

Electronic and Postal Communications(Tele-Traffic)

GN No. 599 (Contd.)

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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT
(CAP.306)

REGULATIONS

(Made under section 165)

THE ELECTRONIC AND POSTAL COMMUNICATIONS
(TELE-TRAFFIC) REGULATIONS, 2021

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THE ELECTRONIC AND POSTAL COMMUNICATIONS (TELE-TRAFFIC)
REGULATIONS, 2021

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Electronic and Postal Communications (Tele-Traffic) Regulations, 2021.
- Application 2. These Regulations shall apply to Network Facilities, Network Services and Application services licensees in respect of regulation of international and domestic tele-traffic revenue assurance.
- 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;
- “Call Detail Records in its acronym CDR” means information generated by telephone exchanges or any other telecommunication equipment which contain detailed information about the event originating from, terminating at or passing through the exchange or equipment;
- “Calling Line Identity Presentation” or in its acronym “CLIP” means a service that enables a person to view details of the calling party such as phone number, date and time on the subscriber’s terminal equipment;
- “data” means a representation of facts, concepts and instructions presented in a formalized manner suitable for communication, interpretation or processing by human beings or by automatic means;
- “Director General” has the meaning ascribed to it under the

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- Tanzania Communications Regulatory Authority Act;
- “East African Community (EAC) Region” means the regional intergovernmental organisation of the Republics of Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda and any other country granted membership under the EAC treaty;
- “EAC Roaming Telecommunication Traffic” means voice traffic originated and terminated by mobile subscribers when travelling outside their home networks in the EAC region;
- “gateway” means switching system through which telecommunications traffic is sent and received with provisions for allowing physical monitoring of traffic flow;
- “interconnection boarder control system” or in its acronym “IBCS” means, the traffic gate keeper installed at the domestic and international interconnect to record the traffic data entering into the networks;
- “international incoming tele-traffic” means all successful and billed international telecommunication calls originating outside Tanzania and terminating in the national fixed and mobile telecommunications networks in Tanzania excluding EAC roaming telecommunication traffic;
- “monitoring” means observation and keeping records of tele-traffic signalling for purposes of facilitating regulatory activities stipulated in these regulations;
- “Regional block” means East African Community (EAC);
- “revenue assurance” means systems and processes in place to ensure that revenues for licensed service providers are declared with accuracy, completeness, and integrity;
- “roaming” means the ability for a mobile subscriber to automatically make and receive voice calls, send and receive messages, or access other services, including home data services, when travelling outside the geographical coverage area of the home network;
- “telecommunication” means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems;
- “telecommunications traffic” means a profile of signs, signals, writing, images and sounds or intelligence of any nature flowing within a telecommunication network;
- “tele-traffic” means all kind of data communication traffic and

telecommunication traffic; and
“TTMS” stands for Tele-Traffic Monitoring System.

PART II
TELE-TRAFFIC MONITORING

Powers of the
Authority

4.-(1) For the purpose of monitoring Telecommunication traffic, the Authority shall establish a system for monitoring Tele-traffic.

(2) Notwithstanding the generality of subregulation (1), the Authority shall-

- (a) initiate site surveys in order to determine and ascertain the aspects of feasibility or requirements for the inter-network connectivity;
- (b) acquire, install, operate and maintain traffic monitoring and measurement devices at the licensees' premises;
- (c) ensure transparent transit practices among licensees through gateways monitoring, billing system and service for all calls;
- (d) verify the returns of licensees;
- (e) establish procedures for billing and settlement;
- (f) ensure and enhance tele-traffic revenue assurance and analysis of the anti-fraud test calls terminated in the country;
- (g) conduct inspection at the licensee's premises to ensure compliance with these Regulations;
- (h) request any data or information from the licensee pursuant to these Regulations;
- (i) implement a monitoring system for mobile money transactions in compliance with the National Payment System Act;
- (j) implement revenue assurance system for telecommunication services in the United Republic; and
- (k) take actions against non-compliance with these Regulations.

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(3) The data or information requested under these Regulations shall be provided by the licensee within fourteen days.

(4) A licensee who fails to submit the requested data or information within the prescribed time without a reasonable cause commits an offence and upon conviction, shall be liable to pay a fine of not less than five million shillings per day for every

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day after the fourteen days up to the day the information or data is submitted to the Authority.

(5) In carrying out tele-traffic monitoring activities, the Authority shall ensure availability of adequate regulatory tools.

Disclosure of information

5.-(1) The Authority or any person employed by the Authority shall not disclose any information received or obtained during the exercise of its powers or performing its duties under these Regulations.

(2) Subregulation (1) shall not apply where the information is required-

(a) by any law enforcement agency, court of law or other lawfully constituted tribunal; or

(b) for purpose of national security-

(3) Notwithstanding the provisions of this regulation, any authorized person who executes or assists in the execution of a directive and obtains knowledge of any information may-

(a) disclose such information to another law enforcement officer to the extent that such disclosure is necessary for the proper performance of the official duties of the authorized person or the law enforcement officer receiving the disclosure; or

(b) use such information to the extent that it is necessary for the proper performance of official duties.

Powers to collect revenue generated

6.-(1) The Authority shall collect from licensee revenue generated from the minimum rate of international incoming tele-traffic as specified in items 3 and 4 of the First Schedule.

(2) The Authority shall, in collecting revenue generated under sub regulation (1), issue an invoice with the following components-

(a) the number of minutes;

(b) the amount owed based on the specified per minute fee; and

(c) the due date for payment.

(3) Every licensee shall honour invoices in their entirety and payment shall be made not later than thirty days from the date of issuance.

(4) Any query relating to an invoice shall be raised and communicated to the Authority within two-working days from the date of receipt and all such queries shall be addressed within seven working days.

(5) Where there is late payment to the Authority by a

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licensee, the Authority shall impose a penalty of 10% of the amount due and in the case of a delay of payment after seven days the Authority shall impose a further penalty of 2% for everyday during which the payment is not made.

(6) Roaming charges for international traffic originating and terminating within the EAC shall apply only to the member state that has implemented the EAC Roaming Framework, and shall be as specified in the Second Schedule.

Fraudulent
traffic

7.-(1) A person who uses telecommunication facilities or services-

- (a) with the intention of avoiding payment;
- (b) without correct payment or with no payment; or
- (c) by making someone else pay, or by using a wrongful or criminal deception in order to obtain a financial or personal gain from the use of those facilities or services,

commits an offence of fraudulent traffic.

(2) Notwithstanding sub-regulation (1), international incoming telecommunication traffic is considered fraudulent when-

- (a) it is managed by an entity without the licence or authorisation required for the management of international telecommunications traffic issued by the Authority;
- (b) it is managed by a licensee but not declared to the Authority;
- (c) it is managed by a licensee but charged at a rate below the minimum rate as provided for in the Schedule to these Regulations;
- (d) it is traffic by third parties or carriers that gets terminated to the United Republic of Tanzania where a network licensee is unable to bill or collect payment;
- (e) there is a reasonable expectation that an end user is not likely to pay the telephone bill because the calls are disputed as not originating from the telephone line for which the respective end user is responsible; or
- (f) any other fraudulent act as may be determined by the Authority.

(3) The Authority shall provide the necessary regulatory surveillance for detection and handling of fraudulent tele-traffic.

(4) Subject to subregulation (3), the Authority shall,

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where there is fraudulent trafficking, direct or order the licensee to do any of the following: -

- (a) effectively carry out or comply with any fraud surveillance obligations;
- (b) disclose any fraud user SIM;
- (c) deactivate any fraud user SIM;
- (d) provide for a balance reporting on a fraud user SIM;
- (e) sharing of any other fraud information and those related to the SIM;
- (f) Report any fraud or related criminal activity to the Authority and any other law enforcement institutions for further action.
- (g) block the incoming traffic from the suspect fraud user SIM

(5) Notwithstanding sub-regulation (3), licensee shall block the incoming traffic from any roaming SIM suspected to transform international traffic into EAC roaming traffic through traffic-refilling.

(6) The delivery and termination of incoming tele-traffic by licensee, shall be limited to the routing of calls to either customers of their own network or the customers of other licensees with whom they have an interconnection agreement for the provision of transit services for the incoming tele-traffic.

Function of
tele- traffic
monitoring
system

8. Without affecting quality of service of licensee, tele-traffic monitoring system shall-

- (a) monitor quality of service;
- (b) generate reliable statistics for both, local on-net and off-net within regional block and international tele-traffic;
- (c) provide terminal identification details;
- (d) provide mobile money transaction information;
- (e) provide fraudulent SIM card profile;
- (f) track and detect fraud through an anti-fraud system and services within international gateway traffic and cause the bypass fraud to be blocked;
- (g) collect CDR without any interception of contents of communications such as voice or SMS;
- (h) detect new mobile devices that sign onto any licensee's network in the United Republic;
- (i) monitor licensees' mobile money gateways and transactions in order to capture transaction information from the network licensee's USSD Centre; and

- (j) provide revenue statistics for telecommunication services.

**PART III
LICENSEE'S OBLIGATIONS**

Obligation to provide information

9.-(1) Every licensee shall provide the Authority with the following information-

- (a) the CDR for all domestic on-net and off-net traffic and international inbound and outbound telecommunications traffic, including transit and international telecommunications traffic in a format prescribed by the Authority;
- (b) statements by international carriers or licensee for the tele-traffic terminated in the United Republic or invoices sent to international carriers or licensee;
- (c) the number of minutes and revenue for tele-traffic terminated to each international carrier contracting the termination service with the licensee; and
- (d) any other necessary information that related to the management of the licensee's networks for the provision of data, SMS, voice services, including the licensee's networks signalling data links, recorded tele-traffic, contracts and invoices with other carriers.

(2) The data and CDR referred to under this regulation shall be submitted to the Authority not later than the sixth calendar day after the end of each calendar month.

(3) The data and CDR under subregulation (2) shall be submitted online by electronic means or in portable device such as external memory or compact disc (CD).

Authority to conduct survey and inception

10.-(1) A licensee shall permit the Authority or any person acting on the Authority's behalf to-

- (a) conduct a survey in order to facilitate installation of the Traffic Monitoring System in accordance with these Regulations;
- (b) conduct site inspection in order to assure the compliance with these Regulations; and
- (c) conduct site inspection in order to assure the accurate reporting of all mobile money transactions for fiscal compliance purposes.

(2) Any site survey under subregulation (1), shall be conducted together with or in the presence of a licensee or his

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authorized representative.

Signalling data

11.-(1) A licensee shall keep signalling data necessary for the management of tele-traffic.

(2) The signalling data under subregulation (1) shall include origin, destination, service information, time and path of the communication.

(3) A licensee shall notify the Authority in advance on any upgrades or changes of their signalling system with detailed timelines that may make the TTMS system to function properly.

Obligations on charging rates

12.-(1) A licensee shall-

- (a) impose a higher premium tariff or block on all international inbound traffic without proper CLIP in order to encourage international carriers to comply with CLIP recommendations and standards;
- (b) apply the rates for termination of international inbound voice tele-traffic in the United Republic as specified in the First Schedule to these Regulations;
- (c) collect all revenues generated from the international incoming traffic transited through international gateways within United Republic of Tanzania which terminate on national networks and share the revenue equally between the gateway operators and the terminating networks;
- (d) comply with the transit traffic fee, that applies as per rate specified in the agreements between the licensee and international carriers;
- (e) comply with international inbound transit traffic terminated in the United Republic, as per rate specified in the agreements between licensees and submit it to the Authority;
- (f) not charge a lesser rate for termination of international incoming tele-traffic in the United Republic than the rate specified in the First Schedule to these Regulations, failure to which, the licensee shall be liable to pay to the Authority a penalty of twice the difference between the specified rate and the rate actually charged;
- (g) not charge its customers a higher fee for its service because of its adoption and application of the minimum rates for tele-traffic as specified in the Schedules to these Regulations; and
- (h) not increase the fees for its services resulted as a

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minimum rate for international incoming telecommunications traffic, and whoever increased the tariff shall be liable to pay a penalty twice the sum of the value of the increase to the Authority.

(2) The transit fees or charges for international incoming tele-traffic referred to under subregulation (1)(d), shall be determined and agreed by the agreement made between the licensees and international carriers.

(3) Where a licensee transits an international incoming traffic from outside Tanzania through an international gateway within United Republic of Tanzania and terminates it on national networks, such traffic shall remain an international traffic up to its final destination, irrespective of its origin.

Specific obligations relating to roaming traffic charges within the EAC region

13.-(1) A licensee providing roaming services within the EAC region shall comply with the EAC Roaming Framework and apply harmonised wholesale and retail roaming charges as specified in the Second Schedule.

(2) A licensee shall ensure that the retail charge, inclusive of value added tax, for EAC roaming services that it may levy its roaming customer for the provision of a regulated roaming service shall not exceed the price ceilings specified in the Second Schedule.

(3) A licensee providing roaming services within the EAC region shall be required to enter into roaming agreement with their counter parts to ensure implementation of the roaming charges as prescribed under these Regulations.

Fair use limits

14. The licensee shall ensure-

- (a) that a roaming SIM card does not exceed a maximum volume of 300-voice minute per month; and
- (b) a roaming SIM card does not exceed 90 days using roaming services per year.

Monitoring process

15.-(1) The Authority shall be responsible for monitoring licensee's-

- (a) monthly trend of international, roaming, on-net and off-net tele-traffic in the United Republic; and
- (b) parameters relating to quality of service and fraud detection.

(2) The Authority shall have the mandate to collect any information from the licensees in order to ascertain, *inter-alia*, quality of service and volume of traffic carried over the network

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of the licensees.

(3) In monitoring telecommunications traffic, the licensee shall-

- (a) allow the Authority or any entity acting on its behalf to install and maintain necessary equipment in, on, upon or under licensee's network;
- (b) collaborate by providing all the required support, space and clean power for the installation of the monitoring system in their premises; and
- (c) facilitate the installation of data transmission equipment between the Authority's monitoring system installed at their switch centres and the Authority's main operating centre.

(4) The Authority shall ensure that call detail records data are-

- (a) collected for the exclusive purpose of monitoring compliance with these regulations; and
- (b) not transmitted or given to third parties either public or private, except as permitted by law.

Installation of devices and their safety

16.-(1) Where a device is installed in, on or under the licensee's network, the licensee shall be required to exercise due care on the safety of such device.

(2) Where a device installed under this regulation is tampered, destroyed, or damaged, the licensee shall be held liable to-

- (a) pay for the cost of replacement of the tampered, destroyed or damaged device; and
- (b) pay the amount payable to the Authority as specified in the Schedules based on the previous highest returns plus 10% of the returns during the period the device remains tampered, destroyed or damaged.

(3) In case where the device is destroyed or damaged by natural calamity, the Authority shall take responsibility.

(4) Where a device interferes with the licensees network, all concerned parties shall, in good faith, take reasonable measures to resolve the problem.

Control of International VoIP

17. The Authority shall adopt measures for the control of International VoIP gateways in the United Republic of Tanzania.

Interference to the network

18.-(1) The International Border Control System and

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any co-location device, for the purposes of TTMS, shall not cause any interference to the network licensees' equipment, plant, facilities, networks and the equipment of any other licensee in the co-location space, including when installing the International Border Control System equipment.

(2) There shall be a transmission link between licensees and the Authority Network Operation Centre that which is managed and operated by the Authority or entity operating on its behalf.

(3) Subject to subregulation (1), where it occurs any interferences; all concerned parties shall take, in good faith, reasonable measures to resolve the problem promptly.

Physical access to the co-location space and the inspection

19.-(1) Procedure regarding the physical access to the co-location space and the inspection of the co-location space and equipment by the Authority, representatives or its staff shall be determined by the Authority at the time of the installation of the IBCS or any related tele-traffic measurement equipment, anti-fraud software or equipment.

(2) In the event of any direct damage to the co-location plant, network equipment or facilities arising out of or during the course of installation, operation, maintenance, replacement or repair of the co-located facility or network in the premises of a licensee, the damage shall be reported to the Authority, its representative or staff and the network equipment or facility shall be, subject to any agreement, rectified without delay.

Operation or maintenance of co-located equipment

20.-(1) The Authority or its representative shall be responsible for the operation or maintenance of its co-located equipment.

(2) The Authority and licensees shall ensure that their staff observe and comply with all applicable or specified safety rules and conditions for the purposes of maintaining the installed equipment.

Licensees to comply with directives

21. Every licensee shall comply with the directives or orders of the Authority issued under these Regulations or matters affecting any of its provisions or the implementation.

**PART IV
MISCELLANEOUS PROVISIONS**

Rate for tele-traffic communication s traffic

22.-(1) A licensee shall charge the rate for tele-traffic as follows-

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- (a) in the case of international incoming tele-traffic, rates in a manner prescribed in the First Schedule; and
- (b) in the case of EAC roaming telecommunication traffic, rates in a manner prescribed in the Second Schedule.

(2) The revenue collected from the minimum rate for the international inbound tele-traffic shall be distributed to the licensee, Authority and the Government in the manner prescribed in the First Schedule.

Establishment
of Committees

23.-(1) The Director General shall establish committees for the purpose of implementing these Regulations.

(2) The members of the committees shall be nominated by the Authority after consultation with the Ministry.

(3) In appointing members, consideration need to be taken to at least include to the committee-

- (a) a representative from the Ministry responsible for communications;
- (b) a representative from the Ministry responsible for finance;
- (c) a representative from the Bank of Tanzania;
- (d) a representative from Tanzania Revenue Authority;
- (e) a representative from the national data Centre;
- (f) a representative from the e-Government Authority;
- (g) representatives of Chief Executive Officers for licensees connected to the traffic monitoring system; and
- (h) three representatives from the Authority.

(4) The Committee shall work under the directive of the Authority and shall be responsible for-

- (a) providing advice to the Ministry and the Authority on the efficient operation of Tele-Traffic Monitoring System; and
- (b) Carry out performance evaluation of the Tele-traffic Monitoring System.

Appeals

24. A person aggrieved by the decision of the Authority under these Regulations may, within thirty days, appeal to the Fair Competition Tribunal.

Reviews

25. The rate and distribution in the Schedule to these regulations may be reviewed from time to time depending on the development of the communication sector.

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Offences and
penalty

26.-(1) Any person who contravenes the provisions of these Regulations shall be liable on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than twelve months or to both.

(2) Notwithstanding subregulation (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. Nos.
141 of 2018 and
337 of 2021

27. The Electronic and Postal Communications (Tele-Traffic) Regulations, 2018 and the Electronic and Postal Communications (Tele-Traffic) Regulations, 2021 are hereby revoked.

FIRST SCHEDULE

(Made under regulation 12 and 20)

MINIMUM RATE FOR INTERNATIONAL INBOUND TRAFFIC

No.	Subject Matter	Rate Per Minute [US Cents]	Percentage Rate [%]
1.	Minimum Rate for termination in TANZANIA of all international inbound (incoming) voice telecommunications traffic	25	100
2.	Licensees' share of per minute of incoming call.	13	52
3.	Revenue to be collected by TCRA and payable to Treasury	9	36
4.	TCRA payment for managing and operating the system.	3	12

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SECOND SCHEDULE

(Made under regulation 6)

MAXIMUM RATE FOR ROAMING TRAFFIC ORIGINATING AND TERMINATING
WITHIN
EAC COUNTRIES

No.	Subject Matter	Rate Per Minute [US Cents]	Percentage Rate [%]
1.	Retail tariff for voice roaming traffic originating and terminating within the EAC region	10	100
2.	Wholesale tariff (Inter-operator tariffs) for voice roaming traffic originating and terminating in EAC	7	70
3.	Receiving voice calls while roaming within the EAC	0	0

Dodoma,
6th July 2021

FAUSTINE E. NDUGULILE
*Minister for Communication and
Information Technology*