

Economic Community of West African States, African Regional Bodies

Supplementary Act A/SA.4/01/07 on Numbering Plan Management Act 1-4 of 2007

Legislation as at 19 January 2007

FRBR URI: /akn/aa-ecowas/act/2007/1-4/eng@2007-01-19

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Economic Community of West African States

Supplementary Act A/SA.4/01/07 on Numbering Plan Management Act 1-4 of 2007

Published in official journal 50 on 19 January 2007

Commenced in full on 19 January 2007

[This is the version of this document at 19 January 2007.]

The High Contracting Parties,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of Article 33 of the said treaty, which provides that Member States shall, in the area of telecommunications, develop, modernize, coordinate and standardize their national telecommunication networks in order to provide reliable interconnection among Member States, and shall coordinate their efforts with a view to mobilizing national and international financial resources through participation of the private sector in the provision of telecommunication services;

MINDFUL of Decision A/DEC.14/01/05 on the adoption of a regional telecommunication policy and development of GSM regional roaming in the ECOWAS Member States;

MINDFUL of Decision A/DEC.11/12/94 on the establishment of an ECOWAS technical advisory committee on telecommunication regulation;

MINDFUL of Decision A/DEC.12/12/94 on tariff-setting and telephone traffic in the area of telecommunications;

MINDFUL of Decision A/DEC.16/5/82 on the telecommunication program of ECOWAS;

CONSIDERING that the direct interconnection of modern telecommunication systems between Member States is a prerequisite for sub regional economic integration;

CONSIDERING that the Community has resolutely embarked upon a process of liberalizing telecommunication services and infrastructures by 2007;

CONSIDERING that this liberalization process is giving rise to flourishing markets calling for a framework that is conducive and attractive to investment;

NOTING that the strong growth in the number of users of ICT services is liable to lead to a serious shortfall in numbering resources;

WISHING, THEREFORE, to elaborate sub regional regulations in regard to optimum administration of the numbering plan in the use of ICT services;

ON THE PROPOSAL of the Meeting of Ministers In Charge of Telecommunication held in Abuja on 11th May 2006;

ON THE RECOMMENDATION of the fifty-seventh session of the Council of Ministers held in Ouagadougou from 18 to 19 December 2006.

AGREE AS FOLLOWS

Chapter I Definitions, objectives and scope

Article 1 – Definitions

1. For the purposes of this Supplementary Act, the definitions contained in Supplementary Act A/SA.1/01/07 shall apply.

2. The following additional definitions shall also apply:

Distribution: the making available, pursuant to contractual clauses, of a number or a series of numbers to end users by the holder of an allocated resource.

Telecommunication operator: any legal entity that operates a telecommunication network open to the public, or any person that provides a telecommunication service.

Allocation: a decision by the national regulatory authority, following its examination of the corresponding application, to grant a telecommunication network operator the right to use the designated resource for its own account or for the account of its customers in accordance with the utilization terms specified below or referred to in the allocation decision.

Number: a series of digits that uniquely identifies a public network termination point. The number contains the necessary information for routing the call to that termination point. The number may be in a national format or an international format. The international format is known as the international public telecommunication number, consisting of the country code and subsequent digits.

Geographic number: a number in the national numbering plan in which part of the digital structure has a geographic significance used to route calls to the physical location of the network termination point (NTP).

Non-geographic number: a number in the national numbering plan which is not a geographic number. These are primarily mobile numbers, free phone numbers and premium-rate numbers.

National numbering plan: the resource consisting of all numbers that can be used to identify the fixed or mobile termination points of telephone networks and services, to route calls and to access internal resources from the networks. A national numbering plan is a segment of the international numbering plan (E164). It establishes procedures and conditions for reserving and allocating numbering resources.

Network termination point (NTP): the physical point at which a subscriber accesses a public communication network. In the case of networks that use switching and routing, the NTP is identified by a specific network address that can be linked to the subscriber's name or number.

Reservation: a decision by the national regulatory authority, following its examination of the corresponding application, to grant a telecommunication network operator an option with respect to a numbering resource for a specified period of time.

Article 2 – Objectives and scope

1. The purpose of this Supplementary Act is to harmonize procedures for the management of numbering and of numbering plans within the ECOWAS zone.
2. This Supplementary Act lays down the rules of a harmonized approach by the Member States for the use and allocation of call numbers so as to guarantee free competition and open the market to new operators. These rules concern in particular the establishment and management of a numbering plan, the implementation of a procedure for requesting the issuance of numbers and for withdrawing them, the planning of the direct allocation of numbers for end users, and the determination of charges for numbering, as well as roaming, portability, migration, rates, competition and harmonization.

Chapter II

General principles for managing the numbering plan

Article 3 – General principles for numbering

1. The Member States shall ensure that the national regulatory authorities have control over the assignment of all the national numbering resources and the management of the national numbering plans.
2. The national regulatory authority may decide to delegate administrative responsibility for the numbering plan. In that case, it must ensure that the rules for allocating, reserving and using numbers are strictly adhered to. The Member States shall ensure that an annual audit of the body having administrative responsibility for the plan is conducted by the national regulatory authority.
3. The Member States shall ensure that adequate numbers and numbering series are reserved in the numbering plans for all telecommunication services accessible to the public.
4. The principal elements defined in the preceding paragraph must be public, available from the national regulatory authorities on request, and published in an official, transparent manner. In the interests of national security, the numbering capacity reserved for police and defense purposes need not be made public.
5. The procedure for allocating numbering capacity shall be followed in a transparent, non-discriminatory manner, in accordance with objective criteria and following the principles, respectively, of reservation, allocation and withdrawal.
6. The Member States must ensure proper utilization of the prefixes, numbers, number blocks and codes that are allocated. These shall not be protected by industrial or intellectual property rights, nor shall they be transferred without the agreement of the national regulatory authority.
7. The Member States must ensure that the administration of the numbering plan allows for the publication of directories of numbers and access to directory inquiry services.
8. The Member States shall ensure that numbering plans and the associated procedures are implemented in a way that protects equality of treatment to all providers of telecommunication services available to the public. In particular, they shall ensure that companies to which a range of numbers is allocated do not engage in any discrimination against other telecommunication service providers as regards the sequences of numbers used to provide access to their services.

Article 4 – Essential principles for managing the numbering plan

1. The Member States shall ensure that the management of their numbering plans respects the following essential points.
 - i) The plan must be long-term and balanced.
 - ii) The plan must take into account the need for short numbers and reserved special numbers for emergency, directory, operator, and user assistance services, and ensure that prefixes and numbers or number blocks are allocated to public telecommunication operators, under objective, transparent and non-discriminatory conditions.
 - iii) The plan must take into account the opinion of operators, users and the national regulatory authority.
 - iv) The plan must include a coherent, clear and published strategy.

- v) The plan should take into account applicable international standards, in particular regarding access to international service, as well as the needs of neighbours, whether on the same continent or elsewhere in the world.
 - vi) The plan must not be anti-competitive for telecommunication operators.
 - vii) The plan must not be anti-competitive for users.
 - viii) The plan must be compatible with sound appropriate management practice.
 - ix) The plan must be open-ended and allow sufficient margins to meet any unexpected needs.
2. The numbers and blocks of numbers may not become the property of the applicants, or of the end-users. They may not be protected by means of industrial or intellectual property rights. They are allocated following reservation by the national regulatory authority for a limited duration of time, corresponding to the operational lifetime of the service or application. When an applicant gives up operation of its telecommunication service, for which numbering capacity has been allocated, that capacity can be allocated to a new assignee on condition that the latter is authorized to operate the service and that a declaration to this effect has previously been submitted to the national regulatory authority.
 3. Information about the reservation, allocation and withdrawal of numbering capacity is public, and must be provided by the national regulatory authority on demand.

Article 5 – General methods for managing the numbering plan

Member States shall put in place in the long term the following methods to harmonize management of numbering plans at the regional level.

- a) Use of common databases for the assignment of numbers.
- b) Adoption of a harmonized emergency codes for the region.
- b) Promotion of appropriate number portability.
[Please note: numbering as in original.]
- d) Assigning lower initial digits to fixed lines, and reserving the higher ones to mobile.
- e) Allocation of number blocks against a fee.
- f) Planning for direct allocation to end users.
- g) Number assignment using geographical, network or service codes.
- h) Allowing for migration to a closed plan.

Article 6 – Cooperation and harmonization of numbering resources

1. Member States shall support the harmonization of numbering resources within ECOWAS wherever necessary to foster the development of services within the ECOWAS zone.
2. Member States shall ensure that their national numbering plans make it possible, subject to technical and economic feasibility, for users located in other ECOWAS Member States to have access to non-geographical numbers that are accessible throughout their national territory.
3. In order to ensure overall interoperability of services, the ECOWAS Member States shall, where appropriate, coordinate their positions within the international organizations and authorities in which decisions concerning issues related to numbering, naming and addressing for communication networks and services are taken.

Chapter III

Further principles for managing the numbering plan

Article 7 – Reservation mechanisms

1. The national regulatory authority shall examine all applications to reserve numbering capacities that meet the following conditions:
 - a) the application must be addressed to the national regulatory authority by registered letter or by any other legally recognized means, and must be dated and signed by, or on behalf of, the applicant wishing to operate the numbering capacity;
 - b) the applicant, who must be a natural person or legal entity, must provide details of position and credentials;
 - c) the application must give the name and complete address of the applicant, along with the business address in the ECOWAS country in question;
 - d) processing fees to cover the costs for processing the application must be paid in advance;
 - e) the application must contain all the information specified in the section following below.
2. To allow the national regulatory authority to process the application in accordance with the criteria in §3 below, the applicant must provide, free of charge, the following information, which will be considered as confidential:
 - a) a clear list of the type and amount of numbering capacity desired;
 - b) a detailed description of
 - a) the services and applications that use the numbering capacity,
 - b) technical network elements and their interrelationship,
 - c) routing principles to be implemented,
 - d) future numbering capacity needs,
 - e) charging principles, if the applicant considers it useful,
 - f) principles the applicant intends to follow in allocating the routing capacity obtained for the end-users,
 - c) the applicant must demonstrate that it has no viable technical or commercial alternative to operating its services and applications with the requested numbering capacity;
 - d) changes over time, for the information provided in point 2.2 above;
 - e) the applicant must demonstrate that it has complied with the provisions of the present Supplementary Act.
3. The application shall be evaluated by the national regulatory authority on the basis of the following criteria:
 - 1) sound management of numbering capacity, a finite resource;
 - 2) the need for sufficient numbering capacity to meet future needs;
 - 3) the work needed to achieve optimum compatibility between the numbering plans of different applicants;
 - 4) existing reservations;

- 5) potential for satisfying developments in the ECOWAS zone and internationally;
 - 6) potential for satisfying the relevant international agreements, recommendations and standards;
 - 7) technical limitations and concrete implementation;
 - 8) impact on the numbering plans of other applicants;
 - 9) fees, if any;
 - 10) routing questions;
 - 11) issues relating to tariffing principles;
 - 12) geographical issues;
 - 13) possible alternatives;
 - 14) end-user interests, including ease of use;
 - 15) specific needs of emergency services;
 - 16) commercial impact.
4. Numbering capacity may not be reserved for applicants unless the provisions of the present Supplementary Act are met.
 5. If the national regulatory authority approves a given application, then the numbering capacity is reserved. Therefore, numbering capacity may only be allocated to the initial applicant, and for the purposes specified in the application. The date on which the application becomes official is also considered as the date of reservation. A reservation may be cancelled by the applicant. A reservation shall automatically expire one year after the date of reservation, if no effective allocation or extension, pursuant to §7, has taken place in that time.
 6. If two or more applicants request the same numbering capacity, the first to file a valid application will have priority. If more than one valid application is filed on a given day for the same numbering capacity, the national regulatory authority shall organize mediation to allocate primary rights, secondary rights, tertiary rights and so on.
 7. A reservation may be renewed each year by submitting a valid new application at least one month before it expires. If the extension is accepted, then the original reservation date is maintained as the official reservation date.
 8. The national regulatory authority must notify the applicant of its decision no later than two months after receipt of the application.
 9. If the national regulatory authority considers that the application is incomplete, or wishes to have additional information or explanations, it must inform the applicant. The deadline for the national regulatory authority mentioned in the previous paragraph shall be extended by the length of time that the applicant needs to modify the application. Such an extension shall not exceed one month. If, at the end of this time, the applicant has not modified the application, it shall be annulled.
 10. If the national regulatory authority refuses to grant a reservation, it must provide reasons. There is no entitlement to be reimbursed in the event of a refusal.
 11. Any changes to the information provided pursuant to the present article shall be communicated to the national regulatory authority in good time.

Article 8 – Allocation mechanisms

1. The national regulatory authority shall, under objective, transparent and non-discriminatory conditions, assign prefixes and numbers, or number blocks, to operators who have made an application, against a

- fee stipulated in the regulations to cover the costs of managing the numbering plan and controlling its utilization.
2. The national regulatory authority may select the type of mechanism to be used to allocate numbers; by block, case by case, or by auction. The authority may set aside special numbers, or blocks or ranges of numbers, upon request from the operators, against annual fees to cover the costs of managing the numbering plan and controlling its utilization.
 3. Certain categories of numbers may be subject to a special allocation procedure in order to ensure that operators have access to the numbering resources in a transparent, objective and non-discriminatory manner. Thus, the national regulatory authority may:
 - make a resource allocation;
 - make a temporary resource allocation;
 - make an allocation covering only a portion of the resources requested;
 - refuse to make a resource allocation.
 4. The national regulatory authority shall allocate to operators, under the same conditions, the codes used for routing communications.
 5. The decision on allocation shall specify the applicable conditions. The decision binds the holder of the allocation to observe all of the conditions for utilization of the allocated resource.
 6. In all cases, number allocations must be technology-neutral, non-discriminatory, and compatible with number portability.

Article 9 – Deadlines

1. Numbering capacity is only allocated if, during the reservation period, numbering capacity is in fact put into service for the declared purpose. The date on which it is put into service must be communicated to the national regulatory authority at least 30 days in advance. The allocation of numbering capacity remains valid only for as long as all of the following conditions are respected:
 - a) the allocated numbering capacity is used exclusively for the purposes indicated in the initial application;
 - b) sub-allocation to end-users is controlled by the original applicant;
 - c) annual fees are paid pursuant to the provisions of Article 10 of the present Supplementary Act;
 - d) the applicant maintains statistics on the percentage of allocated capacity that is being used, and periodically provides them to the national regulatory authority in accordance with rules which it has established.
2. Applications for numbering capacity for six months or less shall be treated as having lower priority, and may not be extended. The annual fee described in Article 10 below is therefore to be reduced by one half.
3. While numbers are in principle allocated on a long-term basis, they may be changed or withdrawn for operational reasons.

Article 10 – Reservation fees and allocation fees

1. Member States shall determine the size of processing fees charged for the reservation of numbering capacity pursuant to Article 7 of the present Supplementary Act, depending on the type of numbering requested, in a transparent and non-discriminatory manner, according to objective and published criteria.
2. Member States shall determine the annual fees for allocation of numbering capacity pursuant to Article 8 of the present Supplementary Act, depending on the type of numbering requested, in a transparent and

non-discriminatory manner, according to objective and published criteria. If the numbering capacity is allocated in portions, the annual fee shall be reduced proportionately.

3. Member States shall set a deadline for the payment of the fees mentioned in paragraph 2 above in the year for which they are due. For the year in which the numbering capacity is allocated, fees shall be reduced to the same proportion as the number of complete months that remain in the calendar year on the date the allocation is made, and shall be paid within 30 days of that date.
4. Member States shall fix the penalty charged for overdue fees. The level of penalty is to be calculated on the basis of the number of days payment is overdue.
5. The sizes of the fees mentioned in the present decision shall be adjusted annually.
6. The withdrawal of numbering capacity that was previously reserved or allocated does not entail any entitlement to any indemnity or reimbursement of some or all of the fees mentioned in the present Supplementary Act.

Article 11 – Delegation to outside operators

1. In some cases, the holder of a numbering resource may entrust an outside operator with the distribution of that resource to the final customer or customers. In such cases, a distinction is made between the operator holding the allocation for the resource and the delegated outside operator who distributes the resource to the end-clients.
2. An outside operator may only be involved in this way if the following conditions are met:
 - the delegated operator must have declared to the national regulatory authority the activity that is necessary for operation of the resource in question;
 - the operator holding the allocation must have notified the national regulatory authority by A/R registered mail, about the resource or resources to be put at the disposition of the delegated operator, along with a description of the service that is to be provided via said resource or resources. Such notification must have been done before any legal provisions on delegation come into force between the operator holding the allocation and the delegated operator.
3. In the case of resources allocated by block, delegation may involve the entire resource or an entire portion thereof.
4. The operator holding the allocation remains responsible for compliance with all obligations associated with the allocation of the resource.
5. In addition, the operators involved in delegation must guarantee portability for the end-users.

Article 12 – Transfer

1. Application for an allocated resource to be transferred must be submitted to the national regulatory authority by the final beneficiary of allocation, observing the form and the conditions stipulated in Article 7 and accompanied by the signed concurrence of the original operator holding the allocation.
2. The decision to allocate a resource to a new holder is studied and taken under the conditions stipulated in Article 8.

Article 13 – Revocation and withdrawal of an allocation decision

1. An allocation decision may be revoked or withdrawn in the cases stipulated in §§2-4 below.
2. If revocation takes place at the request of the holder, the latter must inform the national regulatory authority by A/R registered letter, accompanied by a copy of the request for cancellation of the resource in

the networks of other operators, of the fact that the service will be discontinued and the holder wishes to free the corresponding numbering resource. The resource will stop being subject to fees as of the day this letter is received. At that time, the holder is to be notified of the revocation of the decision to allocate the resource in question.

3. If resources are not used in a manner that conforms to the conditions of their allocation and utilization, or if a significant part of the resource remain unused, the national regulatory authority may withdraw the numbers.
4. A resource for which revocation or withdrawal has been pronounced becomes free again, but it may not be reallocated until at least six months have expired, except if it is requested by the former allocation holder. If the resource has been withdrawn for reason of unsatisfactory utilization, pursuant to §3 above, the resource may not be allocated again until at least six months have expired, regardless of the applicant.

Article 14 – Time-frames for transposition

1. Member States shall take all necessary steps to adapt their national sectoral legislation to this Supplementary Act no later than two years following the date of its entry into force. They shall inform the Commission of those steps immediately.
2. The legal texts agreed to shall contain a reference to this Supplementary Act or shall have such a reference attached to them when they are officially published.

Article 15 – Implementation

1. When, based on this Supplementary Act, national regulatory authorities take decisions that are liable to have an impact on exchanges between Member States and on the establishment of the single market, and:
 - a) concern the implementation of the tariff policy applicable to telecommunication services;
 - b) concern the implementation of the universal service development policy;
 - c) concern interconnection;
 - d) relate to the arrangements for authorizing the establishment, operation and/or provision of telecommunication services open to the public,

Member States shall ensure that the measures and substantiating arguments are communicated to the Commission one month prior to their implementation.

2. The national regulatory authority shall take into consideration the observations of the Commission.
3. The measures shall take effect one month after the date on which they were communicated, unless the Commission informs the national regulatory authority that they are incompatible with this Supplementary Act.
4. Under exceptional circumstances, where the national regulatory authority considers it urgent to take action to safeguard competition and protect users' interests, it may adopt proportionate measures immediately, ' applicable for a limited period only. Those measures shall be communicated without delay to the Commission for comment
5. When Member States adopt transposition measures for this Supplementary Act, they shall ensure that the planned measures along with substantiating arguments are communicated to the Commission one month prior to implementation of the measures.
6. Member States shall take into consideration the observations of the Commission. The measures shall take effect one month after the date on which they were communicated, unless the Commission informs the Member States that the measures proposed are incompatible with this Supplementary Act.

7. Member States shall communicate to the Commission any provisions of domestic law which they adopt in the field governed by this Supplementary Act.

Article 16 – Information report

Member States shall, no later than six months following the date of entry into force of this Supplementary Act, communicate to the Commission the steps taken or which are in the course of approval or implementation for the purpose of implementing this Supplementary Act.

Article 17 – Publication

This Supplementary Act shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of Authority. It shall also be published by each Member State in its National *Gazette* within the same time frame.

Article 18 – Entry into force

1. This Supplementary Act shall enter into force upon its publication. Consequently, signatory States and ECOWAS Institutions pledge to commence the implementation of its provisions on its entry into force.
2. This Supplementary Act is annexed to the ECOWAS Treaty of which it is an integral part.

Article 19 – Depository authority

This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies thereof to all the Member States and shall register it with the African Union, the United Nations and such other organisations as Council may determine.

IN WITNESS WHEREOF, WE, the Heads of State and Government of the Economic Community of West African States, have signed this Supplementary Act

Done at Ouagadougou, this 19th day of January 2007

In single original in the English, French and Portuguese languages, all three (3) texts being equally authentic.