



Ms P Sibisi
 The Secretary to the Parliament
 P.O Box 15
 Cape Town
 8000

24 May 2006

Dear Ms Sibisi

WRITTEN SUBMISSION TO "REGULATION OF INCEPTION OF COMMUNICATIONS AND PROVISION OF COMMUNICATION-RELATED INFORMATION AMENDMENT BILL" BY SMARTPHONE SP (PTY) LIMITED

We have read the proposed Bill noted above and would like to hereby make our written submission regarding such Bill.

Smartphone SP is a subsidiary of the Vodacom Group that supplies Vodacom prepaid products primarily to the informal sector of the prepaid cellular industry. Our concerns described below are over and above the written represented concerns submitted by Vodacom, with which we are in agreement.

The distribution model of Smartphone SP makes the company a proud contributor to the economic empowerment of the previously disadvantaged people of South Africa.

It is exactly these underprivileged people that we find the proposed Bill will negatively impact the most. Most of our subscribers and/or end-vendors are illiterate with very little formal education, however most people understand numeric characters. The requirements of the proposed Bill to register all data fields as currently proposed in the proposed Bill would only be possible at formal distribution channels. This means that subscribers in rural or underprivileged areas will be prejudiced and therefore impact negatively on the upliftment and economic growth of this sector. This will negate the most important aim of the new South Africa. Furthermore, the proposed Bill raises questions as to constitutionality, in that it discriminates against people who may have no physical address or documentation proving such an address. This discrimination would apply to subscribers who are underprivileged and utilise prepaid cards as their only means of communication and/or livelihood. This would apply to residents in informal settlements who rely heavily on cellular telephones for commercial self-employment.

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Smartphone SP (Pvt) Limited • Reg. No. 1999/026288/07

The effect of the proposed Bill will mean that all adults who do not possess an identity document will be excluded from utilising the cellular prepaid service. This will include the poor and uneducated as well as foreigners roaming on the South African cellular networks.

The proposed Bill will also compromise the aims of the Accelerated and Shared Growth Initiative (AsgiSA) as put forward by the Deputy President and supported by the President, as well as be in conflict with the intentions of the Broad-Based Black Economic Empowerment Act as follows:

- Impede initiatives to halve poverty and unemployment by 2014;
- Slow economic growth;
- Raise the cost of doing business in SA;
- Create further barriers to doing business in SA - you must have a physical office/residential address to offer any service at all;
- Add even greater regulatory burden to SME's;
- Raising telephony costs in SA;
- Discourage telecommunications and business in poorer and rural areas;
- Exclude foreign cellular telephone usage. This is especially damaging given the expected massive influx of foreigners for the 2010 world cup;
- Disempowering of lower classes of economic and voting population;
- Impede the bridging of the gap between the formal and the second economies; and
- Stunt enterprise development at grass roots level.

Furthermore, the proposed Bill is also at odds with the Department of Communications initiatives for freeing up the telecommunications sector by removing bureaucracy and lowering costs.

Even furthermore, the proposed Bill is also at odds with the South African Government's growth initiatives of economic growth rate of 6%.

In addition, at the time of registration, there is no procedure to prove that the information registered is correct and valid and relates to the person who will make use of the handset & MSISDN and therefore lacks integrity. This is especially true in the case of fraud or where criminals are involved and one also needs to take into account the large amount of fraudulent identity documents in use. Sight of an identity document that turns out to be fraudulent is of no value.

A suggested alternative data gathering technique is electronic subscriber self-registration, which is similar to that utilised by software vendors. Currently, a subscriber has to dial 100 to connect the prepaid SIM to the network operator. It is proposed that on dialling 100 to connect the prepaid SIM card, the subscriber would receive a voice prompt to enter his/her ID number. The distribution channels would need to be educated that the subscriber has to enter this ID number (i.e. register) in order for the SIM card to be connected to the mobile network. The entered ID number fields would be checked for validity against a reasonability table. The ID number would be sent to the mobile operator who will then log this against the MSISDN and Telephone number on/as registration. Therefore the information on each subscriber that would be available would be the ID number, MSISDN number, telephone number, IMEI (identity) number of the handset. No further information would be required in order to meet the aims of the proposed Bill. Current subscribers would be registered in the same manner utilising a network operator prompt.

This proposed method of data gathering will overcome most of the shortfalls of those contained in the proposed Bill as follows:

- Most of informal sector is illiterate but can identify numbers, and will therefore be able to register electronically as suggested above, resulting in some of the underprivileged not being prejudiced. Those without identity documents will still be discriminated against.
- No address is required as this is discriminatory and may contravene constitutional rights, again resulting in the underprivileged not being prejudiced.
- Information will be available immediately and on demand with no third party human error.
- There is no evidence to prove that the information gathering method detailed in the Bill will yield more accurate information than the suggested electronic self-registration method.

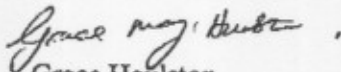
It is not only the data required and data gathering technique detailed in the proposed Bill that is detrimental but also the availability of the information. Any data gathering technique will not overcome the following major issues:

- Adults, mostly the underprivileged and uneducated, who do not possess an identity document will be discriminated against as they will be excluded from utilising the service; and
- Foreigners who visit South Africa will also be excluded from utilising the cellular service.

In conclusion, the information gathering process as contained in the proposed Bill, as well as the information required by the proposed Bill, will be damaging to broad-based economic upliftment in South Africa. This is particularly pertinent given that (per Vodacom annual reports) "85% of black-owned small businesses in South Africa rely solely on cellphones for telecommunications and 62% believe their profits have increased as a result".

Alternative data gathering techniques may alleviate some of the damage to all informal sectors of the economy, but the lack of information in underprivileged and rural areas coupled with the issue of foreign usage renders any form of registration unviable at this time.

Yours sincerely



Grace Houlston
For and on behalf of Executive Directors
Financial Director
Smartphone SP (Pty) Limited
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