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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT
(CAP.306)

REGULATIONS

(Made under section 165)

THE ELECTRONIC AND POSTAL COMMUNICATIONS (ACCOUNTING
SEPARATION) REGULATIONS, 2018

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Regulation

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THE ELECTRONIC AND POSTAL COMMUNICATIONS (ACCOUNTING
SEPARATION) REGULATIONS, 2018

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Electronic and Postal Communications (Accounting Separation) Regulations, 2018.
- Application 2. These regulations shall apply to electronic and postal communication services licensees which:
- (a) have been granted more than one electronic or postal communication licences;
 - (b) have been declared by the Authority to hold a dominant position in the national wholesale, including but not limited to interconnection and Access, market, or in two or more retail markets; and
 - (c) have business units in their entity which enter into transactions or otherwise do business with each other.
- Interpretation 3. In these Regulations unless the context otherwise requires:
- Cap.306 “Act” means the Electronic and Postal Communications Act;
“accounting separation” means separation of account of an entity that present cost, revenue, assets and liabilities

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- against each of defined market (set of services) and services;
- Cap 172 “Authority” means the Tanzania Communications Regulatory Authority established under the Tanzania Communications Regulatory Authority Act;
- “accounting policies” means principles, bases, conventions, rules and practices applied by licensee which specify how the effects of transactions and other events are reflected in the financial statement;
- “accounting estimates” means methods adopted by licensee to arrive at estimated amounts for the financial statements;
- “business unit” means a sub-division or segment of the licensee’s business;
- “disaggregated activity” means a sub-service within a business unit which is treated as separate accounting segment;
- Cap.212 “financial year” means accounting period of the licensee in respect of which statutory accounts are required to be prepared and audited in accordance with the requirements of the Companies Act;
- “guidelines” means the guidelines issued by the Authority for a licensee to prepare separated accounts;
- “licensee” means an entity licensed by the Authority to provide any electronic communications and postal services;
- Cap 172 “market” has the meaning ascribed to it under the Tanzania Communications Regulatory Authority Act;
- “other activities” means provision of facilities or infrastructure required to facilitate provision of telecommunications services and related products;
- “retail” means all telecommunication services and related products being provided by licensee directly to final customers;
- “separated accounts” means disaggregated licensee’s accounts as may be required by the Authority for regulatory purposes; and
- “universal services obligation” means an obligation placed to

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Cap 422 service provider to provide the minimum set of services prescribed under section 13 of the Universal Communication Services Access Act;

“transfer charge” means charge applied, or deemed to be applied by the licensee for the provision of services by one of its business unit disaggregated activity to its other business unit or disaggregated activity.

“wholesale” means telecommunication services and related products being provided between licensees;

PART II
ACCOUNTING SEPARATION

Preparation
of separated
accounts

4.-(1) The licensee shall prepare separated accounts for the following business units, products or services:

- (a) wholesale;
- (b) retail; and
- (c) other activities.

(2) The licensee shall, in carrying out universal and non universal service obligation, maintain separated accounts for each.

(3) The licensee shall, in its separated account, provides the following -

- (a) a statement of accounting policies applied, including cost conventions;
- (b) the names of business units and their disaggregated activities;
- (c) a statement of the basis of allocation and apportionment of revenue, operating costs and capital employed; and
- (d) a summary of transfer charges made among the separated business units and disaggregated activities.

(4) The separated accounts shall indicate clearly the costs and revenues for each business unit or disaggregated activity.

(5) The Authority may, from time to time, issue guidelines on issues regarding:

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- (a) regulatory accounting principles;
- (b) regulatory accounting conventions;
- (c) transfer charging; and
- (d) principles of accounting separation.

Contents
and
structure of
separated
accounts

5.-(1) The licensee shall prepare separated accounts in accordance with:

- (a) guidelines on accounting separation issued by the Authority; and
- (b) International Financial Reporting Standards and International Accounting Standards.

(2) The separated accounts shall disclose any differences between costs allocated to different activities by the licensee and the costs that the Authority allows for the purpose of determining charges.

(3) The separated accounts shall include transfer charges between the main business units for services the licensee provides to itself and also disclose the equivalent transactions with competing licensees.

(4) The separated accounts shall be prepared annually and contain comparative information following the previous period.

Presentation
of separated
accounts

6.-(1) The licensee shall, for every business unit, product or service submit to the Authority accounting statements including:

- (a) statement of income;
- (b) statement of financial position and mean capital employed;
- (c) statement of cash flow; and
- (d) notes of financial statements.
- (e) report in any other format as may be required by the Authority.

(2) The statement of income under sub regulation (1) shall disclose revenues and operating costs.

(3) The profits shall be stated before interest and tax.

(4) All accounts shall show any transfer charges to or from other business unit or disaggregated activity.

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(5) The licensee shall present current and non-current assets and current and non-current liabilities as separate classifications in its statements of financial position.

(6) A licensee shall, in addition to the requirements under sub-regulation (1), submit to the Authority:

- (a) a statement of costs along with the reconciliation between result calculated apportioning of costs in a particular product or service;
- (b) reconciliation of the separated account to the audited statutory accounts of the licensee; and
- (c) detail of significant changes in internal accounting policies and estimates together with reasons of change, if any.

(7) The reconciliation shall be made at the aggregated level for both, the financial position information and Profit and Loss Statement with any material reconciling item identified separately.

Audit of
separated
accounts

7.-(1) The licensee at his own expense shall appoint independent auditors to carry out the audit of the separated accounts and shall, within seven days, notify the Authority of such appointment.

(2) The auditors shall ensure that the report-

- (a) is presented in accordance with the accounting methodologies that are to be attached to the separated accounts, the results, mean capital employed and costs incurred by each of the business unit, product or service and disaggregated activities disclosed in the separated accounts;
- (b) complies with the Act, rules, regulations, directives or decisions and determinations issued by the Authority; and
- (c) contain the information specified in the guidelines, as required to be published in the accounts.

(3) Where the Authority is not satisfied with results of audit of separated accounts submitted by the licensee, it shall appoint another independent auditor to audit the same at

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the expense of the Authority.

(4) Where any matters have come to the auditors' attention, the matters shall be clearly described in their report together with the potential monetary impact on the results, mean capital employed or costs incurred by each of business unit or disaggregated activity disclosed in the accounts, or a statement that the estimation of the potential monetary impact is not reasonably possible to establish.

(5) The auditors' report shall clearly set out the respective responsibilities of the auditor and the licensee and the basis on which the audit has been carried out and the opinion arrived at.

PART III GENERAL PROVISIONS

Publication
of
separated
accounts

8.-(1) The Authority may, taking into consideration of commercial confidentiality, require the publication of the audited separated accounts.

(2) Notwithstanding the provision of sub-regulation (1), the Authority shall consult with a licensee before publishing its separated accounts, or any information contained within those accounts, so as to ensure that appropriate levels of commercial confidentiality are maintained.

Timing of
separated
accounts

9.-(1) The licensee shall submit audited separated accounts to the Authority not later than twelve months following the determination of the licensee holding a dominant position in the market.

(2) Notwithstanding the provision of sub-regulation (1), the Authority may on considering the grounds given by the licensee, extend the time for submission of the audited separated account.

(3) The Authority may, in addition to audited separated accounts, require the licensee to submit other accounting information or clarifications it may require in order to effectively supervise and enforce the terms of the licence.

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- Format of separated accounts 10. The Licensee shall submit its separated accounts in the prescribed formats as may be prescribed by the Authority for the purpose of these Regulations.
- Offences and penalty 11. Any Licensee who contravenes the provisions of these Regulations commits an offence and shall be liable to a fine of not less than five million shillings or to imprisonment for a period not exceeding three months or to both.
(2) Notwithstanding sub regulation (1), where a person commits an offence under these Regulations, the Director General may, where such person admits in writing compound such offence by collecting from that person a sum of money not exceeding the amount of the fine prescribed for the offence.
- Revocation G.N. No. 426 of 2011 12. The Electronic and Postal Communications (Accounting Separation) Regulations, 2011 are hereby revoked.

Dar es Salaam,
3rd January, 2018

MAKAME M. MBARAWA,
*Minister for Works, Transport and
Communications*