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Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 5551

Ms S Mosikatsi (ANC) to ask the Minister of Trade, Industry and Competition:

Whether his department is considering reversing the privatisation of Vodacom to Vodafone, to drive down data prices and transform the sector; if not, (a) what are the reasons that (i) data prices are so high and (ii) unused data expires although it has been paid for and (b) will he consider launching a market inquiry into the specified issue, as this seems to amount to theft by cell phone companies; if so, what are the relevant details in each case? NW6208E

REPLY:

I have been advised as follows by the entities -

National Consumer Commission

(a)(i) The level of data prices in the South African market is a product of the market structure and the prevailing level of competition. The National Consumer Commission (NCC) constantly monitors consumer complaints in the sector in relation to prices. In this regard, the NCC continues to receive and investigate complaints from consumers against mobile network operators regarding compliance with sections of the Consumer Protection Act, No, 68 of 2008 (CPA), particularly on renewal, price escalation and cancellation of fixed-term agreements.

In the 2024/25, the NCC received 946 complaints and resolved 444 against mobile network operators (Vodacom, MTN, Telkom and Cell C). The NCC is concerned about the number of complaints in the sector, as this trend is continuing in 2025/26. The focus of the NCC on

this market is on exploitative practices that affect consumers, particularly the most vulnerable in society.

(a)(ii) The issue on expiry of unused data is a matter currently under consideration by the Independent Communications Authority of South Africa (ICASA), in consultation with the NCC. The NCC and ICASA have concurrent jurisdiction over matters relating to consumer protection in the electronic communication sector. The collaboration by the two entities is provided for in terms of *inter alia* sections 92 and 97 of the CPA and section 4B(9) of the Independent Communications Authority of South Africa Act No. 13 of 2000 (the ICASA Act). To this end, the NCC and ICASA concluded a Memorandum of Understanding (the MoU) as contemplated in terms of section 97(1)(b) and (2) of the CPA read with section 4(3A)(b) of the ICASA Act. The MoU was finalised during the first quarter of the 2015/2016 financial year. The MOU is still in force.

In April 2015, ICASA requested information from its licensees with the participation of the NCC. This was done to assess the consumer protection measures in the sector. The information required was on amongst other areas, data billing, expiry of data and international roaming.

On expiry of data, engagement with industry was to assess business practices in relation to expiry of data and 'unused' minutes – particularly the following:

- data expiry rules that were applied in respect of prepaid airtime and data packages on the one hand and post-paid airtime and data packages on the other;
- any alternative usage options available to the consumer to exhaust their postpaid or prepaid credits prior to the expiry date, for example, can the consumer convert airtime into data (that is, use credits for voice minutes for data and vice versa) and or does the consumer have the option to transfer available credits to third parties (on the same or different network) prior to expiry; and
- the potential financial impact on your organisation should the expiry rules and or policies be discontinued. How much revenue is derived by operators/organisation from paid for, but unused credits for data or airtime which expires (for both contract and prepaid).

Submissions that were made during the engagements resulted in draft *End-User and Subscriber Service Charter Regulations* by ICASA to put in place consumer protection

measures in areas of concern, including data expiration. The draft regulations, amongst other things, provide for the rollover and transfer of unused data. ICASA and the NCC continue to monitor and engage mobile network operators on the issues of consumer protection.

(b) Whilst the NCC has not received specific complaints regarding data expiry, the NCC is nevertheless aware of the public outcry, especially as data is at the centre of communication in this digital age. The NCC will continue to prioritise the communications market particularly in relation to potentially unfair and exploitative trade practices. With respect to data expiry, the NCC will continue its engagements with ICASA on an approach that will safeguard consumers' rights and ensuring that mobile network operators do not exploit consumers. There are therefore no immediate plans for an industry wide market inquiry, as the NCC has adopted a two-pronged approach - to engage with ICASA and investigate mobile network operators on concerns specific to that operator.

Competition Commission

The Competition Commission of South Africa (CCSA) has conducted a market inquiry into data services following persistent concerns about high data prices and the importance of data affordability for the South African economy and consumers. The Data Services Market Inquiry (DSMI), which was completed in 2019, found that data prices were higher than they should be due to a lack of sufficient competition in the market. The DSMI made a number of recommendations which were subsequently implemented.

In relation to data costs, the DSMI recommended that mobile operators make substantial decreases in prices of prepaid and data bundles that are used by lower income earners. Through the agreements reached with Vodacom (Pty) Ltd (Vodacom) and Mobile Telephone Networks (Pty) Ltd, significant decreases in pricing for prepaid data bundles were effected by the CCSA. Alongside pricing changes negotiated with Openserve on wholesale broadband access, the interventions on pricing by the CCSA resulted in estimated savings for consumers of approximately R4bn in the first year.

The DSMI also recommended regulatory and legislative changes, including more effective and affordable wholesale access in respect of roaming and Mobile Network Operators that

are unable to compete effectively with larger players. The DSMI recommended legislative changes to enable the Independent Communications Authority of South Africa (ICASA) to regulate the telecommunications sector more effectively in respect of competition matters.

The CCSA has worked with the Department of Communications and Digital Technologies (DCDT) and other institutions in drafting the Electronic Communications Amendment Bill, which was released for public comment in 2023. The CCSA continues to work with the DCDT in bringing a refined Bill to Parliament. If approved, the Bill will provide for effective regulation of access at the wholesale level in order to level the playing field for competition between mobile operators. Greater levels of competition in the telecommunications sector is essential to a sustainable increase in investment and reduction in data prices.

In the recent merger transaction between Maziv (Pty) Ltd (Maziv) and Vodacom, the CCSA secured extensive and significant commitments from the parties as conditions to the transaction. Examples of these commitments for Vodacom include a commitment to 90% 5G coverage of the population within five years, as well as targets for Fixed Wireless Access (FWA) connections and roll outs of 5G sites in underserved areas.

Commitments for Maziv include the roll out of Fibre-to-the Home (FTTH) networks passed an additional 1 ,000 ,000 lower-income homes within five years. The conditions will ensure greater affordability and access to data services for a greater number of South Africans. The CCSA's investigations and market research show that where fixed broadband is available as an alternative, mobile network operators face greater competitive constraints on their pricing and, as such, downward pressure on pricing can be expected, especially for lower income consumers who purchase lower volumes.

The CCSA will continue to monitor the telecommunications sector to ensure the effective implementation of recommendations and conditions arising from the work undertaken in the sector.

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