

SUBSIDIARY LEGISLATION

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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT
(CAP.306)

REGULATIONS

(Made under section 165)

THE ELECTRONIC AND POSTAL COMMUNICATIONS
(VALUE ADDED SERVICES) REGULATIONS, 2018

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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT
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THE ELECTRONIC AND POSTAL COMMUNICATIONS
(VALUE ADDED SERVICES) REGULATIONS, 2018

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Electronic and Postal Communications (Value Added Services) Regulations, 2018.
- Application 2. These Regulations shall apply to electronic and postal communications VAS providers.
- Interpretation 3. In these Regulations unless the context otherwise requires-
- Cap.306 "Act" means the Electronic and Postal Communications Act;
- Cap.172 "Authority" means the Tanzania Communications Regulatory Authority established under the Tanzania Communications Regulatory Authority Act;
- Cap.172 "consumer" means any person who uses electronic communications or postal products or services;
- Cap.172 "contract of services" means an agreement entered into between the VAS provider and the customer for the provision of the licenced services;
- Cap.172 "interactive Voice Response" or in its acronym IVR, means a technology that allows a computer to interact with human through the use of voice and Dial Tone Multi Frequency (DTMF) tones input

- through keypad;
- “electronic communication equipment” means an equipment used for radio communication or, as appropriate, the communication of information in the form of speech or other sound, data, text or images, by means of guided or unguided electromagnetic energy;
- "opt in or activation" means a process that makes VAS effective;
- "opt out or de-activation" means a process to make VAS ineffective;
- "telemarketing" means direct marketing using an electronic communication equipment to persuade customers to buy a product or service;
- “transactional message” means a message sent by a service provider to a consumer in response to a transaction made by the consumer;
- "unstructured supplementary Service Data" means a protocol used by Global System for Mobile communications cellular telephones to communicate with the service provider's computers;
- "Value Added Services or in its acronym VAS" means extra electronic communication services as provided by numbering resources assignee other than basic telecommunication services;
- "VAS provider" means an entity authorised by the Authority to provide any electronic communication services and assigned electronic communications numbers by the Authority.

PART II
VALUE ADDED SERVICES AND TERMS OF CONTRACT TO
CONSUMERS

Provision of
Value Added
Services

4.-(1) A VAS provider shall provide to consumers information on Value Added Services that are complete, accurate and up to date in a simple and clear language.

(2) Information under sub regulation (1) shall be provided in both Kiswahili and English language.

Obligations of
VAS provider

5. A VAS provider shall have the following obligations to consumers:

- (a) provision of the terms and conditions of all services offered to the public, including rates, in printed and electronic formats or in any other manner as may be determined by the Authority.
- (b) inform consumers of requirements where services are provided by a third party in order to utilize the services of the VAS provider;
- (c) comply with the requirements of the Electronic and Postal Communications (Quality of Service) Regulations, 2017.
- (d) provide consumers with clear and complete information regarding the upgrade or migration terms, including any changes in service performance and any duly approved fees or charges resulting from the upgrade or migration.
- (e) inform consumers on any contractual warranty relating to products supplied for use in connection with the service, including how to obtain warranty service if needed and where a copy of the warranty is not provided with the products.

Opt in or
activation

6.-(1) In providing VAS, a VAS provider shall use a system of opt in or activation which is user friendly and transparent through any suitable technology.

(2) A VAS provider shall provide information to consumers on the opt in or activation of VAS through service menu, SMS on balance inquiry or message on confirmation of recharging of airtime.

(3) A consumer may activate VAS by either selecting from service menu or sending a message with

the option of the VAS of their interest.

(4) A consumer shall receive a notification from the VAS provider informing them of the terms and conditions of the VAS requested, including charges of the service, duration of opt-in or activation and opt out or de-activation option.

(5) Upon acceptance of the terms and conditions, a consumer shall be deemed to have confirmed receipt of the VAS requested.

(6) Upon successful completion of the activation, a VAS provider shall send a notification confirming that the selected VAS is activated.

(7) The Authority shall assign to VAS providers, a uniform short code number to activate VAS.

Opt out or
deactivation
process

7.-(1) A VAS provider shall provide a system of opt out or deactivation which is user friendly and transparent.

(2) The Authority shall assign a uniform short code number to deactivate VAS.

(3) The VAS opt out or de-activation shall be provided as follows-

- (a) a consumer may send message from his mobile to opt out or de-activate the VAS;
- (b) a consumer shall receive notification, informing him of his list of all activated VAS on his mobile number;
- (c) a consumer may select the VAS to be opted out or deactivated on his mobile number;
- (d) a VAS provider shall send message requiring the Consumer to confirm opting out or deactivation of the VAS selected;
- (e) upon receipt of confirmation from the consumer on opting out or deactivation of VAS, the VAS provider shall

- deactivate the selected VAS;
- (f) in case of incorrect response, the VAS provider shall send a message informing the consumer of the error and option to restart the process; and
- (g) upon successful completion of the opt out or deactivation process, the VAS provider shall send a notification confirming that the selected VAS is deactivated.

8.- For the purpose of regulations 6 and 7 message or notification can be in the form of text or voice.

PART III TELEMARKETING AND ADVERTISEMENTS

Advertisements

9.-(1) In issuing any advertisement that promote the availability of VAS, a VAS provider shall comply with the requirements of the Electronic and Postal Communications (Consumer Protection) Regulations, 2017.

(2) A VAS provider may refer a consumer to a VAS Short Code as follows-

- (a) when responding to balance inquiry;
- (b) when customer receives confirmation message after recharging airtime credit;
- (c) when accessing service provider's menu.

(3) A VAS provider shall not engage in unsolicited telemarketing, SMS marketing or any other electronic methods unless-

- (a) a consumer consents to the service;
- (b) at the beginning of the communication, it discloses the identity of the VAS provider or other person on whose behalf it is made and the precise purpose of the communication; and
- (c) the communication provides the breakdown of the total cost of any product or service that is the subject of the communication.

Consumer
Obligations

10.-(1) A consumer shall consent to telemarketing or SMS marketing by accepting the terms and conditions of the services as provided under regulation 6(3) of these Regulations.

(2) A consumer shall, upon acceptance of VAS provider's terms and conditions of service, be bound by those terms and conditions.

PART IV
GENERAL PROVISIONS

Offences and
penalties

11. (1) Any person who contravenes any provision of these Regulations commits an offence and on conviction is liable to a fine of not less than five million shillings or to imprisonment for a period not less than twelve 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 of
GN. No. 320 of
2015

12. The Electronic and Postal Communications (Value Added Services) Regulations, 2015 are hereby revoked.

Dar es Salaam,
3rd January, 2018

MAKAME M. MBARAWA
Minister for Works, Transport and Communications