



THE UNITED REPUBLIC OF TANZANIA

MINISTRY OF INFORMATION, COMMUNICATION
AND INFORMATION TECHNOLOGY

TANZANIA COMMUNICATIONS REGULATORY
AUTHORITY



Ref. No: EB.32/160/01/65

13th June, 2023

Chief Executive Officer,
Gadgetronix Net Limited,
P. O. Box 1116
23103 Arusha
ARUSHA.

DECISION ON COMPLIANCE ORDER

(Pursuant to the Compliance Order hearing on 6 days 2023 held at TCRA Northern Zone Office, Arusha)

1. INTRODUCTION

- 1.1 On 10th day of January, 2021 Tanzania Communications Regulatory Authority (hereinafter referred to as the "Authority") issued to **Gadgetronix Net Limited** (hereinafter referred to as the "Licensee"), a Regional Application Services Licence for the provision of internet services.
- 1.2 Among the licence conditions, the Licensee is obliged to comply with the relevant provisions of the Acts, Regulations, licence conditions, Authority's directives and any other law of Tanzania.
- 1.3 Pursuant to Section 6(1) of the Electronic and Postal Communications Act, Cap. 306, R. E. 2022) requires a person who wishes to operate electronic communications system or offer postal communications, electronic communications or content services to apply to the Authority for a licence.
- 1.4 In accordance with Table One of the First Schedule to the Electronic and Postal Communications (Licensing) Regulations 2028 as amended in 2022, building and operating a fibre optic network is within the scope of a Network Facilities Licence.

1.5 Between December 2022 to January 2023, the Authority carried out an audit and assessment of Licensee's site and it was revealed that the Licensee is operating beyond the scope of its licence by building and operating fibre networks in Arusha region without obtaining Network Facility Licence.

2. COMPLIANCE ORDER

That on 31st day of March 2023, the Authority issued a Compliance Order requiring the Licensee to submit a written explanation and appear before the Authority at **Northern Zone Office on 5th day of April, 2023 at 10:00 am** to show cause as to why legal and regulatory actions should not be taken against the Licensee for breach of the Law, Regulations and Licence Conditions.

3. COMPLIANCE ORDER HEARING

The Licensee in compliance with the order, appeared before the Authority on the date and time set for the hearing represented by Mr. Wilson Maina, Chief Accountant and Ms. Judith Mamkwe, a Personal Assistant to the Chief Executive Officer.

4. LICENSEE'S DEFENCE

4.1 In defence, the Licensee presented a written defence vide a letter dated 4th April 2023 as well as making a oral submission. The Licensee started by first admitting that it is their fault that they were operating beyond the scope of their licence by building and operating fibre networks in Arusha District without obtaining Network Facilities Licence. And added that the licensee was genuinely unaware of the regulation requiring to have such a licence and that they believed that the Application Service licence covered for building and operation of fibre optic cable.

4.2 Further to the written admission, the Licensee stated that they are ready to fully and immediately comply with the law by beginning with the necessary process for obtaining the required licence. They further stated that they have already contacted the zonal office for guidance and that they will be available for the meeting for necessary guidance.

4.3 In conclusion, the Licensee apologised for violating provision of the regulations and pleaded with the Authority to be lenient in the penalty that will be imposed

on them and that they intend to finalize their application for Network Facilities Licence.

5. CONSIDERATION OF LICENSEE'S DEFENCE

In consideration of Gadgetronix Net Limited's defence, the Authority made the following observations: -

- 5.1 The Licensee's has not denied to have constructed and operate fibre optics cables in at least three areas, namely Kisongo, Arusha City and Njiro without Network Facilities Licence.
- 5.2 The Licensee informed the Authority that the building of the fibre optic cables started in or around 2022 and the licensee neither consulted nor informed the Authority prior to construction of the said fibre optics cables the licensee will be providing their services using fibre when presented their application for licence as the company did not know or have such plans.
- 5.3 The Licensee could not confirm as to whether has plans for the company to roll out the construction of fibre optic to other areas and they do not know what the licensee Technical Director is planning.
- 5.4 The Authority noted that, the law is clear on the requirement of Network Facility Licence for the person who construct and operated Fibre Optic Cable in the Country. The Licensee operated and constructed fibre optic, hadn't the Licensee fail to read the should have sought clarification from the Authority and get the required assistance on clarifications as to the right license required.

6 DECISION

NOWTHEREFORE, by virtue of section 48 (3) of the Tanzania Communications Regulatory Authority Act [Cap 172], the Authority hereby gives orders to Gadgetronix Net Limited as follows:

- 6.1.1 To pay a fine of Tanzania Shillings Five Million Only (5,000,000.00) for having constructed fibre optic cables without a license from the Authority;
- 6.2 To make an application to upgrade their license if they so desire to continue with operating network facility; and

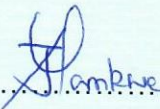
6.3 To Comply with the above orders within Thirty (30) days from the date of this decision.

TAKE NOTICE that, upon failure by Gadgetronix Net Limited to implement the above orders, further legal and regulatory action will be taken against Gadgetronix Net Limited without further notice.

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Dr. Jabiri K. Bakari
DIRECTOR GENERAL

Order served upon and received by **Gadgetronix Net Limited** on this.....^{13th} day of.....June....., 2023.

Name: JUDITH J. MAMKHE.....

Signature: .....

Designation: PERSONAL ASSISTANT TO CEO.....



RECEIVED ON 22ND JUNE 2023

(This Order is issued in duplicate. Sign both copies and retain your copy while the other copy is to be returned to the Authority to authenticate due service of the Order.)