

*Telecommunications (Quality of Service) Regulations*

## SAINT LUCIA

No. 148 of 2007

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**SAINT LUCIA**

STATUTORY INSTRUMENT, 2007, No. 148

[ 27th August, 2007 ]

In exercise of the powers conferred by section 73 of the Telecommunications Act, Cap. 8.11 the Minister responsible for telecommunications makes these Regulations:

**Citation**

1. These Regulations may be cited as the Telecommunications (Quality of Service) Regulations 2007.

**Commencement**

2. These Regulations shall come into force on the date of its publication in the *Gazette*.

**Interpretation**

3. In these Regulations —

“Act” means the Telecommunications Act, Cap. 8.11.

“billing accuracy” means the measure of the number of incorrect bills per 1000 bills issued where an incorrect bill is one which has been determined by the telecommunications provider or Commission to have been issued with an error;

“call completion success rate” means the percentage of originated calls successfully completed where a successfully completed call is established by a successful connection to the called number although the called party may not answer;

“Commission” means the National Telecommunications Regulatory Commission established by section 7 of the Act;

“compliance manual” means a document that includes details of work processes and information systems concerning criteria and parameter treatment, and details of algorithmic treatment of parameter calculations;

“connection of service” means the interval between approval of an application for a service and the provision of the service by the telecommunications provider;

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"customer care service Answered and Attended" means the duration from the instant when the address information required for setting up a call is received by the network to the instant a human operator answers the calling party to provide the service requested where the service provided is not wholly automatic or does not employ the use of a voice response system;

"ECTEL" means the Eastern Caribbean Telecommunications Authority established by Article 2 of the Eastern Caribbean Telecommunications Authority Treaty;

"fault report" means a report of disrupted or degraded service that is made by a customer and is attributable to the network of the telecommunications service provider or any interconnected public network, and that is not found to be invalid;

"force majeure" means any event or effect that can be neither anticipated nor controlled and includes both acts of nature such as earthquake, flood, lightning and hurricane; and acts of people such as riot, strike, civil disorder, declared state of emergency and war or any similar act which the Commission determines to be force majeure;

"loss of service" means the interruption of the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals that the consumer has engaged the services of telecommunications provider to ensure that transmission, conveyance or routing occurs;

"peak period" means a twelve hour period of the day, between 6:00 am and 8:00 pm, on Monday to Friday and special days, that the relevant telecommunications provider designates as the period of high level of telecommunications traffic on its network;

"planned disruption of service" means the scheduled or planned downtime of the telecommunication service by the telecommunications provider;

"quality of service" means the measurement of the performance for a telecommunications network and the degree to which the network conforms to the stipulated parameters;

"quarter" means a period of three months ending 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September or 31<sup>st</sup> December in a calendar year;

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“reconnection time” means the period between the settling of outstanding amounts by the customer and the resumption of service;

“reconnection of service” means the restoration of telecommunications service by the telecommunications provider after the telecommunications provider or its duly authorized agent receives overdue payment from the customer;

“reported fault cleared” means the duration from the instant a fault has been notified by the customer to the published point of contact of the telecommunications service provider to the instant when the service or service element has been restored to normal working order;

“reseller of service” means a telecommunications provider engaged in the subsequent sale or lease on a commercial basis with or without adding value, of a telecommunication service provided by a telecommunications provider on a wholesale basis;

“service level agreement” means a formally negotiated agreement between a wholesale service provider and a reseller of service with the main purpose of agreeing on the level of service the wholesale service provider provides to the reseller of service;

“service level objectives” means the level of service the wholesale service provider and the reseller of service agree on and usually include a set of service level indicators such as availability, performance and reliability;

“special days” means (i) Christmas Day, (ii) New Year’s Day and (iii) Mothers’ Day;

“standard installation” means an installation where the necessary equipment to carry out the installation is readily available and no significant additional resources are required;

“universal service provider” means a telecommunications provider that is required to provide universal service;

“unreported fault cleared” means the duration from the instant a fault has been detected by the telecommunications service provider to the instant when the service or service element has been restored to normal working order.

*Telecommunications (Quality of Service) Regulations***Application**

4.— (1) These Regulations apply to a telecommunications provider of any of the following telecommunications services —

- (a) Public Fixed Telecommunications Service;
- (b) Public Mobile Telecommunications Service;
- (c) Internet Service.

(2) The Minister may, by Order published in the *Gazette* amend sub-regulation (1) to add to or remove any of the services to which these Regulations apply.

**Quality of service criteria and parameters**

5. The quality of service criteria and parameters in respect of—

- (a) Public Fixed Telecommunications Service are set out in Schedule 1;
- (b) Public Mobile Telecommunications Service are set out in Schedule 2; and
- (c) Internet Service are set out in Schedule 3.

**Publication of quality of service information**

6. The Commission may, after consultation with ECTEL, determine the content, form and manner of publication of information on the quality of service to be provided by a telecommunications provider to its customers.

**Universal service providers**

7. Nothing in these Regulations shall exempt a universal service provider from complying with the established quality of service criteria and parameters.

**Amendment of service criteria and parameters**

8.— (1) The Commission may, after consultation with ECTEL, and having regard to market needs or the regulatory objectives of the Commission make recommendations to the Minister to amend the service criteria and parameters set out in the Schedules.

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(2) The Minister may, upon receipt of a recommendation from the Commission, amend the Schedules to these Regulations by Order published in the Gazette.

**Obligations of telecommunications provider**

9.— (1) A telecommunications provider may in addition to the criteria set out herein adopt additional service criteria or parameters to determine its level of quality of service.

(2) Where a telecommunications provider adopts additional criteria in accordance with sub-regulation (1) and introduces procedures and information systems intended for the treatment of quality of service criteria and parameters it shall notify the Commission at least 30 days prior to the intended introduction and shall notify the public of its quality of service information.

(3) In the notice sent to the Commission, the telecommunications provider shall detail all relevant matters including the methods and systems used for their measurement.

**Obligations of Wholesale service providers**

10. A wholesale service provider who intends to make his or her retail services available as wholesale services to a reseller of service shall enter into a service level agreement with a wholesale service provider to ensure that the service being delivered to the customer meets the desired expectation of the customer with regard to the quality of service being provided.

**Content of service level agreements**

11. A service level agreement shall include the following provisions related to —

- (a) definition of the service being provided;
- (b) the measurement of performance;
- (c) service level objectives;
- (d) duties of the wholesale service provider;
- (e) duties of the reseller of service;
- (f) problem management;
- (g) warranties;

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- (h) disaster recovery;
- (i) dispute resolution; and
- (j) penalties.

**Connection service time**

**12.—** (1) Requests for connection of service that do not involve a standard installation because the telecommunications provider —

- (a) does not supply the particular service in the requested geographical area;
  - (b) cannot technically install the service within the time frame provided for in the Schedules; or
  - (c) cannot install the service because it is not technically feasible;
- are excluded from the operation of these Regulations.

(2) The burden of proving that the service cannot technically be installed within the time frame set out in the Schedules or that it is not technically feasible to install the service shall lie with the telecommunications provider.

(3) Notwithstanding sub-regulation (1), where a service provider and a consumer agree that a request for connection would be completed within an agreed time frame, the delivery time shall be taken into consideration for measurement purposes.

**Compliance manual**

**13.—** (1) A telecommunications provider shall, within 3 months after the introduction of the criteria and parameters established in the Schedules, keep current a compliance manual in respect of each service that it is licensed to provide.

(2) A telecommunications provider shall not delete any part of the compliance manual without the prior written consent of the Commission.

(3) The telecommunications provider shall keep and provide the compliance manual referred to in sub-regulation (1) in any format directed by the Commission.

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(4) Where pursuant to sub-regulation 7(2) the Schedules hereto have been amended, the affected telecommunications providers shall within 30 days of the coming into effect of those amendments include them with any necessary adaptations in the compliance manual referred to in sub-regulation (1).

**Record keeping**

14. A telecommunications provider shall retain quality of service data as well as all measurements and related records for a minimum period of 18 months after the end of the reporting period or until such time as the Commission may direct.

**Information to Commission**

15.— (1) A telecommunications provider shall submit to the Commission on a quarterly basis a report on its achievements for each of the service criteria and parameters set out in the Schedules to these Regulations for the last reporting quarter.

(2) The telecommunications provider shall submit the report referred to in sub-regulation (1) on the last working day of the month following the end of the quarter.

(3) Where a telecommunications provider has not attained the service criteria and parameters set out in the Schedules hereto, the telecommunications provider shall state the reasons therefore and the time period within which it shall attain the required service criteria and parameters.

**Unpredictable situations and cases of force majeure**

16.— (1) In the event of a natural disaster or other case of force majeure affecting quality of service, a telecommunications provider shall within the reporting period in which the natural disaster or other case of force majeure occurred —

- (a) provide the Commission with satisfactory information with regard to compliance with quality of service requirements during the reporting period; and
- (b) make available to the Commission and the public details of the achieved level of compliance during the reporting period.

(2) The Commission may take into account factors relating to —

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- (a) any changes in environmental or operating conditions that could not have been reasonably foreseen by the telecommunications provider; or
- (b) any service deficiencies that arise partly or wholly from the operations of another telecommunications provider;

which may affect a telecommunications provider's ability to achieve the quality of service criteria and parameters as set out in the Schedules.

(3) Where a telecommunication provider is unable to submit a report during the relevant quarter as a result of a natural disaster or a case of force majeure, he or she may apply to the Commission in writing for an extension of time.

(4) In the event of a natural disaster or a case of force majeure, the Commission may exempt a telecommunication provider from the obligation to submit a report during the quarter in which the natural disaster or the case of force majeure occurred until the subsequent quarter.

**Making available information to customer**

17.— (1) A telecommunications provider shall, before it concludes a contract with a customer, make available to that customer clear and up-to-date information on its quality of service for each service that it is licensed to provide.

(2) Notwithstanding sub-regulation (1), before the last working day of January in each year, a telecommunications provider shall publish on its website and in one newspaper of wide circulation in Saint Lucia—

- (a) clear and up-to-date information on the average performance levels achieved during the previous year compared with each criterion and parameter detailed in the Schedules to these Regulations;
- (b) clear and up-to-date information on the minimum and average quality of service levels it proposes to provide to customers in the course of the year.

**Advance notice**

18. A telecommunications provider shall give customers advance notice of planned interruption of service by publishing the notice in the electronic media or the print media.

*Telecommunications (Quality of Service) Regulations***Compliance and enforcement**

19.— (1) Notwithstanding regulation 17, a telecommunications provider to whom these Regulations apply shall comply with the obligations provided for in these Regulations within 6 months of the coming into effect of these Regulations.

(2) A telecommunications provider who —

- (a) fails to comply with these Regulations after 6 months have elapsed from the coming into effect of these Regulations;
- (b) fails to submit during a time period specified in these Regulations or by the Commission, information requested by the Regulations;
- (c) submits or publishes false or misleading information relating to quality of service; or
- (d) obstructs or prevents an investigation by the Commission of the quality of service measurement, reporting or record keeping procedures;

commits an offence and is liable to the enforcement measures outlined in the Act including suspension of its licence as provided for in section 40 of the Act.

(3) Without prejudice to sub-regulation (2), the Commission may take one or more of the following enforcement measures —

- (a) require the telecommunications provider to implement a remedial plan to improve the quality of service of the relevant services over a period to be determined by the Commission; and
- (b) require the telecommunications provider to publish additional information about the quality of the relevant service and, if so determined by the Commission, its implementation of the remedial plan.