

SUBSIDIARY LEGISLATION

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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT,

(CAP. 306)

REGULATIONS

(Made under section 103)

THE ELECTRONIC AND POSTAL COMMUNICATIONS (ONLINE CONTENT)
REGULATIONS, 2020

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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT,

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THE ELECTRONIC AND POSTAL COMMUNICATIONS (ONLINE CONTENT)
REGULATIONS, 2020

PART
I
PRELIMINARY PROVISIONS

Citation **1.** These Regulations may be cited as the Electronic and Postal Communications (Online Content) Regulations, 2020.

Application **2.** These Regulations shall apply to online content service providers, internet service providers, application services licensees, online content users and any other related online content.

Electronic and Postal Communications (Online Content)

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;
	“application services licensee” means a licensee of the Authority in the category of application service licence limited to only the provision of online content or facilitation of online content producers;
	“blog or weblog” means a website containing a writer’s or group of writer’s own experiences, observations, opinions including current news, events, journals, advertisements and images, video clips and links to other websites;
	“blogger” means a writer or group of writers owning and performing the act of blogging and any other acts similar to blogging;
	“content” means information in form of speech or other sound, data, text or images whether still or moving except where transmitted in private communications;
	“hate material” means content which advocates or promotes genocide or hatred against an identifiable group of people;
	“hate speech” means any portrayal in words, speech, pictures, etc., which denigrates, defames or otherwise devalues a person or group on the basis of race, ethnicity, religion or disability;
	“indecent material” means material which is offensive, morally improper and against current standards of accepted behaviour which includes nudity and sex;
	“internet café” alternatively known as a cybercafé means a retail establishment, café or coffee bar or small, informal restaurant that offers online access on its own computers or customers laptops, usually for a fee;
	“licensee” means a licensed service provider by the Authority in the category that provides facilitation of online content producers;
	“mainstream media” means radio or television programs aired by licensed content service providers using terrestrial broadcasting networks;
	“news related content” means online news information gathering, compiling, editing, publication and broadcasting in a manner similar or that bears a

- resemblance to traditional media services provision;
- “online” means a networked environment available via online whereby content is accessible to or by the public whether for a fee or otherwise and which is intended for consumption in or originated from Tanzania;
- “online content host” means any server that hosts or provides access to online accessible content which may include file transfer protocol servers, telnet servers, webhosting companies and web servers;
- “online content service” means content broadcasting to the public through internet websites, application software, forums, blogs, weblogs, microblogs, public account, instant messaging tools, online live streaming, aggregators and other related platforms;
- “online content service provider” means a person who provides online content service;
- “online forum” means an online discussion site where people can hold conversations in the form of posted messages or journals and whereby most forums allow anonymous visitors to view forum postings, but require creation of an account in order to post messages in the forum in which new topics known as “threads” are posted and replies within existing threads;
- “online platform” means any internet outlet where people can get news, entertainment, education, religious or other related information such as online television, radio, social media and blog;
- “online radio, web radio, net radio, streaming radio, e-radio, or webcasting” means an audio service whether licensed or not licensed by the Authority which is transmitted via the online;
- “online television” alternatively known as web television is the digital distribution of television content, short programs or videos created by a wide variety of companies and individuals whether licensed or not licensed by the Authority delivered online through web streaming and intended for consumption by citizens of the United Republic;
- “simulcasting” means broadcasting content of a mainstream media on an online platform;
- “social media” means online-based applications and platforms that build on the ideological and technological foundations of web and that allow the

creation and exchange of highly interactive user generated content and platforms through which individuals, organizations and communities share, co-create, discuss and modify user-generated content;

“user” means a person or legal entity accessing online content whether by subscription or otherwise; and

“web page”, “web site” or “site” means files of content accessible on the world wide web by a requested URL.

PART II

LICENCE REQUIREMENT

Licence

4.- (1) A person shall not provide online content services without obtaining a licence from the Authority.

(2) A person who contravenes the provisions of subregulation (1) commits an offence and shall, upon conviction, be liable to a fine of not less than five million shillings or to imprisonment for a term of twelve months or to both.

Categories of licence

5.-(1) The categories of online content licences shall be as follows:

(a) licence for provision of predominant news and current affairs issued to an online content service provider whose content covers news, events and current affairs;

(b) licence for provision of predominant entertainment content issued to an online content service provider whose content covers music, movies, series, plays, drama, comedy, sports and any other related entertainment content;

(c) licence for provision of predominant education and religious content issued to an online content service provider whose content covers religious information and content that aims at educating; and

(d) simulcasting licence issued to mainstream broadcasting licensee with national coverage rights.

(2) For the purpose of subregulation 1(a), (b) and (c), “predominant” means content not below 85 percent of the licensed category measured on weekly basis.

(3) Notwithstanding the conditions of the licence under subregulation 1(a), (b) and (c), a licensee shall be required to provide other content in respect to matters of national security, public safety and crisis or emergencies.

Application for licence

6.-(1) A person who intends to provide online content services shall apply to the Authority by filling an application form prescribed in the First Schedule and paying fees as set out in the Second Schedule to these Regulations.

(2) The application form shall be accompanied by-

- (a) certified copy of certificate of incorporation or certificate of registration;
- (b) certified copy of Tax Identification Number Certificate;
- (c) certified copy of Tax Clearance Certificate for companies or non-governmental organizations;
- (d) certified copy of National Identity Card;
- (e) list of owner and management team;
- (f) curriculum vitae of the staff;
- (g) editorial policy guidelines for news and current affairs licence category;
- (h) technical description for the facilities used; and
- (i) any other documents as the Authority may require.

(3) The licence shall be valid for a period of three years and may be renewed.

Issuance of licence

7.-(1) The Authority may, after consideration of an application and upon satisfaction that the applicant has complied with all requirements and submitted particulars, documents and such other information as required, issue a licence.

(2) Where the Authority refuses to issue a licence, it shall notify the applicant within fourteen days from the date of such refusal stating the reasons for refusal together with any other directions as the Authority may determine.

Suspension and revocation

8.-(1) The Authority may, upon satisfaction that the terms and conditions to which a licence was issued have been violated or breached, suspend or revoke the licence.

(2) Subject to subregulation (1), the Authority shall, after revocation or suspension of a licence, notify the licensee in writing stating the reasons for the revocation or suspension.

(3) Where a licence is revoked or suspended, the

licensee shall, within seven days after being served with the notice of suspension or revocation as the case may be, surrender the licence to the Authority.

**PART III
OBLIGATIONS OF ONLINE CONTENT SERVICE PROVIDER**

General obligations

9. A licensee shall comply with all the terms and conditions of the licence and observe the following:

- (a) ensure that online content is safe, secure and does not contravene the provisions of any written law;
- (b) take into account trends and cultural sensitivities of the general public;
- (c) establish policy or guideline on online content safe use and make it available to online content users;
- (d) use moderating tools to filter prohibited content;
- (e) have in place mechanisms to identify source of content;
- (f) take corrective measures for objectionable or prohibited content;
- (g) ensure that prohibited content as set out in the Third Schedule to these Regulations is removed immediately upon being ordered by the Authority;
- (h) be responsible and accountable for the information he publishes;
- (i) use password to protect any user equipment, access equipment or hardware to prevent unauthorised access or use by unintended persons;
- (j) pay regulatory fees;
- (k) not access, store, keep, publish, circulate or broadcast prohibited content; and
- (l) cooperate with law enforcement officers in pursuing functions under these Regulations.

Content service provider with district or regional license

10. Any mainstream content service provider with district or regional license shall not simulcast content using online platform.

Rights and obligations of application

11.-(1) An application services licensee shall, when entering into a contract with subscribers, incorporate terms

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service licensee and conditions of service in a manner and form easily accessible by its subscribers.

(2) Subject to subregulation (1), the licensee shall have a right to deny access or terminate service where a subscriber contravenes the provisions of these Regulations.

(3) Where a licensee is ordered by the Authority or notified by a person affected by the content or existence of prohibited content, the licensee shall, within two hours, notify its subscribers to remove the prohibited content.

(4) The licensee shall suspend or terminate a subscribers' access account where the subscriber fails to remove prohibited content within two hours from the time the notification was sent.

Online news and current affairs licensee

12. The online news and current affairs licensee shall-

- (a) adhere to journalism ethics, professionalism and local content requirements;
- (b) submit to the regulator the proof of staff academic qualifications and human resource development plan; and
- (c) adhere to ownership and corporate obligations provided under the Act.

Internet cafe

13.-(1) A person operating an internet café shall adhere to the following obligations-

- (a) ensure that all computers used for public internet access at the cafe are assigned static public IP addresses;
- (b) establish and publish a safe internet use policy for safe use of the internet with regards to online content and post it on a conspicuous place; computer home screen or display it on a visible area for users to read before using the service;
- (c) put in place a mechanism to filter access to prohibited content;
- (d) install surveillance camera to record and archive activities inside the cafe; and
- (e) keep a proper service user register and ensure every person using internet service is registered upon showing a recognised identity card.

(2) The images recorded by surveillance camera and the register of users recorded pursuant to subregulation (1) shall be kept for a period of twelve months.

PART IV
GENERAL PROVISIONS

- Online content user **14.** Every subscriber and user of online content shall be responsible and accountable for the information he posts in an online forum, social media, blog and any other related media.
- Online content host **15.** An online content host shall adopt a code of conduct for hosting contents and ensure that prohibited contents are removed upon notification by the Authority or affected party.
- Prohibited content **16.**-(1) A person shall not publish any prohibited content as set out in the Third Schedule.
(2) A person shall not render, possess or distribute technology, program, application or any other related thing that allows or helps users to have access to prohibited content.
- Disclosure of information **17.**- (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 the provisions of these Regulations, except where the information is required by relevant authorities according to the law.
(2) Notwithstanding subregulation (1), an authorised person who executes a directive or assists with execution of such directive and obtains knowledge of any information shall not use or disclose such information to another person unless such use or disclosure is necessary for the proper performance of the official duties of the authorised person.
- Children protection **18.** A person who provides, has access to, hosts, uses online contents or operates an internet cafe shall take all possible measures to ensure that:
(a) children do not register, access or contribute to prohibited content; and
(b) users are provided with content filtering mechanism and parental control.

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Powers of Authority	<p>19. In carrying out its functions of regulating online content, the Authority shall have the following powers:</p> <ul style="list-style-type: none">(a) to licence and keep a register of online content service providers;(b) to take action against non-compliance to these Regulations, including to order removal of or bar access to prohibited content; and(c) to conduct public awareness in relation to safe use of online content.
Complaint handling	<p>20.-(1) A person may file a complaint to an online content service provider in relation to any matter connected with prohibited content and the licensee shall, within twelve hours, resolve the complaint.</p> <p>(2) Where the online content provider fails to resolve the complaint within the time specified, the aggrieved person may, within thirty days from the date of filing the complaint, refer the complaint to the Authority.</p>
G.N No. 203 of 2018	<p>(3) The Authority shall handle a complaint referred to it pursuant to subregulation (2) in accordance with the Content Committee Procedures Rules.</p> <p>(4) A person aggrieved by the decision of the Authority may appeal to the Fair Competition Tribunal.</p>
Penalties	<p>21.-(1) A person who contravenes the provisions of these Regulations commits an offence and shall, upon conviction, where no specific punishment has been provided, be liable to a fine of not less than five million shillings or to imprisonment for a term of not less than twelve months or both.</p> <p>(2) Where a breach under these Regulations is committed by a licensee, the Authority may subject the licensee to the Content Committee.</p> <p>(3) Upon determination, and pursuant to subregulation (2), the Content Committee may take one or more of the following actions:</p> <ul style="list-style-type: none">(a) issue a warning to the licensee;(b) require the licensee to issue an apology to the public and the victim of complained content;(c) order removal of the content; or(d) impose a fine in accordance with the Act.
Revocation of GN No. 133 of 2018	<p>22. The Electronic and Postal Communications (Online Content) Regulations are hereby revoked.</p>

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SCHEDULES
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FIRST SCHEDULE

(Made under regulation 6(1))

THE UNITED REPUBLIC OF TANZANIA COMMUNICATIONS REGULATORY
AUTHORITY
ISO 9001:2015 CERTIFIED



APPLICATION FOR LICENCE TO PROVIDE ONLINE CONTENT SERVICES

A: Type of Registration applied for (Please tick)

- 1. Online Radio
- 2. Online Television
- 3. Online Blog
- 4. Other Online Services

B: Name of online radio/ television/ blog/ other online service

.....
.....

C: Particulars of Applicant

- 1. Name(s) of applicant:.....
Telephone
National ID No.
E-mail: Website.....
Physical address.....
Town/City..... StreetPlot NO.....
Post Code.....

- 2. Name(s) of shareholders and their shares:
.....
.....

- 3. Share capital of Company:
.....
.....

4. Citizenship of applicant's shareholders/directors (With passport numbers and National ID numbers)

.....
.....
.....

5. TIN and Tax Clearance Certificates

.....

6. Category of Licence applied for:

News and Current Affairs

Entertainment

Education/Religious

Simulcasting

7. Estimated cost of investment

.....

8. Staff establishment and qualification

.....

9. Staff training programmes (attach if any)

.....

10. Expected date of commencement of operations

.....

11. Operation hours

.....

12. Clarification if it is profit or non-profit making

.....

13. Future plans

.....

14. Any other relevant information

.....

15. **Declaration:**

I/ We declare that the contents of this application and any enclosures are true and correct.

Signature of authorised person and official stamp.

Name

Signature.....

Position.....

Electronic and Postal Communications (Online Content)

Date.....

SECOND SCHEDULE

(Made under regulation 6(1))

ONLINE CONTENT SERVICES FEES

S/ N	TYPE OF LICENCE		APPLICA TION FEES (TZS)	INITIAL LICENC E FEES (TZS)	ANNUAL LICENC E FEES (TZS)	RENEW AL FEES (TZS)	DURATI ON OF LICENC E
1	Online Conten t Service s	News & current affairs	100,000	1,000,000	1,000,000	1,000,000	3 years
		Entertain ment	100,000	500,000	500,000	500,000	3 years
		Education or Religious	100,000	500,000	500,000	500,000	3 years
2	Simulcasting Television Licence (streaming content on the nternet)		50,000	200,000	200,000	200,000	3 years
3	Simulcasting Radio Licence (streaming content)		50,000	200,000	200,000	200,000	3 years

THIRD SCHEDULE

(Made under regulation 16)

PROHIBITED CONTENT

Any of the following shall be considered as prohibited content for purposes of these Regulations:

1. Sexuality and Decency

- (a) content that motivates, promotes or facilitates publishing or exchanging child pornography, actual pornography, explicit sex acts, nudity and vice, save for related scenes approved by the body responsible for film classification and certification;
- (b) content that depicts, motivates, promotes or facilitates publishing or exchanging of homosexuality, adultery, prostitution, sex crimes, rape or attempted rape and statutory rape, or bestiality;
- (c) content that motivates, supports or promotes practices or trading of sexual or immoral goods such as movies, photos, drawings, books, stories, sexual games, toys and related things.

2. Personal Privacy and Respect to Human Dignity

- (a) content that impersonates or claims status of others for fraudulent purposes;
- (b) content that insults, slanders and defames other persons, or exposes news, photos or comments related to a person's privacy, or publication of private information regardless of whether the information is true where publishing the same may harm the person;
- (c) content that motivates or promotes phone tapping, espionage, data theft, tracking, recording or intercepting communications or conversation without right; and
- (d) content that promotes, motivates or encourages practices of witchcraft, enchantment, or sorcery.

3. Public Security, Violence and National Safety

- (a) content against the State and public order including content that aims to or publishes information, news, statements or rumors for the purpose of ridicule, abuse or harming the reputation, prestige or status of the United Republic, the flag of the United Republic, the national anthem or the United Republic's symbol, national anthem or its logos;

- (b) content that calls for or motivates, promotes or provokes non-compliance to the laws and regulations;
- (c) content that is involved in planning, organizing, promoting or calling for demonstrations, marches or the like which may lead to public disorder;
- (d) content that would threaten the security of the United Republic or affect public order;
- (e) content that includes news of official confidential communications or military affairs;
- (f) content that would harm the national currency or lead to confusion about the economic condition in the country;
- (g) content that incites, encourages or enables the commission of a crime against the United Republic or its citizens;
- (h) content that is likely to threaten the stability of the United Republic or its safety, unity or security, or harming national unity or social peace;
- (i) content that portrays violence, whether physical, verbal or psychological, that can upset, alarm and offend viewers and cause undue fear among the audience or encourage imitation;
- (j) content that portrays sadistic practices and torture, explicit and excessive imageries of injury and aggression, and of blood or scenes of executions or of people clearly being killed;
- (k) content that causes annoyance, threatens harm or evil, encourages or incites crime or leads to public disorder or that may threaten national security or public health and safety;
- (l) content which advocates hate propaganda or promotes genocide or hatred against an identifiable group;
- (m) content that promotes or favours what would raise sedition, hatred or racism or sectarianism or harming national unity or social peace or disturb the public order or public morals;

4. Criminal Activities and Illegal Trade Activities

- (a) content that motivates, promotes or facilitates illicit drugs, criminal acts and skills including content that calls for, promotes or provides information about how to carry out acts of crime or felony or contributes to or facilitates carrying out or supporting the same such as theft, fraud, robbery, forgery, faking, bribery, killing, suicide, blackmail, threat, rape, commercial cheating and breaching the properties of others, abduction, evasion from application of law, money laundering, smuggling prohibited content and other crimes punishable by the law;
- (b) content that promotes or contributes to trading with drugs and mind affecting substances and the manner of using or manufacturing the same or obtaining drugs or facilitating their circulation in circumstances that are not legally authorized;

- (c) content that motivates, promotes or facilitates trading in prohibited or restricted goods, commodities or services in the United Republic, including illicit drugs, prostitution, or goods that require licence from the competent authorities and are being promoted or circulated without authorization from the competent authorities;
- (d) content that promotes gambling and similar activities such as bets and lottery and those related to electronic gambling activities;
- (e) content that motivates, promotes or facilitates terrorist groups or any illegal group, association, organization or body;
- (f) content that publishes methods of making fire or explosive devices or any other tools used in terrorist acts.

5. Healthy and Public Safety

- (a) content of health establishments, medical and pharmaceutical practices in violation of the laws;
- (b) content that includes health advertisements in violation of Cabinet resolutions concerning health advertisements;
- (c) content that is used in promoting or trading pharmaceuticals that are issued against prescription and to provide the same without asking for the medical prescription;
- (d) content that promotes medicine and medical products that are prohibited or unlicensed including dietary supplements, weight loss products, weight increase and unlicensed cosmetic pills and creams

6. Protection of Intellectual Property Rights

- (a) content that infringes the rights of intellectual property such as providing and publishing movies, photos, drawings, books, electronic programs and games, encrypted TV and radio channels and other intellectual property rights without permission from right owner;
- (b) content that provides information, tools and methods aiming to infringing intellectual property rights and penetrating the protection means used for protecting such rights such as decoding movies and coded TV channels and operation of copied magnetic diskettes and copied electronic programs and games and deactivation of protection systems designed exclusively for combating piracy;

7. Respect to Religion and Personal Beliefs

- (a) content which contains or promotes offending, defaming, insulting, ridiculing or violating any of the religions or any of its rites, sanctities or divine books, or interfering with freedom to practice one's religion by violence or threat;
- (b) content that motivates, promotes or facilitates incitement, or ridicule, hatred against a certain religious belief or expression that motivates, promotes or facilitates religious subjugation or apostasy;

- (c) content that would make any form of discrimination and provoke hate speech or inciting tribal or religious prejudices with intent to incite hatred between individuals and groups;
- (d) content that exploits religion to disbelief individuals or groups by using one of the methods of expression or using any of the means in order to achieve special interests or illegal purposes;

8. Public Information that may cause public havoc and disorder

- (a) content that promotes, advocates, encourages, or makes available instructions and guidance on illegal activities such as bomb-making, illegal drug production or counterfeit products;
- (b) circulating or making available information with regards possible terrorist attacks, droughts, weather forecasts or occurrence of natural calamities without the approval of the respective authorities;
- (c) content with information with regards to the outbreak of a deadly or contagious diseases in the country or elsewhere without the approval of the respective authorities;
- (d) circulating or making available information with regards to promotion of medical drugs and general medical products not approved by respective authorities.

9. Use of bad languages and Disparaging Words

Content that uses bad language, such as the use of disparaging or abusive words which is calculated to offend an individual or a group of persons, crude references words, in any language commonly used in the United Republic, which are considered obscene or profane including crude references to sexual intercourse and sexual organs, and hate speech;

10. False, Untrue, Misleading Content

Content that is false, untrue, misleading which is likely to mislead or deceive the public unless where it is clearly pre-stated that the content is a satire, parody or fiction; and where it is preceded by a statement that the content is not factual.

Dodoma,
1st July, 2020

HARRISON G. MWAKYEMBE
Minister for Information, Culture, Arts and Sports