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Department:  
Trade, Industry and Competition  
REPUBLIC OF SOUTH AFRICA

## **THE NATIONAL ASSEMBLY**

### **QUESTION FOR WRITTEN REPLY**

#### **QUESTION NO. 6884**

#### **Mr S Thambo (EFF) to ask the Minister of Trade, Industry and Competition:**

With reference to the briefing to the Portfolio Committee on Trade, Industry and Competition on 17 September 2025, where the National Consumer Commission confirmed that mobile network operators who practice expiry mandates on data and airtime are in violation of section 63(2)(a) and (b) of the Consumer Protection Act, Act 68 of 1968, what action has he taken to ensure that mobile network operators comply with the Act and other applicable laws? NW7703E

#### **REPLY:**

The **National Consumer Commission** has advised as follows:

As alluded to in the meeting, the applicable provision regarding data expiry is Section 63 of the Consumer Protection Act, Act No. 68 of 2008 (CPA). In terms of Section 63 of the CPA, when a consumer purchases or buys a prepaid certificate, card, credit, voucher or similar device, such remains valid for three years from the date of purchase or until its full value has been redeemed in exchange for goods or services, or, for future access. The three years validity period may be extended if it is by agreement with the supplier.

Any payment made by a consumer remains the property of the bearer of that certificate, card, credit, voucher or similar device to the extent that the consumer has not redeemed it in exchange for goods or services, or future access to services.

The issue of data expiry became more prominent from at least in 2015, with various stakeholders raising concerns and the connection with the prevailing data prices at the time. In dealing with this issue, the National Consumer Commission (NCC) opted to engage with the sector regulator, the Independent Communications Authority of South Africa (ICASA), as the two regulators have concurrent jurisdiction over matters relating to consumer protection in the electronic communication sector.

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, the engagement with industry was to assess business practices in relation to expiry of data and 'unused' minutes, particularly, the data expiry rules that were applied in respect of data packages, any alternative usage options available to the consumer, and the potential financial impact on mobile network operators should the expiry rules or policies be discontinued.

This engagement between ICASA and NCC was in line with Section 97 of the CPA, to coordinate and harmonise the exercise of jurisdiction over consumer matters within the relevant industry or sector to ensure the consistent application of the principles of the CPA.

The NCC particularly viewed it necessary to take a more collaborative approach on the issue of the expiry of data, given the potential impact on the sector.

In 2018, ICASA published an amendment Regulations which included Regulations 8A, 8B and 8C respectively to promote consumer education and to enable consumers to monitor their usage and control spend on communication services, rollover and transfer unused data, disallow out of bundle billing without consumers' prior consent.

In 2022, ICASA published an explanatory memo looking into the regulatory gap it identified within the *End-User and Subscriber Service Charter Regulations* to primarily address how

the 2018 provisions relating to the issue of roll-over and transfer of bundles was implemented by the licensees (mobile network operators).

This led to the amendment as contained in the revised *End-User and Subscriber Service Charter Regulations* published in 2023 relating to Regulation 8C dealing with consumer education and the deferral of Regulation 8A and 8B for further consultation.

In 2024, ICASA published a Draft Regulation on the deferred provisions of 8A and 8B to provide for the standardisation in the application of roll-over and transfer of bundles by licensees.

ICASA is currently concluding for publication the final Regulations which will incorporate Regulation 8A and 8B to address the issue of roll-over and transfer of bundles, and to align with the provisions of the CPA.

It is therefore important, particularly in a regulated sector, for the NCC to coordinate and collaborate with the sector regulator in this instance, hence the advocacy approach the NCC adopted in this instance.

It remains open for the NCC to enforce the CPA with respect to data expiry and roll-over of bundles, but this option would be pursued if all other regulatory measures fail.

The **Competition Commission** has advised as follows:

The Competition Commission is established in terms of the Competition Act, 89 of 1998; the Commission investigates complaints, assesses mergers, evaluates exemption applications, undertakes market inquiries and advocacy, in order to achieve equity and efficiency in the South African economy. The regulation of data expiration is not part of the mandate of the Commission, with the role of the Commission focusing on competition issues in the market.

The focus of the Commission has been on cost of data (through the Data Services Market Inquiry saving consumers more than R 2 billion); Access to data (including for consumers

in townships and rural areas); Dealing with competition in the market through merger control and enforcement work of the Commission.

Collaboration with ICASA and the Department of Communications and Digital Technologies (DCDT) on various projects of common interest continues to focus on creating more dynamic, competitive and inclusive markets.

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