites him or her to insert the SIM card provided by the recipient operator into his or her mobile handset, or where the subscriber's handset includes an

embedded SIM, switch to the recipient operator's profile with the ported number;

- (b) send a broadcast message to all operators telling them to update their databases; and
- (c) request the donor operator to deactivate the mobile number from its network.

(4) Upon receipt of the notification under subregulation 3(c), the donor operator shall, immediately deactivate the number and notify the clearinghouse.

(5) Upon receipt of the notification under subregulation (4) the clearinghouse shall immediately close the porting transaction.

Fees

12.(1) The clearinghouse shall charge such fees as may be approved by the Minister for providing porting services.

(2) The donor operator may charge a transaction fee to the recipient operator in order to recover costs associated with the transactions involved during porting of a number, of such amount as shall be determined by the Minister.

(3) The fees payable under subregulations (1) and (2) shall be cost oriented.

Restriction on win-back

13.(1) The donor operator shall not —

- (a) contact the subscriber for any reason from the time the donor operator has received the authorisation request until the time the porting of the number is complete; and
- (b) conduct win-back activity for a period of 90 days from the date of such porting.

(2) The prohibition under subregulation (1) (b) shall not prevent the donor operator from contacting the subscriber for the purpose of recovering any outstanding debt.

Prohibition of re-porting of number

14. A subscriber shall not be permitted to port his or her number which has been a subject of a porting request, until the expiry of a period of 90 days from the date of porting of the number.

Porting of multiple numbers

15. The operators shall allow porting of multiple numbers within a single porting request by a subscriber.

All call query

16.(1) Every operator shall implement all call query direct routing of all traffic originated and terminated in the Seychelles.

(2) All call query direct routing shall be managed by the operator routing databases which shall be updated in real time on receipt of routing broadcast messages sent by the clearinghouse each time a mobile number is ported.

(3) Every operator shall undertake regular synchronisation of their routing database with the clearinghouse at intervals to be defined under the business rules.

Porting of numbers using automated systems

17. All requests for number porting shall be processed by operators and the clearinghouse using automated systems and no request for porting of a number shall be processed manually.

Rights and responsibility of operators

18.(1) The donor operator shall continue to provide all subscribed services to the subscriber who has sought porting of his or her mobile number until the deactivation of the mobile number under regulation 11(4).

(2) The donor operator shall not be liable to refund the amount of subscription received in advance from the subscriber, and the balance of the amount, if any, shall forfeit in favour of the donor operator.

(3) The donor operator shall maintain records of all of its ported-out mobile numbers and all mobile numbers for which it has not authorised a porting request, including the reasons for non-authorisation, for a minimum period of twelve months from the date of porting or the date of rejection of the request.

(4) The recipient operator shall maintain records in respect of all of its ported-in mobile numbers or for which it has received rejected porting requests from donor operators, including the reasons for rejection, for a minimum period of twelve months from the date of porting or rejection of such requests.

(5) Recipient operators shall return inactive ported numbers which have completed the operator's internal quarantine processes to the original number range holder through the clearinghouse.

Working group

19.(1) The Minister shall constitute a mobile number portability working group, consisting of such members representing the Minister, the operators, the clearinghouse, and any third parties as the Minister considers appropriate, for the effective implementation of mobile number portability under these Regulations.

(2) The mobile working group constituted under subregulation (1) shall —

- (a) prepare detailed guidelines on the day-to-day operation and technical aspects of mobile number portability within the business rules;
- (b) consult all stakeholders and such other persons as it may consider necessary on the guidelines specified in paragraph (a);

- (c) recommend to the Minister all matters which the Minister is mandated to determine under these Regulations or on such other matters in relation to mobile number portability as the Minister may assign.

(3) The mobile number portability working group shall meet at such time and place as the chairperson may determine and shall regulate its rules of procedure for the conduct of business in its meetings.

(4) The mobile number portability working group may, in the performance of its functions under these Regulations, issue such directions to the operators as it may consider necessary for the implementation of mobile number portability.

(5) Every operator shall participate responsibly in the mobile number portability working group for the effective implementation of mobile number portability under these Regulations.

(6) The mobile number portability working group shall submit an annual report to the Minister, or when required by the Minister, on its functioning in respect of the implementation of mobile number portability under these Regulations.

Powers of Minister to give directions

20. Without prejudice to the provisions of the Act, or regulations made or directions issued under the Act, the Minister may issue such directions as he or she may deem fit, to the operators on any aspect of mobile number portability for its effective and proper implementation under these Regulations.

Inspection and audit

21.(1) The Minister may, if he or she considers it expedient, and to ensure compliance with these Regulations, by order, in writing, direct any of his or her officers or employees or an independent agency authorised by the Minister, to inspect any records maintained by a clearinghouse or an operator under these Regulations or get such records audited.

(2) The Minister may, if he or she considers it expedient, require the records referred to in subregulation (1) to be audited through an independent agency as may be specified by the Minister and submit the report in respect of such audit to the Minister, and the cost of such audit shall be borne by the clearinghouse.

Offences and penalties

22.(1) An operator who fails to comply with any requirement under these Regulations, or any requirement set out in the business rules specified in regulation 19 (2) (a), or any direction of the Minister or the mobile number portability working group in relation to mobile number portability, commits an offence and shall be liable on conviction to a fine not exceeding level 1 on the Standard Scale or imprisonment not exceeding one year or to both.

(2) An operator found guilty of an offence under this regulation, shall in addition be liable to the revocation of its licence issued under the Licences Act.

MADE this 4th day of May, 2023.

**AHMED AFIF
VICE-PRESIDENT**
