

SUBSIDIARY LEGISLATION

to the Gazette of the United Republic of Tanzania No. 36 Vol. 85 dated 3rd September, 2004
Printed by the Government Printer, Dar es Salaam, by Order of Government

GOVERNMENT NOTICE No. 307 published on 3/9/2004

THE TANZANIA COMMUNICATIONS REGULATORY AUTHORITY ACT, 2003

(Act. No. 12 of 2003)

RULES

Made under section 18(6)

THE TANZANIA COMMUNICATIONS REGULATORY AUTHORITY (PROCEDURE FOR RULES OF INQUIRY) RULES, 2004

1. These Rules shall be cited as the Tanzania Communications Regulatory Authority (Procedure for Rules of Inquiry) Rules 2004. Citation

2. In these Rules, unless the context requires otherwise:- Interpretation

"the Act" means the Tanzania Communications Regulatory Authority Act, 2003; Act No. 12 of 2003

"Authority" means the Tanzania Communications Regulatory Authority established under section 4 of the Act;

"Minister" means the Minister responsible for Communications;

"Inquiry" means an inquiry instituted by the Authority pursuant to section 18 of the Act.

3. These Rules shall apply to Tanzania Mainland as well as Tanzania Zanzibar except on matters relating to broadcasting and content, where these Rules shall apply to Tanzania Mainland only. Application

*Tanzania Communications Regulatory Authority (Procedure for
Rules of Inquiry)*

G.N. No. 307 (contd.)

Powers to hold Inquiry 4.-(1) The Authority may conduct an inquiry where it considers it necessary or desirable for the purpose of carrying out its functions.

(2) The Authority shall conduct an inquiry before exercising its powers to -

- (a) grant, renew or cancel a licence with an exclusivity period or universal service obligation;
- (b) regulate any rates or charges;
- (c) adopt a code of conduct.

(3) Where the Minister directs by notice in writing that an inquiry be conducted on any specified subject matter of the inquiry, the Authority shall conduct the inquiry.

(4) The Minister may specify in a direction issued under paragraph (3) of rule 4, the time within which the Authority shall submit its report following the inquiry and if so, the Authority shall submit its report to the Minister within the specified time.

Notice of an inquiry 5.-(1) The Authority shall give notice of an inquiry by -

- (a) publishing a notice in the Gazette and in a daily newspaper circulating generally in Tanzania;
- (b) sending written notice of the inquiry to-

- (i) service providers known to the Authority whose interests the Authority considers are likely to be affected by the outcome of the inquiry;
- (ii) the Consumer Consultative Council established under section 37 of the Act;
- (iii) industry and consumer organizations which the Authority considers may have interest in the subject matter of the inquiry.

(2) The notice of the inquiry shall specify:

- (i) the purpose of inquiry;
- (ii) the place and time within which submissions may be made to the Authority;
- (iii) the form in which submissions are to be made;

*Tanzania Communications Regulatory Authority (Procedure for
Rules of Inquiry)*

G.N. No. 307 (contd.)

- (iv) the matters the Authority may like the submissions to deal with and;
- (v) in the case of an inquiry conducted at the direction of the Minister, the Minister's terms of reference.

6.-(1) The Authority shall, for each subject of inquiry, appoint a panel of inquiry consisting of three members of the Board and two employees of the Authority who are experts on the subject matter of inquiry and may co-opt experts, and the same shall form a quorum of the panel of inquiry.

Constitu-
tion of the
Inquiry
Panel

(2) The panel shall submit its inquiry findings and recommendations to the Board for determination.

7.-(1) Persons entitled to appear at the inquiry shall be persons who were served with notice under paragraph (1) of rule 5 and have made their submissions to the Authority and any other person whom the Authority may consider to be helpful or useful in the determination of the subject of inquiry.

Appear-
ances at
the
Inquiry

(2) Any person entitled or permitted to appear at the inquiry may do so on his own or be represented by counsel or any other duly authorized person.

(3) Persons entitled or permitted to appear at the inquiry shall be summoned to the inquiry by summons issued by the Authority under the signature of the Director General of the Authority and shall be affixed with the common seal and stamp of the Authority.

(4) Summons issued by the Authority shall specify the date, time and venue of the inquiry.

8.-(1) Except as may otherwise be provided in these Rules, the Authority shall determine the procedure at the inquiry.

Procedure
at Inquiry

(2) Unless in any particular case the Authority otherwise determines, the person at whose instance the inquiry is held shall begin to adduce evidence on the subject matter of the inquiry and shall have the right of final reply. Other persons or objectors entitled or permitted to appear at the inquiry shall be heard in such order as the Authority may determine.

*Tanzania Communications Regulatory Authority (Procedure for
Rules of Inquiry)*

G.N. No. 307 (contd.)

(3) Calling of evidence and cross examination of persons giving evidence at the inquiry shall be at the Authority's discretion.

(4) The Authority may refuse to permit -

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any matter which it considers to be irrelevant or repetitious;

but where the Authority refuses to permit the giving or production of evidence, the person wishing to give or produce the evidence may submit to the Authority any evidence or other matter in writing before the close of the inquiry.

(5) The Authority may require any person appearing or present at the inquiry who, in its opinion, is behaving in an unbecoming manner to leave and may refuse to permit that person to return, or may permit him to return only on such conditions as it may specify, but any such person may submit to the Authority any evidence or other matter in writing before the close of the inquiry.

(6) The Authority may during the inquiry allow any person who has made a submission on the inquiry to alter or add to his submission so far as may be necessary for the purposes of the inquiry;

provided that the Authority discloses such written representation or evidence or any other document at the inquiry.

(7) The Authority may proceed with an inquiry in the absence of any person who having been duly served with summons to appear at the inquiry fails to do so without assigning any good reason.

(8) The Authority may take into account any written representation or evidence or any other document received by it from any person who was served with notice of inquiry or who is proved to have an interest in the inquiry before the inquiry opens or during the inquiry;

provided that the Authority discloses such written representation or evidence or any other document at the inquiry.

Tanzania Communications Regulatory Authority (Procedure for Rules of Inquiry)

G.N. No. 307 (contd.)

(9) The Authority may, from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry are announced before the adjournment, no further notice shall be required.

9.-(1) After close of the inquiry the Authority may opt to take into account or into consideration any new evidence or any new matter of fact which was not raised at the inquiry or in the submissions made by the parties who were served with the notice of inquiry and which it considers to be material to the determination of the inquiry.

Post
Inquiry
Procedure

(2) The Authority shall not consider any new evidence or any new matter of fact without first -

(a) notifying the persons entitled to appear and who had actually appeared at the inquiry, of the new evidence or new matter of fact in question;

(b) affording them an opportunity of making written representations or submissions with respect to the new evidence or matter of fact within the time to be specified by the Authority;
provided that the Authority shall not be bound by rules of evidence or the provisions of the Civil Procedure Code, 1966.

(3) Upon discovery of any new evidence or matter of fact and subject to paragraph (2) of this rule the Authority may, as it considers fit, cause an inquiry to be re-opened and where the inquiry is re-opened the Authority shall send to persons entitled to appear at the inquiry and who appeared at it, a written statement of the matter with respect to which the inquiry is re-opened and further evidence may be invited.

10.-(1) The Authority shall notify in writing its determination or decision on the inquiry to all persons entitled to appear at the inquiry that did appear, and to any other person who, having appeared at the inquiry, has asked to be notified of the decision.

Decision
on the
Inquiry

(2) The Authority shall, in its decision, state briefly the submissions made by persons entitled to appear and who did appear at the inquiry, its decision and the reasons for the decision.

*Tanzania Communications Regulatory Authority (Procedure for
Rules of Inquiry)*

G.N. No. 307 (contd.)

Appeals

Act No. 8
of 2003

11. Any person aggrieved by the decision of the Authority made pursuant to the Act and these Rules may appeal to the Fair Competition Tribunal established under section 83 of the Fair Competition Act, 2003.

Dar es Salaam,
31st August, 2004

M. J. MWANDOSYA,
*Minister for Communications
and Transport*