



THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF INFORMATION, COMMUNICATION
AND INFORMATION TECHNOLOGY
TANZANIA COMMUNICATIONS REGULATORY
AUTHORITY



Ref. No: EB.32/160/01/67

13th June, 2023

Managing Director,
CATS Net Limited,
4th Floor, NIC Life House,
13 Edward Sokoine Drive,
P. O. Box 2569.
11101 Dar es Salaam.

DECISION ON COMPLIANCE ORDER

(Pursuant to Compliance Order hearing conducted in 1st April, 2023 at TCRA Headquarters)

1. INTRODUCTION

- 1.1 On 17th day of May, 2021 Tanzania Communications Regulatory Authority (hereinafter referred to as the "Authority") issued to **CATS 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 Section 6(1) of the Electronic and Postal Communications Act, Cap. 306, R. E. 2022) requires any person or a company who wishes to operate any 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 by GN No. 65, building and operating a fibre optic cable network is within the scope of a Network Facilities Licence.
- 1.5 Between December 2022 to January 2023, the Authority conducted an audit and assessment of the Licensee's site. It was revealed that the Licensee is operating

beyond the scope of its licence by building and operating fibre optic cable network in the Dar es Salaam region without having Network Facilities 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 its **Headquarters on 11th day of April, 2023 at 10:00 am** to show cause as to why the Authority should not take Legal and regulatory actions for the Licensee's 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. Hafidhi Suleiman- Sales Manager.

4. LICENSEE'S DEFENCE

- 4.1 In response to the claimed raised, the Licensee presented a written defence through a letter dated 11th April 2023 and made an oral submission to the Authority. The Licensee stated that, they have been operating as Internet Service Provider since 1995, by providing services to the last mile. That, currently they own a Regional Application Services licence which allows them to provide internet services in ten regions including Dar es Salaam.
- 4.2 The Licensee asserted that, they do not own any Network Facilities licence in whatever category either District, Regional or National, although they are using fibre optic cable to provide internet to their customers. Basically, they use wireless for the provision of internet services to customers and fibre optic cable for last mile connectivity.
- 4.3 It was further elaborated to the Authority that; they provide connectivity through the leased fibre optic cable from Third Party Service Providers for the provision of internet or data services. The Third Party Service Providers the licensee has leased fibre optic cable include Tigo, Liquid Telecom, Simbanet, Aptus Solutions, Vodacom Tanzania PLC etc. The licensee uses layer 2 provided by the Third Party Service

Providers in order to provide connectivity to the last mile that is from the manhole of the leased facility to their POPs serving their customers.

- 4.4 That, the licensee then builds its own fibre optic cable from the distribution point of layer 2 provided by Third Party Service Provider to the customer for last mile connectivity. The Licensee also informed the Authority that, they have a shared partnership with the Third Party Service Providers in areas where they need connectivity to the last miles, in return the licensee will also provide them with a layer 2 /distribution point.
- 4.5 In support of their claim for using leased fibre optic cable, the licensee submitted to the Authority invoices for the lease of fibre optic cable of layer 2 from Liquid Intelligent Technologies and Aptus Solutions Limited. Also, submitted contracts for the lease of fibre optic cable of layer 2 from Simbanet (T) Limited and Vodacom (T) PLC.
- 4.6 Further to their written and oral submission, the Licensee stated that after receiving the Compliance order, they are ready to fully and immediately comply with the law by beginning with the necessary process for obtaining the required Network Facilities licence for building and operating fibre optic cable. They further stated that, they have neither inquired nor informed the Authority about obtaining a Network Facilities licence until when they were issued the Compliance Order.
- 4.7 In conclusion, the Licensee apologised for any violations of the provision of Regulations and pleaded with the Authority for guidance and leniency. The licensee expressed their willingness to apply for Network Facilities Licence to facilitate deploying of fibre as it is in their customers as last mile connectivity. urged TCRA to continue providing consultations to ISPs in order for them to comply with the directives.

5 CONSIDERATION OF LICENSEE'S DEFENCE

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

- 5.1 The Licensee admitted to have built fibre optic cable for the provision of connectivity to the last mile. The licensee also admitted not to owning any Network Facilities licence either District, Regional or National although they are using fibre optic cable to provide internet to their customers. The submitted contract between the Licensee and Simbanet (T) Limited as well as between the licensee and Vodacom (T) PLC does not indicate that the same are for leasing of fibre optic cable as service offered to the Licensee.
- 5.2 The Licensee has acknowledged a shared partnership with the Third Party Service Providers by providing them with a layer 2 / distribution point in areas where they need connectivity to the last miles. This service offered by the Licensee to the Third Party Service Providers is within the scope of the Network Facilities licence, which the licensee does not have. Therefore, the licensee has been operating beyond the scope of their Regional Application Services licence and operating without the Network Facilities licence.
- 5.3 The Licensee informed the Authority that, since they commenced the building of the fibre optic cable for last mile connectivity, they have neither consulted nor informed the Authority until when they were issued with a Compliance order.

6 DECISION

NOWTHEREFORE, by virtue of section 48 (2) of the Tanzania Communications Regulatory Authority Act [Cap 172], the Authority hereby gives orders to CATS Net Limited as follows:

- 6.1 To stop install, operate, manage, construct, maintain, own or make available network facilities.
- 6.2 To make an application for a Network Facilities Licence if they so desire to continue building and operating fibre optic cable.
- 6.3 To pay a fine of Tanzanian Shillings Five Million Only (5,000,000/=) for building and operating fibre optic cable without obtaining Network Facilities licence from the Authority.

6.4 To comply with the above orders within Thirty days (30) from the date of this order.

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

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Dr. Jabiri K. Bakari
DIRECTOR GENERAL

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

Name: HAFIDH. Suleiman

Signature:

Designation: Senior Sales Manager



(Official Stamp)

(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.)