



CONSULTATION PAPER

Draft Consumer Protection Rule

Issued on 10th December, 2013

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1. INTRODUCTION

The purpose of this consultation is to develop a guideline for all service providers to provide a minimum level of quality service to their customers.

NICTA is working on the basis that customers who are better informed are able to make better choices in their own interests. Even compared to a small service provider, an individual customer is relatively weak and prone to making misguided consumption choices in the absence of a better product/service knowledge and information. The power imbalance can be partly offset by correcting for the information asymmetry between the parties. Consequently this consultation paper and the attached draft rule address the issue of improved transparency and improved customer access to information.

From the perspective of the consumer the organisation and structure of a Service Provider might appear to be complex and difficult to access, and this may not be apparent to the Service Provider or its staff. The purpose of the Consumer Guide that is established under the draft rule is to assist the consumer to do business with and engage with the Service Provider by outlining how to obtain advice or raise questions or dispute charges. There is clear value in this for consumers. There is also clear value for the Service Provider for the simple reason that consumers who find it easy to do business with a Service Provider are likely to do more business with them for longer.

Although there is a clear incentive for the Service Provider in making certain types of information readily available to consumers NICTA considers that there is a need for regulatory intervention to ensure that a minimum set of information is made available, even if the total content of the Consumer Guide is left to each Service Provider. Further, NICTA may have to provide direction on where the non-essential content of a Consumer Guide crowds out or obscures the information that NICTA regards as the minimum requirement.

2. PUBLIC CONSULTATION

NICTA invites interested parties to consider and comment on the draft rule. **Written submissions should be submitted via email to consultation.submission@nicta.gov.pg and must be received by noon Friday 31st January, 2014.**

Copies of all submissions received will be published on NICTA's Public Register consistent with the requirements on NICTA under subsection 229(3) of the Act. Additional procedural information is set out in the *Guidelines on the submission of written comments to public consultations and public inquiries*, which are available on NICTA's Public Register.

ATTACHMENT A: DRAFT RULE

Consumer Protection Rule, 2014

1. NAME OF RULE

- (1) This rule is the Consumer Protection Rule, 2014.

2. PRELIMINARY

- (1) This rule is made by NICTA pursuant to its powers and responsibilities under sections 2,9 and 218 of the *National Information and Communications Technology Act 2009*.

3. COMMENCEMENT

- (1) This rule commences on the date on which it is notified in the National Gazette.

4. INTERPRETATION

- (1) In this rule, unless the contrary intention appears:
- (a) “Act” means the *National Information and Communications Technology Act, 2009* and includes any regulations made under that Act;
 - (b) “point of sale” means a physical place at which a Service Provider’s Retail Services are sold to Retail Customers, or subscribed to by Retail Customers, excluding places at which an agent sells, on behalf of the Service Provider, pre-paid credit for use in association with an existing Retail Service;
 - (c) “rule” means this rule, the *Consumer Protection Rule, 2014*;
 - (d) “terms and conditions” includes price-related terms.
- (2) Each of the following terms used in this rule has the meaning given to it by the Act:
- (a) Individual Licence;
 - (b) NICTA;
 - (c) Price;
 - (d) Publish;
 - (e) Retail customer;
 - (f) Retail service; and
 - (g) Service provider.

5. PUBLICATION OF THE TERMS AND CONDITIONS OF SUPPLY

- (1) A Service Provider that supplies a Retail Service shall:
- (a) provide accurate, relevant, current and easily understood information to its Retail Customers that describes the terms and conditions under which the Service Provider supplies, or offers to supply, the Retail Services;
 - (b) ensure that that information is available to Retail Customers from its website and other sources and that they are easily accessible;
 - (c) make that information available free of charge to Retail Customers and potential Retail Customers at all points-of-sale; and

- (d) provide Retail Customers and potential Retail Customers with the means of contacting authorised representatives of Service Provider by telephone and in-person to query, clarify and understand the terms and conditions under which the Service Provider supplies, or offers to supply, the Retail Services.
- (2) In respect to subsection 5(1)(c) of this Rule, the Service Provider shall make available to Retail Customers;
- (a) All information provided through their website free of charge;
 - (b) All information provided through their Customer Care Call centers free of call charges; and
 - (c) All information provided in the form of any printed physical document that the customer can retain free of charge.

6. LICENSEES TO PREPARE A CONSUMER GUIDE

- (1) A Service Provider that supplies a Retail Service shall prepare and submit for NICTA's approval a document to be called a "Consumer Guide". Once approved the document can be branded by the Service Provider as part of its overall service, provided the term "Consumer Guide" is retained prominently in the title.
- (2) A Consumer Guide shall as a minimum address the following matters:
- (a) the geographic areas or locations in which the Service Provider's Retail Services can be accessed and used;
 - (b) the means by which a Retail Customer can obtain a copy of the terms and conditions under which the Service Provider supplies, or offers to supply, Retail Services;
 - (c) information about any post-sale support or assistance that is available to a Retail Customer, including any associated charges;
 - (d) the means by which a Retail Customer can make an enquiry of the Service Provider in relation to the supply of a Retail Service;
 - (e) the means by which a Retail Customer can lodge a complaint with the Service Provider in relation to the supply of a Retail Service;
 - (f) the Service Provider's procedures for handling customers' complaints, including the escalation procedures and channels and the types of remedies available;
 - (g) the means by which a Retail Customer can access, review or check information relating to his or her account, subscription, billing data or usage;
 - (h) the Service Provider's credit policies;
 - (i) the terms of any security deposits that the Service Provider may require of a Retail Customer, including the circumstances in which the security deposit may accrue interest, be forfeited or be repaid;
 - (j) the Service Provider's policies and procedures relating to the suspension, disconnection or cancellation of a Retail Service for reasons relating to non-payment or insufficient or incorrect usage of the service, and the procedures by which service may be reinstated or reconnected;
 - (k) the Service Provider's quality of service standards or commitments, including any related obligations under the terms of its Individual Licence;
 - (l) the Service Provider's policies and processes in relation to the protection of the confidentiality of customer's information, including service information; and
 - (m) any other matter specified by NICTA in writing for the purposes of this paragraph.
- (3) The Consumer Guide as submitted shall include all of the content that the Service Provider is proposing to publish so that NICTA will be in a position to assess whether the minimum data required as set out in subsection (2) has been obscured or impacted in its clarity by the other

information proposed to be included.

- (4) NICTA shall make a decision to either approve or reject a Consumer Guide, and notify the relevant Service Provider of that decision, within 90 days of the Service Provider submitting the Consumer Guide for NICTA's consideration.
- (5) NICTA may make approval of a Consumer Guide subject to the Service Provider making specific changes to the content of the proposed Consumer Guide.
- (6) If NICTA neither approves nor rejects a Consumer Guide by the end of 90 days, then NICTA shall be deemed, at the end of that period, to have approved the Consumer Guide and notified the relevant Service Provider accordingly. This form of approval shall be referred to as a "deemed approval".
- (7) If NICTA approves or is deemed to have approved a Service Provider's Consumer Guide then that Service Provider shall:
 - (a) make available on its website and at all its points of sale, a copy of its approved Consumer Guide; and
 - (b) fulfill and conduct itself consistently with its approved Consumer Guide.
- (8) If NICTA rejects a proposed Consumer Guide, NICTA must include a statement of the reasons for the rejection in the written notice of the decision given to the Service Provider.
- (9) From time to time NICTA may request a Service Provider to revise or update its approved Consumer Guide and resubmit it for NICTA's approval.