



Wireless Access Providers' Association
Code of Conduct
Version 5

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Definitions and Interpretation

The following expressions and terms have the meanings given to them below:

“Association” means the Wireless Access Providers’ Association;

“Authority” means the Independent Communications Authority of South Africa;

“Complaint” means a Complaint lodged under the Association’s Complaints and Disciplinary Procedure;

“Cybercrime” means any conduct on the Internet or connected with the Internet or Internet usages which constitutes a crime in terms of the South African criminal law, including any conduct punishable in terms of Chapter XIII of the ECT Act;

“Data Subject” means a natural or juristic person from or in respect of whom personal or business information has been requested, collected, collated, processed or stored as contemplated in the POPI Act;

“ECA” means the Electronic Communications Act, No. 36 of 2005;

“ECT Act” means the Electronic Communications and Transactions Act, No. 25 of 2002;

“Electronic Communications Equipment” means a device or component which is utilised by either the Member or its End-Users to gain access to the Member’s electronic communications network or which is connected to or present within the Member’s electronic communications network, including but not limited to Radio Equipment.

“End-User” means the subscriber or recipient of a Member’s products and services

“Enforcement Authority” means any governmental department, body or person in the service of such department or body, who has the power or authority to officially investigate any illegal or unlawful conduct or to enforce any law, including the common law;

“High Site” is any tower, natural or artificial structure which is used by a Member to host Electronic Communications Equipment but excludes End-User premises;

“IRB” means Industry Representative Body as contemplated by section 71 of the ECT Act;

“Member” means a member of the Association;

“POPI Act” means the Protection of Personal Information Act, No. 4 of 2013.

“Radio Equipment” means a product or relevant component thereof which is capable of communication by means of the emission and/or reception of radio frequency spectrum which has been allocated by the Authority to either terrestrial or space radiocommunication applications;

“Spam” means unsolicited bulk email.



1. Introduction

- 1.1. The Association's Code of Conduct applies to all Members and establishes the minimum standards of service and behaviour applicable to Members.
- 1.2. Certain clauses may be of either limited or no application in circumstances where the nature of the services provided by a Member or of a class of Members renders the limitation of the clause justifiable when taking into account all relevant factors.

2. Values underpinning the Code of Conduct

- 2.1. Members undertake to abide by all legislation, regulations and policies which apply to their businesses.
- 2.2. Members commit to working together and working with others who follow these values.
- 2.3. Members will go beyond the minimum requirements and strive for excellence, setting a high standard in all business practices.
- 2.4. Members shall at all times adhere to the Association's Constitution, Code of Conduct, Complaints and Disciplinary Procedure and agree to be bound by the decisions of the Association regarding the interpretation and application of these documents and policies.

3. Service and Spectrum Licensing

- 3.1. Members shall at all times hold suitable service licensing and/or service licence exemption together with any radio frequency spectrum licences as may required by the ECA or any regulations passed by the Authority.
- 3.2. Probationary Members must submit proof of application or registration for such service licensing or service licence exemption within two (2) calendar months of being accepted as probationary Members.

4. Electronic Communications Equipment

- 4.1. Members shall only make use of Electronic Communications Equipment which has been type approved by the Authority.
- 4.2. Members shall ensure that their use of Electronic Communications Equipment falls within the technical scope of the relevant type approval certificate and that such use conforms with the provisions of the ECA, the National Radio Frequency Plan and Radio Frequency Spectrum Regulations currently in effect together with any such other regulations as may apply.
- 4.3. Members shall ensure that all Electronic Communications Equipment is labelled.
- 4.4. Members are required to buy Electronic Communications Equipment from vendors who are fully compliant with this Code of Conduct, insofar as it applies to such vendors.

5. High Sites

- 5.1. Members shall affix waterproof notices at each High Site which list the following details:
 - 5.1.1. Member name;
 - 5.1.2. Member contact details;
 - 5.1.3. Member website (where applicable);
 - 5.1.4. Member ECS & ECNS licence numbers for the region in which the High Site is located;
 - 5.1.5. Member radio frequency spectrum licence number (where applicable);
 - 5.1.6. The Association's contact details; and,
 - 5.1.7. The Association's logo.
- 5.2. Members are encouraged to include the following information on the aforementioned notice:
 - 5.2.1. High Site contact person / department;
 - 5.2.2. Description of the High Site;
 - 5.2.3. The GPS co-ordinates of the High Site;
 - 5.2.4. A list of all Radio Apparatus used on each High Site including all relevant type approval numbers;
 - 5.2.5. Gain, polarity, and beam width of sector antennas and backbone antennas; and,
 - 5.2.6. A list of the frequencies used on each site.
- 5.3. Members undertake to adhere to the Association's High Site requirements, which requirements are published at <https://wapa.org.za/resources/highsite-best-practice-guide>.
- 5.4. In order to ensure compliance with this provision Members agree to allow the inspection of their High Sites by Association representatives on no less than ten business days' notice, which notice period does not apply to inspections resulting from a Complaint. Members must make all reasonable efforts to ensure that Association representatives are granted access to the High Site
- 5.5. Member High Sites subject to inspection and approval by the Association include High Sites which are shared with any other operators, including non-members.

6. Use of licence-exempt bands

- 6.1. Unless a Member holds a radio frequency spectrum licence it undertakes to only make use of licence-exempt radio frequency spectrum in accordance with the technical conditions provided for in Annexure B to the Radio Frequency Spectrum Regulations, 2015 (as amended from time to time).
- 6.2. The unlicensed use of radio frequency spectrum without a suitable radio frequency spectrum licence or the use of licence-exempt radio frequency spectrum allocations in contravention of the aforementioned technical conditions will be considered a serious offence by the



Association. Member's found to have contravened the provisions of this clause will be required to regularize their non-compliance within 24 hours or risk disciplinary action which may include but not be limited to escalation of the breach to the Authority.

- 6.3. Notwithstanding the further provisions of this clause Members commit to using licence-exempt radio frequency spectrum allocations in a professional manner and with due regard to other users. Members commit to resolving any interference or other frequency-related disputes expeditiously and in good faith.

7. Radio Equipment Vendors

- 7.1. Members that are vendors of Radio Equipment must obtain and timeously renew their radio apparatus dealers certificates and undertake to comply with the obligations imposed on radio apparatus dealers by the Radio Frequency Spectrum Regulations, 2015 (as amended).
- 7.2. All Members that are vendors of Electronic Communications Equipment must comply with the provisions of the ECA and the various regulations thereto which relate to the type approval Electronic Communications Equipment.

8. Safety

- 8.1. Members must, to the extent applicable, adhere to the provisions of the Occupational Health and Safety Act, No. 85 of 1993, which adherence shall include but not be limited to:
 - 8.1.1. ensuring that all technicians used to service masts higher than three (3) metres are equipped with SABS-approved rope access equipment and are trained with approved rope access training courses;
 - 8.1.2. ensuring that maintenance and installation teams always consist of at least 2 people; and
 - 8.1.3. registering with the Compensation Fund as contemplated by the Compensation for Occupations Injuries and Diseases Act, No. 130 of 1993.

9. Professional Conduct

- 9.1. In all dealings with the Association, other Members, End-Users and other businesses Members undertake to act professionally, fairly and reasonably.
- 9.2. Members are committed to lawful conduct at all times and compliance with all legal requirements and shall co-operate with Enforcement Authorities where there a legal obligation to do so may exist.
- 9.3. Nothing in this Code shall be construed or interpreted as providing any commercial advantage to one Member over another and Members are strictly prohibited from any bad faith attempt to use the provisions of the Code for the primary purpose of gaining such advantage.

10. Standard Terms of Agreement

- 10.1. Members shall develop standard terms of agreement for each or any grouping of their products and services, which standard terms of agreement must include an Acceptable Use Policy (“AUP”), which must be accessible on their websites and contain all information and terms relevant to their relationship with End-Users.
- 10.2. The aforementioned standard terms must be made available to potential End-Users upon request prior to the commencement of any service agreement.
- 10.3. The standard terms of agreement shall contain:
 - 10.3.1. A commitment that End-Users shall not knowingly create, store or disseminate any illegal content or intentionally conduct itself in an illegal manner in its usage of the Member’s services;
 - 10.3.2. An undertaking that no material that infringes copyright will knowingly be created, displayed, published or copied by End-Users;
 - 10.3.3. An undertaking that the intellectual property rights of third parties will not knowingly be infringed.
 - 10.3.4. An undertaking that they will not send nor promote the sending of Spam.
- 10.4. The standard terms shall contain a right on the part of the Member to take down any content hosted by that Member which it considers illegal or where it has received a valid take-down notice.
- 10.5. The standards terms shall contain a right on the part of the Member to suspend or terminate its service provision where an End-User does not comply with these or any related contractual obligations.

11. Service levels

- 11.1. Members may only offer or promote service levels which are reasonably feasible having regard to industry-accepted standards, know-how, the area in which services are to be delivered and other practical restraints.

12. Content control

- 12.1. There is no general obligation on any Member to monitor the traffic and content accessed by its End-Users, except as provided for in South African law, although a Member is obliged to take action where it becomes aware of any illegal or unlawful content or conduct or where it receives a valid direction to act from an Enforcement Authority.
- 12.2. A Member shall not knowingly host or provide links to content that is illegal or unlawful, except when required to do so by South African law, or engage in conduct that is illegal or unlawful.

- 12.3. Where a Member becomes aware of illegal conduct or content it shall suspend or terminate the recipient of the service's service and report the conduct or content to the relevant Enforcement Authority.

13. Consumer protection

- 13.1. Members are committed to honest and fair dealings.
- 13.2. Members shall comply with all applicable compulsory advertising standards and regulations.
- 13.3. Members commit to ethical consumer practices and, without limiting the generality of the foregoing, to
 - 13.3.1. monitor their communications network, 24 hours a day, 7 days a week;
 - 13.3.2. provide a network operations centre / helpdesk;
 - 13.3.3. provide transparency in respect of their service offerings, including:
 - 13.3.3.1. ownership of Electronic Communications Equipment ;
 - 13.3.3.2. embedded leasing and financing of Electronic Communications Equipment ;
 - 13.3.3.3. policy on Electronic Communications Equipment returns and cancellation procedures;
 - 13.3.3.4. policy on warranties;
 - 13.3.3.5. policy on moving Electronic Communications Equipment;
 - 13.3.3.6. service suspension procedures;
 - 13.3.3.7. registration of domain names;
 - 13.3.4. provide an efficient mechanism for the resolution of Complaints.

14. Privacy and confidentiality protection

- 14.1. Members shall respect the constitutional right of End-Users to personal privacy and to the privacy of their communications.
- 14.2. Members shall not deal in or with the personal information of Data Subjects other than in the manner prescribed by and consistent with the provisions of the POPI Act.
- 14.3. Members shall respect the confidentiality of electronic mail and messaging.
- 14.4. Members shall only disclose confidential information if obliged to do so in terms of South African law or with the prior written consent of the Data Subject.
- 14.5. Nothing in this Code of Conduct shall be construed or interpreted as requiring any Member to provide information which is, in fact, confidential or commercially sensitive without such Member receiving written undertakings in respect of the protection of such information.

15. Copyright and Intellectual Property Protection

- 15.1. Members shall respect the intellectual property rights of both End-Users and third parties and shall not knowingly infringe such intellectual property rights.

16. Spam protection

- 16.1. Members shall not send or promote the sending of Spam and will take reasonable measures to ensure that their networks are not used by others for this purpose.
- 16.2. Members must provide a facility for dealing with complaints about Spam originating from their networks and must react expeditiously to complaints received.

17. Protection of minors

- 17.1. Members will take reasonable steps to ensure that they do not offer services to minors without written permission from a parent or guardian.
- 17.2. Members undertake to provide recipients of Internet access with information about procedures, content labelling systems, filtering and other software applications that can be used to assist in the control and monitoring of minors' access.
- 17.3. The above provisions do not apply where the Member is offering services to corporate End-Users where no minors have Internet access.

18. Cybercrime

- 18.1. Members will take all reasonable measures to prevent unauthorised access to, interception of, or interference with data on its network and under its control.

19. Complaints Procedure

- 19.1. The Association has established a Complaints and Disciplinary Procedure that can be used by Members, End-Users and third parties.
- 19.2. A copy of the Association's Complaints and Disciplinary Procedure is available at <https://wapa.org.za/complaints-procedure-policy> although Members are required to provide a link to the Association's Complaints and Disciplinary Procedure on their own websites.
- 19.3. Members undertake to receive, investigate and process all Complaints unless such Complaints are frivolous, unreasonable, vexatious or made in bad faith.
- 19.4. Members shall make all reasonable efforts to resolve Complaints in accordance with their own complaints procedure. If the Complaint cannot be resolved within the time specified in the Member's complaints procedure, the Complaint may be referred to the Association for a decision.



- 19.5. The Member's complaints procedure shall contain an acceptable turn-around period for dealing with a Complaint.
- 19.6. The Member's complaints procedure shall allow for direct referral of a Complaint to the Association in the event of a Member's transgression of or non-compliance with this Code of Conduct.
- 19.7. The Association may refer any Complaint received to the Member in question for resolution.
- 19.8. The Association has the right to investigate any transgressions or non-compliance with the Code of Conduct by its Members.
- 19.9. Members are obliged to co-operate with the Association in accordance with the procedures set out in the Complaints and Disciplinary Procedure.
- 19.10. In the event that the Association finds that a Member has transgressed this Code of Conduct it may take one or more of the following actions against the Member:
 - 19.10.1. Order a take-down of hosted content via a take-down notification;
 - 19.10.2. Issue a reprimand;
 - 19.10.3. Temporarily expel (suspend) the Member from the Association, subject to conditions for resumption of membership which may include written undertakings by the Member;
 - 19.10.4. Expulsion of the Member from the Association;
 - 19.10.5. Publish details of the transgression, the identity of the transgressor and any actions which have been taken by the Association; and/or,
 - 19.10.6. Report illegal or unlawful conduct or content to the relevant Enforcement Authority.
- 19.11. The Association shall retain records of all disciplinary proceedings for a period of 3 years.

20. Informational requirements

- 20.1. Members shall prominently display the membership logo of the Association in the correct format and manner and shall provide a link to the Code of Conduct from their websites.
- 20.2. Members shall inform their customers and visitors to their websites that the Member is bound by the provisions of this Code of Conduct.
- 20.3. Members shall provide their full identifying details on their websites, including but not limited to their registered name, electronic contact details, physical address and telephone and fax details.

21. Take-down procedure

- 21.1. The Association has established a Take-Down Procedure which is in accordance with section 77 and more generally the relevant provisions of Chapter XI of the ECT Act. A copy of the Association's Take-Down Procedure is published at www.wapa.org.za
- 21.2. All Members undertake to be bound by and interact with the Take-Down Procedure.
- 21.3. Members must establish their own take-down procedures for unlawful content and activity, and respond within a reasonable time when in receipt of a take-down notification.
- 21.4. Members must retain a record of all take-down notices received for a period of three (3) years unless possession of such materials is illegal.
- 21.5. Members must, within a reasonable period of time, compile and deliver a report to the Association in respect of all steps taken by that Member in response to receipt of a take-down notice.
- 21.6. Each Member shall appoint the Association as its designated agent for the receipt of take-down notices except where such Member has previously appointed another entity or IRB as its designated agent for such purposes and has provided written proof of such appointment to the Association.
- 21.7. Members must upon request provide the Association with a link to the Take-Down Procedure on their websites.

22. Monitoring of Compliance

- 22.1. Members shall submit a report to the Association of all steps taken as a result of a take-down notice within a reasonable period of time after a take-down notice has been lodged.
- 22.2. Members shall upon request and in the manner determined by the Association submit an annual statement to the Association confirming their continued adherence with this Code of Conduct.
- 22.3. The Association has the right to investigate the conduct and compliance with the Code of Conduct by its Members on its own initiative and to institute disciplinary proceedings where appropriate.

23. Review and amendment of this Code of Conduct

- 23.1. The Association shall be entitled to review this Code of Conduct from time to time and to amend it where necessary, subject to reporting such amendment to the Minister where the Association is registered as an IRB.
- 23.2. All amendments to this Code of Conduct shall be binding on all Members from the date on what the amendments are accepted by the Association.

24. Administrative Matters

24.1. The Association shall create and maintain a website which shall have available for public access at least the following:

- 24.1.1. the current version of the Association’s Code of Conduct and a version history;
- 24.1.2. the current version of the Association’s Complaints & Disciplinary Procedure and a version history;
- 24.1.3. the current version of the Association’s Take-Down Procedure and a version history;
- 24.1.4. an up to date list of the Members of the Association distinguished by membership class and including contact details and a hyperlink to the website of such Members;
- 24.1.5. consumer education materials;
- 24.1.6. a consumer Complaint facility.

24.2. The Association shall keep a full record of all Complaints lodged.

Version History

Version	Date adopted	Date effective	Summary of revisions
1.0	17 November 2006		
1.1	25 November 2006		
1.2	26 November 2006		
1.3	01 December 2006		
1.4	05 December 2006		
1.5	08 December 2006		
1.6	08 January 2007		
1.7	02 February 2007		
2.0	5 March 2007		
2.1	9 March 2007		
2.2	12 March 2007		
3.0	21 September 2011	21 September 2011	
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