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THE ELECTRONIC AND POSTAL COMMUNICATIONS (ONLINE
CONTENT) REGULATIONS, 2018

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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT
(CAP. 306)

REGULATIONS

(Made under section 103(1))

THE ELECTRONIC AND POSTAL COMMUNICATIONS (ONLINE
CONTENT) REGULATIONS, 2018

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Electronic and Postal Communications (Online Content) Regulations, 2018.
- Application 2. These Regulations shall apply to online content including:
- (a) application services licensees;
 - (b) bloggers;
 - (c) internet cafes;
 - (d) online content hosts;
 - (e) online forums;
 - (f) online radio or television;
 - (g) social media;
 - (h) subscribers and users of online content; and
 - (i) any other related online content.
- Interpretation 3. In these Regulations, unless the context requires otherwise-
- 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 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 sound, data, text or images whether still or moving;

“electronic media” means a mode of communication of content to the public by television, radio, video, cinema, e-newspaper or by any other electronic means and devices including social media, applications and any other related means;

“hate material” means content which advocates or promotes genocide or hatred against an identifiable group of people;

“hate speech” means speech that refers to any portrayal by words, speech or pictures or otherwise, which denigrates, defames, or devalues a person or group on the basis of race, ethnicity, religion, nationality, gender, sexual orientation, or disability;

“indecent content” means any content which is offensive, morally improper and against current standards of accepted behavior, such as nudity and sex;

“internet café” or 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 fee;

“law enforcement agency” means the Police, Tanzania Intelligence Service, Prosecutor, any authority responsible for regulating communications or any other body authorized in any written law;

“obscene content” means a content which gives rise to a feeling of disgust by reason of its lewd portrayal and is essentially offensive to one’s prevailing notion of decency and modesty, with a possibility of having a negative influence and corrupting the mind of those easily influenced;

“online content host” means any server that hosts or provides access to online accessible content which includes file transfer protocol servers, telnet servers, webhosting companies and web servers;

“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 forum” means an online discussion site where people can hold conversations in the form of posted messages or journals;

“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” or web television means 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;

“prohibited content” means content whose

publication, distribution or posting is prohibited under these Regulations;

“recognized identity card” means the National Identity Card, Zanzibar Residence Identity Card, Driving Licence, Passport and Voters Identity Card;

“social media” means an 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 subscriptions 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 POWERS OF THE AUTHORITY

Powers of Authority

4. The Authority shall have the following powers in regulating online content services-

- (a) to keep register of bloggers, online forums, online radio and online television;
- (b) to take action against non-compliance to these Regulations, including to order removal of prohibited content; and
- (c) to conduct public awareness in relation to safe use of online content.

PART III GENERAL OBLIGATIONS FOR ONLINE CONTENT

Obligations of online content providers and

5.-(1) For the purpose of these Regulations, an online content provider shall have the obligations to-

users

- (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 online policy or guideline and make it available to 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; and
- (g) ensure prohibited content is removed within twelve hours upon being notified.

(2) A subscriber and user of online content services shall:

- (a) be responsible and accountable for the information he posts in an online forum, social media, blog and any other related media; and
- (b) ensure his posts do not contravene the provision of these Regulations and any other written law.

(3) An online content provider shall cooperate with law enforcement officers in pursuing his functions under these Regulations.

Obligations of application services licensees

6.-(1) An application services licensee shall, when entering contract with subscribers, incorporate terms and conditions of service which include the right to:

- (a) deny access or terminate service where a subscriber contravenes these Regulations; and
- (b) remove prohibited content in accordance with these Regulations.

(2) The terms and conditions incorporated under subregulation (1) shall be in a manner and form

easily accessible by its subscribers.

(3) Where the licensee is notified by the Authority or by a person affected by the existence of prohibited content shall, within twelve hours from the time of notification, inform its subscriber to remove the prohibited content.

(4) Upon receipt of notification pursuant to subregulation (3), the subscriber shall, within twelve hours from the time of notification, remove the prohibited content.

(5) Where the subscriber fails to remove the prohibited content within twelve hours, the licensee shall suspend or terminate the subscribers' access account.

Obligations of
online radio,
online television
and blogger

7.-(1) A licensee of online radio and television intended for broadcasting over the public internet with the objective of informing, entertaining and educating the public shall adhere to the following conditions:

- (a) content streamed to abide to regulations governing the broadcasting services;
- (b) adhere to journalism ethics and professionalism;
- (c) payment of regulatory fees;
- (d) submit to the regulator the human resource development plan;
- (e) adhere to copyright and intellectual property laws and Regulations;
- (f) adhere to ownership and corporate obligations provided under the Act;
- (g) Adhere to local content requirements.

(2) Subregulation (1) shall apply to Tanzania residents, Tanzanian citizens outside the country, non-citizens of Tanzania residing in the country, blogging or running online forums with contents for consumption by Tanzanians.

(3) An applicant for electronic media under this

regulation shall apply to the Authority and provide the following information:

- (a) address indicating premises of operation;
- (b) certificate of incorporation;
- (c) owner and management team of the web;
- (d) curriculum vitae of the staff;
- (e) nature of content to be provided such as current affairs, news and sports (programme information);
- (f) editorial policy guidelines;
- (g) operation hours;
- (h) technical description for the facilities used;
- (i) clarification if it is a profit or non-profit making service.

Obligations of
online content
host

8. Subject to Regulation 5 an online content host shall-

- (a) adopt a code of conduct for hosting content;
- (b) upon notification by the person affected by the content, the Authority, or law enforcement agency, remove the hosted content.

Obligations of
internet cafe

9.-(1) Subject to Regulation 5, every internet café or business center shall have the following obligations:

- (a) to ensure that all computers used for public internet access at the café are assigned public static 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 conspicuous place; computer home screen or display the same on a visible areas for users to read before using the service;
- (c) to put in place mechanism to filter access to prohibited content;
- (d) to install surveillance camera to record and archive activities inside the cafe.
- (e) to keep a proper service user register and

ensure every person using internet service is registered upon showing a recognized identity card.

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

Obligations of social media user

10. Subject to Regulation 5, a social media user shall:

- (a) be responsible and accountable for the information he publishes on a social media;
- (b) use password to protect any user equipment or access equipment or hardware to prevent unauthorized access or use by unintended persons.

Disclosure of information

11.-(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 any law enforcement agency, court of law or other lawfully constituted tribunal.

(2) Notwithstanding subregulation (1) or other provisions of these Regulations, any authorized person who executes a directive or assists with execution of such directive and obtains knowledge of any information shall not-

- (a) disclose such information to another person unless that other person is a law enforcement officer and the extent of such disclosure is necessary for the proper performance of the official duties of the authorized person or the law enforcement officer receiving the disclosure; or
- (b) use such information to the extent that such use is necessary for the proper performance of

official duties.

Prohibited
content

12. Online content services provider shall not publish-

- (a) indecent content save for sex and nudity sex scenes approved by the body responsible for film censorship;
- (b) obscene content;
- (c) hate speech;
- (d) explicit sex acts or pornography;
- (e) sex crimes, rape or attempted rape and statutory rape, or bestiality;
- (f) 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;
- (g) 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;
- (h) content that causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder;
- (i) content which advocates hate propaganda or promotes genocide or hatred against an identifiable group;
- (j) content that may threaten national security or public health and safety such as-
 - (i) making available instructions and guidance on bomb-making, illegal drug production or counterfeit products;
 - (ii) disseminating false information with regards to outbreak of racial;
 - (iii) disturbances in a specific part of the country;
 - (iv) circulating information and statements with regards to possible terrorist attacks;
 - (v) circulating or making available

- information with regards to the outbreak of a deadly or contagious diseases;
- (vi) any other related content.
- (k) content that uses bad language including-
 - (i) the use of disparaging or abusive words which is calculated to offend an individual or a group of persons;
 - (ii) 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;
 - (iii) hate speech.
- (l) false content which is likely to mislead or deceive the public unless where it is clearly pre-stated that the content is-
 - (i) satire and parody;
 - (ii) fiction; and
 - (iii) where it is preceded by a statement that the content is not factual.

Protection of children against indecent online content

13. A person who provides online content, access to online content, hosts or 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.

Application for online content service licence

14.-(1) Any person who wishes to provide online content services shall fill in an application form as prescribed in the First Schedule and pay fees as set out in the Second Schedule to these Regulations.

(2) The application form referred to under sub-regulation (1) shall be accompanied by such documents or information as the Authority may require.

Cancellation
of online
content
services
licence

15.-(1) The Authority reserves the right to cancel the content services licence where the terms and conditions are breached.

(2) Notwithstanding sub regulation (1), Where the Authority is satisfied that a holder of a content services licence has breached or is breaching this Act or conditions of licence, it shall serve a notice in writing requiring to remedy the breach within the period specified in the notice.

PART IV
COMPLAINTS HANDLING

Complaints
handling by
online content
provider

16.-(1) Any person may file a complaint to the online content provider against parties referred in Regulation 2 in relation to any matter connected with prohibited content.

(2) Online content provider shall, within twelve hours, resolve the complaint filed under this regulation.

(3) Where the online content provider fails to resolve the complaint within the time specified under subregulation (2), the aggrieved person may, within thirty days from the date of filing of complaint, refer the complaint to the Authority.

Referral of
complaints to
Authority

17.-(1) Upon receiving complaint under these Regulations, the Authority shall serve the online content services provider with copy of the complaint and require the online content services provider to reply within twelve hours.

(2) Where a person is not satisfied with the response of the content services provider under sub regulation (1), the Authority shall handle the complaint through the Content Committee procedures.

PART V
MISCELLANEOUS PROVISIONS

Offences and
penalty

18. Any person, who contravenes the provisions of these Regulations, commits an offence and shall, upon conviction be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

FIRST SCHEDULE

(Made under Regulation 14)

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



APPLICATION FOR LICENCE TO PROVIDE ONLINE CONTENT SERVICES

NOTE: The duly filled application form must be submitted with the following attachments:

A: Type of Registration applied for (Please tick)

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

B: Particulars of Applicant

- 1. Name(s) of applicant:
Telephone.....
Fax.....
E-mail:..... Website:.....
Physical address:
Town/City..... Street
Plot No.Postcode.....
2. Name(s) of share holders and their shares:

Electronic and Postal Communications (Online Content)

GN. No. 133 (contd.)

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3. Share capital of Company:
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4. Citizenship of applicant's shareholders/directors
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5. TIN and Tax Clearance Certificates
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6. Nature of services applied for (e.g. educational, information and entertainment)
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7. State if it is a specialised content (e.g. current affairs and news)
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8. Estimated cost of investment
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9. Staff establishment and qualification
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10. Staff training programmes (attach if any)
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11. Expected date of commencement of operations
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12. Future plans
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.....

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13. Any other relevant information
.....
.....

14. **Declaration:**
I declare that the contents of this application and any enclosures are true and correct.
Signature of authorised person and official stamp.

Name Signature

Position Date

SECOND SCHEDULE

(Made under Regulation 14)

ONLINE CONTENT SERVICES FEES

SNo.	Type of Licence	Application Fees	Initial Licence Fees	Annual Licence Fees	Renewal Fees	Duration of Licence
1.	Online Content Services	TZS. 100,000	TZS.1,000,000	TZS. 1,000,000	TZS. 1,000,000	3 years
2.	Simulcasting Television Licence (streaming content on the Internet)	TZS 50,000	TZS 200,000	TZS.200,000	TZS. 200,000	3 years
3.	Simulcasting Radio Licence (streaming content on the Internet)	TZS. 50,000	TZS 200,000	TZS. 200,000	TZS. 200,000	3 years

Dodoma,
13rd March, 2018

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