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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT  
(CAP.306)

REGULATIONS

*(Made under section 165)*

THE ELECTRONIC AND POSTAL COMMUNICATIONS (TARIFF)  
REGULATIONS, 2018

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PART I  
PRELIMINARY PROVISIONS

- Citation                    1. These Regulations may be cited as the Electronic and Postal Communications (Tariff) Regulations, 2018.
- Application                2. These Regulations shall apply to electronic and postal communications licensees.
- 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 Tanzania Communications Regulatory Authority Act;
- “communications service” means any transmission of information by wire, radio waves, optical media, postal or other means licensed by the Authority between or amongst points of user’s choice;
- “dominant licensee” means a licensee who has been determined by the Authority to have more than thirty five percent of the electronic communications or postal services market;
- “electronic communications licensee” means a person who holds an individual electronic communications service licence or is registered under a class licence;
- “electronic communications service” means any service for the

- purpose or effect of which is to enable or facilitate electronic communication;
- “just and reasonable tariffs” means tariffs that enable a licensee to maintain its financial viability, attract capital, operate efficiently and promote fair competition in the supply and demand for communication services;
- “licensee” means a person licensed under the Act;
- “non discriminatory tariff” means an application of equal tariff for similar services or products amongst providers;
- “postal services licence” means a licence issued under section 33 of the Act;
- “postal services licensee” means a person who holds a postal service licence;
- “postal services” means conventional postal, hybrid postal and courier services;
- “promotion or special offer” means any information whose content is controlled directly or indirectly by the licensee that is expressed in any language and communicated through any medium with the intention of influencing the choice, opinion or behavior of consumers with regards to communication services;
- “regulated services” means service supplied or provided by a licensee:
- (a) in a market or market segment which is uncompetitive;
  - (b) where the licensee has been declared dominant in the relevant market or market segment; or
  - (c) where a licensee has been designated by the Authority to operate and provide universal communications services;
- “subscriber” means a person who receives communication services or content services under an agreement with or pursuant to terms and conditions established by an application or content service licensee;
- “tariffs” means any charge, price, levy and underlying terms and conditions imposed by electronic communication or postal service licensee for the services provided;
- “uncompetitive market” means market or market segment in which there is no competition in the provision of service or in which consumer choice of licensee or service is either nonexistent, limited, impeded, obstructed or constrained; and
- “universal communication services” means a defined minimum set of communications service of specified quality which

is available to all users independent of their geographical location, and in the light of specific national conditions, at affordable price.

PART II  
DETERMINATION OF TARIFFS

Tariff Setting

4.-(1) Every licensee shall set tariffs that are just and reasonable.

(2) Tariffs shall be cost based made on the objective criteria.

(3) The tariffs referred under this Part shall be sufficiently clear as to enable the end-user to determine the description of the service, the details relating to the nature of the service, amounts and charges payable for such service.

(4) Tariffs shall be non-discriminatory and shall guarantee equal treatment.

(5) A licensee may provide promotion scheme or special offer on tariffs and shall inform the Authority of any such promotion scheme or offer available to customers.

(6) A licensee shall maintain accurate billing information on tariffs and usage for all customers and shall, upon request, furnish the information to the customer.

(7) A dominant licensee shall not apply tariffs that prevent market entry or distort competition by applying tariffs below the underlying cost of service provided.

Filing and publication of tariff

5.-(1) A licensee shall, on a quarterly basis, file the schedule of their tariffs with the Authority.

(2) A licensee shall not charge his customers tariffs that have not been filed with the Authority.

(3) A licensee shall, on quarterly basis and whenever there are changes, publish its tariffs in widely circulated local news papers and electronic media in English and Kiswahili.

(4) The dominant licensee shall, within seven days before the proposed tariff comes into effect, inform the Authority in advance of any intended changes in tariff by submitting notifications to the proposed changes.

(5) A dominant licensee shall, upon approval by the Authority, ensure that the tariffs or charges are published in the public media immediately before coming into effect.

(6) The tariff under this regulation shall be filed electronically or through any other means as may be directed by the Authority.

Approval of tariffs for regulated services

6.-(1) The tariffs for regulated services filed by the dominant licensee shall be approved by the Authority.

(2) The Authority may, from time to time, publish tariffs for regulated services in electronic media in English and Kiswahili.

(3) A dominant licensee shall charge regulated services using tariffs that have been filed with and approved by the Authority.

(4) All applications for approval of tariff for regulated services shall be filed with the Authority and:

(a) conform to the form, manner and methodology specified in the rules issued by the Authority; and

(b) be accompanied by relevant documents, including calculations notes and any other information in support of the application.

(5) Where the Authority does not approve the tariffs proposed by a licensee for regulated service and recommends the licensee to make the adjustment specified to the proposed tariffs, the licensee shall adjust the proposed tariff accordingly.

(6) The Authority may review tariffs or tariff structure for regulated services as it deems fit.

Review of tariffs for regulated services

7.-(1) A licensee who intend to review the tariffs for a regulated service shall, at least thirty days before the proposed review is intended to come into effect, file with the Authority its application for review of its tariffs.

(2) The obligation which relates to the provisions of regulated services shall cease when a licensee ceases to be dominant or the market segment becomes competitive.

Notice on review of tariffs for regulated services

8.-(1) The Authority shall, at least fourteen days after receiving an application for tariff review under these Regulations, place a notice in printed electronic media in English and Kiswahili for the purposes of inviting objection or representation to the proposed tariff and in such other manner as it considers necessary.

(2) The notice referred to under paragraph (1) shall-

(a) contain the name and particulars of the licensee or class of licensee providing the service to which the tariffs relate;

(b) state the new tariff and reasons for the proposed review of the tariff; and

(c) specify the period, which shall not be less than thirty days, within which written objections or representations to the proposed new tariff may be made.

(3) The Authority shall, in considering the application for tariff review, take into account any written representations or objections received under sub regulation (2).

Decision of the Authority on proposed tariff

9.-(1) The Authority may approve or reject an application for review of tariffs for regulated services.

(2) The Authority may reject an application for the review of tariffs if it is of the view that the proposed tariffs are unjustifiable, unfair or unreasonable.

(3) A decision of the Authority rejecting a proposed tariff shall-

(a) be in writing;

(b) state the reason for rejection; and

(c) be made available to the licensee.

(4) Where the Authority approves the new tariff, a licensee shall, one week before coming into effect, inform its customers of the new tariff by publishing the new tariff in the public media in English and Kiswahili.

(5) Where the Authority and a licensee fail to reach agreement on the proposed tariff and counter proposal, the Authority may, within fourteen days, make decision on the proposed tariff basing on the best information available.

Appeal

10.-(1) A licensee who is not satisfied with the decision of the Authority under regulation 9 may, within thirty days from the date of receiving the decision appeal to the Fair Competition Tribunal.

(2) The licensee who fails to lodge an appeal against the decision of the Authority within thirty days from the date of receiving decision shall be deemed to have accepted the decision of the Authority.

Investigation of tariffs

11.-(1) The Authority may, on its own motion or pursuant to a complaint made under this regulation, investigate any tariff set by a licensee.

(2) A complaint about tariff brought under sub regulation (1) shall-

- (a) be in writing;
- (b) specify the name and address of the complainant;
- (c) state the interest of the complainant; and
- (d) state the reasons why the tariff should be investigated.

(3) Where, after investigation the Authority is of the view that the tariffs is to be adjusted, it may adjust the tariffs.

(4) Where the Authority intends to adjust the tariffs after investigation, it shall notify the licensee and give the licensee twenty one days to respond to the intended adjustment.

Promotion and special offers

12.-(1) The Authority may, from time to time, issue rules on promotions and special offers.

(2) A licensee shall, at least seven working days before the intended date of the implementation of a promotion or special offer, file all details of the promotion or special offer with the Authority for its approval.

(3) A licensee shall notify its customers at least twenty four hours before implementation of the promotion and special offer.

(4) A licensee shall ensure that all promotion and special offers-

- (a) provide the terms and conditions and the details of the manner of participation;
- (b) provide clear information to its customers on the terms and conditions of the promotion or special offer, through publication in widely circulated local news papers in English and Kiswahili and where applicable, in accessible electronic media, sign language or any other method acceptable by the Authority;
- (c) notify customers accurate billing information on tariffs and usage in order to verify whether or not they are billed correctly;
- (d) indicate and publish where the special offer or promotion requires the customer to pay the applicable rate;
- (e) obtain the necessary approvals from relevant authorities, where the special offer or promotion involves services other than those regulated by the Authority ; and
- (f) are not anti-competitive.

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(5) A promotion or special offer which does not comply with sub-regulation (2), (3) and (4) shall not be approved by the Authority.

(6) The Authority may discontinue a promotion or special offer that does not comply with this regulation and state the reasons for doing so.

Penalties

13. Any licensee who contravenes any provision 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 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  
G.N. No.  
421 of 2011

14. The Electronic and Postal Communications (Tariffs) Regulations 2011 are hereby revoked.

Dar es Salaam,  
3<sup>rd</sup> January, 2018

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