

## **FAQs – SIM REGISTRATION**

### **1. What prompted the move to SIM card registration?**

On 15 March 2021, the Minister of Information and Communication Technology in terms of Part 6 of the Communications Act of 2009 published Regulations, which authorised the Communications Regulatory Authority of Namibia (CRAN) to impose additional conditions on mobile service providers to enable the registration of SIM cards in Namibia. These conditions were imposed by CRAN on 28 April 2022. The new conditions and Regulations were drafted in consultation with all relevant stakeholders to ensure the successful implementation of part 6 of the Communications Act of 2009, which has been in existence for more than 10 years.

### **2. Is SIM card registration required in other countries around the world?**

Mandatory registration and identification of cellphone users when purchasing SIM cards is in line with international practices. As of January 2021, 157 countries around the world have already implemented mandatory SIM card registration. ‘Mandatory’ means that SIM card registration is required by law in these countries. Namibia is one of two African Countries that does not have SIM card registration.

Countries require cellphone users to register SIM cards, because unregistered SIM cards are increasingly being used to carry out phone-based fraud, identity theft and other criminal activities. SIM card registration gives citizens a digital identity which enables them to access technology enabled banking, financial and other services.

### **3. What is done to ensure that SIM card registration does not lead to spying?**

The Communications Act of 2009 and its new Regulations regarding SIM card registration are not about interception – or so-called ‘spying’ – and do not authorise or introduce interception.

Instead, lawful interception is provided for in the Criminal Procedure Act of 1977 and the Namibia Central Intelligence Service Act of 1997. Therefore, interception has been taking place in Namibia for many years, as guided by these laws.

SIM registration requires customers to register a SIM card in their name to access cellphone services and other related products. It is also an important tool for preventing phone-based fraud, identity theft and other criminal activity. This is not the same thing as ‘spying’ or ‘government surveillance.’ Law enforcement agencies can only access a customer’s call data if a crime has been reported and a warrant has been issued by a judge.

### **4. Is it true that CRAN prescribed new conditions to mobile service providers on 28 April?**

Yes. On 28 April 2022, the Communications Regulatory Authority of Namibia (CRAN) imposed additional conditions on mobile service providers to coordinate the registration of SIM cards in Namibia and to store call data of all customers for five years. This was done to comply with the new Regulations of the Communications Act of 2009. The so-called Additional Licence Conditions were approved by the CRAN Board of Directors and signed off by the Board Chairperson.

The new conditions are part of implementing Part 6 of the Communications Act of 2009, which has been in existence for more than 10 years. The conditions were published as General Notice No. 180, in Government Gazette No. 7797, on 28 April 2022.

**5. Do mobile service providers have the capacity to store the communication history of all their SIM card clients for five years?**

Mobile service providers such as Paratus, MTN, MTC and TN Mobile etc, were consulted during the drafting of the additional licence conditions required in terms of the Communications Act of 2009. These additional licence conditions include the storage of call data for five years and SIM card registration.

Therefore, mobile service providers are fully aware of their legal obligation to store call data and register SIM cards and will make the necessary operational and technical arrangements to ensure compliance with the law.

**6. Does SIM card registration enable mobile service providers to listen to their clients' cellphone conversations and to give third parties access to these conversations?**

No. The nature of the network configurations makes it impossible for mobile service providers to listen to the conversations of their customers or to store these conversations. SIM card registration does not change this.

The new Regulations required in terms of the Communications Act of 2009 state that mobile service providers must store call data records. Call data records DO NOT contain the actual conversations between SIM card holders. Instead, they include information about the date, time and duration of calls, similar to information given on an itemised bill. This type of information is already being stored by mobile service providers. The only new requirement is that information must now be stored for five years.

The other new requirement is that each pre-paid SIM card must be registered to a customer's name to give them access to mobile services and related products. Registration of post-paid SIM cards is not a new requirement – these are automatically registered when customers enter into subscription contracts.

In addition, the new Regulations – or any other part of the Communications Act of 2009 for that matter – do not give mobile service providers or the government the power to intercept

communications or to 'spy' on customers. The only laws that authorise and set the parameters for interception are the Criminal Procedure Act of 1977 and Namibia Central Intelligence Service Act of 1997. Interception has thus been taking place in Namibia for many years and was not introduced by the Communications Act of 2009.

Finally, the Namibia Central Intelligence Service Act of 1997 states that interception can only take place once a crime is reported to law enforcement and a warrant is issued by a judge. Even in terms of this law, it is not mobile service providers that intercept communication, but rather law enforcement agencies.

## **7. How does SIM card registration impact free speech and privacy in Namibia?**

SIM card registration does not negatively impact the free speech or privacy of Namibians. It does not give mobile service providers or the government the power to 'spy' on cellphone users or intercept communications without reasonable cause.

Communication can only be intercepted when a crime is reported and a warrant is issued by a judge, as authorised in the Criminal Procedure Act of 1977 and the Namibia Central Intelligence Service Act of 1997. In other words, this interception does not fall under the new Regulations of the Communications Act of 2009 and is not carried out by the mobile service providers.

It is also important to remember that the Namibian Constitution permits limitations on constitutional freedoms, including the freedom of speech and the right to privacy, if national security and public safety are threatened, for example when a crime is committed. Even in such instances, there are laws that prescribe what law enforcement can and cannot do to protect Namibians against any unlawful infringement of their rights.

## **8. What information is required for SIM card registration?**

The name of the customer, his/her address of ordinary residence, and his/her Namibian ID, passport or any other official identity document issued by the government of any other country are required for SIM card registration.

## **9. What is the process for the registration of SIM cards for minors?**

A mobile service provider may not conclude a contract allowing a minor or a person under legal guardianship to obtain a SIM card, unless the minor or person under legal guardianship is accompanied by his/her parent or legal guardian with authentic proof of such parenthood or guardianship.

Where the minor does not have a parent or legal guardian, the minor can obtain a SIM card if accompanied by a teacher from the school the minor attends, a community leader from the area where the minor resides, a religious leader from a church the minor attends or a caretaker of the minor, provided that such teacher, community leader, religious leader or caretaker has made a sworn statement declaring that the minor does not have a parent or legal guardian and stating the capacity in which he/she accompanies the minor.

**10. What is the process for the registration of SIM cards for individuals who reside in informal settlements and do not have a physical address?**

Where a person resides in an informal settlement and cannot provide an address, the mobile service provider may accept any other address, including that of a school, church or retail store, where a person usually receives his/her post, for the purposes of SIM card registration.

**11. In which instances may an individual not be registered or remain registered as a customer of a mobile service provider?**

A person may not be registered or remain registered as a customer of a mobile service provider if that person:

- a) is deceased;
- b) is fictional;
- c) does not intend to use telecommunications services;
- d) did not consent to be registered as a customer; or
- e) is a minor or a person under legal guardianship and the applicable requirements of these conditions have not been met.

**12. From when is SIM card registration applicable?**

SIM card registration will be required by law from 1 January 2023 onwards.

**13. What is the deadline for SIM card registration?**

Customers must register their existing pre-paid SIM card within 12 months from 1 January 2023. All new SIM cards must also be registered from 1 January 2023 onwards.

**14. What happens to SIM cards that are not registered by the deadline?**

If a customer fails to register his/her SIM card within 12 months from 1 January 2023, his/her cellphone service will be suspended for a period of three months. If the customer attempts to use the service during this time, he/she will receive a warning in so far as this is technically feasible.

If the customer provides the necessary information for SIM card registration during the three-month period of suspension, his/her service will be reinstated and the customer will be able to keep the cellphone number linked to his/her SIM. If the period of suspension has expired and the customer has not registered his/her SIM card, the mobile service provider will cancel the service and number. The customer must then purchase and register a new SIM card. In this case, the customer will not be able to keep his/her previous cellphone number.