

GOVERNMENT NOTICE No. 23

COMMUNICATIONS ACT

(CAP. 68:01)

COMMUNICATIONS (NUMBERING) REGULATIONS, 2019

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IN EXERCISE of the powers conferred by section 200 of the Communications Act, I, NICHOLAS HARRY DAUSI, Minister of Information and Communications Technology, on recommendation from the Malawi Communications Regulatory Authority, make the following Regulations—

PART I—PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Communications (Numbering) Regulations, 2019. Citation
2. In these Regulations, unless the context otherwise requires— Interpretation
 - “allocation status” means the status of a block as established under regulation 6;
 - “block” means a set of blocks that consist of numbers that are defined in the National Numbering Plan;
 - “code” means a positive integer that forms the most significant digits of each of the numbers in a block;
 - “interconnecting licensee” means a licensee that has an agreement allowing interconnection with another licensee at a network termination point;
 - “National Numbering Plan” means the plan incorporating the conventional numbering developed in accordance with regulation 5;
 - “network termination point” means a point at which a consumer has physical access through end user terminal equipment to a network of a licensee;
 - “number” means a sequence of digits that might be used to identify the network termination points that are associated with a particular service or consumer;
 - “number portability” means the process of letting a consumer migrate a service from one licensee to another licensee without changing the number assigned;
 - “subscriber” means any individual, business or entity that purchases or subscribes to any communication service and includes any person who agrees to receive and pay for a service;
 - “usage conditions” means conditions to be satisfied by a licensee in providing the services that use the numbers in a block;

“utilization” means the proportion of numbers that have active as their utilization status as outlined in regulation 16; and

“utilization status” means the status of a number as outlined in regulation 16.

Scope and application

3.—(1) These Regulations shall apply to network services and application services licensees.

(2) Without prejudice to the generality of subregulation (1), these Regulations shall apply to—

(a) control, planning, administration, management and assignment of numbers by the Authority; and

(b) setting out of the rules for the assignment, transfer, porting and use of numbers under the National Numbering Plan.

(3) For the purpose of these Regulations, numbers shall mean conventional telephone numbers and short codes.

Objective

4. The objective of these Regulations is to promote investment, facilitate competition and protect subscribers by ensuring that—

(a) numbers are understood as a vital and scarce national resource that is not owned by subscribers or licensees;

(b) numbers are assigned efficiently, transparently and fairly, without undue discrimination against particular subscriber classes, licensee types and communications technologies;

(c) shortages of numbers are predicted and prevented; and

(d) usage of numbers is monitored and controlled to avoid being a detriment to the interests of consumers.

PART II—CONTENTS OF THE NATIONAL NUMBERING PLAN

Publication of the National Numbering Plan

5.—(1) The Authority shall develop, publish and maintain in the National Numbering Plan—

(a) up-to-date versions of the allocation status; and

(b) usage conditions of blocks.

(2) In outlining the usage conditions in sub-regulation (1), the Authority shall ensure that the numbering ranges do not overlap and that they contain all the defined numbers.

Allocation status

6. The allocation status of a block shall be—

(a) “Assigned”, if the block has been included in an assignment to a licensee and has not been subsequently returned by, or withdrawn from, the licensee;

(b) “Reserved”, if the block is available and assignable for inclusion in an assignment subject to the usage conditions;

(c) “Future use”, if the block is expected to be available in the future for inclusion in an assignment subject to the usage conditions;

- (d) "Unusable", if the block is excluded from assignments to avoid possible human errors or system constraints; or
- (e) "Retained", if the block is excluded from assignments to keep resources for unknown future developments.
7. The usage conditions imposed by the Authority may have restrictions on any of the following—
- Usage conditions
- (a) charges for calls or messages to numbers in the block;
- (b) usage conditions of calls or messages to numbers in the block, if the charges relate in any way to the contents;
- (c) the terms and conditions for the services that use the numbers in the block;
- (d) the geographic areas for completing calls or transmitting messages to the numbers in the block;
- (e) the networks required to route traffic to and from numbers in the block, if the numbers are not conventional telephone numbers; and
- (f) the means of implementing service provider number portability for the numbers in the block, if there are regulations that introduce service provider number portability for the block.
- 8.—(1) A licensee shall use a number to provide services in accordance with the usage conditions applicable to the service at the time of use.
- Limitations on providing services
- (2) For avoidance of doubt, a service shall not be required to satisfy the usage conditions at the time of granting any assignment that includes the number.
- PART III—AMENDMENTS TO THE NATIONAL NUMBERING PLAN
- 9.—(1) The Authority may review and, if necessary, amend the National Numbering Plan.
- Amendment to the National Numbering Plan
- (2) In carrying out any review exercise pursuant to this regulation, the Authority shall consult any person or entity with relevant expertise.
- 10.—(1) In reviewing or amending the National Numbering Plan pursuant to regulation 9, the Authority shall take into account factors including—
- Factors to consider when amending the National Numbering Plan
- (a) the need to meet demand in a rapidly developing market, for both existing and expected services in the short, medium and long term;
- (b) the advantages to consumers in not changing the number through which services are accessed;
- (c) compatibility with agreements, standards and recommendations by the International Telecommunications Union and other relevant organizations;
- (d) the benefits and costs of a change to the National Numbering Plan; and
- (e) any other consideration as determined by the Authority.

- Amendment to the National Numbering Plan
- 11.—(1) In modifying the National Numbering Plan, the Authority may effect changes to any of the following—
- (a) the allocation status of the blocks in accordance with regulation 5;
 - (b) the usage conditions;
 - (c) the numbers, by replacing, inserting or deleting digits; or
 - (d) any other change as may be determined by the Authority.
- (2) For purpose of avoidance of doubt, the creation of assignments, the return of blocks and the withdrawal of blocks shall not be regarded as amendments to the National Numbering Plan but shall be regarded as changes in the allocation status of blocks that are maintained and published in the National Numbering Plan.
- Timing of amendment to the national Numbering Plan
12. If the Authority amends the National Numbering Plan by replacing, inserting or deleting digits in number, the Authority shall—
- (a) ensure that advertising or advisory material, explaining the practical consequences of the amendment to consumers, is made publicly available at least three (3) months before the amendments is effected;
 - (b) inform licensees about the amendment at least six (6) months before the amendment is effected; and
 - (c) inform the International Telecommunications Union and any international telecommunications administrations about the amendment at least three (3) months before the amendments effected.
- Implementation of amendments
13. A licensee shall implement any amendment to the National Numbering Plan at the time and in the manner specified by the Authority.

PART IV—UTILIZATION OF NUMBERS

- Monitoring utilization of numbers
- 14.—(1) A licensee shall, on quarterly basis, submit to the Authority its utilization status to enable the Authority conduct a utilization audit.
- (2) A licensee shall provide its utilization status in the form and manner prescribed by the Authority and shall include the following information for each assignment—
- (a) the quantity of numbers having within each utilization status;
 - (b) the services that use the assignment; and
 - (c) any other information that the Authority may require to assess utilization.
- Publications of number utilization
15. The Authority shall at the end of each financial year, summarize and publish the information submitted by licensees under regulation 14.
- Utilization status
16. A licensee shall, indicate the following utilization status for the numbers assigned to it—
- (a) “Active”, if the subscriber is utilizing the service through the number from the licensee or another licensee;

- (b) "Inactive", if a number that has been assigned to a subscriber has not been in use for a period of more than ninety (90) days;
- (c) "Available", if a number can be assigned to a subscriber;
- (d) "Quarantine", if the number has been idle for a period more than ninety (90) days, and has been deactivated and is given ninety (90) days pending withdrawal; and
- (e) "Withdrawn", if the number has been withdrawn pursuant to regulation 23.

PART V—ASSIGNMENT OF NUMBERS

17.—(1) A licensee shall only use a number or block of numbers that has been assigned by the Authority pursuant to this Part.

Details for
assignment
application

- (2) A licensee shall apply to the Authority for assignment of numbers.
- (3) Any application of an assignment made pursuant to sub-regulation (2), shall be in the manner as specified by the Authority.
- (4) The application envisaged in subregulation (2) above shall include—
 - (a) the name and contact details of the applicant;
 - (b) the licence under which the application is made;
 - (c) the services intended to be used under the assignment;
 - (d) the geographic areas for completing calls or transmitting messages to the number to be included in the assignment;
 - (e) the quantity of numbers requested for inclusion in the assignment;
 - (f) any particular blocks requested for inclusion in the assignment;
 - (g) the predicted utilization of the assignment for the next three (3) years;
 - (h) the current utilizations of any other existing assignments made to the applicant;
 - (i) an indication of information, in the application which shall be kept confidential by the Authority;
 - (j) any other information that the applicant considers necessary or relevant to justify the application; and
 - (k) any other information that the Authority may require to assess the application.

18.—(1) The Authority may grant or refuse an application for an assignment.

Power of the
Authority
to grant
assignment

- (2) The Authority may grant an assignment subject to variations in—
 - (a) the quantity of numbers included in the assignment; or
 - (b) the particular blocks included in the assignment.

Factors in
deciding
application
for assignment

19. When deciding whether or not to grant an assignment under regulation 18, the Authority shall take into account the following factors—

(a) any earlier decision in respect of previous assignments to the applicant or any other licensees for similar intended services;

(b) any statements in the licence of the applicant about eligibility for providing services or being assigned numbers;

(c) the conditions for usage;

(d) the digit analysis capabilities of communications networks that are operated in the Malawi;

(e) the predicted utilization of the assignment over the next three (3) years;

(f) the current utilizations of existing assignments to the applicant for the intended services;

(g) the quantity and segmentation of blocks that have not been assigned an allocation status; and

(h) any trend in numbering standards as agreed by the International Telecommunications Union and other international standardization bodies.

Timeframe for
assignment
decisions

20.—(1) The Authority shall review and make decisions regarding applications for assignments in the order in which the applications are received by the Authority.

(2) The Authority shall communicate its decision on an application to an applicant, including reasons for any refusal of an application, within thirty (30) days of receiving the application.

Assignment
conditions

21. The Authority shall require the following for each assignment—

(a) each block in the assignment shall have “Assignable” as its allocation status immediately before the assignment is created;

(b) each block in the assignment shall have the same usage conditions;

(c) the services intended for the assignment shall satisfy the applicable usage conditions; and

(d) each block in the assignment adjoins another block in the same assignment or another assignment that has the same usage conditions, unless there is no such other block or particular blocks that are requested in the application for the assignment; and

(e) to avoid ambiguity, the creation of assignments, the return of blocks and the withdrawal of blocks may split or combine blocks that would have otherwise been identified separately in the National Numbering Plan.

PART VI—RETURNING BLOCKS

22.—(1) A licensee shall return any block of numbers to the Authority that has not been in use for more than twelve (12) continuous months. Details for applications for returning blocks

(2) When returning a block of numbers to the Authority pursuant to subregulation (1), a licensee shall submit the following details to the Authority—

- (a) the name and contact details of the licensee;
- (b) the particular block to be returned to the Authority; and
- (c) an affirmation that every number in the block has “Available” as its utilization status.

PART VII—WITHDRAWAL OF NUMBERS

23. The Authority may withdraw a block from an assignment on the following grounds— Conditions for withdrawing numbers

- (a) a number in the block is used for a service that does not satisfy the applicable usage conditions;
- (b) a number in the block has not been brought into service within twelve (12) months of applying for the assignment;
- (c) the block is needed for advancing a clearly identified national requirement for withdrawing number interest; or
- (d) any other reason considered necessary by the Authority.

24. The Authority shall notify a licensee about the nature, the reasons and intention to withdraw a block from an assignment to the licensee at least six (6) months before the Authority withdraws the block. Notification of withdrawal of numbers

25. Where the Authority notifies a licensee about a proposal to withdraw a block from an assignment— Implementation of withdrawals of a block

- (a) the licensee shall not thereafter bring into service any number in the block unless the Authority informs the licensee that it has decided not to withdraw the block;
- (b) the licensee shall inform affected consumers about the reasons for the proposal to withdraw the block and replacements for the numbers in the block at least ninety (90) days before the Authority withdraws the block; and
- (c) the licensee shall remove from service all numbers in the block at least thirty (30) days before the Authority withdraws the block.

PART VIII—BRINGING NUMBERS INTO SERVICE

26. A licensee shall identify and submit to the Authority details of a contact person intended to receive notifications about numbering and associated routing and traffic requirements. Appointment of contact person

Forwarding of information about contact points

27.—(1) A licensee shall notify other licensees and relevant international telecommunication operators that traffic is to be routed to and from a number at least ninety (90) days before the licensee brings the number into service.

(2) For the purpose of avoidance of doubt, the Authority shall not be responsible for notifying any party except the International Telecommunications Union that numbers are to be brought into service.

Timing for bringing numbers into service

28. A licensee shall bring a number into service only if—

(a) the licensee has been assigned the number by the Authority;

(b) the number is to be used for a service that satisfies the applicable usage conditions; and

(c) the number has “Available” as its utilization status.

Conditions for barring numbers

29. The Authority shall notify a licensee that traffic is not to be routed to and from a number in any of the following cases—

(a) the number is in a block that does not have “Assigned” as its allocation status; or

(b) the number is used for a service that does not satisfy the applicable usage conditions.

Limitations on routing traffic to and from a number

30. A licensee shall route traffic to and from a number to which another licensee is providing service unless—

(a) the Authority has notified the licensee that the number has been barred in accordance with regulation 29; or

(b) the number is in a block that has usage conditions which do not provide for routing of traffic.

PART IX—NUMBER PORTABILITY

Factors to consider for number portability

31.—(1) In developing or in the ongoing management of the National Numbering Plan, the Authority may issue directions regarding the introduction of number portability.

(2) In issuing any directions made pursuant to subregulation (1), the Authority shall consult licensees regarding factors that may affect implementation of number portability including—

(a) helping consumers understand the relation between number and charges for calls and messages, and how charges may change if there is number portability;

(b) facilitating the use of number portability, once introduced;

(c) the costs and benefits of number portability; and

(d) the costs of alternatives to number portability that provides similar benefits.

Condition for exporting numbers

32. A licensee that is providing service to a number shall facilitate the routing of traffic to and from the number through the network of another licensee if the other licensee has undertaken to provide service to the number

within a period of time as determined by the Authority.

33. A licensee shall not undertake to provide service to a number assigned to another licensee unless—

Limitations on importing numbers

(a) the licensee that is making the undertaking can provide the service under its licence;

(b) a subscriber is using the service through the number at the time of the undertaking;

(c) the subscriber has requested to use services through the number from the licensee that is making the undertaking; and

(d) the number is to be used for a service that satisfies the applicable usage conditions.

34. A licensee that has provided service to a number assigned to another licensee shall return the number to the other licensee if the number is removed from service.

Conditions for returning imported number

PART X—TRANSFERING OF ASSIGNMENTS

35. Subject to the Communications (Telecommunications and Broadcasting Licensing Regulations), 2016, a licensee may transfer an assignment to another party.

Transfer of assignment
GN No.
32/2016

36. Subject to the Communications (Telecommunications and Broadcasting Licensing Regulations), 2016, a licensee shall only transfer an assignment to another party if the licensee transfers the licence under which the application for the assignment was made.

Conditions for transferring assignments
GN No.
32/2016

37. Upon transferring the assignment—

Effect of a transfer

(a) the rights and obligations of the assignment shall automatically transfer to the transferee of the assignment; and

(b) the licensee shall cease to exercise rights over the assigned numbers.

PART XI—LIMITATIONS ON RIGHTS OF LICENSEES TO USE NUMBERS

38. A licensee shall not have exclusive, perpetual or other proprietary rights in particular codes or number, including but not limited to rights in codes or numbers that represent a business name or brand.

Limitations on rights to a number

39. A licensee shall only assign numbers and codes in accordance with the National Numbering Plan.

Limitation on assignment of numbers

40. A number or a code shall only be put into use if it has been paid for by a licensee and assigned by the Authority.

Limitation on putting into use

41. Where number portability is in force, a licensee shall not refuse to programme a subscriber's number into its network.

Limitation on number

Limitations
not prejudicial
to other
conditions

42. The limitations to the rights of the licensee provided under this Part shall be without prejudice to any conditions imposed on the licensee in exercising the specific rights under other Parts of these Regulations.

PART XII—RIGHTS OF SUBSCRIBERS RELATING TO NUMBERS AND CODES

Conditions
for changing
consumer
numbers

43. A licensee shall only change the number or code through which a subscriber uses the service if—

(a) the subscriber has requested the change upon provision of sufficient reasons for making such a request;

(b) the number used after the change facilitates freeing up of the network resource for the number or code that was used before the change; or

(c) the number used after the change satisfies conditions for changing subscriber numbers to meet the applicable usage conditions.

Refusal to
change a
number or
code

44. A licensee may, where the subscriber has failed to satisfy the conditions in regulation 43, refuse the change of the number or code:

Provided that the subscriber shall have a right to lodge a complaint to the Authority where the subscriber is dissatisfied with the grounds for the refusal.

Limitations
on changing
network
termination
points

45. A licensee shall not change the network termination points that are identified by a number or a code through which a subscriber is using the services unless—

(a) the subscriber using the services through the number or code has requested the change; and

(b) the number or code is to be used for a service that satisfies the applicable usage conditions.

Compensation
to subscribers

46.—(1) A licensee shall state in the terms and conditions for its relevant services that subscribers do not own numbers.

(2) A licensee shall, in the term and conditions referred to in subregulation (1), include the manner of compensating a subscriber if the licensee removes a number of a subscriber from service without following the terms and conditions.

Conditions
for supplying
information
about holders
of number

47.—(1) A licensee shall, in a manner prescribed by the Authority, record details of all its subscribers on both pre-paid and postpaid platforms.

(2) A licensee shall not disclose information about the number of a subscriber unless—

(a) the Authority or a person authorized by the Authority has requested the information for its regulatory purposes;

(b) the licensee has stated in the terms and conditions for the service that the information may be supplied;

(c) pursuant to a court order; or

(d) the consumer has requested that the information be made public.

48.—(1) A licensee shall supply mandatory calling line identity for all subscribers of its services unless the calling party has requested for its suppression. Presentation of calling line identities

(2) Notwithstanding subregulation (1), any person who receives a call with a suppressed identity may request the licensee to provide the identity of the calling party.

(3) Any suppression request pursuant to subregulation (1) shall be approved by the Authority on the following conditions—

- (a) the requesting party carries out duties of national security;
- (b) the party is subject to high risk in having their identity presented;
- (c) any other reason considered appropriate by the Authority.

(4) The Authority shall, upon request, provide response to the application to suppress the calling line identity a period of seven (7) days.

(5) All suppression requests granted by the Authority shall be valid for a period of twelve (12) months and the Authority reserves the right to renew the request upon application.

PART XIII—FEES FOR ASSIGNMENTS

49.—(1) The Authority shall issue and publish a schedule of fees for number assignments. Publications of the schedule of fees for assignments

(2) The Authority shall outline any numbers and codes that are exempted from fees in the numbering fee schedule.

(3) The Authority shall make available at its offices copies of the numbering fee schedule issued pursuant to sub regulation (1).

50. In determining the numbering fee schedule, the Authority shall consider some or all of the following factors— Factors in determining numbering fee schedule

(a) the administrative and operational expenses incurred in maintaining the National Numbering Plan;

(b) the usage conditions;

(c) the distinction between initial fees that are payable upon number assignment and renewal fees that are payable on or before anniversaries of those assignments;

(d) the need to encourage the efficient use of existing assignments;

(e) the need to encourage the use of blocks adjoining other blocks that have "Assigned" as their allocation status; and

(f) the need to encourage the return of blocks from existing assignments.

51. Every licensee shall pay the initial fees for assignments and the annual renewal fees for assignments as directed by the Authority. Payment of fees for assignment

PART XIV—OFFENCES AND ENFORCEMENT

- Offences 52. A licensee who fails to comply with these Regulations commits an offence and shall, upon conviction, be liable to a fine of K5,000,000.00 and imprisonment for five (5) years.
- Regulatory sanctions 53. Notwithstanding the criminal sanctions provided for in these Regulations, the Authority reserves the right to impose any of the following regulatory sanctions for any breach of these Regulations—
- (a) refusal of application for assignment;
 - (b) imposition of administrative fine;
 - (c) issuance of a warning;
 - (d) suspension of a licence;
 - (e) revocation of a licence;
 - (f) issuance of a compliance order;
 - (g) issuance of cease and desist order; or
 - (h) making of any other order considered appropriate by the Authority.
- Factors in applying enforcement measures 54. In considering imposing any regulatory sanctions under regulation 53, the Authority may take into account any of the following factors—
- (a) duration of the breach;
 - (b) the nature, gravity and frequency of the breach;
 - (c) any service credits or rebates that have been provided by the licensee to consumers who may have been inconvenienced or otherwise affected by the committed contraventions;
 - (d) any failures to fulfill obligations that arise partly or wholly from the failures of another licensee; or
 - (e) any other consideration as the Authority may consider appropriate.
- Further directions 55. The Authority may issue additional rules, directions or guidelines on any aspect of these Regulations, either of general application or specific to a licensee.

Made this 14th day of September, 2018.

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N. H. DAUSI
 Minister of Information and
 Communications Technology

GOVERNMENT NOTICE NO. 24

COMMUNICATIONS ACT

(CAP. 68:01)

THE COMMUNICATIONS (CONSUMER PROTECTION)
REGULATIONS, 2019

ARRANGEMENT OF REGULATIONS

REGULATION

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IN EXERCISE of the powers conferred by section 200 of the Communications Act, I, NICHOLAS HARRY DAUSI, Minister of Information and Communications Technology, on recommendations from the Malawi Communications Regulatory Authority, make the following Regulations—

PART I—PRELIMINARY

- Citation 1. These Regulations may be cited as the Communications (Consumer Protection) Regulations, 2019.
- Interpretation 2. In these Regulations, unless the context otherwise requires—
- “bill” means a written statement of money owed for services provided by a licensee;
- “child” means a child under the age of sixteen (16);
- “consumer” means any person who uses available public communication services for purposes which are outside his or her trade, business or profession and includes a subscriber;
- “complaint” means any statement of dissatisfaction of services made by a consumer;
- “communication service” means any telecommunication, broadcasting or postal service;
- “licence” means a licence issued by the Authority under the Act;
- “licensee” means any person licensed by the Authority providing services under the Act;
- “licensed services” means services the provision of which is authorized under a licence;
- “market abuse” means unfair trade practices, including false and misleading advertising and anti-competitive behaviour as prescribed under any written law;
- “non discrimination” means conditions that are not less favourable to some customers in comparison to others for the same product or service;
- “redress” means the ability to rectify, remedy, set right, or normalize, a situation or make a fair adjustment;
- “service provider” means any licensee that provides services regulated by the Authority;
- “subscriber” means any individual or business or other body that purchases or subscribes to any communication service and includes any person who agrees to receive and pay for a service;
- “subscriber service agreement” means an agreement entered into between a licensee and a subscriber for provision of a licensed service to the subscriber; and

“outage credit” means a credit to be paid to a subscriber for a period of time when the service is not operating for any reason not caused by the subscriber.

3. These Regulations shall apply to entities licensed to provide communication services in Malawi. Application

PART II—CONSUMER RIGHTS

4. A consumer shall have the right to— Consumer rights

(a) basic information which shall be publicly offered on fair terms of service and at a reasonable rate reflecting the cost of the service upon fulfillment of requisites for offering the services;

(b) be informed or made aware of communication consumer rights, and how to enforce the rights;

(c) receive clear, conspicuous, and complete information about rates, terms and conditions for available and proposed products and services from the Authority or service provider as the case may be and to be charged by the service provider only for those services and under the terms and conditions that have been approved or they have agreed to;

(d) where applicable, to affirmatively select their choice of service provider;

(e) personal privacy and to be protected against unauthorized access to or use of their personal conversation or information;

(f) quality, reliable service from both service providers and the Authority reflected through key performance indicators developed to meet identified needs;

(g) be charged only for products and services which they have requested and subscribe to;

(h) receive timely, accurate and transparent bills for products and services which the subscriber has authorized;

(i) fair and prompt redress of complaints which the subscriber may have with the bills or that may arise during the use of the products or services;

(j) access the Authority for the purposes of redressing complaints against service providers;

(k) access free localized emergency services;

(l) access redress against market be protected from unfair trade practices including market abuse, false and misleading advertising and anti-competitive behavior;

(m) safety and security of their persons or property in respect harmful effects, such as electromagnetic radiation, theft, vandalism and others, arising from provision and use of communication services;

(n) a fair treatment from their service providers, without undue discrimination;

Consumer obligations

(o) access and seek support from local or national consumer advocacy groups with grievances that are not being adequately resolved by their service providers; and

(p) access to fair and timely alternative dispute resolution and redress without undue cost or burden.

5. A consumer shall have the duty to—

(a) take initiative to acquire necessary information on consumer issues;

(b) behave self-reliantly and rationally;

(c) use communication systems and services in the appropriate manner, without abusing them;

(d) exercise due care when making decisions in the market place;

(e) honour obligations arising from their decisions or agreement;

(f) be assertive in the exercise of their rights;

(g) protect all communication equipment and facilities within their vicinity; and

(h) access safety measures on—

(i) suitability of use of communication devices and services; and

(ii) parental control in broadcasting.

Provision of information

6.—(1) A licensee shall provide clear and transparent information to consumers or would be consumers which shall include—

(a) the name of the service provider;

(b) free consumer service numbers;

(c) activation fee or initiation fee;

(d) deposit requirements, if applicable;

(e) monthly access fees or base charges; and

(f) tariff provisions for calculating charges per call including minimum charges, units, chargeable distances, peak and off peak times and rates, night, weekend and holiday and international rates.

(2) A licensee shall denominate any fees, rates, charges or tariffs in local Malawian currency.

(3) A licensee shall notify customers about the availability of consumer complaint procedures and have in place forms to be used for registering complaints.

(4) A licensee shall notify a consumer in writing of the following—

(a) date of consent and verification of authorization;

(b) name and telephone number of a customer;

(c) explanation of each product or service ordered;

- (d) explanation of all applicable rates as consented to by the consumer, with specification of any additional fees and charges that are applicable;
- (e) explanation of how to dispute charges and how to cancel a product or service;
- (f) free number by which consumers may make enquiries or complaints;
- (g) description of how the charges which shall appear on the consumer's bill; and
- (h) information on whom to call for consumer enquiries.
7. A licensee shall provide services to consumers of the same category without discrimination. Non discrimination
- 8.—(1) A consumer shall have the right to select providers and services of their choice. Consumer choice
- (2) A licensee shall not unilaterally provide or change services provided to its consumer unless the unilateral provision or change is affirmatively acknowledged and verified by the consumer.
- 9.—(1) A licensee shall enter into a subscriber service agreement with a consumer which shall, in the minimum, stipulate the services to be provided, the rights and obligations of the parties, and applicable remedies available to the consumer. Subscriber service agreement
- (2) A licensee and a consumer shall sign the subscriber service agreement.
- (3) A licensee shall submit to the Authority, for approval, its standard subscriber service agreement applicable to each service that the licensee offers to the public.
- (4) A licensee shall honour all terms under its subscriber service agreement.
- (5) Where a licensee has failed to submit a subscriber service agreement as provided under subregulation (3), the decision of the Authority shall prevail over the provisions of the agreement in the event that a dispute arises between a consumer and the licensee on the interpretation of the agreement.
10. A licensee shall, within thirty (30) days of grant of licence for new licensees or within thirty (30) days of the commencement date of these Regulations for existing licensees, as the case may be, establish a customer care system which shall enable consumers to make inquiries or complaints concerning the services provided by the licensee, in accordance with guidelines issued by the Authority. Customer care system
- 11.—(1) The Authority shall issue complaint handling guidelines which may include the format to be used and such details as required by the Authority. Complaint handling
- (2) A licensee shall provide clear and transparent information about its complaint handling processes in various media and format as directed by the Authority.

(3) Subject to subregulation (4), a consumer who has a complaint against a licensee may lodge such complaint to the licensee, in writing, within six (6) months from the date of the incident that the complaint arises from.

(4) A complaint made pursuant to subregulation (3) shall include the following details—

(a) the nature and details of the contravention or non-performance of conditions of the licence or the subscriber service agreement including the dates of the event giving rise to the complaint;

(b) the relief sought as a result of such alleged contravention or non-compliance; and

(c) any other relevant information which may facilitate quick resolution of the complaint.

(5) Any complaint made pursuant to subregulation (3) shall be made in triplicate and the consumer shall retain one copy.

(6) A licensee shall acknowledge receipt of the complaint filed with it within seven (7) days of receipt of the complaint.

(7) A licensee shall resolve any complaint filed by a consumer within fourteen (14) days of receipt of a complaint.

(8) A licensee shall, where possible, advise a consumer at the time of making a complaint on the expected action.

(9) A licensee shall communicate to a consumer the estimated timeframe for concluding an investigation and resolution of a complaint.

(10) Where a licensee considers that a complaint is baseless, frivolous or vexatious, the licensee shall inform the consumer of this fact and the reason thereof.

(11) A licensee shall put in place a process or system to provide consumers with sufficient information and means of inquiring the progress of complaints which shall include, in the minimum—

(a) complaint reference number;

(b) name and address of the complainant; and

(c) any other identifiers which may facilitate timely and accurate responses to subsequent inquiries by consumers.

(12) A licensee shall communicate, in writing, to the complainant any outcome of the investigation of a complaint and the decision made.

(13) Where a complaint is not resolved within fourteen (14) days, the consumer may refer the complaint to the Authority.

(14) Where a consumer is dissatisfied with the outcome of the complaint communicated by the licensee under subregulation (12), the consumer may refer the complaint to the Authority within twenty eight (28) days from the date of the receipt of the communication.

(15) Any complaint to the Authority made under these Regulations shall be submitted in such format and manner as may be prescribed by the Authority.

(16) A complainant shall furnish the Authority with his personal and contact details and shall attach to the Authority's complaint form evidence of correspondence between the complainant and the concerned licensee.

(17) A licensee shall not charge its consumers for complaint handling.

(18) A licensee shall file with the Authority such information and statistics on all complaints reported, including those resolved and those outstanding, on a quarterly basis in a manner prescribed by the Authority.

(19) A licensee shall resolve complaints within timeframes stipulated in the Schedule.

12.—(1) A licensee shall ensure that persons with disabilities can easily access its complaint handling processes.

Complaints
by persons
with
disabilities,
and other
needs

(2) A licensee shall provide reasonable assistance to customers who specifically request for assistance when lodging complaints.

(3) A licensee shall take such measures as may be prescribed by the Authority to ensure that the requirements and interest of consumers with disabilities are addressed.

(4) A licensee shall fulfill any specific obligations that relate to special services or special arrangements for consumers with disabilities that the Authority may impose.

13.—(1) A licensee shall establish mechanisms that enable parents and legal guardians to block access, by children, of harmful content in the provision of its licensed services.

Protection
of children
consumer
rights

(2) A licensee shall not promote, glamourize or market alcohol and tobacco products or any other harmful substances, directly to children.

14. The Authority shall have powers to—

Powers of the
Authority

(a) investigate any complaints submitted to the Authority under these Regulations;

(b) investigate any matter relating to the provision of service which in its view warrants an investigation by the Authority;

(c) monitor the activities of the licensee for compliance with the Act, any regulations made there under and the licence terms and conditions;

(d) determine the outcome of any complaint and impose appropriate regulatory sanctions; and

(e) refer any complaints referred to it to a suitable body with appropriate recommendations.

15.—(1) A licensee shall, within thirty (30) days of commencement date of these Regulations or from the grant of the licence, submit to the Authority for approval a system of outage credits to be given to a consumer.

Outage credit
system

(2) The system referred to in subregulation (1) shall become part of the subscriber service agreement once approved by the Authority.

(3) A licensee shall not be responsible to consumers for outages arising from an event or effect which, in the view of the Authority, was not reasonably foreseeable or preventable.

Code of
commercial
practice

16.—(1) A licensee shall, within thirty (30) days of award of a licence or coming into force of these Regulations, submit to the Authority, for noting, a code of commercial practice developed in a manner prescribed by the Authority.

(2) Where a licensee submits the code of commercial practice pursuant to subregulation (1), the Authority reserves the right to declare invalid any term that it considers unfair or inconsistent with the Act or any regulation and shall require the licensee to make necessary amendments or corrections thereof.

(3) A code of commercial practice shall include—

- (a) complaint handling process;
- (b) a system of outage credits;
- (c) a list of emergency and safety services;
- (d) a list of assistance services; and
- (e) any such other information as the Authority may determine.

(4) A licensee shall publish the code of commercial practice as approved by the Authority, in at least two (2) newspapers of national circulation and any form of media that has national reach and coverage at least five (5) times within sixty (60) days of commencement of the service.

(5) A code of commercial practice shall not replace or reduce any benefit of price assurance provided to the consumer pursuant to a subscriber service agreement.

(6) A code of commercial practice shall not contravene any consumer laws in Malawi.

Confidentiality

17.—(1) Except where a consumer has consented in writing or as required by law, a licensee shall not disclose to a third party the content of any information of the consumer transmitted through the licensee's network.

(2) A licensee shall establish mechanisms by which consumers may be able to—

- (a) know that information is being collected about them and how the information will be used;
- (b) receive notice of any information collected from consumers—
 - (i) that the licensee may use or intends to use without the consumers authorization for reasons unrelated to its original purpose; or
 - (ii) that may be sold to a third party.

(3) Save as provided in subregulation (2)(b), a licensee shall not sell or offer for free to a third party any information collected by the licensee without prior consent of the consumer concerned.

(4) In case of a child, the powers exercisable under this regulation shall be vested in the parent or legal guardian.

18. The Authority shall periodically monitor licensees' compliance with these Regulations and publish compliance reports. Compliance reports

19.—(1) A licensee shall install a billing system that permits, upon request by a customer, issuance of bills that identify— Billing

- (a) the rate charged to the customer;
- (b) the number called;
- (c) duration of each call;
- (d) the charge per call;
- (e) applicable discounts and the class of service; and
- (f) any other information as may be stipulated by the Authority.

(2) A licensee shall ensure that bills, are presented clearly to a consumer and that all charges are accompanied by a brief, clear non-misleading description of the services rendered sufficient for the consumer to assess that the services and the charges correspond to those requested for and received.

(3) For the purposes of this regulation, bills shall include the following information—

- (a) name of service provider associated with the bill;
- (b) billing period covered by the bill;
- (c) disclosure of any rate or service charge prior to effecting changes;
- (d) the statement or payment due date;
- (e) amount of charges debited to each billed account segregated from late payments;
- (f) terms for late payment fees and termination of service;
- (g) rental charges;
- (h) a number where consumers may make inquiries or file complaints for free; and
- (i) any other requirement stipulated by the Authority.

20. In relation to pre-paid customers, a licensee shall provide technical means to customers notifying them of— Billing for pre-paid consumers

- (a) cost of last call;
- (b) duration of last call;
- (c) airtime balance; and
- (d) any other information determined by the Authority.

- Guidelines 21.—(1) The Authority may issue guidelines in the implementation of these Regulations which shall be binding on licensees.
- (2) The guidelines issued under this regulation shall include—
- (a) complaints handling;
 - (c) promotions;
 - (d) subscriber service agreements; and
 - (e) any other guidelines as determined by the Authority.
- Provision of information 22.—(1) A licensee shall submit to the Authority, on a quarterly basis, reports with information relating to key performance indicators or any other information requested by the Authority, in a format to be provided by the Authority.
- (2) The Authority shall analyze reports submitted under subregulation (1), and publish the reports with or without additional notes or comments, within two (2) months of receipt.
- Monitoring sector performance 23.—(1) The Authority shall monitor sector performance using any applicable technology or through any reasonable means including consumer satisfaction surveys.
- (2) The Authority shall publish annual report of its findings on sector performance.
- (3) The Authority shall develop a consumer outreach programme on consumer education and awareness, and may periodically revise the same based on the sector performance report and any relevant developments in the industry.
- Investigation and enforcement 24.—(1) The Authority may, on its own initiative, institute investigations under these Regulations.
- (2) Where the Authority is satisfied that a licensee has contravened any provision of these Regulations, and has decided to institute the investigation, the Authority shall take the following steps—
- (a) commence an investigation against the licensee and make its findings;
 - (b) accord a hearing to the licensee concerned;
 - (c) make a determination of the matter; and
 - (d) communicate the finding of the investigation to the licensee and all concerned parties.
- Offences 25.—(1) A licensee who—
- (a) contravenes any provision of these Regulations;
 - (b) omits or refuses—
 - (i) to furnish any information required by the Authority; or
 - (ii) to produce any document required by the Authority;
 - (c) knowingly furnishes any false information to a customer or the

Authority about the quality of its service or any other information required pursuant to these Regulations;

(d) fails to perform the measurement, reporting and record keeping requirements within the required time;

(e) fails to reach the target for any of the parameters stipulated under these Regulations;

(f) fails to submit, during any time specified by the Authority, information requested by the Authority pursuant to these Regulations;

(g) obstructs or prevents an inspection or investigation carried out by the Authority pursuant to these Regulations;

(h) engages in any act or omission whose effect would be to defeat the purposes of these Regulations; or

(i) fails to attend to complaints within the periods stipulated in these Regulations,

commits an offence.

26. A person shall not transmit, or cause to be transmitted, unsolicited marketing materials by electronic mail or text message to subscribers without prior consent of the subscriber. Unsolicited messages

27.—(1) A person shall not send to any consumer electronic mail or text messages for the purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request to reject such messages. Promotions

(2) Where a licensee obtains contact details from its subscribers for the purpose of providing its services, it may use the details for direct marketing of its own similar products or services:

Provided that the licensee shall afford the subscriber an opportunity to object or unsubscribe, free of charge and in a simple manner, to the use of the data when it is collected, and on the occasion of each message, in case the subscriber had not initially objected to the use.

(3) All persons engaged in automated direct-marketing schemes in Malawi shall base their schemes on an opt-in principle, in which potential subscribers are accorded with an opportunity to accept or reject being included in the marketers' mailing list.

(4) Any person who contravenes this regulation commits an offence.

28.—(1) A licensee shall, when running its promotions on its network, ensure that the promotions do not compromise the quality of its network. Minimum standards and requirements for promotions

(2) A licensee shall provide the Authority with a descriptive report of concerned goods and services that are subject of a promotion and the targeted consumers.

(3) The report referred to in subregulation (2) shall indicate the following--

- (a) a statement of intention of the promotion;
- (b) the general impact of the promotion on the concerned licensee's service provision;
- (c) the impact on the quality of service parameters set by the Authority;
- (d) proof of compliance with the Authority's type- approval;
- (e) state whether the promotion includes or relates to comparative advertising;
- (f) the impact of the promotion on consumer rights and obligations including safety, privacy, information, and choice, in the interest of transparency in service delivery;
- (g) customers' options; and
- (h) outline if the licensee would require any scarce resources including numbers with a view to confirming any compliance with earlier allocations.

(4) A licensee shall ensure that its network is capable of sustaining the traffic that may be generated from promotions on its network.

(5) A licensee shall specify the date, time and duration of a promotion on its network and date of redemption of the benefits from the promotion.

(6) A licensee shall ensure that all promotions on its network do not misrepresent the licensees' opportunity to provide the goods and services as presented.

(7) Where the supply of goods and services are limited under a promotion, a licensee shall capture this fact in the report and in any communication medium of the promotion.

(8) Without prejudice to other penalties provided in other written laws or penalties imposed under other regulations of these Regulations, a violation of this regulation shall attract a maximum fine of K1,000 per day for the following—

- (a) proceeding with promotions without providing the relevant descriptive report to the Authority, with effect from the actual date of promotion;
- (b) proceeding with a promotion after an order of cancellation or cessation by the Authority, with effect from the effective date of notification of the order; or
- (c) having a promotion period more than what is submitted to the Authority, from the date of the extension.

(9) A licensee shall pay a maximum penalty of K5,000,000 for providing false or misleading information about the promotion to the Authority or to the general public.

(10) A licensee shall pay a maximum fine of K1,000 per day of its non-compliance for failure to comply with any specific order or directive issued by the Authority.

(11) A licensee shall conduct their promotions in line with any guidelines on promotions issued by the Authority.

29.—(1) A licensee shall provide free access to emergency safety assistance services in a manner determined by the Authority, in accordance with the Act and international standards. Emergency services

(2) A licensee shall permit calls to emergency numbers free of charge.

(3) A licensee shall, where technically possible, forward any useful personal data to a designated emergency service provider upon connecting emergency calls.

(4) Where there is doubt, the Authority shall determine the numbers that qualify for free access under subregulations (1) and (2).

30.—(1) Notwithstanding any criminal sanctions under these Regulations, the Authority reserves the right to impose the following regulatory sanctions— Regulatory sanctions

(a) suspension or revocation of the licence;

(b) imposition of a fine;

(c) payment of compensation;

(d) issuance of a warning;

(e) requirement for the licensee to stop the breach;

(f) requirement for the licensee to issue an apology;

(g) refusal for the renewal of the licence upon its expiry; or

(h) taking any appropriate remedial action that the Authority may determine proportional to the breach.

(2) Before imposing any sanction under this regulation, the Authority shall accord the licensee fourteen (14) days written notice with reasons of the intended sanction, during which period the licensee shall make its representations to the Authority.

(3) The Authority shall take into account the representations of the licensee in arriving at its decision whether or not to impose a sanction.

(4) Any person aggrieved by the decision of the Authority in exercise of its powers under this regulation, may, within fourteen (14) days of the receipt of the decision, seek review of the decision to the High Court.

(5) Any person who contravenes any provision of these Regulations commits an offence and shall, upon conviction, be liable to imprisonment for five (5) years and a fine not exceeding K5,000,000.

31.—(1) A licensee shall, within six (6) months of coming into force of these Regulations, put in place measures to comply with these Regulations. Transitional Arrangements

(2) A licensee shall, within six (6) months of coming into force of these Regulations, file to the Authority for approval all existing contracts and codes that have not been approved by the Authority.

SCHEDULE

(reg. 11(19))

COMPLAINT HANDLING TIMEFRAMES

<i>TASK</i>	<i>PERIOD</i>
Billing	within 14 days
Service restoration	within 7 days
Defective rented equipment, health and safety for Internet Service Providers	within 48 hours
for voice providers	30 days
Customer service (call center) phone in	within 3 minutes
walk-in from Monday to Friday	8 hours
Correspondence	within 48 hours
Confidentiality	within 7 days
Poor quality service, coverage and reliability	within 7 days
False and misleading advertisement, unclear and incomplete information about rates, tariffs and other terms	within 5 days
Conditions for available and proposed products	within 2 days
Service provision for fixed	within 21 days
mobile and for	5 days
Internet	1 day
Refunds and deposits	within 4 weeks
Fault repair time	within 24 hours.

Made this 14th day of September, 2018.

(FILE REF. NO. MICTCE/A/1/01)

N. H. DAUSI
 Minister of Information and
 Communications Technology

GOVERNMENT NOTICE No. 25

COMMUNICATIONS ACT

(CAP. 68: 01)

COMMUNICATIONS (DIGITAL TERRESTRIAL TELEVISION
BROADCASTING) REGULATIONS, 2019

ARRANGMENT OF REGULATIONS

REGULATION

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- Schedules

IN EXERCISE of the powers conferred by section 200 of the Communications Act, I, NICHOLAS HARRY DAUSI, Minister of Information and Communications Technologies, on the recommendation from the Malawi Communications Regulatory Authority, make the following Regulations—

PART I—PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Communications (Digital Terrestrial Television Broadcasting) Regulations, 2019.

Interpretation

2. In these Regulations, unless the context requires otherwise—

“access” means the making available by one person or network of electronic communications services or electronic communications networks, or parts thereof, to another person or network, for the purpose of enabling—

(a) construction, maintenance and operation of an electronic communications network; and

(b) provision and use of an electronic communications services;

“analogue broadcasting” means the transmission of sound, text and images whether still or moving in a continuously variable signal in the form of electromagnetic or radio waves;

“broadband terrestrial broadcasting network” means a terrestrial broadcasting network capable of carrying video, audio and data at the recommended speed and quality;

“broadcasting service” means a service consisting of the diffusion of television programmes for general reception by the public;

“broadcasting services licence” means a licence authorising the holder to provide broadcasting services;

“broadcasting service licensee” means a holder of a broadcasting services licence;

“conditional access” means the ability to restrict television programme access to certain groups of users either because of concerns of privacy or the desire to collect revenue for the services that require secure encryption and decryption of the programme broadcasting;

“digital television broadcasting” means television broadcasting where the broadcast signal is in a digital format;

“digital terrestrial television (or DTT)” means transmission of digital television signal using conventional means entirely over earth bound transmitters and receivers;

“dual illumination (or “simulcast”)” means transmission of the same broadcast in both analogue and digital technologies during transition period;

“electronic programme guide or “EPG” means an on-screen guide to scheduled television or sound broadcasting programmes;

“electronic programme information or “EPI” means a basic initiated call to display a banner over the channel indicating at a minimum, the current and upcoming programme title;

“existing broadcasting services provider” means a broadcasting service licensee providing broadcasting services at the commencement of these Regulations;

“frequency assignment” means the authorization by the Authority to a broadcasting services licensee to use frequencies;

“High Definition Television” or “HDTV” means high quality digital television transmission system with at least 1920 by 1080 pixels resolutions either interlaced or progressive formats;

“hybrid network” means a multi-platform network which distributes signals using a number of digital electronic media which can be used in part or a combination of the following DVB-T, DVB-C, DVB-S, IP, IPTV, DVB-H, satellite and any other platforms as determined by the Authority;

“licensee” means any person authorised by the Authority to provide communication services under the Act;

“licence period” means the period authorised to licensee to provide services;

“Motion Picture Expert Group” or “MPEG” means, a working group of experts that was formed by the International Standards Organization (ISO) for setting standards for audio and video compression and transmission;

“multiplex” means the process of combining program material and other data in a digital format for transmission via a channel;

“network facilities” means any element or combination of elements, of physical infrastructure used principally for, or in the connection with, the provision of one or more network services or multiplex operation, but does not include customer equipment;

“service area” means the geographical area within which a licensee is authorized to provide services;

“signal distributor” means an entity that does the multiplexing and transmission of a digital signal to an end user;

“Standard Definition Television or “SDTV” means a digital television transmission system with 720 by 576 pixels resolutions either interlaced or progressive formats; and

“value added services” means additional or advanced services provided under a digital terrestrial broadcasting platform.

3. These Regulations shall apply to—

Application

(a) digital terrestrial television broadcasting (DTT) networks providing signal distribution services to broadcasting licensees;

(b) broadband DTT broadcasting services;

(c) migration from analogue terrestrial television broadcasting to digital terrestrial television broadcasting;

(d) digital terrestrial broadcasting spectrum planning, procedures, guidelines and conditions for assignment and management of multiplexing;

- (e) standards for DTT broadcasting networks in Malawi;
- (f) hybrid networks and value added services in relation to digital broadcasting as may be determined by the Authority;
- (g) licensees authorized by the Authority to provide multiplex services for digital broadcasting; and
- (h) other digital services determined by the Authority.

PART II—GENERAL PROVISIONS

Powers of the Authority in relation to broadcasting network

4.—(1) The Authority shall determine—

- (a) standards for broadcasting networks;
- (b) plan and assign frequencies in accordance with the National Frequency Band Plan;
- (c) categories of signal distributors as deemed necessary;
- (d) number of channels to be used for free to air, pay television and value added services;
- (e) quality of service parameters and monitor compliance; and
- (f) the procedure of licensing signal distributors.

(2) The Authority shall type approve set top boxes and integrated digital television receivers for use by consumers.

Frequency assignments for DTT broadcasting networks

5.—(1) The Authority shall plan frequency spectrum to accommodate emerging digital broadcasting services.

(2) The Authority shall assign frequencies for broadcasting networks to signal distributors, according to the demand and rollout requirements as determined by the Authority.

(3) The Authority shall have powers to review assignments and allocations of frequencies.

(4) In the event of high demand of spectrum resource for broadcasting networks, the Authority shall have the powers to determine the mode of assignment for the radio frequency resource.

Guidelines for DTT broadcasting networks

6.—(1) The Authority may issue guidelines for broadcasting facilities including the following—

- (a) transmission sites;
- (b) studio for radio and television stations;
- (c) head-ends;
- (d) uplink earth stations; and
- (e) broadcasting services.

Obligations of signal distributors

7.—(1) A signal distributor shall have obligations to—

- (a) provide access to free to air broadcasting services licensees as a primary obligation;

(b) provide access to subscription broadcasting services or pay television on a secondary basis;

(c) provide broadcasting content aggregation and programme bouquet handling system;

(d) annually submit to the Authority, an updated roll-out plan for the provision of national network facilities to provide digital terrestrial broadcasting multiplexing and signal distribution services;

(e) provide services to current and new broadcasting service licensees in a fair, transparent, impartial and non-discriminatory manner;

(f) pursuant to a licence issued by the Authority, to construct, operate, install, manage and maintain network facilities in accordance with regulations made under the Act;

(g) ensure that every broadcasting transmission is identified by transmitting identification signals or announcements periodically;

(h) ensure that transmission tower heights, antennae and transmission characteristics are in accordance with the parameters as specified in guidelines issued by the Authority;

(i) ensure compliance with infrastructure sharing requirements and standards as provided for in the Act or in any Regulations made under the Act;

(j) submit to the Authority any plans for development or facility upgrade;

(k) within thirty days of a request by a broadcasting service licensee, enter into a service level agreement with such licensee and provide access services to the licensee;

(l) determine carrier fees in a transparent and non-discriminatory manner;

(m) submit to the Authority, quarterly reports on network and spectrum utilization, interference within and across borders of the Republic of Malawi;

(n) carry signals of broadcasting service licensees to service areas in accordance with their licence conditions; and

(o) meet roll out targets in accordance with their licences.

(2) Where a signal distributor refuses a request to provide access services, the signal distributor shall inform the Authority in writing within seven days after refusing the request, stating the reasons for the refusal.

(3) The Authority shall review the decision of the signal distributor refusing to provide access services.

(4) The Authority may, after reviewing the decision of the signal distributor, either uphold the decision or direct that access be given where the grounds for refusal are found to be unreasonable.

Obligations of
broadcasting
service
licensees

8.—(1) A broadcasting services licensee shall—

(a) enter into a service level agreement with a signal distributor for purposes of transmission and distribution of signals;

(b) file a copy of the service level agreement with the Authority within thirty days from the execution of the agreement;

(c) prepare and submit to the Authority, its broadcasting services roll-out plan;

(d) prepare and submit to the Authority, annual business plans for digital terrestrial broadcasting;

(e) ensure that broadcasting content for transmission by the signal distributor carries station identification information by periodic announcements, and the logo for the television station;

(f) route its source signal to the multiplex head-end;

(g) provide information to the signal distributor, for inclusion in the electronic program guide;

(h) provide periodic viewers guide, warning and information on the rating of broadcasting content;

(i) ensure that disposal of obsolete analogue equipment after official analogue switch off, is in accordance with applicable environmental laws; and

(j) construct and install infrastructure in accordance with guidelines issued by the Authority.

(2) A broadcasting services licensee may enter into a commercial arrangement with a signal distributor on redeployment of its usable infrastructure by the signal distributor during the dual illumination period.

PART III—TECHNICAL STANDARDS

Digital video
broadcasting
terrestrial
standards

9. A signal distributor shall provide services based on the Digital Video Broadcasting-Terrestrial (DVB-T) family standard as provided in the First Schedule.

Network
configuration

10.—(1) A signal distributor shall comply with the following network configuration requirements—

(a) use of Multiple Frequency Network (MFN) configuration for national coverage and Single Frequency Network (SFN) configuration for gap-fillers for deployment of digital terrestrial signal transmission, based on the National Frequency Allocation Plan;

(b) deployment of transmitters without-put powers and Effective Isotropic Radiated Power (EIRPs) or ERPs for both MFN or SFN in accordance with guidelines of the Authority; and

(c) configuration of the network in accordance with reception modes as specified in the Second Schedule;

(2) A signal distributor shall ensure that the transmitter powers of gap fillers do not interfere, or cause interference, with other electronic communications networks.

11. A signal distributor shall offer digital broadcasting services in the following manner—

Signal
distribution
capacity
framework

(a) unless otherwise approved by the Authority in writing, allocate a minimum of one third of total multiplex capacity for free to air services;

(b) in allocation of multiplex capacity, priority shall be given to licensed free to air service providers;

(c) compliance with minimum compression ratio as prescribed by the Authority;

(d) value added services shall not exceed five percent capacity of one multiplexor in use; and

(e) not carry its own broadcasting content and channels, unless authorized by the Authority.

12.—(1) A signal distributor and broadcasting service licensee shall comply with quality of service standards as prescribed by the Authority.

Quality of
service

(2) Notwithstanding the generality of subregulation (1), the quality of service standards shall include the following—

(a) point of interface between a broadcasting services licensee's studio and the signal distributor's head-end;

(b) coding, compression and multiplexing stages;

(c) signal distribution system;

(d) signal transmission system;

(e) point of audio and visual production;

(f) distribution interface equipment;

(g) customer perception of quality of experience; and

(h) availability of service.

13.—(1) A signal distributor shall ensure that there is interoperability in digital broadcasting.

Systems
interopera-
bility

(2) A signal distributor shall ensure interoperability in the following manner—

(a) all free to air channels shall be accessible without any subscription fees on any digital platform through a set top box;

(b) all conditional access television channels shall be accessible through a single set-top-box and integrated digital television using mechanisms compatible with a single receiver system; and

(c) provide flexibility to broadcasting services licensees to change signal distributors without need for additional interface.

- Set-top-box specifications
14. Any person who intends to assemble, manufacture, maintain, import, distribute or sell set-top-boxes or any other consumer signal distribution interface equipment for digital terrestrial broadcasting reception shall—
- G.N No.
- (a) obtain a type approval certificate from the Authority;
 - (b) comply with the Communications (Type Approval) Regulations;
- and
- (c) any other specifications by the Authority.

PART IV—MISCELLANEOUS PROVISIONS

Service level agreements

15.—(1) The Authority shall issue guidelines on service level agreements between broadcasting services licensees and the signal distributor.

(2) A service level agreement shall include the following—

- (a) obligations of the signal distributor;
- (b) obligations of a broadcasting services licensee;
- (c) carrier fees and billing arrangements;
- (d) technical and installation support;
- (e) parental control mechanism;
- (f) electronic program guide;
- (g) subscriber management support;
- (h) broadcasting service licensee studio to signal distributor equipment;
- (i) dispute settlement mechanism;
- (j) customer experience service;
- (k) electronic communication contractors for construction, selling, distribution, installation, commissioning, maintenance and importation;
- (l) electronic-waste management;
- (m) programme classification; and
- (n) any other matter prescribed by the Authority.

Negotiation of service level agreements

16.—(1) The negotiation of a service level agreement between a broadcasting services licensee and the signal distributor shall be concluded within thirty days from the date of request by the broadcasting services licensee.

(2) Where the period for negotiations has lapsed, the parties may seek an extension for negotiation from the Authority.

(3) Where the parties fail to reach an agreement or a dispute arises between the parties under a service level agreement, either party may refer the matter to the Authority to make a determination.

(4) The Authority shall proceed to make a determination on the matter based on information that is available and may, where necessary, impose conditions in compliance with these Regulations.

17.—(1) The Authority shall determine the—

Transition
period

(a) transition period for migration from analogue to digital broadcasting; and

(b) analogue switch off date.

(2) During the transition period, dual illumination (simulcast) shall be allowed.

(3) A broadcasting services licensee may opt to switch off its analogue transmitters before the end of the dual illumination (simulcast) period, provided the Authority is notified not less than fourteen days prior to the switch off.

(4) The Authority may amend the licence of an existing broadcasting services licensee or of a signal distributor in order to ensure compliance with these regulations.

(5) A broadcasting services licensee shall not be entitled to compensation for any amendments or modifications made pursuant to subregulation (4).

(7) All radio licences authorising a broadcasting services licensee to use frequencies for broadcasting on an analogue platform shall cease to be valid on the expiry of the dual illumination period or the voluntary analogue switch off and the licensees shall surrender the frequencies to the Authority.

18.—(1) A signal distributor or broadcasting services licensee shall not interrupt or suspend the provision of services without having first notifying the Authority in writing and providing reasonable advance notice to persons affected or likely to be affected by such interruption or suspension.

Interruptions
and outages

(2) Subregulation (1) shall not apply where the interruption or suspension is due to an emergency, an event of force *majeure* or to other circumstances beyond the signal distributor's or broadcasting services licensee's control.

(3) A signal distributor or a broadcasting service licensee shall give outage credit to its customers for continuous interruption of services in accordance with regulations made under the Act.

19.—(1) The Authority shall licence multiple television channels taking into consideration the following—

Licensing of
multiple
television
channels

(a) each channel in the multiplexes shall require a separate licence; and

(b) subject to Regulation 16(1), each licensed channel shall have a service level agreement with the signal distributor.

20. Any licensee who contravenes any provision of these Regulations commits an offence and shall, upon conviction, be liable to a fine of K5,000,000.00 and to imprisonment for five (5) years.

Offences and
penalties

FIRST SCHEDULE

(reg.9)

TECHNICAL STANDARDS FOR SIGNAL DISTRIBUTION

- (1) Digital Video Broadcasting-Terrestrial—
 - (a) (DVB-T EN 300 744) for free to air and subscription services; and
 - (b) a where necessary, Digital Video Broadcasting-Satellite, (DVB-S EN 300 421) to compliment the terrestrial service as a relaying standard to remote areas due to terrain and lack of terrestrial infrastructure.
- (2) DTT-MPEG-4/H.264 AVC or its higher compression format developed for DTT after issuance of these Regulations and as may be approved by the Authority.
- (3) STB-MPEG-4 based STB.
- (4) Network security for STBs ensuring use in Malawi only.
- (5) STB to be open and Interoperable with networks within Malawi only.
- (6) The DVB-T Head-end shall support Standard Television (SDTV) and be provisionally upgradeable to support High Definition (HDTV) programming.
- (7) Standards applicable to STBs shall also apply to Integrated Digital Television Receivers (IDTV).
- (8) STB to be capable of provision of Over The Air (OTA) update.
- (9) STB's to be capable of supporting simulcrypt.

SECOND SCHEDULE

(reg.10)

REQUIREMENTS FOR NETWORK CONFIGURATIONS INCLUDING PARAMETER FOR MFN

1. In planning network configuration, a Signal Distributor shall consider the following—
 - (a) effective radiated power;
 - (b) service area;
 - (c) transmitter arrays; and
 - (d) reception Modes.
2. (1) A Signal Distributor shall adhere to reference planning configurations for DVB-T2 in accordance with the following reception modes and frequency bands—
 - (a) fixed reception;
 - (b) portable outdoor reception or lower coverage quality portable indoor reception or mobile reception; and
 - (c) higher coverage quality for portable indoor reception.
- (2) the reference planning configurations for DVB-T2 that shall be used as summarized in Table 1—

TABLE 1: REFERENCE PLANNING CONFIGURATIONS (RPC) FOR DVB-T2

RPC	RPC 1	RPC 2	RPC 3
Reference location probability	95%	95%	95%
Reference C/N (dB)	21	19	17
Reference (E _{med}) _{ref} (dB(μV/m)) at f _r = 200 MHz	50	67	76
Reference (E _{med}) _{ref} (dB(μV/m)) at f _r = 650 MHz	56	78	88

“(E_{med})_{ref}” refers to reference value for minimum median field strength;

“RPC 1” refers to the RPC for fixed reception;

“RPC 2” refers to the RPC for portable outdoor reception or lower coverage quality portable indoor reception or mobile reception; or

“RPC 3 refers to RPC for higher coverage quality for portable indoor reception

Reference frequencies for VHF Band is 200 MHz and for UHF Band is 650 MHz. For other frequencies, the reference field-strength values in Table 1 shall be adjusted by adding the correction factor (Corr) defined according to the following rule:—

- (a) $(E_{med})_{ref}(f) = (E_{med})_{ref}(f_r) + Corr$;
- (b) for fixed reception: $Corr = 20 \log_{10}(f/f_r)$, where f is the actual frequency and f_r the reference frequency of the relevant band quoted in Table 1; or
- (c) for portable reception and mobile reception:—, $Corr = 30 \log_{10}(f/f_r)$ where f is the actual frequency and f_r the reference frequency of the relevant band quoted in Table 1.

The standard deviation used for the calculation of the location correction factor of each RPC shall be as follows:—

- (a) for RPC 1 and RPC 2:— 5.5 dB in VHF and UHF; and
 - (b) for RPC 3:— 6.3 dB in VHF and 7.8 dB in UHF.
3. (1) A Signal Distributor shall use four Reference Networks (RNs) in order to cover the different implementation requirements for DVB-T networks as follows: large service-area SFN, small service area SFN & dense SFN, small service area SFN for urban environment and semi-closed small service area SFN.
- (2) Large service area SFN
- (a) This network consists of seven transmitters situated at the centre and at the vertices of a hexagonal lattice;
 - (b) The transmitters have non-directional antenna patterns;
 - (c) The service area is assumed to exceed the transmitter hexagon by about 15%;
 - (d) This network applies to: fixed, outdoor/mobile, and indoor reception, for both Band III and Bands IV/V;
 - (e) For portable and mobile reception, the size of the real service areas for this type of SFN coverage is restricted to 150 to 200 km in diameter; and
 - (f) Table 2: Parameters of Large Service Area SFN.

RPC and reception type		RPC 1 Fixed antenna	RPC 2 Portable outdoor and Mobile	RPC 3 Portable indoor
Type of network		Open	Open	Open
Geometry of service area		Hexagon	Hexagon	Hexagon
Number of transmitters		7	7	7
Geometry of transmitter lattice		Hexagon	Hexagon	Hexagon
Distance between transmitters D (km)		70	50	40
Service area diameter D (km)		161	115	92
Tx effective antenna height (m)		150	150	150
Tx antenna pattern		Non-directional	Non-directional	Non-directional
e.r.p.* (dBW)	Band III	34.1	36.2	40.0
	Bands IV/V	42.8	49.7	52.4

The e.r.p. is given for 200 MHz in Band III and 650 MHz in Bands IV/V; for other frequencies (f in MHz) the frequency correction factor to be added is: $20 \log_{10} (f/200)$ or $f/650$ for RPC 1 and $30 \log_{10} (f/200)$ or $f/650$ for RPC 2 and RPC 3.

* The e.r.p. values indicated in this table incorporate an additional power margin of 3 dB.

For the guard interval length, the maximum value $1/4 T_u$ of the 8k FFT mode shall be used. A Signal Distributor shall ensure that the distance between transmitters in an SFN does not exceed the distance equivalent to the guard interval duration.

(3) Small service area SFN, dense SFN—

- (a) This network consists of three transmitters situated at the vertices of an equilateral triangle;
- (b) The transmitters have non-directional antenna patterns;
- (c) The reference service area is hexagonal;
- (d) This network applies to: fixed, outdoor/mobile and indoor reception, for both Band III and Bands IV/V;
- (e) The network is intended for small service area SFN coverage;
- (f) Transmitter sites with appropriate effective antenna heights are required to be available for this type of network and self-interference restrictions are small;
- (g) Typical service area diameters should be from 30 to 50 km; and
- (h) Table 3: Parameters of Small Service Area SFN.

RPC and reception type		RPC 1 Fixed antenna	RPC 2 Portable outdoor and Mobile	RPC 3 Portable indoor
Type of network		Open	Open	Open

<i>RPC and reception type</i>		<i>RPC 1 Fixed antenna</i>	<i>RPC 2 Portable outdoor and Mobile</i>	<i>RPC 3 Portable indoor</i>
Geometry of service area		Hexagon	Hexagon	Hexagon
Number of transmitters		3	3	3
Geometry of transmitter lattice		Triangle	Triangle	Triangle
Distance between transmitters d (km)		40	25	25
Service area diameter D (km)		53	33	33
Tx effective antenna height (m)		150	150	150
Tx antenna pattern		Non-directional	Non-directional	Non-directional
e.r.p.* (dBW)	Band III	24.1	26.6	34.1
Bands	IV/V	31.8	39.0	46.3

The e.r.p. is given for 200 MHz in Band III and 650 MHz in Bands IV/V; for other frequencies (f in MHz) the frequency correction factor to be added is: $20 \log_{10} (f/200$ or $f/650)$ for RPC 1 and $30 \log_{10} (f/200$ or $f/650)$ for RPC 2 and RPC 3.

* The e.r.p. values indicated in this table incorporate an additional power margin of 3 dB.

(4) Small service area SFN for urban environment

- The geometry of the transmitter lattice of this network and the service area are identical to those of Small Service Area SFN, dense;
- This network applies to: fixed, outdoor/mobile and indoor reception, for both Band III and Bands IV/V;
- This Network is intended for small service area SFN coverage in an urban environment; and
- Table 4: Parameters of Small Service Area SFN For Urban Environment.

<i>RPC and reception type</i>		<i>RPC 1 Fixed antenna</i>	<i>RPC 2 Portable outdoor and Mobile</i>	<i>RPC 3 Portable indoor</i>
Type of network		Open	Open	Open
Geometry of service area		Hexagon	Hexagon	Hexagon
Number of transmitters		3	3	3
Geometry of transmitter lattice		Triangle	Triangle	Triangle
Distance between transmitters d (km)		40	25	25
Service area diameter D (km)		53	33	33
Tx effective antenna height (m)		150	150	150
Tx antenna pattern		Non-directional	Non-directional	Non-directional
e.r.p.* (dBW)	Band III	24.1	32.5	40.1
Bands	IV/V	31.8	44.9	52.2

The e.r.p. is given for 200 MHz in Band III and 650 MHz in Bands IV/V; for other frequencies (f in MHz) the frequency correction factor to be added is: $20 \log_{10} (f/200$ or $f/650)$ for RPC 1 and $30 \log_{10} (f/200$ or $f/650)$ for RPC 2 and RPC 3.

* The e.r.p. values indicated in this table incorporate an additional power margin of 3 dB.

(5) Semi-closed small service area SFN

- (a) This network is intended for cases in which increased implementation efforts regarding transmitter locations and antenna patterns are undertaken in order to reduce the outgoing interference of the network;
- (b) The geometry for this network is identical to Small Service Area SFN, dense, except for the antenna patterns of the transmitters, which have a reduction of the outgoing field strength of 6 dB over 240 degrees (i.e. it is a semi-closed RN);
- (c) This network applies to: fixed, outdoor/mobile and indoor reception, for both Band III and Bands IV/V; and
- (d) Table 5: Parameters Of Semi-Closed Small Service Area SFN.

RPC and reception type		RPC 1 Fixed antenna	RPC 2 Portable outdoor and Mobile	RPC 3 Portable indoor
Type of network		Open	Open	Open
Geometry of service area		Hexagon	Hexagon	Hexagon
Number of transmitters		3	3	3
Geometry of transmitter lattice		Triangle	Triangle	Triangle
Distance between transmitters		d (km)	40	25 25
Service area diameter D (km)		46	29	29
Tx effective antenna height (m)		150	150	150
Tx antenna pattern		Non-directional 6 dB reduction over 240°	Non-directional 6 dB reduction over 240°	Non-directional 6 dB reduction over 240°
e.r.p.* (dBW)	Band III	22.0	24.0	32.5
	Bands IV/V	29.4	37.2	44.8

The e.r.p. is given for 200 MHz in Band III and 650 MHz in Bands IV/V; for other frequencies (f in MHz) the frequency correction factor to be added is: $20 \log_{10} (f/200$ or $f/650)$ for RPC 1 and $30 \log_{10} (f/200$ or $f/650)$ for RPC 2 and RPC 3.

*The e.r.p. values indicated in this table incorporate an additional power margin of 3 dB.

Made this 14th day of September, 2018.

N. H. DAUSI
Minister of Information and
Communications Technology

GOVERNMENT NOTICE NO. 26

COMMUNICATIONS ACT

(Cap. 68:01)

COMMUNICATIONS (BROADCASTING) REGULATIONS, 2019

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IN EXERCISE of the powers conferred by section 200 of the Communications Act, I, NICHOLAS HARRY DAUSI, Minister of Information and Communications Technology, on recommendation from the Malawi Communications Regulatory Authority, hereby make the following Regulations—

PART 1—PRELIMINARY

Citation 1. These Regulations shall be cited as the Communications (Broadcasting) Regulations, 2019.

Interpretation 2. In these Regulations, unless the context otherwise requires—

“advertising” means the broadcasting of any content in return for payment or other valuable consideration to a broadcaster with the intention of—

- (a) a statement on the licensee's intention to transmit a broadcasting service from a station as stipulated in its licence;
- (b) the commencement date and time of transmissions;
- (c) the assigned frequency or channel that the station shall operate from;
- (d) the station programming format;
- (e) a statement inviting the members of the public to contact the licensee in case any transmission by the licensee causes interference with the services provided by other licensees; and
- (f) the address and telephone number of the licensee.

9.—(1) The Authority may amend a licence on any of the following grounds— Amendment
of a licence

- (a) to ensure efficient management of the communication sector;
- (b) to comply with any international broadcasting standards; or
- (c) if so requested by the licensee as long as, in the opinion of the Authority, the amendment does not—
 - (i) not prejudice any other broadcaster;
 - (ii) not be inconsistent with the provisions of the Act or any other applicable Regulations; or
 - (iii) not impede fair competition between licensees.

(2) Before amending any provision of a licence, the Authority shall—

- (a) give the Licensee not less than seven (7) days' notice and publish a notice in the *Gazette* stating the amendment that it proposes to make and the reasons for it, and shall give any licensee or any person with an interest an opportunity to make representations concerning the proposed amendment; and
- (b) give due consideration to any representations made by the licensee or any person.

(3) A licensee or any person may submit a response to the proposed amendment within thirty days of the notice.

(4) If the Licensee does not respond within the thirty day period under this regulation, the amendment shall take effect on the thirtieth day after the date of notice.

(5) If the Authority receives a response from a licensee or any person, it shall consider the response and notify the licensee within thirty (30) days of the reply of its decision to either—

- (a) rescind the amendment;
- (b) modify the amendment; or
- (c) proceed with the proposed amendment in which case the amendment shall take effect on the fifteenth (15th) day after the date of the Authority's second notice.

Renewal of
licences

10.—(1) A licensee may, within a period of six months before the expiry of its licence apply to the Authority for the renewal of the licence in such manner as the Authority may prescribe.

(2) Where a licence is renewed, the licensee shall prior to the issuance of the licence pay such fees as the Authority may prescribe.

(3) In considering an application for renewal of a licence, the Authority shall take into account—

(a) the past conduct of the licensee, which shall include, but not limited to—

(i) level of compliance to the Act, Regulations, Rules, and licence conditions;

(ii) timeliness in payment of licence fees and levies; and

(iii) submission of information required by the Authority.

(b) the financial and technical capacity of the licensee to provide the services.

General
obligations
of licensees

11.—(1) A broadcasting licensee shall—

(a) meet high professional quality standards;

(b) contribute to the development of free and informed opinion;

(c) respect human rights and dignity, freedoms and contribute to the tolerance of different opinions and beliefs;

(d) not discriminate on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, age, disability, property, birth or other status; and

(e) not broadcast programmes which contain, promote or perpetuate hate messages or any prejudices against any person or groups of people.

(2) A licensee shall ensure editorial independence.

(3) A licensee shall respect copyright obligations in respect of any broadcast material.

(4) A licensee shall keep and store sound and video recordings of all programmes broadcast for a minimum period of three (3) months or for such further period as the Authority may direct.

(5) A licensee shall ensure provision of programming that is accessible to disabled persons.

(6) A licensee shall—

(a) annually file with the Authority information showing their station identity and any changes thereto;

(b) ensure that their station identity is unique and does not cause confusion;

(c) keep such records as the Authority may prescribe from time to time;

(d) reveal its station's identity at intervals of sixty (60) minutes during the period which broadcasts are made from that station;

(e) state, at least twice within a period of twenty-four hours, all the frequencies; and

(f) and channels on which the broadcasting station is licensed to operate state.

(7) In the case of free-to-air broadcasting services, the licensee shall ensure that—

(a) it provides the amount of local content as specified in the licence;

(b) it include news and information in its programming, as well as discussions on matters of national importance; and

(c) it adheres to any applicable code of conduct as well as its programming schedules.

12.—(1) The broadcast format submitted by a licensee on application of its licence, shall form part of its licence. Broadcast format

(2) A licensee shall ensure that it carries out its programming in conformity with its broadcast format.

(3) A licensee shall not change the overall character of its broadcast format without the written consent of the Authority.

(4) An application for consent under this regulation shall be in writing and shall include—

(a) the name of the licensee;

(b) the date on which the licensee was granted a licence by the Authority;

(c) the type of broadcasts which the licensee intends to conduct;

(d) the original broadcast format authorised by the Authority;

(e) any other information specified by the Authority.

(5) Where the Authority rejects an application made under this regulation, it shall furnish the licensee with reasons for its decision in writing within thirty (30) days from the application.

13.—(1) The Authority shall not issue a broadcasting licence to any person unless the person is registered under the relevant written law. Ownership of broadcasting services originating from Malawi

(2) A licensee shall ensure that its local shareholding at all times comply with local shareholding requirements prescribed by the Authority from time to time.

(3) A broadcasting licensee shall not transfer, assign or sell a licence granted to it or cede control in the operations of the licence or merge with another person or licensee without prior written approval of the Authority.

(4) A broadcasting licensee shall not in any way own or control a signal distribution licence, nor shall it hold a controlling interest in a signal distributing licence without prior approval of the Authority.

(5) A licensee shall not affect any changes to its ownership, control or proportion of its shareholding without giving notice to the Authority at least ninety (90) days prior to effecting such change.

(6) Notwithstanding subregulation (5), a licensee shall require prior written consent from the Authority for—

(a) any change in shareholding; or

(b) the acquisition by an existing shareholder of at least twenty five per cent (25%) of additional shares.

(7) The Authority shall notify the applicant of its acceptance or refusal to grant consent under subregulation(6) and where it refuses to grant the consent, the Authority shall state reasons for the refusal within sixty (60) days of receipt of the application for the consent.

(8) A notification of change in ownership made pursuant to sub regulation (5), shall state—

(a) the date when the intended transfer of ownership or part thereof is to be effected;

(b) the name and address of the acquirer;

(c) the names, nationality and addresses of persons who are in control of the business;

(d) any change in the name or address of the business; and

(e) any other information specified by the Authority.

(9) In considering an application for consent for transfer of ownership or change of person in control or change in shareholding of a broadcasting licensee, the Authority shall consider—

(a) the capacity of the acquiring entity to roll out the broadcasting services;

(b) the nature of broadcasting services and programming that the acquiring entity intends to roll out;

(c) the extent to which the allocated frequency resource(s) of the entity to be acquired have been utilized;

(d) the possible impact on promotion of pluralism and diversity that the transfer may have;

(e) the effect or impact of the transfer on competition or promotion of competition in the sector;

(f) whether the transfer conforms to any applicable sector policy;

(g) the past and current compliance record, relating to the conditions of the current licences, of the acquiring and acquired entities; and

(h) any other matter as the Authority may consider relevant.

(10) For purposes of this regulation, any transfer of more than fifty percent (50%) of shareholding shall be construed as a licence transfer.

(a) selling to a viewer or listener, any product or service;

(b) convincing a viewer or listener of a belief or course of action; or

(c) promoting a product, service, belief, cause of action, person or organisation;

“audience” means people who listen or watch any broadcasting services;

“broadcasting service” means a service consisting of the diffusion of sound or television programmes for general reception by the public;

“broadcasting format” means the document describing the overall type or character of content output that a licensee is mandated to deliver as a condition of its licence;

“child” means persons below the age of eighteen years;

“community broadcasting service” means a broadcasting service which—

(a) serves a particular community;

(b) is carried on for non profitable purposes; and

(c) is fully controlled by a non profit entity;

“coverage area” means the geographical area within which a licensee is supposed to provide its broadcasting service under its licence;

“content” means information in the form of sound, data, texts or images except where transmitted in private communications;

“content broadcasting” means any form of telecommunication intended for general reception by the public by means of receivers adapted for the purpose;

“content broadcasting licence” means a licence that authorises the provision of a broadcasting service;

“delay machine” means a device that enables a licensee to postpone, block or obliterate, obscene, unwanted or offensive content;

“election broadcast period” means the period declared by the Authority within which a licensee may transmit political election broadcast;

“election period” means the period commencing on the date on which the election day is proclaimed in accordance with the Parliamentary and Presidential Elections Act;

“encryption” means the scrambling of television signal in a form that can only be accessed by authorised persons;

“family viewing” means a television broadcast suitable for both children and adults and does not contain, material depicting or relating to acts of brutality, violence, atrocities, drug abuse, obscenity, offensive language, nudity or explicit sexual conduct;

“free to air service” means a service which is broadcast without encryption and capable of being received on universal receivers without payment of any subscription by the end user to the licensee;

“frequency assignment” means the reservation of one or more radio frequencies for use by a particular person in accordance with National Band Plan;

“harmful interference” means any emission, radiation or induction that endangers the functioning or seriously degrades a communications system;

“hate messages” means a speech intended to degrade, intimidate or incite violence or prejudicial action against a person or group of people based on their race, gender, age, ethnicity, nationality, religion, gender identity, disability, language ability, moral or political views, socio-economic class, occupation or physical appearance, mental capacity and any other distinction that might be considered by some as a liability;

“infomercial” means any advertisement broadcast in visual or audio form, lasting for more than two minutes, which may contain demonstrations of the use of the product or service advertised;

“licensee” means the holder of a content broadcasting licence issued by the Authority;

“local content” means the total of all television or radio programmes that contain Malawian material;

“news adjacent” means an advertisement placed immediately before or immediately after a news bulletin;

“political advertisement” means a commercial intended or calculated to promote or advance any political agenda;

“political election broadcast” means an address or message broadcast free of charge on a licensee’s broadcasting service and which is intended or calculated to advance the interests of any particular political person or party;

“polling day” means the day on which voting in a general election commences in accordance with electoral laws;

“prime time” means time deemed to have the largest audience typically from 06:00 hours to 09:00 hours, 12:00 hours to 14:00 hours, and 17:00 hours to 21:00 hours or as otherwise determined by the Authority;

“programme” means a segment of content intended for broadcast on radio or television, it may be a one-time production or part of the periodically recurring series and may include, a news bulletins, current affairs, informative programming, interviews, panel discussions and phone in discussions;

“public broadcaster” means a licensee designated by the Authority under section 100 of the Act as a public content licensee;

“religious programme” means a programme that deals with matters

of religious beliefs or faith as the central subject or as a significant part of it;

“special event broadcast licence” means a temporary broadcasting licence with a validity period of not exceeding thirty (30) days;

“sponsored programme” means a programme that has all or part of its costs paid by a sponsor;

“subscription broadcasting service” means broadcasting service which transmits programmes by satellite or terrestrial or any other means whether by means of encoded or unencoded signals and is made available to persons on payment of a subscription fee;

“subscription management services” means a service which involves the provision of support services to a subscription broadcasting service which may include subscriber management support, subscription fee collection, call centres, sales and marketing, and technical and installation services; and

“watershed period” means a period as described under regulation 24, when a licensee may broadcast content rated as adult material.

3. These Regulations shall apply to the provision of content Application
broadcasting services in Malawi.

PART II—GENERAL PROVISIONS

4.—(1)A person shall not provide any broadcasting services without a Licence
licence issued by the Authority.

(2)A person shall apply for a broadcasting licence in a manner and form as prescribed by the Authority from time to time.

(3)An application made under subsection (2) shall be accompanied by a non-refundable application fee as prescribed by the Authority from time to time.

(4)An applicant for a content licence shall provide the following—

- (a) an incorporation certificate;
- (b) evidence of technical capacity in terms of personnel and equipment to carry out broadcasting services;
- (c) evidence of relevant experience and expertise in broadcasting services;
- (d) evidence of capacity to offer minimum continuous broadcasting services for the broadcasting licence category applied for;
- (e) a proposed editorial policy and nature of the broadcasting service;
- (f) proposed programme line up or schedule;
- (g) complaints handling procedure;
- (h) network plan and technical specifications of their equipment, including power;

- (i) where applicable the proposed location of their transmitter station;
- (j) specific geographical areas to be covered;
- (k) roll out plans;
- (l) staff development programme;
- (m) proof of financial ability and sustainability mechanisms;
- (n) Proposed broadcast format; and
- (o) Any other information as specified by the Authority.

Licence categories

5. The Authority shall issue the following content licences categories—
- (a) public content broadcasting licence;
 - (b) private content broadcasting licence;
 - (c) community content broadcasting licence;
 - (d) subscription management content broadcasting licence; and
 - (e) any other licence category determined by the authority from time to time.

Broadcasting licence fees and levies

- 6.—(1) In relation to broadcasting services, an applicant shall pay—
- (a) licence application fees;
 - (b) annual fees;
 - (c) annual levies;
 - (d) renewal fees;
 - (e) licence transfer fees; and
 - (f) any other fees related to provision of broadcasting services.

(2) Any person who fails to pay any fees prescribed by the Authority under subregulation (1) commits an offence.

Roll out obligations and extension

7.—(1) In line with the Act, any applicable Regulations and Guidelines, the Authority shall grant a successful applicant a broadcasting services licence and require the licensee to roll out its services within twelve (12) months for television and six (6) months for sound broadcasting service from the effective date of its licence.

(2) The Authority shall not extend a licensee's roll out period, unless on grounds of force majeure.

(3) Where the Authority allows a roll out extension period in accordance with subregulation (2), the Authority may extend the roll out period for a maximum period of twelve months.

(4) Where a licensee fails to roll out its services within the period specified in its licence, the licence shall be deemed revoked.

Commencement of broadcasting service

8. A licensee shall, not later than fourteen days before commencement of broadcasting services publish a notice in a newspaper, with wide circulation in the licensee's coverage area, containing—

14.—(1)A licensee shall—

Complaint
management

(a) on commencement of its broadcasting services or such extended period as the Authority may allow, design its public complaints handling guidelines; and

(b) submit the guidelines to the Authority for approval at least thirty (30) days before the said commencement.

(2) A licensee shall designate a person or persons of sufficient seniority and competence to deal with any complaints concerning the licensee's public sound broadcasts.

(3) A licensee shall inform the Authority in writing of the name or names of such person or persons under this regulation.

(4) A licensee shall, at least once a day during prime time, broadcast information to the public on how to lodge complaints about its programming and such broadcasts shall include a notice that members of the public have a right to complain directly to the Authority.

(5) A licensee shall comply with the Authority's complaints handling and adjudication procedures.

(6) A licensee shall, on quarterly basis, submit to the Authority, a written report of all complaints received and how they were addressed by the licensee in accordance with any guidelines issued by the Authority.

(7) A person may who has lodged a complaint to a licensee, may lodge the complaint to the Authority where the complainant—

(a) has not received a response within fourteen (14) days after making the complaint; or

(b) is not satisfied with the response from the licensee.

15.—(1)A licensee shall ensure that it conforms with the technical standards as prescribed in its licence.

Technical
standard
obligations

(2) The Authority shall conduct annual technical audits on a licensee to ensure compliance with this regulation.

PART III—BROADCASTING SERVICES

16.—(1)A public broadcaster shall—

Public
broadcasting

(a) provide independent and impartial broadcasting services of information, education and entertainment in English and Chichewa and such other languages as the broadcaster may decide;

(b) conduct the broadcasting services impartially and consider to the interests and susceptibilities of the different communities in Malawi; and

(c) provide and receive from other persons material to be broadcast: Provided that in acquiring such material, the public broadcaster shall have regard to the need to maintain the distinctive character of the public broadcasting service and to cater for the expectations of audiences who are not generally catered for by other broadcasting services.

(2) A public broadcaster service shall be supported by revenues from grants, donations and its commercial services.

(3) A public broadcaster shall not lease or transfer the broadcast frequencies or channels assigned to it for use in public broadcasting.

(4) The Authority may, on application by a public broadcaster, grant the public broadcaster a licence to provide broadcasting services on a commercial basis.

(5) Where a public broadcaster is granted a licence to provide broadcasting services on a commercial basis, the Authority may require the public broadcaster to maintain and keep separate accounts for its public and commercial broadcasting services.

(6) A public broadcaster may, enter into a private arrangement with any person for the provision of its commercial services:

Provided that any private arrangement entered into pursuant to this subregulation complies with any other relevant written laws.

(7) The Authority shall give priority and ensure equitable allocation of resources for public broadcasting services.

(8) A public broadcaster shall ensure, as far as is reasonably possible, that its programmes—

- (a) include content from diverse sources;
- (b) serve the needs of different audiences;
- (c) are transmitted at appropriate times, in order to take into account children who may be watching, or listening to, such programmes;
- (d) are accurate, fair and impartial;
- (e) do not contain any content expressing the opinion of the presenter on current affairs or matters of public interest;
- (f) do not offend religious views and beliefs of others;
- (g) disseminate content that inform, educate and entertain the general public;
- (h) reflect cultural diversity of Malawi; and
- (i) any other condition specified by the Authority from time to time.

Private
commercial
broadcasting

17.—(1) A private broadcasting licensee providing commercial free-to air broadcasting service shall—

- (a) be issued with a broadcasting service licence which shall include the frequency or channel licence for each broadcast station that utilizes a frequency or channel resource;
- (b) provide a diverse range of programming that reflects the identity, needs and aspirations of people in its broadcasting area;
- (c) where the commercial broadcaster provides national coverage, be required, without prejudice to paragraphs (a) and (b) to provide programming that reflects the identity and needs of the people of Malawi; and

(d) not acquire exclusive rights for the non-commercial broadcast of national events identified to be of public interest as may be determined by the Authority from time to time.

(2) The Authority shall, in consultation with the Minister, license foreign commercial content broadcasters, subject to availability of frequencies or channels.

(3) A commercial content broadcasting licensee shall ensure that advertisements are broadcast in the allotted breaks in a programme and in the interval between the end of one programme and the beginning of another.

(4) A commercial content broadcasting licensee shall keep records of all its broadcasts for forty five (45) days for inspection by the Authority during business hours.

(5) Where the Authority intends to inspect the records of a licensee, the Authority shall give notice thereof to the licensee not less than twenty four (24) hours before the proposed date of such inspection.

18.—(1) The Authority may issue a community content licence to any group of persons in accordance with these Regulations.

Community
content
licence

(2) A community content licence may be classified into the following categories—

(a) geographical community content licence which shall be—

(i) based on distance of coverage as determined by the Authority from time to time; and

(ii) limited to the provision of sound community broadcasting services.

(b) community of interest licence shall serve a particular community with a common interest as determined by the Authority from time to time.

(3) A community content licensee shall—

(a) ensure that its programming reflects the needs of the people in the community which shall include social, economic, cultural, religious, language, environmental, educational and demographic needs;

(b) deal specifically with community issues which are not normally dealt with by other broadcasting services covering the same area; and

(c) be informational, educational and entertaining in nature; and

(d) provide a distinct broadcasting service that highlights community issues.

(4) The Authority shall, through the frequency plan, ensure that an equitable number of frequencies or channels are reserved for community broadcasting.

(5) A community broadcaster shall ensure that all the funds generated

from the operations of a community broadcasting station are reinvested in activities benefiting the community.

(6) The Authority shall monitor community broadcasters to ensure compliance with subregulation (5).

(7) The Authority shall allow community content to advertise, on their stations, adverts that are relevant and specific to that community within the broadcast coverage area.

(8) A community content licensee shall broadcast the following—

(a) community programming; husband;

(b) announcements promoting community development projects;

(c) community service announcements;

(d) information programmes funded by community service organisations or the Government;

(e) announcements providing information about the programmes to be broadcast on the community content service channel;

(f) commercial broadcasts that mention or display, in the course of community programming issues relating to a community event—

(i) the name of a person sponsoring the community event; or

(ii) the goods, services or activities sold or promoted by a person sponsoring the community event; or

(g) oral or written acknowledgements in community programming that mentions the name of a person, the goods, services or activities sold or promoted by the person and the person's address and telephone number, where the person provides—

(i) financial assistance for the community programming in (i) which the acknowledgement is contained; or

(ii) goods or services free of charge to the licensee, for use in connection with the production of the community programming in which the acknowledgement is contained.

(9) A community content broadcasting licensee shall be managed and controlled by a board comprising of representatives of the community.

(10) A community content licensee shall invest all surplus funds derived from the running of a community broadcasting for the benefit of the community.

(11) The Authority may conduct a public inquiry to determine priorities, within the community, viability and impact of community broadcasting service.

(12) A community broadcasting licensee shall ensure that its services are—

(a) available to the members of the community so that they can participate in the programmes, express their needs and wants or discuss issues of interest relating to their own community, allowing for community development;

(b) based within the community which it is serving or at a strategic location or the community of interest and be equally accessible by the entire community so that community members can reach the station and benefit from it;

- (c) affordable to the community;
- (d) acceptable to the community; and
- (e) accountable to the community that it serves.

19.—(1) The Authority may upon application, in the prescribed form, grant subscription broadcasting services licence for—

- (a) subscription broadcasting; and
- (b) subscription management services.

Subscription
broadcasting
and
subscription
management
services

(2) The Authority may require a licensee granted a licence under subregulation (1) to—

- (a) distribute broadcasting services, whether through cable or satellite within Malawi;
- (b) provide a prescribed minimum number of Malawian broadcasting channels; and
- (c) provide diversity in programming.

(3) Notwithstanding subregulation (1) and (2), a satellite subscription broadcasting service provider whose signal originates from outside Malawi and who intends to provide its broadcasting services in Malawi shall provide such services through a person with a subscription management service licence.

(4) The Authority may require a subscription management service licensee to provide the following services on behalf of a satellite provider broadcasting from outside Malawi—

- (a) subscription fee collection;
- (b) marketing and sales;
- (c) technical and installation support;
- (d) operation of a national call centre;
- (e) guarantees of quality of service and customer protection; and
- (f) any other services as the Authority may require.

(5) A subscription management services licensee shall be required to have minimum local equity participation of twenty per cent (20%) or as prescribed by the Authority from time to time.

(6) A subscription broadcasting service or subscription management services licensee shall ensure—

- (a) protection of subscribers interest on all issues related to packages, subscription options;
- (b) fault repair;

(c) subscriber privacy; and

(d) credit management and billing such as compensation for services not rendered

Obligations for
subscription
content
services
licensees and
subscription
management
services

20.—(1) A subscription content broadcasting service or subscription management services licensee shall provide a subscriber with information, in writing, relating to the—

(a) products and services offered;

(b) cost of subscription including installation and maintenance;

(c) options of programming service available;

(d) service level agreements relating to the supply of its services;

(e) instructions regarding to usage of the service in the official languages;

(f) number and allocation of channels carried on the system and the programming available on each channel;

(g) billing and complaints procedures;

(h) address and telephone number of the licensee's business office; and

(i) any other information as determined by the Authority from time to time.

(3) A subscription broadcasting service or subscription management services licensee shall ensure that the service level agreement in sub regulation (2), is submitted to the Authority for approval within thirty (30) days for existing licensees or within thirty days of issuance of licence for new licensees.

(4) A subscription broadcasting service or subscription management services licensee shall provide its subscribers—

(a) at least fourteen (14) days notice before effecting any changes in the programming service or channel allocation, in writing; and

(b) technical means that parents or guardians may use to control access to broadcast content that is accessible and that they may consider inappropriate for certain audiences.

(5) A subscription broadcasting service or subscription management services licensee shall not acquire exclusive rights for the broadcast of national sporting events, or any event which is classified to be in the public interest by the Authority from time to time.

(6) A subscription broadcasting service or subscription management services licensee shall ensure the provision of "free to air" broadcasting services on its bouquet as determined by the Authority.

(7) A subscription broadcasting service or subscription management services licensee shall ensure that it carries on its bouquet for free, public broadcasting services as determined by the Authority from time to time.

(8) A subscription broadcasting service or subscription management

services licensee shall for the purposes of monitoring by the Authority—

(a) issue the Authority its services and equipment including decoders, antennas, poles and accessories for each programme channel on their bouquet;

(b) avail the Authority the viewing of all channels at all times; and

(c) ensure that the equipment availed to the Authority is on permanent free subscription.

(9) A subscription broadcasting service or subscription management services licensee shall ensure that their standard decoders have the ability to accommodate conditional access, electronic programme guide and access programme input systems of operation.

(10) A subscription broadcasting service or subscription management services licensee shall ensure that decoders for terrestrial licensees are non-proprietary.

(11) The Authority reserves the right to type-approve all broadcast decoders brought into Malawi.

21.—(1) The Authority may issue a special event broadcasting licence to any person for any event not lasting for more than thirty (30) days.

Special event
broadcasting

(2) The Authority may issue a special event broadcasting licence for broadcasts—

(a) that are conducted in partnership with a foreign broadcaster; and

(b) that the Authority may determine from time to time.

(3) The Authority shall issue a special event licence on the following conditions—

(a) that its application be made not less than thirty (30) working days before the event for which the licence is applied for, takes place;

(b) on payment of special event licence fee as shall be prescribed by the Authority;

(c) that it shall not broadcast any political content; or

(d) any other conditions specified by the Authority from time to time

(4) Any application under this regulation shall be in writing and shall contain the following particulars—

(a) the name of the applicant;

(b) the type of broadcasts which the applicant intends to conduct; and

(c) any other information specified by the Authority from time to time

(5) Where the Authority rejects any application under this regulation it shall furnish the applicant with reasons for its decision in writing within sixty (60) days of application.

PART IV—CONTENT SERVICES

- General content
broadcasting
requirements
- 22.—(1) A licensee shall not broadcast content that—
- (a) contains the use of offensive, abusive or inflammatory language and profanity;
 - (b) presents sexual matters in an explicit and offensive manner;
 - (c) glorifies violence or depicts violence in an offensive manner;
 - (d) is likely to incite or perpetuate hatred, vilify any person or section of the community, on account of the race, ethnicity, nationality, gender, sexual preference, age, disability, religion or culture of that person or section of the community; or
 - (e) has no programme rating from the Authority indicated prior to the commencement of such programme.
- Protection of
children
- 23.—(1) A licensee shall ensure that due care and sensitivity is exercised when presenting content which may disturb or be harmful to children, particularly content that depicts or relates to—
- (a) acts of brutality, violence, atrocities, drug abuse or obscenity, nudity or offensive language;
 - (b) explicit sexual or violent conduct; and
 - (c) music containing sexually explicit lyrics or music which depicts violence,
- at times when large numbers of children may be expected to be watching television or listening to radio.
- (2) A licensee shall take into account any determination made by the Authority on the proportion of the audience that is made up by children at a given time, when determining whether a large number of children are watching or listening to any programme.
- (3) A licensee shall provide advisory assistance about programming which shall include guidelines to age suitability and whether such broadcasts contain nudity, violence, sexual conduct or offensive language, at the beginning of a broadcast and whenever necessary, in accordance with the First Schedule, to assist audiences make informed choices about whether or not a programme is suitable for children.
- Watershed
- 24.—(1) The watershed period shall commence from 10:30 pm to 04:30 am or any other such time as determined by the Authority from time to time.
- (2) A licensee shall not broadcast programme material, including promotional material, which is unsuitable for children and contains among others, illicit drug use, nudity, explicit sexual conduct, violence or offensive language unless such broadcast is within the watershed period.
- (3) A licensee shall ensure that programmes that are more unsuitable for children are broadcast later after the commencement of the watershed period.
- (4) A licensee shall ensure that children's programmes are not broadcast during the watershed period and in any event licensees shall ensure that the

timing of children's programmes does not coincide with normal school hours except for education programmes which the children can watch or listen to during school hours.

(5) A licensee and the Authority shall carry out activities to ensure that the general public is made aware and sensitized on the watershed period.

25.—(1) A licensee, where applicable, and having particular regard to the protection of children, shall classify its programmes to indicate the appropriate age restriction for viewing or listening to a programme in accordance with the First Schedule to assist audiences in choosing programmes. Audience advisories

(2) The Authority may, from time to time, review the First Schedule to conform with any other relevant laws of the Malawi and international best practices and make recommendations to the Minister for amendment.

(3) A licensee shall ensure that classification of any programme that it broadcasts but is packaged outside of Malawi is in line with the First Schedule.

(4) A licensee shall not broadcast any programme other than a family viewing programme unless it clearly and consistently indicates the programme's classification under these Regulations.

(5) A licensee shall ensure that classification of its programmes is made as follows—

- (a) as announcements at the beginning of broadcasts and whenever necessary;
- (b) in its programme guide; or
- (c) in any advertising and promotional materials for the concerned programme.

(6) A licensee shall, from time to time and whenever requested by the Authority, furnish its programme schedule indicating the classifications of its programmes.

(7) A licensee shall advise its audience in advance of scenes of extreme violence or graphic representations of delicate subject matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates when children would likely be in the audience.

(8) A licensee shall employ discretion in the use of explicit or graphic language related to stories of destruction, accidents or sexual violence, which could disturb children and sensitive audiences.

(9) A licensee shall not broadcast any content which when judged within a context, contains scenes (simulated or real) of any of the following—

- (a) child pornography as defined in the Electronic Transactions and Cyber Security Act;
- (b) bestiality;
- (c) sexual conduct which degrades a person in the sense that it

advocates a particular form of hatred based on gender and which constitutes incitement to cause harm;

(d) explicit sexual conduct;

(e) explicit extreme violence or the explicit effects thereof; or

(f) explicit infliction of domestic violence.

Broadcast of news reports

26.—(1) A licensee shall ensure that news and information are broadcast and presented in an accurate, truthful fair and balanced manner, without prejudice or negligent departure from facts through distortion, exaggeration, misrepresentation and material omissions regardless of its context and importance.

(2) Where a licensee, in the course of broadcasting news reports, containing an allegation against any person, the licensee shall ensure that the person is given the opportunity to reply to such allegations.

Broadcast of unconfirmed reports

27.—(1) A licensee shall ensure that reports or broadcast from its station are based on facts and that are not founded on opinion, rumour supposition, or allegation unless the broadcast is presented in such a manner as to indicate clearly that such is the case.

(2) Notwithstanding this regulation, a licensee shall not broadcast any report where there is sufficient reason to doubt its accuracy and it is not possible to verify the accuracy of the report before it is broadcast.

Correction of errors in reports

28.—(1) Where it subsequently turns out that a broadcast report by a licensee was incorrect in some material aspect, including factual errors, the licensee shall immediately rectify it.

(2) A licensee shall conduct a rectification broadcast pursuant to subregulation (1)—

(a) without reservation, as soon as is reasonably possible and not later than forty eight (48) hours after the error has been committed; and

(b) with such degree of prominence and timing that shall be adequate and fair so as to easily attract attention or during a similar time-slot as the original error as soon as is reasonably possible and shall include an apology.

Reporting on controversial issues

29. A licensee shall ensure that when broadcasting controversial issues of public interest during any programme including live broadcasts—

(a) a wide range of views and opinions are represented;

(b) a person or organisation whose views on any controversial issues of public interest have been criticised during a broadcast, and who wishes to reply to such criticism is given an opportunity by the licensee to reply to such criticism within a reasonable time; and

(c) a reply to criticism under paragraph (b) is given a similar degree of prominence and shall be broadcast on a similar time-slot, as soon as is reasonably possible.

Live broadcasts

30.—(1) A licensee shall not conduct any live broadcasts without the aid of a delay machine.

(2) A licensee, or its employee shall not broadcast live any matter which—

- (a) offends public morals;
- (b) contains the frequent use of offensive, abusive and inflammatory language;
- (c) presents sexual matters in an explicit and offensive manner; and
- (d) is likely to incite or perpetuate hatred or vilify any person or section of the society on account of race, ethnicity, nationality, gender, sexual preference, age, disability, religion, culture or any other status of that person or section of the society.

31.—(1) A licensee shall ensure that any person who is to be interviewed in any of the licensee's broadcast is— Conduct of interviews

- (a) advised of the subject of the interview; and
- (b) informed before the interview takes place whether the interview is to be recorded or broadcast live.

(2) A licensee shall not conduct an interview with a child unless with prior permission to do so from the child's parents or guardians.

(3) A licensee shall exercise sensitivity when conducting interviews with bereaved persons, survivors or witnesses of traumatic incidents.

32. A licensee shall ensure that any of its commentaries broadcast, whether made as comments by it or by any person invited by a licensee, are presented in a manner that clearly indicates that they are based on facts which are clearly stated. Commentaries

33.—(1) A licensee shall not disclose, in a broadcast, the identity of— Sexual offences

- (a) a victim of a sexual offence unless such victim consents in writing to the disclosure of his or her identity; and
- (b) a child where such child is a perpetrator of a sexual offence.

(2) A licensee shall avoid the use of unnecessary or repetitive detail when broadcasting the circumstances of a sexual offence.

34. A licensee shall not broadcast any information acquired from a person without that person's consent, unless the information so acquired is essential to establish the credibility and authority of a source, or where the information is clearly in the public interest. Consent to broadcast

35. A licensee shall properly credits or acknowledge the sources of special reports or content in a programme in the end credit. Programme credit or attribution

36.—(1) A licensee shall not broadcast or re-broadcast any content without the express permission of the rights owner. Piracy

(2) A licensee relaying any local or foreign programme shall ensure proper acquisition of such programme.

37.—(1) Where a licensee has received sponsorship from any person to air a programme the licensee shall— Programme sponsorship

(a) retain ultimate editorial control of any sponsored programme; and

(b) ensure that sponsorship of an informative programme does not compromise the accuracy and impartiality of the content of the programme.

(2) A licensee shall not unreasonably discriminate against any particular sponsor.

(3) A licensee shall clearly acknowledge sponsorship of a programme immediately before and after the programme broadcast.

Advertisements 38.—(1) A licensee shall ensure that its broadcast advertisements are—

(a) lawful;

(b) decent;

(c) in conformity with the principles of fair competition;

(d) sensitive to gender, culture, religion and age; and

(e) prepared with a sense of responsibility to the audience.

(2) A licensee shall ensure that advertisements broadcast by its station do not—

(a) contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended; and

(b) unfairly attack or discredit, directly or by implication, any other advertisers, products or advertisements.

(3) A licensee shall, before broadcasting an advertisement, take all reasonable steps to ensure that any descriptions or claims in the advertisement have been adequately substantiated by the advertiser.

(4) A licensee shall not unreasonably discriminate against or favour any advertiser.

Scheduling of advertisements 39.—(1) A licensee shall exercise responsible judgment when scheduling advertisements that may be unsuitable for children.

(2) A licensee shall ensure that—

(a) any advertising breaks are clearly distinguishable from broadcast programmes; and

(b) its presenters, when reading advertisements, make a clear distinction between the programming material and the advertisements.

40.—(1) A licensee shall not broadcast an infomercial—

(a) for a period exceeding four (4) hours of the performance period in any day;

(b) during prime-time; or

(c) during any break in the transmission of a children's programme.

(2) A licensee shall ensure, through visual or audio form, that the broadcast of any infomercial is distinguishable from any broadcast programme material.

(3) A licensee shall take all reasonable steps to ensure that all infomercials are—

- (a) lawful;
- (b) decent;
- (c) in conformity with the principles of fair competition;
- (d) sensitive to gender, culture, religion and age; and
- (e) prepared with a sense of responsibility to the audience.

(4) The provisions of sub-regulations (1) and (2) shall not apply to stations which exclusively broadcast infomercials.

41.—(1) A licensee shall inform the public during a broadcast the full cost of a telephone call or short message service, where the audiences are invited on air to react or participate in a programme or competition. Competitions and audience participation

(2) A licensee shall ensure that audiences who are invited to compete in any competition are made aware on air of the rules of the competition as well as the closing date and the manner in which the winner will be determined.

42. A licensee shall not knowingly pay any person involved in a crime or any person who has been convicted of a criminal offence, in order to obtain information. Payment of criminals

43.—(1) For the purposes of this regulation, local content shall mean Local content
content —

- (a) made by authors, producers and persons who are Malawians;
- (b) produced under the creative control of Malawians;
- (c) whose production is supervised and actually controlled by one or more producers established in Malawi;
- (d) whose contribution in a co-production is not controlled by one or more producers based outside Malawi; or
- (e) whose production originates from any other country and the production is made exclusively by Malawians or in co-production with non-Malawians in that country.

(2) A licensee shall, within a period specified by the Authority, comply with the requirements on broadcasting of minimum local content as specified in the Second Schedule.

(3) In monitoring compliance with the minimum local content requirement, the Authority shall measure the weekly prescribed average percentage of a licensee's programming, measured over a period of a year.

(4) Subregulation (2) shall not apply to news broadcasts.

(5) Unless otherwise stated by the Authority, local news shall constitute the majority of a licensee's news broadcast content.

(6) A licensee shall promote local content by providing a wide range of programming that reflects Malawian attitudes, opinions, ideas, values and artistic creativity by displaying Malawian culture and entertainment programmes.

(7) A licensee shall endeavour to get twenty percent (20%) of its local content from the local producers.

(8) A licensee who contravenes this regulation commits an offence and the Authority reserves the right to invoke any applicable regulatory sanction including payment of such amount of money as determined by the Authority into the Universal Service Fund.

Harmful
interference

44. Where applicable, a licensee shall ensure that it transmits—

(a) within its frequency assignment without causing harmful interference to other spectrum users; and

(b) in accordance with any technical specification prescribed by the Authority.

Content for
people living
with disabilities

45.—(1) The Authority shall require broadcasters to take specific steps to promote the understanding and enjoyment of programmes transmitted through its stations by persons living with disabilities and in particular, persons with hearing or visual impairment.

(2) The Authority may make rules, pursuant to section 201 of the Act, to prescribe the manner in which, time when, and percentage of, programmes targeting persons living with disabilities shall be broadcast.

PART V—POLITICAL ELECTION BROADCAST

Political
election
broadcast

46.—(1) The Authority shall, not later than three (3) months before an election, announce and publish the commencement of the election broadcast period which shall end forty eight hours before polling day.

(2) A licensee shall only broadcast political election broadcast during the election broadcast period.

(3) A party or a person that intends to carry out a pre-recorded political election broadcast shall submit the broadcast to the licensee at least five (5) days prior to the broadcast.

(4) A public content broadcasting licensee shall carry out political election broadcast during an election broadcast period.

(5) A licensee who conducts a political election broadcast shall ensure that its broadcast conforms to the Authority's standards as provided in the Third Schedule.

(6) A licensee shall not in any way edit or alter the content of a pre-recorded political election broadcast submitted to it under this regulation.

(7) A licensee may reject the carrying out of a political election broadcast where the broadcast—

(a) is in contravention of the Act, regulations made thereunder, or any other written law; or

(b) contains any content or material that is calculated or is likely to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or supporting any such act.

(8) A licensee that rejects a political election broadcast submitted to it by a party or any person for broadcast shall, within twenty four (24) hours of such rejection, furnish the person who submitted the rejected broadcast with written reasons for the rejection.

(9) Any person aggrieved by the rejection of a political election broadcast by a licensee may, within forty eight (48) hours of receipt of the rejection, appeal to the Authority for determination.

(10) The Authority shall determine the appeal under subregulation (9) within seven (7) days of receipt of the appeal.

(11) The Authority may make interim orders which it deems fit pending final disposal of the appeal lodged under subregulation (9).

(12) The Authority shall consult the Electoral Commission on any matter related to political election broadcast.

(13) A licensee shall not transmit a political election broadcast for more than five minutes.

(14) A licensee shall ensure that a political election broadcast does not contain any material which may reasonably be anticipated to expose the broadcasting licensee to legal liability if such material were to be broadcast.

(15) A licensee shall not transmit political election broadcast later than forty eight (48) hours prior to the commencement of the poll.

(16) A licensee shall not transmit political election broadcast after the end of the election period.

(17) A licensee shall ensure that political election broadcasts transmitted by it are clearly identified as political election broadcasts.

(18) A licensee shall ensure that political election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.

(19) A licensee shall not transmit a political election broadcast immediately before or after another political election broadcast or immediately before and after a political advertisement.

(20) A licensee shall not broadcast any programme which has been sponsored by a political party save for an advertisement by a political party in which case the advert shall be distinctly identified so as not to be confused with normal programming.

(21) Other than a public broadcaster, a licensee may broadcast political election broadcasts, if they elect to do so and the preceding provisions of this regulation shall apply.

Broadcast
during
election
period

47.—(1) During an election period, a licensee shall—

(a) provide equitable coverage and opportunities to registered political parties participating in an election and in particular to presidential candidates;

(b) ensure that the name of the political party or sponsor, if any, on whose behalf a broadcast is made, is announced, immediately before the commencement and immediately after such broadcast; and

(c) ensure that the employees of a licensee who wish to be candidates for any elective position(s) resign from their employment with the licensee during polling period.

Political
advertisements

48.—(1) A licensee shall not broadcast political advertisement, unless it accords all other political persons, who so request, similar opportunity.

(2) A licensee shall not discriminate against any political person or make or give any preference to any political person or subject any political person to any prejudice in making advertising time available to political persons.

(3) A licensee shall not broadcast party advertisement later than forty eight (48) hours prior to the polling day.

(4) A licensee shall not broadcast a political advertisement after the end of the election period.

Equitable
treatment
of political
persons
during
election
period

49.—(1) Where a licensee opts to cover elections issues, it shall ensure that all political parties, candidates and electoral issues are treated equitably.

(2) Where, during a political election broadcast, a criticism has been levelled against a political party or a candidate, the licensee shall accord such party or candidate an opportunity to respond in the same platform whether at the same time or later:

Provided that where the opportunity to respond has been deferred to a later time, it shall be accorded not later than twenty-four (24) hours after the first broadcast.

PART VI—MISCELLANEOUS PROVISIONS

Monitoring and
enforcement
of licensees

50.—(1) The Authority shall monitor compliance of licensees with terms and conditions of Act, these Regulations and licences using any means including through—

(a) electronic monitoring means;

(b) annual audits;

(c) surveys;

(d) complaints lodged to it in accordance with these Regulations; or

(e) any other method deemed necessary by the Authority.

(2) The Authority may hold public hearings on any matter relating to the monitoring and enforcement of these Regulations.

(3) Before the Authority imposes any regulatory sanction on a licensee

for failure to comply with the provisions of the Act, these Regulations or terms and conditions of its or the licence, it shall—

- (a) notify the licensee in writing;
- (b) invite the licensee for a hearing; and
- (c) invite the licensee to make representations on the matter.

(4) Where the Authority, subject to subregulation (3), is satisfied that the licensee has contravened the Act, these Regulations or terms and conditions of its licence, it shall inform the licensee of its findings and shall publish the findings as well as its reasons.

(5) Notwithstanding subregulation (3), the Authority may make an interim order requiring the licensee to immediately cease and desist any broadcast that the Authority deems to be in contravention with the Act, these Regulations or the licence pending a full hearing of the matter.

51. The Authority may, from time to time, issue guidelines in respect of any regulatory matter under these Regulations. Issuance of guidelines

52.—(1) A person who contravenes any provisions of these Regulations commits an offence and shall, upon conviction, be liable to a fine of K5,000,000 and imprisonment for five (5) years. Penalties and fines

(2) Notwithstanding the criminal sanctions under sub regulation (1), the Authority reserves the right to impose regulatory sanctions for any contravention of any provision under these Regulations including—

- (a) warning;
- (b) imposing a fine appropriate to the effects of the non-compliance or as specified in Fourth Schedule;
- (c) suspension;
- (d) issue a cease and desist order;
- (e) issue a compliance order;
- (f) issue an order requiring the licensee to broadcast—
 - (i) a correction
 - (ii) an alternative version; or
 - (iii) a balanced opinion;
- (g) revoke the licence; and
- (h) any other sanction as the Authority deems appropriate.

(3) The Authority may, from time to time, make recommendations to the Minister for amendments to the Fourth Schedule.

(4) A licensee shall pay to the Authority any fine or penalty imposed on it in terms of these Regulations within thirty (30) days of service of the order to pay the penalties.

(5) A licensee who fails to pay a fine or penalty imposed by the Authority under these Regulations shall be liable to—

(a) pay interest on the fine or penalty at the ruling bank base lending rate plus two percent (2%);

(b) any other regulatory sanction as determined by the Authority.

Revocation

53. The Authority may revoke a content licence for any material or continued breach of the Act, these Regulations, any other written or the terms and conditions of a licence.

Broadcasting
Monitoring and
Complaints
Committee

54.—(1) The Authority may, for the purpose of handling election complaints, establish a Broadcasting Monitoring and Complaints Committee which shall consist of the following members—

(a) two representatives for the Authority;

(b) a representative from the Malawi Law Society;

(c) a representative from the Electoral Commission responsible for media;

(d) a representative of the Media Council of Malawi;

(e) a representative of the Malawi National Media Institute; and

(f) a representative of the Centre for Multiparty Democracy.

(2) The Broadcasting Monitoring and Complaints Committee shall have the following duties and responsibilities—

(a) to review complaints or allegations against licensees referred to it by the Authority;

(b) to investigate any complaints or allegations against any licensee; and

(c) to make recommendations to the Authority on its findings on any matter referred to it.

(3) In the exercise of its duties and responsibilities set out above, the Broadcasting Monitoring and Complaints Committee shall have the following powers—

(a) to subpoena any person whom it considers necessary for the proper consideration of a complaint or allegation;

(b) to require the production of any document from a licensee; and

(c) to take any action deemed necessary for the proper consideration of any matter before it.

(4) The Broadcasting Monitoring and Complaints Committee shall determine its own rules of procedure.

Appeals

55. Any person aggrieved by an order made by the Authority under these Regulations may apply to the High Court for judicial review.

FIRST SCHEDULE
PROGRAMME CLASSIFICATION

(reg. 25)

<i>CLASS DESCRIPTION</i>	<i>CLASSIFICATION</i>	<i>TYPE OF PROGRAMMING</i>
F	Generally acceptable content for all ages	Kids Programmes
U	Universal programmes should be suitable for audiences aged four years and over, although it is impossible to predict what might upset any particular child.	Some kids Programmes
PG	PG Parental Guidance – General viewing, but some scenes may be unsuitable for young children A PG film or programme should not unsettle a child aged around eight or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger, or more sensitive, children.	Programmes, Movies
12	Films or programmes classified 12 contain material that is not generally suitable for children aged under 12. Parental Discretion is advised	Programmes, Movies
16	Generally Content not suitable for viewers younger than 16, may contain scenes of violence, sex, nudity or strong language. Viewer Discretion is advised	Programmes, Movies
18	Content may be X rated and adult scenes, may contain extreme violent scene, profanity and other adult types of content	Programmes and movies May be shown from 10 Pm to 5 am
V	Violence	Not suitable for viewers younger than 16
S	Sex	Not Suitable for younger viewers
PG	Parental Guidance	Not Suitable for viewers younger than 13 and parental guidance is advised
L	Strong Language	Not suitable for viewers younger than 10
N	Nudity	Not suitable for viewers younger than 18
P	Prejudice or Negative Stereotyping	Not suitable for viewers younger than 10
B	Blasphemy	Not Suitable for viewers younger than 13 and parental guidance is advised

SECOND SCHEDULE

(reg. 43)

LOCAL CONTENT REQUIREMENT

<i>Broadcasting Category</i>	<i>An annual average of % of its programming during its performance period (Prescribed Average %)</i>
Public Television Content Broadcasting Licensees	50%
Commercial Television Content Broadcasting Licensees	35%
Subscription Television Content Broadcasting Licensees	8%
Public Sound Broadcasting Licensees	60%
Private Sound Broadcasting Licensees	40%
Community Sound Broadcasting License	40%

THIRD SCHEDULE

(reg. 46)

POLITICAL ELECTION BROADCAST TECHNICAL & QUALITY STANDARDS

A licensee that carry out political election broadcast shall conform to the technical quality acceptable to the Authority as issued from time to time including—

- (a) Audio and video recordings shall be the highest professional quality;
- (b) Audio and video recordings are to be submitted on compact disc (CD); and
- (c) Audio and video recordings are clearly labelled, outlining the name of the political party and appointed nominee

The technical standards shall be as follows—

- (a) Radio : Electronically MP3 format or on CD format in broadcast quality standard; and
- (b) Television: broadcast quality Betacam format for the public broadcaster and an option of DVD/Betacam format for other licensees.
- (c) Any other high quality broadcast standard as approved by the Authority from time to time.

FOURTH SCHEDULE

(reg. 52)

OFFENCES AND PENALTIES FOR BREACH OF BROADCASTING REGULATIONS

<i>OFFENCE</i>	<i>MAXIMUM PENALTY</i>
(a) Broadcasting service without a licence.	A fine of K 5, 000,000 or imprisonment for 2 years.

<i>OFFENCE</i>	<i>MAXIMUM PENALTY</i>
(b) Broadcasting outside the watershed hours any material that is abusive, sexual or offensive to children or that has been prohibited under these regulations.	A fine of K1,000,000 or imprisonment for six months.
(c) Broadcasting a party advertisement less than forty eight hours prior to the commencement of the polling period.	A fine of K1,000,000 or imprisonment for six months.
(d) Broadcasting of an election material in breach of the regulations.	A fine of K2,000,000 or imprisonment for 1 year
(e) Airing a live broadcast without the use of a profanity delay machine.	A fine of K1,000,000
(f) Broadcasting hate messages	Retraction or apology in the same programme within 48 hours of the initial broadcast
(g) Transferring or changing ownership without the Authority's approval	revocation of licence
(h) Broadcasting advertisements in breach of the regulations	A fine of K500,000
(i) Sponsoring of programmes in breach of the regulations	A fine of K50,000
(j) Broadcasting infomercials in breach of the regulations	A fine of K500,000
(k) Causing harmful interference	A fine of K2,000,000 or imprisonment for 1 year
(l) Broadcasting in breach of local content requirements	2.3 A fine of K500,000
(m) Broadcasting of unclassified material or program which requires to be classified.	A fine of K2,000,000
(n) Improper broadcasting of a classified material or program.	2.3 A fine of K1,000,000
(o) Inaccurate, unfair and partial reporting	Retraction or apology in the same programme within 48 hours of broadcast
(p) Broadcasting of unconfirmed reports	Retraction or apology in the same programme within 48 hours of initial broadcast
(q) Diverging the identity of a victim of a crime without the consent of the victim	A fine of K500,000
(r) Improper conduct of interviews	A fine of K50,000
(s) Broadcasting of religious programs in breach of the regulations	Apology or retraction in the same programme within 48 hours of the initial broadcast
(t) Breach of broadcasting format	A fine of K1,000,000

<i>OFFENCE</i>	<i>MAXIMUM PENALTY</i>
(u) Broadcasting a special event in breach of the regulations	A fine of K50,000
(v) Broadcasting of abusive content	A fine of K2,000,000
(w) Breach of roll out obligations	Revocation of licence within 12 months of non-roll out
(x) Broadcasting in breach of requirements of the licence category	Revocation of licence
(y) Providing subscription broadcasting in breach of the regulations	A fine of K1,000,000
(z) Provision of signal distribution services in breach of the regulations	A fine of K1,000,000
(aa) Any person guilty of an offence under these regulations for which no other penalty has been prescribed.	A fine of K3,000,000 or imprisonment for ten years

Made this 14th day of September, 2018.

(FILE REF. NO. MICTCE/A/1/01)

N. H. DAUSI
*Minister of Information and
Communications Technology*

GOVERNMENT NOTICE No. 27

COMMUNICATIONS ACT

(CAP. 68:01)

COMMUNICATIONS (QUALITY OF SERVICE) REGULATIONS, 2019

ARRANGEMENT OF REGULATIONS

REGULATION

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REGULATION

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Schedules

IN EXERCISE of the powers conferred by section 200 of the Communications Act, I, NICHOLAS HARRY DAUSI, Minister of Information and Communications Technology, on recommendations from the Malawi Communications Regulatory Authority make the following Regulations—

PART I—PRELIMINARY PROVISIONS

1. These Regulations may be cited as Communications (Quality of Service) Regulations, 2019. Citations
2. In these Regulations, unless the context otherwise requires— Interpretation
 - “application service” means the provision of electronic communication services to end users using communication networks;
 - “broadband internet” means any high-speed Internet connection, provided through any technology with minimum speeds as determined by the Authority;
 - “call attempt” means an attempt to achieve a connection to another device connected to an electronic communication network.;
 - “commercial launch date” means the date when a licensee commences commercial provision of its licensed services;
 - “consumer” means any person who uses available public communication services for purposes which are outside his or her trade, business or profession and includes a customer;

“internet service” means a service that is provided substantially for data communications to or from network termination points that have Internet Protocol (IP) addresses that are assigned through delegation from the Internet Assigned Numbers Authority (IANA);

“mobile telephony service” means a telephony service that requires the use of radio frequencies assigned under a licence to achieve communications at the network termination points of consumers and that permits consumers to move between different geographic locations without appearing to lose communication;

“network service” means a service consisting of transmission of any form of electronic signals, including sound, data, text or images, used in an electronic communication network but does not include services provided solely to an end user;

“network termination point” means a point at which a customer has physical access to a network of a licensee through customer equipment;

“network operation centre” means one or more locations from which network monitoring and control, or network management, is exercised over an electronic communication or a computer network;

“parameter” means a measurable indicator used to characterize the level of a certain aspect of a service being offered; and

“public switched telephone network service” means a telephony service that uses a physical wire connection;

“quality of service” means the collective effect of service performances, which determine the degree of satisfaction of a user of the service; and

“target” means a potential value, (or range of values,) for a measurement that a licensee is required to must be attained if quality is to be regarded as satisfactory.

Application 3. These Regulations set the minimum quality and standards of service applicable to the following—

- (a) public switched telephone network services;
- (b) public land mobile network services;
- (c) international telephony services; and
- (d) internet services.

Objectives 4. The objectives of these Regulations are to—

(a) prescribe conditions for customer satisfaction by making known the quality of service which a licence is required to meet and which a customer is expected to receive;

(b) make provision for measuring quality of the services that are provided by a licensee against the prescribed standards in order to assess their level of performance; and

(c) protect the interest of consumers .

PART II— OBLIGATIONS OF LICENSEES ON QUALITY OF SERVICE

5.—(1) A licensee shall ensure that—

Obligations
of licensees

(a) services provided satisfy the prescribed minimum levels of standards for quality of service set under these Regulations; and

(b) customers are provided with information on service standards to enable the customers make informed decisions.

(2) In order to comply with these Regulations, a licensee shall—

(a) establish a measurement system consistent with the framework proposed by the Authority in consultation with stakeholders;

(b) provide to the Authority quarterly reports of results of measurement for all services provided by the licensee.

6.—(1) A licensee that provides public switched telephone network, public land mobile network, international telephony services or internet services, shall be required to meet targets on quality of service parameters as specified in the First Schedule.

Quality of
services
parameters

(2) A licensee who contravenes this regulation commits an offence and shall, upon conviction, be liable to sanctions as stipulated in Part VI.

7.—(1) The Authority may, on its own or through any other person appointed by the Authority, measure or acquire data from a licensee for the purposes of monitoring compliance with these Regulations.

Acquisition
and
measurement
of data for
monitoring
compliance

(2) The Authority or any other person appointed by the Authority under sub-regulation (1), may use any of these methods in performing the functions under this regulation—

(a) advanced technology monitoring equipment;

(b) drive tests;

(c) surveys;

(d) data acquisition from network operating centres or network management centres;

(e) data submission by licensees; or

(f) any other appropriate method as determined by the Authority.

8.—(1) A licensee shall, within twenty one (21) days after the end of each quarter of the year, submit a report to the Authority on the service parameters prescribed in the First Schedule.

Reportable
parameters
and reporting
period

(2) Notwithstanding subregulation (1), a licensee shall upon request from the Authority, submit a report to the Authority on the service parameters prescribed in the First Schedule.

9. In reporting for any service parameter under regulation 8, a licensee shall, undertake the following measurement, reporting and record keeping tasks—

Record
keeping
obligations

(a) measure performance indicators in the manner as prescribed as in the First Schedule;

(b) submit the reports to the Authority within twenty one (21) days after the end of each quarter;

(c) submit any additional information requested by the Authority, including details of the times, places and other particulars of the indicators, within seven (7) days from the date of the request by the Authority or as may otherwise be directed by the Authority; and

(c) retain quality of service data, including all measurements of performance indicators and related records, for a period of seven (7) years from the generation thereof or as may be otherwise directed by the Authority.

PART III—PUBLICATION OF REPORTS

Timing of publication

10.—(1) The Authority may, after due analysis, require a licensee to make necessary amendments or corrections to the report submitted pursuant to regulation 8.

(2) The Authority shall thereafter, publish the the report within sixty (60) days of the relevant reporting period with or without additional notes or comments.

Content and format of publication

11. The Authority shall publish the reports submitted pursuant to regulation 8 in table formats setting out the following information for each licensee—

(a) the services offered by the licensee;

(b) the performance indicators submitted by the licensee,

(c) the achievement of the licensee against the set target for the parameter and any explanatory remarks by the licensee, considered appropriate by the Authority;

(d) any other information or comparison of quality of service that the Authority determines to be appropriate, including information that may help customers to assess the performance of competing licensees; and

(e) any other information as determined as appropriate by the Authority.

Consideration and explanatory remarks

12. In considering the remarks made by a licensee to be published under regulation 11 (c), the Authority may take into account the following factors—

(a) service deficiencies that arise partly or wholly from the services of another licensee;

(b) changes in environmental or operating conditions that could not have been reasonably foreseen by the licensee; or

(c) expectations about quality of service that are appropriate to the tariffs and other commercial terms for the services of the licensee.

PART IV—AUDIT AND VERIFICATION

13. The Authority may examine the quality of service data retained by licensees under regulation 9(d) and in so doing, the Authority may vary the frequency of audits, licensee's services, the service parameters, and reporting periods. Auditing of quality of service data

14.—(1) The Authority may verify the quality of service measurements, and the reports from a licensee. Verification of reports

(2) In carrying out its functions under subregulation (1), the Authority may use any means or methods as it deems necessary.

PART V—OFFENCES AND PENALTIES

15.—(1) A licensee who does the following, commits an offence Contravention

(a) failure to comply with the measurements, reporting and record keeping obligations set out in regulation 9;

(b) failures to meet and maintain a target for a service parameter without justification;

(c) failure or delay to submit without justification, any information requested by the Authority pursuant to these Regulations;

(d) submission of false or misleading information to the Authority;

(e) failures to comply with an order made by the Authority pursuant to these Regulations;

(f) obstruction or prevention of an investigation by the Authority in respect of the quality of service measurement, reporting, data collection and record keeping procedures by the licensee, its officers, or agents; or

(g) failure to comply with any other provision of these Regulations.

(2) A licensee who commits an offence under subregulation (1) shall be liable to a fine of K5,000,000 for the first offence and K2,500,000 for each day that the offence continues to occur.

16. Notwithstanding any provision under these Regulations, the Authority may take any one or more of the following enforcement measures against a licensee who commits an offence under these Regulations— Enforcement measures

(a) require the licensee to publish additional information about the quality of relevant services, and may include its implementation of a remedial plan; and

(b) issue a—

(i) fine as prescribed in the Second Schedule;

(ii) suspension;

(iii) a cease and desist order;

(iv) a compliance order;

(v) revocation of a licence; or

(vi) any other sanction as the Authority determines.

Factors to consider in applying enforcement measures

17. When applying the enforcement measures under regulation 16, the Authority may take into account the following factors—

- (a) the time interval between the failure to perform the measurement, reporting and record keeping tasks and due compliance;
- (b) the nature and number of the service parameters, reporting periods and targets for which the licensee has contravened;
- (c) any service credits or rebates that have been provided by the licensee to customers who may have been inconvenienced or otherwise affected by the contravention; and
- (d) any other factor determined as appropriate by the Authority.

PART VI—MISCELLANEOUS

Directions and guidelines

18. The Authority may issue directions or guidelines on any aspect of these Regulations, and either of general or specific application to a licensee.

FIRST SCHEDULE

(reg.6)

KEY PERFORMANCE INDICATORS

The International Telecommunications Union Recommendation G.1000 shall be used to define all perspectives which will be the basis upon which Quality of Service (QoS) parameters are going to be chosen, i.e., Customer's QoS Requirements, QoS offered by the Provider, QoS achieved by the Provider and QoS perceived by the Customer.

PUBLIC SWITCHED TELEPHONE NETWORK SERVICES (PSTN)

The following shall be the Quality of Service (QoS) parameters for PSTN Services:

No.	QoS Parameter Name	Performance Indicators	Target Value	Average period to be reported
Service Provisioning				
1	Service supply time	Time (in days) elapsed after successful application before installation of Service	5	Monthly
Network Service				
1	Fault Rate per access line	Numbers of faults received by the operator (fault incident rate per 100 customers)	5	Monthly
Repair				
1	Fault repair time	Mean Time (in days) taken to repair reported fault	2	Monthly
		Time taken (in days) to Repair 80% of faults	1	Monthly

No.	QoS Parameter Name	Performance Indicators	Target Value	Average period to be reported
		Connection Establishment		
1	Call Failure Rate (Unsuccessful Call Ratio)	Local calls (percentage)	2	Monthly
		Long distance (percentage)	6	Monthly
		Network to Network (percentage)	7	Monthly
		International Calls (percentage)	7	Monthly
		Answer Seizure Ratio (percentage)	5	Monthly
2	Call Set Up time	Mean value (in seconds) for all calls setup	10	Monthly
		Service Support		
1	Call Centre Answer Time	Percentage of calls answered electronically within 5 seconds	95	Monthly
		Percentage of calls answered by attendant (voice to voice) within 30 seconds	85	Monthly
		Percentage of calls answered by attendant (voice to voice) within 60 seconds	95	Monthly
		Availability	24/7	Monthly
		Time taken to be attended to by customer care agent after answer (sec)	30	Monthly
2	Complaint Resolution Time	Percentage of complaints resolved within 1 week	98	Monthly
		Billing		
	Billing Complaint Rate	Percentage of Billing complaints per 100 bills issued	<0.1	Monthly
		Billing Frequency (Days)	30	Monthly

PUBLIC LAND MOBILE NETWORK (PLMN) SERVICES

The following shall be the QoS parameters for PLMN services—

No.	QoS Parameter Name	Measurement Method	Target Value			Average period to be reported
			2G	CDMA	3G	
		Service Provisioning				
1	Order Completion Time	Maximum waiting time for connection of service (Days)	2	2	2	Monthly
		Service Support				
1	Call Centre Answer Time	Percentage of calls answered electronically within 5 seconds	95	95	95	Monthly
		Percentage of calls answered by attendant (voice to voice) within 30 seconds	80	80	80	Monthly
		Percentage of calls answered by attendant (voice to voice) within 60 seconds	90	90	90	Monthly
		Availability	24/7	24/7	24/7	Monthly
		Time taken to be attended to by customer care agent after answer (sec)	30	30	30	Monthly
2	Complaint Resolution Time	Percentage of complaints resolved within 1 week	98	98	98	Monthly
		Connection Establishment				
1	Call Set up time	Mean value (in seconds) for all calls setup	10	10	N/A	Monthly
2	Successful Call Ratio (CSSR)	Percentage of all successful calls	98	98	N/A	Monthly
3	Dropped Call Ratio	Percentage of all calls dropped	2	2	N/A	Monthly
		Information Transfer				
1	SMS Delivery Time	Time in seconds within which SMS is delivered end to end;	5	5	5	Monthly
2	MMS Delivery Time	MMS delivery time (seconds)	N/A	N/A	15	Monthly
3	Successful SMS/MMS Ratio	Percentage of SMS and MMS successfully delivered	95	95	95	Monthly

No.	QoS Parameter Name	Measurement Method	Target Value			Average period to be reported
			2G	CDMA	3G	
4	Listening Voice Quality	Mean Opinion Score (MOS)	3	3	3	Monthly
		Billing				
	Billing Complaint Rate	Percentage of Billing complaints per 100 bills issued	<0.1	<0.1	<0.1	Monthly
		Billing Frequency (Days) Network Service	30	30	30	Monthly
1	Network Availability of switching (MSC)	Time MSC Network is available to the consumer per average period to be reported (percentage)	99.99	99.99	N/A	Monthly
2	Network Availability of Radio Access	Time Radio subsystem/ Access network is available to the consumer per average period to be reported (percentage)	99.8	99.8	N/A	Monthly
3	Radio Coverage	Received Signal Strength (RxLv) (Indoor > -75.6dbm). Percentage of samples collected	90	90	90	Quarterly
4	Radio Quality	Received Signal Quality (RxQual) (Good RxQual Range: 0<5)	90	90	90	Quarterly
5	Call Block Rate	TCH Congestion (percentage)	2	2	N/A	Monthly
		SDCCH Congestion (percentage)	0.5	N/A	N/A	Monthly
6	IN Platform Availability	Time IN platform is available to the consumers per average period to be reported (percentage)	99.999	99.999	N/A	Monthly
7	Handover Success Rate	measures the ability of a customer to talk on the cell phone for a long distance without getting disconnected (Percentage)	95	95	N/A	Monthly

No.	QoS Parameter Name	Measurement Method	Target Value			Average period to be reported
			2G	CDMA	3G	
8	GPRS Context Activation Rate	measure of data related services that were successfully accessed by customers	95	95	N/A	Monthly
9	Trunk Congestion	measure of traffic congestion between Mobile Switching Center (MSC) and the various routes like interconnection to other network operators	2	2	N/A	Monthly
10	EVDO Context Activation Success Rate	Measures EVDO Context Activation failure beyond which the grade of service declines.	N/A	95	N/A	Monthly
11	IX Packet Call Set Up success Rate	Measure Success Rate for data calls.	N/A	95	N/A	Monthly
		3G Network Service				
	Call Drop Ratio					
1	HSDPA and HSUPA Service Drop Rate	HSDPA and HSUPA Service Drop Rate as Percentage	N/A	N/A	<0.5%	Monthly
2	Packet Switched (PS) Service Drop Rate	PS service drop Rate as Percentage	N/A	N/A	<1%	Monthly
3	Video Call Drop Rate	Percentage of dropped video calls	N/A	N/A	<1%	Monthly
4	Voice Call Drop Rate	Percentage of dropped voice calls	N/A	N/A	<1%	Monthly
		Access				
1	RRC Connection Set-up Success Rate	RRC Connection Set-up Success Rate as percentage	N/A	N/A	>98%	Monthly
2	Video Call RAB assignment Success Rate	Video Call RAB assignment Success Rate as percentage	N/A	N/A	>98%	Monthly
3	PS RAB Assignment Success Rate	PS RAB Assignment Success Rate as percentage	N/A	N/A	>98%	Monthly
4	HSDPA and HSUPA RAB Set-up Success Rate	HSDPA and HSUPA RAB Set-up Success Rate as percentage	N/A	N/A	>98%	Monthly

No.	QoS Parameter Name	Measurement Method	Target Value			Average period to be reported
			2G	CDMA	3G	
Handover						
1	Soft Handover Failure Rate	Soft Handover Failure Rate (percentage)	N/A	N/A	<0.5%	Monthly
2	HSDPA Serving Cell Change Success Rate	HSDPA Serving Cell Change Success Rate (percentage)	N/A	N/A	>99.9%	Monthly
3	Inter-frequency Hard Handover Success Rate	Inter-frequency Hard Handover Success Rate (percentage)	N/A	N/A	>95%	Monthly
4	3G to 2G (from UTRAN to GSM) Inter-RAT Handover Failure Rate	3G to 2G (from UTRAN to GSM) Inter-RAT Handover Failure Rate (percentage)	N/A	N/A	<3%	Monthly
Availability						
1	RAN Availability	Time RAN is available (percentage)	N/A	N/A	>99.8%	Monthly

INTERNET SERVICES PARAMETERS

No.	QoS Parameter Name	Measurement Method	Target Value		Average period to be reported
Service Provisioning					
1	Order Completion Time	Time elapsed (Days) after application and before activation of service for Dial up/ Wired services	5		Monthly
		Fixed Wireless	2		Monthly
		Percentage installations completed by the date agreed with the customer;	99		Monthly
		Time elapsed after application for service alteration involving software	1		Monthly
		Time elapsed after application for service alteration involving Hardware	5		Monthly

No.	QoS Parameter Name	Measurement Method	Target Value	Average period to be reported
		Service Support		
1	Complaint Resolution	Percentage of complaints resolved within 1 week	98	Monthly
		Fault Repair		
1	Fault Repair Time	Time taken to repair 80% of faults (Hrs)	24	Monthly
		Mean Time to Repair (Hrs)	12	Monthly
		Billing		
1	Billing Complaint Rate	Billing Complaints per 100 bills issued	<2%	Monthly
2	Billing Complaint Resolution	Percentage of Billing complaints resolved	100% within 4 weeks	Monthly
		Connection Establishment		
1	Successful Log-ins	Percentage of successful log-ins to access the internet when both the access network and the Internet Access point (IAP) network are available in full working order.	Dial up users >90% Other users >98%	Monthly
		Information Transfer		
1	Network Latency	Time in milliseconds that is needed for an ICMP Echo Request/ Reply (Ping) to a valid IP address.	National 100ms International 300ms	Monthly
		Measurement provided as the mean value of the delay (in ms) (ETSI EG 202 057-4) For international network latency, the measurement is carried by sending a PING packet from the test point to the first international point of presence. (ITU-T Rec. Y.1541).		
2	Data Transmission Speed Achieved (Data transmission rate achieved for downloading and uploading specified test files between	-Maximum data transmission rate in Kbit/s achieved; -Minimum data transmission rate in Kbit/s achieved; -mean value and standard deviation of the transmission rate in Kbit/s achieved;	≥80% of that provider Licensee.	Monthly

No.	QoS Parameter Name	Measurement Method	Target Value	Average period to be reported
	service provider Licensee's network and customer premises)	(ETSI EG 202 057-4)		
2	Unsuccessful Data Transmission Ratio	The ratio of unsuccessful data transmissions to the total number of data transmission attempts in aspecified time period. A data transmission is successful if a test file is transmitted completely and with no errors. (ETSI EG 202 057-4)	<1% or 10^{-3}	Monthly
		Packet Loss		
1	Loss Ratio	Ratio of packets lost to the total packets transmitted between two designated points for each class of service (ITU-T Rec. Y.1541).	<1% or 10^{-3}	Monthly
		Network Service Management		
1	Service Availability	Percentage Uptime of the network	99	Monthly

CUSTOMER PERCEPTION PARAMETERS

Customer perception parameters apply to PSTN, PLMN and Internet

No.	QoS Parameter Name	Measurement Method	Target Value	Average period to be reported
1	Provision of service	% satisfied with the provision of service	>90	Annually
2	Billing performance	% satisfied with the billing performance	>90	Annually
3	Help services	% satisfied with the help services	>90	Annually
4	Network Performance	availability % satisfied with the amount of time during which network resources are available	>90	Annually
5	Network performance Reliability	% satisfied the degree to which the delivery of the service is assured	>90	Annually
6	Overall customer satisfaction	Overall customer satisfaction	>90	Annually

DEFINITIONS/ DESCRIPTIONS

2G	- Second Generation
3G	- Third Generation
PLMN	- Public Land Mobile Network
PSTN	- Public Switched Telephone Network
AS	- Active Set
CDR	- Call Drop Rate
CSSR	- Call Set-up Success Rate
GPRS	- General Packet Radio Service
GSM	- Global System for Mobile Communications
HSDPA	- High Speed Downlink Packet Access
HSUPA	- High Speed Uplink packet Access
IN	- Intelligent Network
MOS	- Mean Opinion Score
MSC	- Mobile Switching Centre
Node B	- Node B is a term used in UMTS equivalent to a BTS in GSM.
PDP	- Packet Data Protocol
POI	- Point of Interface / Interconnection
PS	- Packet Switched
RAB	- Radio Access Bearer
RAN	- Radio Access Network
RAT	- Radio Access Technology
RNC	- Radio Network Controller
RRC	- Radio Resource Control
SDCCH	- Stand-alone Dedicated Control Channel
SMS	- Short Message Service
TCH	- Traffic Channel
UE	- User Equipment
UMTS	- Universal Mobile Telecommunications System
UTRAN	- UMTS Terrestrial Radio Network Access Network

DESCRIPTIONS

Urban Area

Urban areas shall include the following cities Blantyre Lilongwe, Mzuzu and Zomba

Peri-Urban Area

Peri-Urban areas shall include the following towns Balaka, Dedza, Liwonde, MaAngochi, Luchenza, Karonga, Salima and Kasungu

Rural Area

Rural areas shall include any other area other than urban and peri-urban areas.

Order completion time/Service supply time

The duration from the instant a valid service order being received by a directservice providerLicensee to the instant a working service is made available for use. This includes cases where a new access is installed; an existing access line is taken over by another customer; an upgrade on the existing line. This however excludes cancelled orders and cases where a customer changes operator and the new operator, who is responsible for reporting supply time uses an unbundled local loop as the access line.

Call Centre Answer Time

The parameter is designed to ascertain the quality of experience of customers as well as assess performance operator services the duration from the instant when the address information required for setting up a call is received by the network (e.g. recognized on the calling user's access line) to the instant the human operator answers the calling user to provide the service requested. The period in this definition includes waiting times and times for going through voice response systems to reach the operator. Services provided wholly automatically, e.g. by voice response systems as well as emergency services are excluded

Complaint Resolution Time

Time taken for a service providerLicensee to resolve a complaint.

Call set-up time

The call set-up time is the period starting when the address information required for setting up a call is received by the network (e.g. recognized on the calling user's access line) and finishing when the called party busy tone or ringing tone or answer signal is received by the calling party. Where overlap signaling is used the measurement may start when sufficient address information has been received to allow the network to begin routing. Unsuccessful calls are excluded.

Unsuccessful call ratio

Unsuccessful call ratio is defined as the ratio of unsuccessful calls to the total number of call attempts in a specified time period. An unsuccessful call is call attempt to a valid number, properly dialed following dial tone, where neither called party busy tone, nor ringing tone, nor answer signal is recognized on the access line of the calling user within 30 seconds from the instant when the address information required for setting up a call is received by the network.

Call Drop Rate (CDR)

A dropped call is a call that is prematurely terminated before being released normally by either the caller or called party. CDR is therefore defined as the ratio of calls lost after establishment to all established calls. This shall include calls dropped due to failure of handover, radio loss and network congestion.

SMS/MMS Delivery Time

It is the period starting when sending an SMS/MMS from a terminal equipment to an SMSC and finishing when receiving the very same SMS/MMS on another terminal equipment. Time in seconds within which SMS/MMS is delivered end to end

Successful SMS/MMS ratio

The proportion of text messages that are transmitted successfully. A successful message transmission is a message transmission to a valid telephone number, properly dialed from a location where the service is offered by the operator to a location where the service is offered by the same or a different operator, in which the message is transmitted completely without errors between the network termination points, irrespective of whether the receiving network termination point is connected to its network when the message reaches its network.

Fault rate per access line

A fault report is a report of disrupted service or degraded service that is made by a customer and is attributable to the network of the service providerLicensee or any interconnected public network, and that is not found to be invalid. Faults in any equipment on the customer side of the network termination point are excluded.

Fault Repair Time

The duration of the instant a fault has been notified by the customer to the published point of contact of the service providerLicensee to the instant when the service element or service has been restored to the normal working order. This applies only to services that offer the "standard repair" times to customers and exclude cases where higher maintenance fees or lower fees are applicable for either higher or lower repair levels respectively

Customer reported Faults

The number of valid fault reports received by an operator per customer per average period to be reported. A fault report is a report of disrupted or degraded service that a customer submits to the point of contact of the service providerLicensee. A fault report may be submitted by telephone or by personal contact at a customer service centre. Faults that are due to other networks or to customer equipment behind network termination points and faults that are attributable to the core network or other networks are excluded. Faults reported for single physical connections should be counted as a single fault, regardless of the number of channels activated or affected; multiple lines sharing the same physical path to a customer should be regarded as a single physical connection.

Listening voice quality

The quality of voice calls produced in a conversation and assessed by the listening party during speech connection in a network.

The criteria used depends on the total assessment by the evaluation group and not necessarily using engineering methods in this manner but speech quality by experience (QOE) and applying the score method over a period of intervals.

Billing complaint rate

The proportion of bills resulting in a customer complaint about the correctness of a given bill. The number of account/bill complaints received during the average period to be reported should be divided by the total number of bills issued during the same period. The result should be provided as a measurement. Also, separate numbers might be provided as measurements for particular classes of account complaint.

Network Availability – Switching (MSC)

Is the ratio of the time MSC and other platforms in the core network have been operative to the total time of measurement period.

The measurement must be made via an automatic data collection system, based on the fault management system of the network that register the appropriate information (alarms and events with the time stamp when a cell is out of service and when it becomes operative again)

Network Availability of Radio Access Network

Is the ratio of the time that all the cells of the system have been operative to the total time of measurement period for all the cells in the system. The measurement must be made via an automatic data collection system, based on the fault management system of the network that register the appropriate information (alarms and events with the time stamp when a cell is out of service and when it becomes operative again)

Radio Coverage (RxLev)

Is the ratio between the number of measurements of the received signal power level whose Rxlev value is greater than -75.6 dBm and the total number of coverage measurements in the service area. The measurement scale for this parameter varies from -110dBm (weakest) to -47dBm (strongest). This parameter must be measured using drive test tools.

Radio Quality (RxQual)

Is the ratio between the number of measurements of the received signal quality whose RxQual value is less than 5 and the total number of coverage measurements in the service area.

The metric RxQual measures the quality of the radio link when a subscriber is in active mode, i.e. with an on-going call. This is done through the assessment of bit error rate (BER) on the radio link. RxQual measurements range from 0 (good quality) to 7 (poor quality) and estimates the BER according to pre-defined conversion table. This parameter must be measured using drive test tools.

Call Block rate

Percentage number of calls that are blocked after call setup, due to a lack of network & radio resources (end to end blocking).

- (a) This quality indicator may be measured either by drive test surveys or by real traffic
- (b) This is the percentage congestion of the TCH measured at the busy hour and is given by:

$$\frac{(\text{BusyHourTCHTraffic (Erlang)} - \text{AverageTCHTraffic (Erlang)}) \times 100}{\text{dxBusyHourTCHTraffic (Erlang)}}$$

TCH Congestion

This KPI measures the relative ease with which a Traffic Channel (TCH) can be seized to set up a call. The higher the value, the relative difficulty in making a call. It is the condition of a network where the immediate establishment of a new connection is impossible owing to the unavailability of network element due to unusually high traffic that may accumulate in any node of network.

POI / Trunk Congestion

This KPI measures the ease with which a customer of one network is able to communicate with a customer of another network. This parameter also reflects as to how effective is the interconnection between the two networks. POI reflects the points lying on the route interconnecting two telecommunications networks.

Handover Success Rate

This is the ratio of the number of successfully completed handovers to the total number of initiated handovers. This ratio can be expressed as a percentage. This Key Performance Indicator (Handover Success Rate) measures the ability of a customer to talk on the cell phone for a long distance without getting disconnected. It is the ability of a call connection to be handed over from one cell to another without losing the connection. This Key Performance Indicator is directly linked to Call drop rate because a handover failure normally results into a dropped call.

GPRS Context Activation Success Rate

GPRS context activation Success rate is a measure of data related services that were successfully accessed by customers. One typical example of data related service is the Internet

EVDO Context Activation Success Rate

EV-DO originally stood for "Evolution, Data-Only", but recently is also referred to as "Evolution, Data Optimized. EVDO is a CDMA standard for wireless internet broadband service using the cellular approach. EVDO optimizes internet bandwidth usage on the network by breaking data into packets and then sending these packets independent of each other just like internet protocol (IP).

1X Packet Call Setup Success Rate

1X PACKET CSSR is basically the Setup Success Rate for data calls

IN Platform Availability

IN platform availability is the time in minutes per month where the Intelligent Network Platform is up and running. When the IN platform is out of service customers cannot be correctly billed. The Intelligent Network (IN) is a network architecture intended for fixed as well as mobile telecom networks, which allows operators to provide value-added services.

Packet Switched (PS) Service Drop Rate

This KPI is used to evaluate the call drop rate of all PS service in one RNC. The call drops happened due to RNC abnormal release triggered by RAB release request messages. Session drop rate can be defined as the number of successful PDP deactivations against number of successful PDP activations.

Call Drop Rate (Voice, Circuit Switched)

A dropped call occurs. The call will be dropped in case RRC connection release (not normal release) message has been sent from RNC to UE.

Circuit Switched Call Drop Rate refers to CDR for all Circuit Switched services while Packet Switched Call Drop rate refers to CDR for all Packet Switched services.

Accessibility

This KPI refers to the ability to get in contact with the network. Accessibility is defined as the ability to set up a connection. This ranges from random access to channel assignment.

Radio Access Bearer (RAB)

This KPI refers to the logical entity which carries data depending on service. This is equivalent to the Traffic Channel (TCH) in the 2G network. RAB is the set up between the core and UE.

RRC Connection Set-up

This KPI refers to the message used by the network to accept the establishment of an RRC connection for an UE, including assignment of signaling link information, transport channel information and optionally physical channel information.

RRC Connection Set-up Success Rate

This KPI refers to the total number of successful RRC connection requests.

Packet Switch RAB Assignment Success Rate

This KPI is used to evaluate the RAB setup success ratio of all PS service in one RNC.

Handover

Handover is as important for UMTS as any other form of cellular telecommunications system. Any failures within the UMTS handover procedure will lead to dropped calls which will in turn result in user dissatisfaction and ultimately it may lead to users changing networks, thereby increasing the churn rate.

Soft Handover Failure Rate

This KPI is used to evaluate the soft handover success ratio in one RNC, which includes softer handover. This form of handover is a more gradual and the UE communicates simultaneously with more than one Node B or base station during the handover process.

HSDPA Serving Cell Change Success Rate

This is the change of a UE from a serving cell to a better cell. Every UE measures the E_c/I_o (difference between the strength of the signal and the noise floor) of their neighboring cells. The cells with the strongest pilot signals are in the UE's active set. HSDPA connection is always to one of the cells in the AS, which is the serving HSDPA cell. Change of HSDPA serving cell occurs when $\text{Candidate } E_c/I_o > \text{Serving } E_c/I_o - \text{HO Threshold}$

Inter-frequency Hard Handover

This KPI is used to evaluate the inter-frequency hard handover success ratio in one RNC. This form of handover is essentially the same as that used for 2G networks where one link is broken and another established.

3G to 2G (from UTRAN to GSM) Inter-RAT Handover Failure

This KPI is used to evaluate inter-RAT Handover success ratio in one RNC. This form of handover occurs when mobiles have to change between Radio Access Technologies.

RAN Availability

This is the Radio Access Network availability of UMTS network (3G Network Radio Availability).

SECOND SCHEDULE

(reg. 16)

PENALTIES

Fines will be calculated on the basis of the provisions of regulations 16(b)(i) of these Regulations as follows:

<i>Offence</i>	<i>Maximum fine per contravention</i>
Failure by a licensee to perform measurement, reporting and record keeping tasks set out in Part II of these Regulations.	K5,000,000 for each act of contravention and K2,500,000 for each day that the contravention continues to occur.
Failure by a licensee to meet and maintain a target for the parameter and the service.	K5,000,000 for each act of contravention and K2,500,000 for each day that the contravention continues to occur.
Failure or delay by the licensee to submit any information requested by the Authority pursuant to these Regulations or out of the time prescribed by the Regulations or the Authority.	K5,000,000 for each act of contravention and K2,500,000 for each day that the contravention continues to occur.
Submission of false or misleading information to the Authority by the licensee;	K5,000,000 for each act of contravention and K2,500,000 for each day that the contravention continues to occur.
Obstructing or preventing an investigation by the Authority in respect of the quality of service measurement, reporting, data collection and record keeping procedures by a Licensee, its officers, agents, servants, privies etc.	K5,000,000 for each act of contravention and K2,500,000 for each day that the contravention continues to occur.
Failure by the licensee to comply with an order made by the Authority pursuant to these Regulations;	K5,000,000 for each act of contravention and K2,500,000 for each day that the contravention continues to occur.

Made this 14th day of September, 2018.

(FILE REF. NO. MICTCE/A/1/01)

N. H. DAUSI
 Minister of Information and
 Communications Technology