

Electronic and Postal Communications (Radio Communication and Frequency Spectrum)

GOVERNMENT NOTICE NO. 643 published on 18/11/2022

THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT,

(CAP. 306)

REGULATIONS

(Made under section 165)

THE ELECTRONIC AND POSTAL COMMUNICATIONS (RADIO COMMUNICATION AND FREQUENCY SPECTRUM) (AMENDMENT) REGULATIONS, 2022

Citation
GN. No
24 of 2018

1. These Regulations may be cited as the Electronic and Postal Communications (Radio Communication and Frequency Spectrum) (Amendment) Regulations, 2022 and shall be read as one with Electronic and Postal Communications (Radio Communication and Frequency Spectrum) Regulations, 2018 hereinafter referred to as the “principal Regulations”.

Amendment
of regulation
27

2. The principal Regulations are amended in regulation 27, by-

(a) deleting subregulation (8) and substituting for it the following

GN No.59/2018 “(8) Save for spectrum sharing arrangement authorised by the Authority under the Electronic and Postal Communications (Access, Co-location and Infrastructure Sharing) Regulations, 2018, a licensee shall not enter into any arrangement to lease, pledge or sell radio frequency spectrum or frequency channels assigned or allocated.”; and

(b) deleting subregulation (9)

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Addition of
section 27A
and 27B

3. The principal Regulations are amended by adding immediately after regulation 27 the following:

“Review of
spectrum
upon
merger or
acquisition

27A.-(1) Subject to sub regulation (2), where companies licensed under the Act and assigned frequency spectrum enter into merger or acquisition, the Authority shall review spectrum allocated to the companies and consider re-assignment of the radio frequency spectrum to the acquirer.

(2) Save for microwave frequency spectrum, the acquirer shall only be entitled to the following spectrum cap –

- (a) Not more than 2 x 35 MHz of below 1 GHz spectrum bands (700MHz, 800MHz and 900MHz);
- (b) The intra band cap of 35% of the spectrum in 1800MHz, 2100MHz and 2600MHz FDD band; or
- (c) The intra band cap of 40% of the spectrum in 2300MHz, 2600MHz, 3300MHz and 3500MHz TDD:

Provided that, where there are frequencies in excess of the cap described in paragraphs (a) to (c), and such excess frequencies cannot be re-allocated for provision of services, the Authority may re-allocate such frequencies to the acquirer.

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(3) In the case of Frequency Modulation (FM) radio broadcasting spectrum, an acquirer shall only be entitled to not more than one frequency per the licensed service area:

Provided that, where as the result of merger or acquisition the merged entity or the acquirer gains more service areas than the existing licensed service areas, the merged entity or the acquirer shall be obliged to apply for upgrade of the licence.

(4) Any extra spectrum above the cap under sub regulations (2) and (3) shall be retained by the Authority for allocation and assignment at the manner provided under these Regulations.

(5) Where a merger involves licensees with Microwave frequency spectrum, the acquirer may keep the spectrum which was held before the merger.

(6) An acquirer shall be required to submit a revised roll out plan to the Authority

(7) For efficient utilization of spectrum, the acquirer assigned any of Class A spectrum (700MHz, 800MHz, 900MHz, 1800MHz, 2100MHz) shall be required to meet the following mobile broadband coverage obligations-

(a) population coverage of not less than 60% by end of the third year of the merger;

(b) population coverage of not less than 90% by

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end of the sixth year;
and

(c) the quality of service requirements as set out in the Electronic and Postal (Quality of Service) Regulations.

(8) The tenure of the spectrum user licence for spectrum obtained through the merger shall be same as the tenure of the spectrum user licence of the acquirer.

(9) The spectrum acquired upon merger or acquisition shall be subject to fees as prescribed in the Schedule to these Regulations.

Powers to
issue
Guideline
s

27B. The Authority may issue guidelines on review of spectrum upon merger or acquisition.”

Addition of
Schedule

4. The principal Regulations are amended by adding immediately after regulation 38 the following Schedule:

“ _____

SCHEDULE

Made under Regulation 27A (9)

SPECTRUM FEES ON MERGER OR ACQUISITION

1. Where a merger or acquisition involves a licensee with spectrum obtained through auction, the spectrum shall not be subjected to any fees.
2. Where a merger or acquisition involves a licensee with spectrum obtained administratively, the following fees will be paid to the Authority: -

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- a) USD 160,000 per 1MHz for Class A spectrum (700MHz, 800MHz, 900MHz, 1800MHz, 2100 MHz);
 - b) USD 50,000 per 1MHz for Class B spectrum (2300MHz, 2600MHz);
 - c) USD 10,000 per 1MHz for Class C spectrum (1850MHz, 1900Mhz, 3.3GHz, 3.5GHz, 4GHz and above.
3. After merger or acquisition, the merged entity or acquirer will continue to pay the annual spectrum user fees as prescribed in the Electronic and Postal Communications (Licensing) Regulations and Licence conditions.”

Dodoma,
21st September, 2022

NAPE MOSES NNAUYE
*Minister Information, Communications
and Information Technology*