

TMT alert

KTA ADVOCATES

Telecom REGULATIONS



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ganda is set to introduce a new set of regulatory framework for telecommunications enacted under the Current Uganda Communications Commission Act of 2013.

The Regulations that are currently in force are those that were enacted in 2004 under the UCC Act of 2003. When the UCC Act of 2013 came into force it adopted the same and the commission has since



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of these regulations that are intended to be passed into law have since 2014 been before the Minister of ICT who has the powers to approve them to Parliament.

They are intended to revoke the former regulations that were created under the previous UCC Act of 2004. Some of these regulations are entirely new regulations that cover aspects in the telecommunications industry that were not regulated by the former laws.

This Alert is meant to highlight some of the main features of these regulations considering proposals by Uganda Communication Commission and the particular sectors they intend to regulate in the telecommunications industry.

The Communications (Licensing) Regulations, 2014;

These Regulations are made to apply to the provision of communications services in Uganda, licensing and regulation of communication operators and any person engaged in communication services and the use of devices, equipment in provision of the same services.

The regulations also provide for the types of the licenses provided to operators:

(a) A facility based license:

A license issued to an operator that owns and operates a telecommunications network, system or facility that offers telecommunications switching or transmission capacity or services to other licensed telecommunications providers, businesses, consumers or end-users;

(b) A service based license

Issued to an operator who leases a telecommunications network element like transmission capacity, switching services, ducts or fiber from a facility based operator, to provide telecommunication services to a third party or resell the telecommunications services of facilities based operators.

(c) A public service provider license;

Issued to persons interested in providing voice telephony service using any technology including cellular, internet protocol, traditional voice network using time division multiplexing.



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Licensing Proposals:

However, On 5th April 2019, The Uganda Communications Commission issued a consultation paper seeking views from relevant stakeholders on the proposed review of the Telecommunications Licensing Framework to be adopted.

(a) The Public Infrastructure Provider (PIP) meant for entities that establish commercial infrastructure facilities associated with transmission, reception and switching of electronic signals.

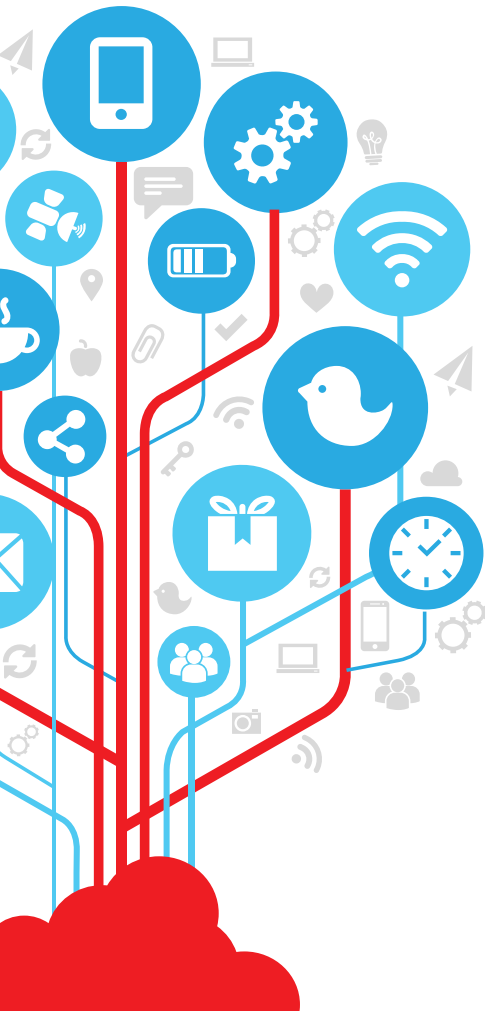
(b) The Public Services Provider (PSP) which is classified into; the PSP-Voice and Data Services License, the PSP-Capacity Resale Services License and General Authorizations which are granted to non-core telecommunications services that are not required to pay license fees but are required to register and obtain a certificate to be able to provide services to the public.

(c) The National Telecom Operator License

The Uganda Communications Services proposes that:

(a) The National Telecom Operator (NTO) License;

which allows a holder to establish and provide both infrastructure and services in Uganda be required to list 20% of its shares on the Uganda Stock Exchange.





(b) The National Public Service Provider (NPSP) License;

where a holder shall have the capacity to either provide voice and data services or resale services across Uganda. A holder of such a license shall only be allowed to operate while only having 20% local ownership of the company.

(c) The National Public Infrastructure Provider (NPIP) License;

which will allow the holder to establish and provide infrastructure services to licensed national operators, public infrastructure providers and private networks. The holder shall be required to hold a PSP license and shall only be allowed to hold only 20% local ownership in the company.

(d) The Regional Public Service Provider (RPSP) License;

This license shall allow the holder to provide either voice and data services of capacity resale services in a specific region while having ownership of 20% of the company.

(e) Regional Public Infrastructure Provider (RPIP) License;

A holder of this license shall be able to provide infrastructure services to licensed public service Providers in the authorized license area/region and shall also have only a 20% ownership in the licensed company.

The Commission also in addition to the above licenses proposes the following Authorizations:

- (a) Equipment Distribution Authorization
- (b) Equipment Vending and Installation Authorization
- (c) Authorization to Manufacture Telecom Equipment
- (d) Authorization for Disposal of Communications Equipment

The Commission is expected to adopt a final position after consultations on 30th May 2019 and announce the transition period and effective dates of implementation of the new licensing regime on 15th June 2019.

From the above, and in consideration that there are licensing regulations before the minister, the release of the above-mentioned Consultation paper only means that the Regulations can only be effective after the changes in the paper have been effected for the regulations to reflect the Commissions position on its intended changes to the current Telecommunications Licensing Regime.

The Uganda Communications (Equipment Type Approval) Regulations, 2014;

These Regulations are intended to apply to the provision of communications installations and construction works; connection of equipment to communication networks and generally all acts relating to communications equipment.

The regulations revoke The Communications (Telecommunications and Radio Communications Equipment Type Approval) Regulations of 2005.

The Commission has powers under these regulations to have exclusive control over all communication devices and equipment; powers to authorize any acts carried out in relation to the same and powers to inspect and monitor the compliance of the operation and use of the communications installations and equipment.

The Regulations main objectives are to provide uniform standards for the protection of networks from harm that may be caused by equipment; to set technical standards for equipment to be used; ensure safety of end-users, general public and workers of the equipment and ensuring security of network operation, integrity, interoperability, data protection and protection of the environment.

The Uganda Communications (Interconnection and Access) Regulations, 2014;

These Regulations apply to the linking, accessing, sharing, interconnecting, harmonizing and interoperability of communications network and systems, infrastructure facilities and services and operating a communications industry in a competitive market place.

They are intended to ensure end-to-end interoperability of networks, equality of access, ensuring a competitive interconnection of communications systems, ensuring adequate consumer protection, preventing abuse of positions by operators with significant market power through regulating their conduct, promoting fair competition and establishing charging principles for interconnection.

The Uganda Communications (Centralized Equipment Identity Register) Regulations, 2014;

The Regulations are a schedule to the Uganda Communications (Type Approval) Regulations 2014 meant to authorize the creation and operation of a Centralized Equipment Identity Registry to detect and deny service with respect to unauthorized telecommunications apparatus with an objective to promote and safeguard consumers and provide a procedure for reporting use of unauthorized telecommunications apparatus.

The Regulations define the Centralized Equipment Identification Register (CEIR) to mean a shared electronic database which holds unique pairs of telecommunications apparatus numbers and IMEIs or ESNs.

The Regulations lay out the obligations of the Commission and the operator in maintaining the CEIR.

The Uganda Communications (Value Added Services) Regulations, 2014;

The Regulations apply to operators but mainly to providers of value added services in communications regulated by UCC. They intend to establish a legal framework to regulate non communications services offered directly or indirectly by licensed operators to members of the public through certain defined communications media. However the Regulations do not cover the provision of financial institution services; deposit taking and loan disbursement by microfinance businesses; loans disbursed by money lenders; value added services sold by one licensed operator to another licensed operator. All the exempt services are regulated by other laws put in place for such services.

The Uganda Communications (Fees, Fines and Related Provisions) Regulations, 2014;

These Regulations are meant to create a framework through which Uganda Communications Commission may prescribe fees, impose and collect fees assessed by the Commission.

It also gives the commission powers to impose and collect fines and penalties for breaches of the Act, and guidelines for escalation of fines and penalties in respect of serious breaches of the Act.



The Uganda Communications (Quality of Service) Regulations, 2014;

These provide for a standard of service which operators ought to observe, they lay out quality of service parameters for licensed operators for both voice and data. Such Quality of Service are monitored by the Commission through requiring operators to make service outage reports, through conducting inspections and imposing fines upon non-compliance by the operator.

The Uganda Communications (Consumer Protection) Regulations, 2014;

These regulations are intended to provide a framework to promote and safeguard the interests of consumers and operators, receive, investigate and determine consumer complaints relating to communications services by the Commission. The Regulations prohibit licensed operators from carrying out acts such as false advertisement, unsolicited telemarketing and SMS, predatory or manipulation of prices, selling of defective dangerous communication apparatus. They also tend to protect the consumers information that may have been collected by the operator.



The Uganda Communications (Competition) Regulations, 2014;

These derive their powers from Part IX, they give the Commission powers to monitor and enforce fair competition in the communications sector. They also give powers to the commission to impose remedies, sanctions, penalties against operators and persons whose acts or conduct are anti-competitive or in breach of fair competition.

The Uganda Communications (Emergency Response) Regulations, 2014;

These Regulations apply in instances where a communications emergency has been declared by Uganda Communications Commission and a state of emergency proclaimed by the President.

Under the Regulations the commission has among other powers to order removal of any such content from a telecommunications medium, confiscation of any communication apparatus or switching off of a telecommunications system; all carried out through the Communications Emergency Response Team.

The Uganda Communications (Text and Multimedia Messaging) Regulations, 2014;

These are meant to apply to originators and terminators of text and multimedia messages accessed or initiated by communications subscribers or users in Uganda. They are intended to minimize mobile spamming, protect children from viewing content that is not suitable for them and ensuring compliance of text with laws of Uganda.

The Regulations place an obligation upon the operators to put in place an optout option for the customer to choose to stop receiving text messages from a telecommunication. They also restrict an operator from repetitively or continuously sending messages to a subscriber.

The Uganda Communications (Information and Communication Technology and Rural Communications Development Fund) Regulations, 2014;

These regulations are intended to provide a legal framework for the Development Fund which some of the objectives are to ensure availability of affordable basic and advanced communications systems and services in underserved areas and to disadvantaged communities, persons with disabilities and such other communities or groups at the household level where the current market is unable to deliver such services.

The regulations provide for the Board, decision-making, management of the funds among others that provide for a regulated process flow.

The Uganda Communications (Universal Service) Regulations, 2014;


These regulations are intended to define a set of communication services to which all users, including customers should have access at an affordable price in the context of universal service taking into account the prevailing economic and technological conditions.

A universal service Obligation is a defined minimum set of services of specified quality, which is available at an affordable price to all users independent of their geographical locations





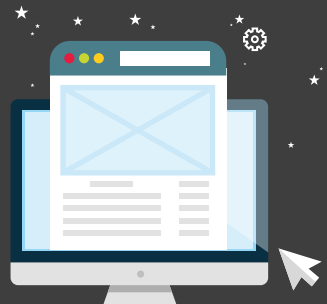
The Uganda Communications (Pricing and Accounting) Regulations, 2014;



These apply to the pricing of communications services and accounting by operators licensed by the commission. Its objective is to establish a framework for efficient and reasonable cost-based pricing of communications services through measures that ensure cost oriented, transparent charging, a consistent accounting system, and implementing pricing regulation in the communications industry.



The Uganda Communications (Intelligent Network Monitoring Solution) Regulations, 2014;



These regulations among others are meant to provide an Intelligent Network monitoring Solution and determine the conditions for its operation so as to ensure effective regulation of local and international traffic in Uganda. These Regulations are aimed at the elimination of fraud in the communications network, ensure fair competition and promote fair practice in international transit and roaming practices.

From the above observation, it can be concluded that whereas the regulations are before the Minister, the Uganda Communication Commission is still under the process of reviewing the Telecommunications Regulatory Framework through consultations, and it cannot be said with certainty that the intended Regulations shall be passed into law without any further changes by the Commission in consultation with stakeholders in the industry.

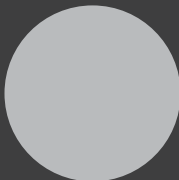
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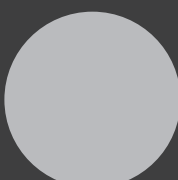
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