

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS

2019 No. 82.

THE UGANDA COMMUNICATIONS (INTELLIGENT NETWORK
MONITORING SYSTEM) REGULATIONS, 2019.

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2019 No. 82.

The Uganda Communications (Intelligent Network Monitoring System) Regulations, 2019

(Under sections 5(1) (u) and 93 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 Uganda Communications 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 (Intelligent Network Monitoring System) Regulations, 2019.

2. Application.

These Regulations apply to all operators and licensed network facilities in Uganda.

3. Objective.

The objective of these Regulations is to establish a framework to regulate the Intelligent Network Monitoring System to ensure thorough monitoring and effective regulation of communications traffic in Uganda by—

- (a) granting the Commission sufficient regulatory tools to enable it to fulfill its mandate under the Act;
- (b) granting Government through its agencies to monitor communications use and fulfill any other security requirements directed by authorised persons;

- (c) enabling the Commission to ensure the generation of reliable information and communications technologies statistics for communications traffic;
- (d) detecting and eliminating fraud in the communications networks in Uganda;
- (e) empowering the Commission to effectively monitor compliance with the quality of service parameters;
- (f) ensuring fair competition through Intelligent Network Monitoring System and services for monitoring of gateway traffic;
- (g) ensuring effective regulation of gateways and their optimum use by operators;
- (h) promoting even and fair practice in international transit and roaming practices among operators;
- (i) verifying and validating the returns of operators in Uganda; and
- (j) enhancing local and international traffic revenue assurance and international market watch services.

4. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Uganda Communications Act, 2013;

“authorised” in relation to an officer or employee of the Commission, means a person authorised by the Executive Director to exercise the powers or perform the duties in respect of which an authorised person is required to perform;

“by-pass” means the routing of international calls by a licensed network operator to a third party outside of any contractual obligations or beams dedicated to domestic interconnection;

“CDR” means call detail records generated by telephone exchanges which contain detailed information about calls originating from, terminating at or passing through the exchange;

“CLI” means caller line identification;

“Commission” means the Uganda Communications Commission established by the Act;

“communications” means telecommunications, data communication, radio communications and postal communications; and includes broadcasting;

“communications networks” means all the ways of providing communication services between a number of locations where communications equipment provides access to these services;

“communications traffic” means a profile of signs, signals, writing, images and sounds or intelligence of any nature flowing within a communications network;

“currency point” has the value assigned to it in the Schedule to these Regulations;

“gateway” means the switching system through which communications traffic is sent and received, with provision for allowing physical monitoring of traffic flow;

“IBCS” means interconnect border control system;

“INMS” means intelligent network monitoring system;

“market watch services” means a business intelligence insight into emerging key market and technology trends affecting the information and communications technologies infrastructure and network computing technologies in the marketplace;

“monitoring” means observation and keeping records of communications traffic signaling for the purpose of facilitating regulatory activities stipulated under these Regulations;

“operator” means an operator providing a communications service under the Act;

“SIM” means Subscriber Identity Module;

“special service fee per minute” means the fee prescribed by the Commission and imposed on operators to meet the operation cost of the INMS.

PART II—COMMUNICATIONS TRAFFIC MONITORING

5. Powers of the Commission.

(1) The Commission shall monitor communications traffic through among others the Intelligent Network Monitoring System.

(2) For purposes of subregulation (1), the Commission shall—

- (a) acquire, install, operate and maintain monitoring devices and signaling at the premises of the operator;
- (b) acquire, install, operate and maintain monitoring devices at off-site premises housing an operator’s network equipment where such a situation exists;
- (c) determine a minimum rate for international traffic; and
- (d) request for data and carry out inspection of the premises of the operators.

PART III—INMS SYSTEM CAPABILITY

6. INMS capability.

(1) The INMS shall have the signaling capability to—

- (a) track, detect and block bypass fraud through an anti-fraud system and services for all international incoming traffic;
- (b) track, detect and block bypass fraud through an anti-fraud system and services for all domestic traffic;
- (c) ensure compliance of operators with quality of service parameters set by the Commission;
- (d) generate reliable statistics for domestic and international communications traffic including terminal identification details, mobile money transaction information and SIM card profiles;
- (e) monitor any other traffic associated with value added services; and
- (f) conduct data recovery operations of data.

(2) The INMS shall work independently without directly interfering with the operations of operators.

7. IBCS installation and capacity.

(1) Every operator shall facilitate the installation of the IBCS in their networks for the purposes of the INMS.

(2) The IBCS monitoring hardware and software shall only be installed over dedicated links with signaling information where it shall be physically impossible to record, monitor or tap into the content of any electronic communication.

PART IV—FRAUDULENT TRAFFIC

8. Fraudulent traffic.

Communications traffic shall be considered fraudulent where—

- (a) it is managed by an entity without a licence or without the required authorisation for the management of communications traffic issued by the Commission;

- (b) it is managed by an operator without declaring it to the Commission;
- (c) it is managed by an operator but charged at a rate below the minimum rate prescribed by the Commission by notice in the Gazette;
- (d) it is unauthorised traffic generated by operators or their agents or carriers and transmitted to or within Uganda without revenue being levied and collected by a licensed operator;
- (e) calls are being made to inflate payments;
- (f) there is unauthorised traffic where the income received by an operator is from illegally discounted calls to customers; or
- (g) there is any fraudulent or unauthorised act as may be determined by the Commission;
- (h) where it has been intercepted under the Regulation of Interception of Communications Act, 2010.

9. Regulatory surveillance on fraudulent communications traffic.

(1) The Commission shall conduct regulatory surveillance to detect and eliminate fraudulent communications traffic.

(2) The Commission shall, where there is fraudulent trafficking, direct or order the operator to do any of the following—

- (a) effectively carry out or comply with any fraud surveillance obligations; whether national or international;
- (b) disclose any fraudulent SIM;
- (c) provide for a balance reporting on a fraudulent SIM;
- (d) deactivate any fraudulent SIM; and

(e) share detection of any other fraud or other criminal activity with the Commission or law enforcement for further action.

(3) The acceptance of and termination of communications traffic shall be subject to the terms of the operator's licence, regardless of the routing protocol used and any termination or delivery by any person or body corporate without a licence shall be considered fraudulent.

(4) Operators may deliver and terminate communications traffic to either customers of their own network or to customers of other operators with whom they have an interconnection agreement for the provision of transit or roaming service.

(5) Traffic by-pass is not permitted and must be blocked and reported to the Commission by any network operator.

(6) Network operators may block traffic without CLI or with modified CLI.

(7) Network operators shall carry traffic with unmodified CLI.

(8) The Commission may conduct on-site inspections to establish compliance with CLI.

(9) Network operators shall not terminate fraudulent international communications traffic on their network or networks of other operators.

(10) Network operators shall charge transit fees or charges for international communications traffic determined by an interconnection and access agreement between the network operators.

PART V—APPLICABLE RATES AND FEES FOR
THE OPERATION OF INMS

10. Fixed minimum rates.

(1) An operator shall charge the fixed minimum rate for all international incoming communications traffic at the rates prescribed by the Commission under regulation 8(c).

(2) The Commission shall collect from every operator, a special service fee which shall be a percentage of the revenue generated from the minimum rate of international incoming communications traffic at the rate prescribed by the Commission under regulation 8(c).

(3) An operator shall declare to the Commission the revenue collected in each month under subregulation (2).

(4) Where an operator fails to declare the revenue collected, or where the Commission is not satisfied with the declaration made by the operator, the Commission may verify the amount declared by the operator.

(5) An operator shall, with effect from the date of implementation of the INMS by the Commission, file a return and remit the special service fees due to the Commission by the 15th day after the end of each month.

(6) The return filed by the operator under subregulation (5) shall include—

- (a) the total number of calls made or received over the network;
- (b) the number of minutes carried over the network;
- (c) the special service fee per minute;
- (d) the amount due; and
- (e) the period of the return.

(7) Where an operator under declares or fails to remit to the Commission the special service fee required under subregulation (6) on or before the time when the amount is payable, the operator shall pay as a penalty, a surcharge of two percent of the amount in default for each day of default.

PART VI—GENERAL OBLIGATIONS

11. Operators obliged to provide information.

(1) Every operator shall provide the Commission with the following information—

- (a) the total number of minutes and revenue of the termination of international inbound communications traffic, including transit communications traffic in their own network which shall provide the statistics of international incoming communications traffic of calls completed on their own network and calls completed on third party networks;
- (b) statements by international carriers or operators of the communications traffic terminated in Uganda or invoices sent to international carriers or operators;
- (c) the number of minutes and revenue of communications traffic terminated to each international carrier contracting the termination service with the operator;
- (d) the CDRs for voice traffic, both for international inbound traffic and for national voice traffic in a format prescribed by the Commission; and
- (e) any other necessary information related to the management of the operator's network for the provision of voice services, including the network signaling data links, recorded communications traffic, contracts and invoices with other carriers.

(2) The report and CDRs required under this regulation shall be submitted to the Commission before the 15th day after the end of each month.

(3) The CDRs submitted under subregulation (2), shall be subject to a comparison and verification process by the Commission or an authorized representative of the Commission.

(4) An operator shall allow the Commission or an authorised person to—

- (a) conduct surveys to facilitate the implementation of connectivity requirements for the INMS;

- (b) carry out actual connectivity of the INMS to the operators' networks;
- (c) monitor, in real time, any communications traffic related information; and
- (d) inspect and audit the operator's network.

(5) Any site survey conducted by the Commission or its authorised representative under subregulation (4) shall be done together with or in the presence of the operator or an authorised representative of the operator.

(6) An operator shall keep all signaling data necessary for the management of communications.

(7) The signaling data referred to under subregulation (6) shall include the origin, destination, service information, time and path of the call over a dedicated link, in such a way that the dedicated link shall not carry any other data and in particular, the content of communications, location information for mobile services or SMS.

12. Fees charged by operators.

(1) An operator shall, in addition to any other specific obligations, in charging rates, have the following obligations—

- (a) charge international carriers the fixed minimum rate per minute prescribed by the Commission under regulation 8 (1) (c) for the termination of international communications traffic in Uganda; and
- (b) charge transit traffic fees at the rate specified in the agreement between the operator and international carriers, and submit copies of the carrier agreements to the Commission.

(2) The transit fees or charges for international incoming communications traffic referred to under subregulation (1) (b), shall

be determined and agreed upon by, and entered into by agreement between the operators and international carriers.

13. Monitoring process.

(1) The Commission shall monitor, for each operator—

- (a) the monthly trend of communications traffic in Uganda; and
- (b) the parameters relating to quality of service and fraud detection.

(2) The Commission shall collect any information from the operators in order to ascertain, inter alia, quality of service and volume of traffic carried over the network of the operators.

(3) In monitoring communications traffic, the operator shall—

- (a) allow the Commission or any entity acting on behalf of the Commission to install and maintain necessary equipment in, on, upon or at the network premises of the operator;
- (b) collaborate by providing all the required support and space as may be determined by the Commission for the installation of the monitoring system in the premises of the operator; and
- (c) facilitate points of interconnection for links between the Commission's monitoring system installed at the operator's switch centres and the Commission's main operating centre.

(4) The Commission shall, in monitoring communications traffic, ensure that the signaling data is—

- (a) processed and stored exclusively for the purpose of monitoring compliance with the licence obligations;
- (b) stored in a secure and encrypted mode;

- (c) processed and stored through the right security measures and stored only for the duration necessary for the purpose of monitoring compliance with the licence obligations; and
- (d) not transmitted or given to third parties, public or private, except as permitted by law.

14. Installation and safety of devices.

(1) An operator shall exercise due care for the safety of the devices installed.

(2) Where an installed device is tampered with, destroyed or damaged by the operator, the operator shall—

- (a) pay for the cost of replacement of the device tampered with, destroyed or damaged device; and
- (b) pay to the Commission the amount prescribed by the Commission under regulation 8(1)(c) based on the previous highest returns plus 10% of the returns during the period the device remains tampered with, destroyed or damaged.

(3) Where a device interferes with the operator's network, all concerned parties shall, in good faith, take reasonable measures to resolve the problem.

(4) The IBCS and any collocation device, for the purposes of INMS, shall not cause any interference to the network operators' equipment, plant, facilities, and networks or to the equipment of any other operator in the collocation space, including during the installation of the IBCS equipment.

(5) Subject to subregulation (5), where any interference may occur, all concerned parties shall, in good faith, take reasonable measures to resolve the problem promptly.

(6) Procedures relating to physical access to and the inspection of the collocation space and equipment by the Commission or its authorized representatives shall be determined at the time of the installation of the IBCS or any related communications traffic measurement equipment, anti-fraud and detection systems and any other equipment.

(7) Where there is any direct damage to the collocation plant, network equipment or facilities, arising out of or during the course of installation, operation, maintenance, replacement or repair of the collocated facility or network in the premises of an operator, the damage shall be reported to the Commission and the network equipment or facility shall be, subject to any agreement, rectified without delay.

(8) The Commission or its authorised representative shall be responsible for the operation or maintenance of its collocation equipment or as may be mutually agreed with an operator.

(9) The Commission and operators shall ensure that their staff observe and comply with all applicable or specified safety rules issued by the Commission.

15. Service suspension.

Every operator shall comply with the directives of the Commission to suspend service to carriers and entities managing international inbound voice traffic in a twenty four hour term for reasons in connection with or matters affecting any of the provisions or the implementation of these Regulations.

16. Compliance order.

The Commission may, in implementing these Regulations, issue compliance orders to operators.

17. Restriction on disclosure of information.

The Commission shall not disclose any information received or obtained during the exercise of its powers or performance of its duties, except, where the information is required by a law enforcement agency, court of law or other lawfully constituted tribunal or with the consent of the parties.

PART VII—SERIOUS BREACHES.

18. Acts and omissions constituting serious breach.

The following acts by operators or their representatives constitute serious breaches of the obligations imposed by these Regulations—

- (a) the provision of international inbound voice and data services without a licence;
- (b) the termination of all international communications traffic, including transit traffic at a price below the minimum rate prescribed by the Commission under regulation 8 (1) (c);
- (c) the refusal or delay by an operator to collect and pay to the Commission, the special service fees and surcharge prescribed by these Regulations;
- (d) the refusal by an operator to meet the transparency obligations prescribed by these Regulations;
- (e) the refusal or obstructive acts or omissions on the part of an operator to allow the installation of an IBCS or any equipment for monitoring under these Regulations;
- (f) the failure by network operators to file or register all interconnection and international carrier agreements with the Commission; or
- (g) the failure by an operator to achieve any of the transitional conditions or comply with any requirement identified by the Commission during the course of the transitional period.

PART VIII—OFFENCES.

19. Offences and penalty.

(1) A person who contravenes these Regulations commits an offence and is liable to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

(2) A breach of these Regulations shall be considered a serious breach of the Act, under section 41 of the Act.

(3) The Commission may suspend or revoke the licence of an operator who is convicted of an offence under subregulation (1).

20. Repeated breaches.

(1) Repeated breaches under regulation 18 shall be penalised by the Commission with the greater of the following two amounts—

- (a) three times the benefit obtained with the action defined as a breach; or
- (b) a payment of 10% of a verified billable amount as may be determined by the Commission.

(2) Where an operator commits three serious breaches under these Regulations, the Commission may suspend or cancel the operator's licence in accordance with section 41 of the Act.

(3) Where an operator increases its tariff or service fees for the fixed minimum rate for international communications traffic, it shall be liable to pay a penalty three times the sum of the value of the increase to the Commission.

PART IX—MISCELLANEOUS

21. Effective implementation of INMS.

The Commission may, for effective implementation of the INMS and handling of the possible impacts on other regulatory measures or processes—

- (a) consider and adopt new operator interconnection billing standards and settlement procedures;
- (b) develop a new operator support and supervision agreement for the control of international traffic flows, including regional traffic, in and out of Uganda;
- (c) define the technical terms and conditions of support and supervision among the operators as well as the mechanisms for the supply, maintenance and operation of Uganda's signaling control systems;
- (d) establish revenue assurance benchmarks;
- (e) consider the planning, operation and maintenance of all parts of the INMS for purposes of supervision and management of national and international traffic in Uganda; and
- (f) provide technical assistance and training in the management of interconnection management systems and infrastructure for the purposes of these Regulations.

22. Transitional provisions

Every network operator shall, within sixty days after the coming into force of these Regulations—

- (a) cause a review and amendment of their existing carrier agreements;
- (b) file with the Commission, all their amended interconnection and carrier agreements;
- (c) reach an agreement with the Commission or its representative on all matters relating to the co-location of any INMS equipment;
- (d) enter into an agreement with the Commission, where applicable, on all the required network and service parameters for the purposes of these Regulations;

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- (e) assist the Commission's representatives in the conduct of any survey for the purposes of these Regulations;
- (f) secure an identified place or space for connection and collocation of the IBCS;
- (g) identify all requirements for the connectivity of the IBCS to the switch and networks of the concerned operators;
- (h) establish and complete a network with a functional and operational INMS; and
- (i) carry out any other thing or requirement identified by the Commission required for the effective and efficient implementation of the INMS.

23. Appeals.

A person aggrieved by the decision of the Commission under these Regulations, may appeal to the Uganda Communications Tribunal within 30 days after receipt of the decision.

SCHEDULE

Regulation 4.

CURRENCY POINT

One currency point is equivalent to twenty thousand shillings.

Cross References

Regulation of Interception of Communications Act, 2010, Act 18
of 2010.

FRANK TUMWEBAZE,
*Minister of Information and
Communications Technology and
National Guidance.*