

PART III — MISCELLANEOUS

12. Offences.

13. Revocation of S.Is 26 of 2005

S T A T U T O R Y I N S T R U M E N T S

2019 No. 85

**The Uganda Communications (Universal Service) Regulations,
2019.**

*(Under section 3 (b), (d) and (e), 5(1)(m), 66 and 93 (2) (j) and (n) of
the Uganda Communications Act, 2013, Act 1 of 2013)*

IN EXERCISE of the powers conferred upon the Minister by section 93 of the Uganda Communications Act, 2013 and in consultation with the Commission these Regulations are made this 5th day of July 2019.

PART I — PRELIMINARY

1. Title.

These Regulations may be cited as the Uganda Communications (Universal Service) Regulations, 2019.

2. Application of Regulations.

These Regulations apply to the universal service obligation comprising the following key elements—

- (a) the specification of the universal service obligation;
- (b) the designation of universal service providers and areas;
- (c) the carrying out of universal service plans; and
- (d) the funding of universal service.

3. Objectives of Regulations.

The objectives of these Regulations are—

- (a) to ensure availability of communications services at a minimum standard determined by the Commission, including providing services to persons with disabilities, persons in rural, sparsely populated, high cost service areas

- (c) designate universal service providers with an obligation to provide universal services;
- (d) designate universal service areas;
- (e) develop and implement universal service plans;
- (f) monitor and enforce the carrying out of universal service plans by the universal service providers; and
- (g) determine and distribute the universal service subsidy.

6. Power of Commission to impose universal service obligation.

(1) The Commission may impose universal service obligations on operators to provide communications services at a minimum quality determined by the Commission to—

- (a) persons in rural and sparsely populated areas;
- (b) high cost service areas; and
- (c) under served and unserved areas.

(2) The universal service obligation shall comprise of the following elements—

- (a) designation of universal service providers and the universal services to be provided;
- (b) designation of national operators with the obligation to provide communications services throughout the country;
- (c) designation of unserved and under served areas; whether rural or urban;
- (d) implementation of the universal service plan issued by the commission; and
- (e) disbursement of funds to eligible projects by the Commission.

(3) The defined minimum set of communications services in the context of universal service obligation shall include—

- (a) the obligation on the designated operator, to ensure the universal availability of communications services through—

- (i) connection to a communication network able to support communications services;
 - (ii) reasonable geographic access to communications services throughout Uganda;
 - (iii) access by all consumers to emergency and other toll free services;
 - (iv) access by consumers to operator assistance and other directory services;
 - (v) access by consumers to specified government services and communications authorised under the Uganda Communications (Pricing and Accounting) Regulations, 2019;
 - (vi) access by persons with disabilities to affordable basic communications services; and
 - (vii) reasonable geographic access to basic postal services across the country;
- (b) ensuring that essential communications services become generally available to everyone on an equitable basis;
- (c) allocating resources from the Fund.

(4) In fulfilling the universal service obligation, the designated operator shall meet targets set by the Commission for the supply-time and quality-of-service indicators prescribed in the licence and the parameters prescribed in the Uganda Communications (Quality of Service) Regulations, 2019.

(5) The Commission shall publish in a newspaper of national circulation, the performance of the designated operators required to meet the service targets under these Regulations.

(6) A designated operator shall, in fulfilling the universal service obligation enter into contracts with consumers specifying the

services to be provided together with the compensation scheme or arrangements where the contracted service quality levels are not met.

(7) In fulfilling the universal service obligation, operators shall take into account the progressive adjustment of prices towards costs in order to maintain the affordability of services for users in rural or high cost areas and for vulnerable groups of users; including the elderly, persons with disabilities and people with special social needs.

(8) The Commission shall, in the promotion of the universal service obligation, set up schemes for price caps or geographical averaging or other similar schemes for some or all specified services.

(9) The Commission shall design universal service schemes that ensure affordability based on the principles of transparency and non-discrimination by issuing guidelines setting out criteria that ensures affordability of all persons in Uganda.

(10) A designated operator may, in fulfilling the universal service obligation, use alternative transmission technologies such as satellite, radio communications and wire line where necessary for the provision of communications services.

7. National Operator.

(1) The Commission may require a national operator to provide national coverage of specified communications services throughout Uganda.

(2) The Commission may require a national postal operator to maintain a prescribed coverage of a national post office network as a condition for a postal licence.

8. Open communications networks and services.

(1) Access to communications networks and communications services for the provision of basic universal communications services

shall be open, non-discriminatory and upon conditions based on objective criteria that are transparent and readily accessible to the general public.

(2) A designated operator for the provision of universal service obligation shall ensure access to and use of their network by providing details of technical interface specifications for network access and any changes in them shall be communicated in advance of implementation.

9. Universal service obligation.

(1) The obligation on a provider for the provision of the universal service obligation may be national or for a universal service area or obligation prescribed by the Commission.

(2) Every operator issued with a facilities-based licence shall be designated an as operator with a universal service obligation in respect of the services provided or such other services as the Commission shall specify at the time of application or renewal of a licence.

(3) The commission shall, in every licence, impose a condition for the operator to provide universal service.

10. Universal service areas.

(1) The Commission may designate a universal service area in respect of one or more specified universal service obligations.

(2) A universal service area designation shall comprise of—

(a) the geographical description of the area where specified communications services shall be provided or the list of communities benefiting from the service;

- (b) a description of the services requested and the specification of the facilities and related equipment, including special measures for persons with disabilities;
- (c) the timetable for the provision of specified communications services;
- (d) the capital cost for provision of the specified communications services;
- (e) estimates of the operating costs for the implementation of the universal service;
- (f) proposed pricing for retail services and bulk services in the manner specified by the Uganda Communications (Pricing and Accounting) Regulations, 2019; and
- (g) the quality of service parameters set out under the Uganda Communications (Quality of Service) Regulations, 2019.

(3) The Commission shall, in determining universal service areas, ensure that no universal service area in respect of a universal service obligation overlaps with another.

(4) Where, at a particular time, any area in Uganda is not within a universal service area, in respect of a universal service obligation—

- (a) that area constitutes at that time, a single universal service area in respect of that service obligation; and
- (b) the Commission shall be taken to have designated that area as a universal service area.

(5) A designated universal service operator for a universal service area in respect of a service obligation shall take all reasonable steps—

- (a) to fulfil that service obligation, so far as it relates to that area; and
- (b) to comply with the operator's approved policy statement and the approved standard marketing plan of the operator that covers that area in respect of that service obligation.

(6) A designated universal service operator for a universal service area in respect of a service obligation who fulfils that service obligation by supplying alternative communications services in accordance with an approved marketing plan, shall be taken to have fulfilled any other obligation that arises under the service obligation to the extent that the other obligation applies to the supply of alternative communications services.

11. Universal service obligation plan and marketing plan.

(1) A designated operator shall submit to the Commission for approval, in respect of a universal service obligation or service area or both service obligation and service area to be provided or covered—

- (a) a draft universal service plan or draft variation of an approved plan; and
- (b) a draft standard marketing plan or draft variation of an approved standard marketing plan.

(2) A designated universal service operator shall comply with the universal service plan referred to in subregulation (1) in supplying equipment, goods or services as a universal service provider.

(3) The approved marketing plan shall set out—

- (a) the equipment, goods or services that the provider shall supply in fulfilment of the universal service obligation;
- (b) the arrangements for supplying and marketing the equipment, goods or services;
- (c) the length of time projected for the services to break even; and
- (d) the costs associated with marketing the services to the target population.

(4) The Commission shall determine the requirements for the universal service plan and the marketing plans of universal service providers.

(5) Notwithstanding subregulation (4), the universal service marketing plan may include—

- (a) time-frames for the supply of specified equipment, goods or services;
- (b) performance standards relating to the fulfilment of a universal service obligation;
- (c) processes for advising consumers about the availability, offer and supply for equipment, goods or services supplied in fulfilment of a universal service obligation; and
- (d) the terms and conditions on which the equipment, goods or services are offered or supplied.

(6) The Commission may approve, or reject, a universal service plan or marketing plan submitted to the Commission under these Regulations.

(7) The Commission shall, before approving a universal service plan satisfy itself that the plan adequately deals with—

- (a) the supply of appropriate equipment, goods or services to persons with disabilities and persons with special needs;
- (b) the delivery of quality communications services;
- (c) pricing of services in terms of affordability; and
- (d) availability and accessibility of services to and by all.

(8) The Commission shall, before approving a marketing plan be satisfied that the plan—

- (a) specifies the equipment, goods or services that the provider shall supply in fulfilment of the service obligation concerned, so far as it relates to the fulfilment of the universal service obligation;
- (b) adequately deals with how the provider shall fulfil the service obligation;
- (c) sets out appropriate terms and conditions on which the equipment, goods or services are to be supplied; and

(d) sets out appropriate arrangements for the marketing of the equipment, goods or services.

(9) The Commission shall give written notice of the approval or rejection of the universal service plan or marketing plan, to the universal service provider.

(10) Where the Commission refuses to approve a universal service plan or marketing plan, the Commission shall give notice to the universal service operator in writing, stating reasons for the refusal and may direct the operator to submit a new universal service plan or marketing plan within a specified period.

PART III — MISCELLANEOUS

12. Offences.

(1) Any person who utters a false document to the Commission under these Regulations commits an offence is liable, on conviction, to a fine not exceeding 48 currency points or a term of imprisonment not exceeding two years, or both.

(2) Any person who appropriates moneys disbursed from the Fund for purposes not authorised by the Commission commits an offence and is liable, on conviction, to a fine not exceeding 48 currency points or a term of imprisonment not exceeding two years, or both.

(3) The Commission may revoke or suspend the licence of an operator convicted of an offence under subregulation (1) or (2), in accordance with the Act.

13. Revocation of S.I. 26 of 2005.

The Communications (Universal Service Obligations) Regulations, 2005 are revoked.

Cross References

- 1 The Uganda Communications (Universal Service and Access Fund of Uganda), Regulations, 2019.
- 2 The Uganda Communications (Consumer Protection) Regulations, 2019.
- 3 The Uganda Communications (Quality of Service) Regulations, 2019.
- 4 The Uganda Communications (Pricing and Accounting) Regulations, 2019.

FRANK TUMWEBAZE

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