

Electronic and Postal Communications (Access, Co-Location and Infrastructure Sharing)

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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT,

(CAP. 306)

REGULATIONS

(Made under section 165)

THE ELECTRONIC AND POSTAL COMMUNICATIONS (ACCESS, CO-LOCATION AND INFRASTRUCTURE SHARING) (AMENDMENT) REGULATIONS, 2022

Citation
GN. No
59 of 2018

1. These Regulations may be cited as the Electronic and Postal Communications (Access, Co-location and Infrastructure Sharing) (Amendment) Regulations, 2022 and shall be read as one with the Electronic and Postal Communications (Access, Co-location and Infrastructure Sharing) Regulations, 2018 hereinafter referred to as the “principal Regulations”.

Amendment of
Regulation 3

2. The principal Regulations are amended in regulation 3 by adding in appropriate alphabetical order the following definitions-

““data centre” means facility dedicated to the centralized accommodation, interconnection and operation of information technology and network telecommunications equipment providing data storage, processing and transport services together with all the facilities and infrastructures for power distribution and environmental control together with the necessary levels of resilience and security required to provide the desired service availability;

“public data centre” means a data center that provide services for co-location or co-hosting of the customer’s network, servers and storage equipment;

“Mobile Virtual Network Operator (MVNO)” means a licensed wireless communications services provider that does not own the wireless network infrastructure

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over which it provides services to its customer;”

Addition of regulations 6A, 6B,6C,6D,6E and 6F,

3. The principal Regulations are amended by adding immediately after regulation 6 the following:

“Exceptional circumstances for sharing of radio frequency spectrum

6A.-(1) Notwithstanding regulation 6(1) and subject to the requirements of this regulation, the Authority may on the request of a licensee or licensees, authorize sharing of assigned radio frequency spectrum:

Provided that, the sharing of radio frequency spectrum under the provision of this regulation shall not constitute the transfer of right to use the radio frequency spectrum in contravention to section 73 of the Act.

(2) The requirements for which the assigned radio frequency spectrum may be authorized shall include-

- (a) sharing of spectrum resource in specific geographical area between licenced mobile network operators
- (b) sharing of spectrum resource in unserved or underserved areas between licenced mobile network operators;
- (c) where a licenced Mobile Virtual Network Operator (MVNO) uses the spectrum that has been assigned to a licenced mobile network operator in a specific geographical area or countrywide; and
- (d) any other circumstances aimed at accommodating any emerging technologies or such other circumstances as the Authority may deem

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appropriate.

(3) In sharing of spectrum in terms of subregulation (1), the user rights under radio frequency spectrum sharing shall remain under the licenced mobile network operator who shall continue to be responsible to the Authority for any sharing arrangement therein.

Application for authorization of radio frequency spectrum sharing?

6B.-(1) Licensees who intend to share assigned radio frequency spectrum shall submit to the Authority a joint application for authorisation.

(2) An application for spectrum sharing shall be accompanied with:

(a) a detailed technical plan stating-

(i) the circumstances of sharing as set out in subregulation (2) of regulation;

(ii) the frequency bands, amount of spectrum to be shared, the applicable technology and the service area for which the spectrum sharing is to be applied;

(iii) the proposed period for which the sharing shall operate;

(b) a draft agreement between the licensees for the proposed spectrum sharing arrangement; and

(c) any other document or information as may be required by the Authority.

Assessment of application

6C.-(1) The Authority shall, upon receipt of a joint application, consider whether the application suffices to be authorised, and may in so doing, conduct a review.

(2) The Authority shall reject an

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application for sharing of a frequency spectrum where-

- (a) the application does not meet the requirements of these Regulations;
- (b) there is a fundamental or material breach within the meaning of section 21 of the Act;
- (c) a restraint or forfeiture order that has potential of affecting the operations has been issued by court against any of the licensees concerned;
- (d) there is a breach of the terms and conditions of the radio frequency spectrum licence issued in terms of regulation 26 of the Electronic and Postal Communications (Radio Communications and Frequency Spectrum Regulations, 2018);
- (e) the sharing arrangement fosters or is likely to foster unfair competition or interference of frequency; or
- (f) one or both the spectrum user licenses concerned have less than one year left to expire.

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(3) The Authority may, upon review of an application for sharing of assigned frequency spectrum require the applicants to:

- (a) amend or improve the draft agreement before signing and submission of the signed copy to the Authority, and;
- (b) submit any other additional information.

(4) Parties to frequency sharing arrangement shall file a copy of the signed agreement with the Authority within fourteen days of signing the agreement.

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(5) The Authority shall, upon satisfaction that the application meets the requirements under these regulations, issue Certificate of Authorisation of spectrum sharing.

(6) A Certificate of Authorization issued under sub regulation (5) shall provide for terms and conditions to be complied with by the certificate holder.

(7) Parties to the sharing arrangement shall, within seven days from the date of termination of the spectrum sharing arrangement, notify the Authority in writing.

Requirement for authorised certificate holder

6D.-(1) Authorised certificate holders shall ensure that the sharing of spectrum pursuant to these Regulations does not compromise quality of service.

(2) The Authority shall from time to time conduct audit to the spectrum authorised for sharing.

(3) A licensee authorised to share spectrum with another licensee shall pay spectrum sharing fee of twenty-five percent of the actual price of annual radio frequency spectrum user charges.

(4) The sharing of spectrum contrary to these Regulations shall constitute an offence under section 117 of the Act.

Revocation of Authorised Certificate

6E.-(1) The Authority may revoke the Certificate of Authorisation issued under these Regulations upon:

- (a) breach of any terms and conditions by one or both parties to the sharing arrangement;
- (b) contravention of any provisions of the Act or these Regulations by either party to the sharing arrangement; or

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(c) termination of the sharing arrangement by the parties

Powers to issue Guidelines

6F. The Authority may issue guidelines on spectrum sharing.”.

Addition of regulation 10A

4. The principal Regulations are amended by adding immediately after regulation 10 the following:

“Obligation of Public Data Center Service Providers

10A.-(1) A licensee offering public data center services shall meet the obligations contained in the individual licensee with respect to the type of the facility for Tier1, Tier2, Tier 3 or Tier 4.

(2) The licensee under sub-regulation (1) shall ensure the use of approved standards and technical specification of the respective facility.

(3) The licensee shall ensure the use of professional personnel in providing services for tier 2, tier 3 and tier 4 data center.”

Amendment of Regulation 12

5. The principal Regulations are amended in regulation 12, by-

- (a) deleting sub regulation 12(1), and
- (b) re-designating sub regulation (2) as regulation 12.

Amendment of First Schedule

6. The principal Regulations are amended in the First Schedule by adding immediately after paragraph 6 the following:

“Minimum requirement for optical fibers cable

7.-(1) A licensee shall use optical fiber cables that comply with the applicable National standards provided by Tanzania Bureau of Standards.

(2) A licensee shall ensure that installation of optical fiber cables complies with the guidelines provided by TANROADS, TARURA and, as the case may be, the respective local government authority.

Dodoma,
21st September, 2022

NAPE MOSES NNAUYE
Minister Information, Communications and Information Technology