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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT
(CAP.306)

REGULATIONS

THE ELECTRONIC AND POSTAL COMMUNICATIONS (ACCOUNTING SEPARATION)
REGULATIONS, 2011

ARRANGEMENT OF REGULATIONS

Regulation *Title*

PART I

PRELIMINARY PROVISIONS

1. Citation
2. Application
3. Interpretation

PART II

ACCOUNTING SEPARATION

4. Preparation of separated accounts
5. Content and structure of separated accounts
6. Presentation of financial statement
7. Audit of separated accounts

PART III

MISCELLANEOUS PROVISIONS

8. Publication of separated accounts
9. Timing of separated accounts
10. Format of separated accounts
11. Appeals of accounting separation
12. Offences and Penalties

ELECTRONIC AND POSTAL COMMUNICATIONS ACT
(CAP.306)

REGULATIONS

(Made under section 165)

THE ELECTRONIC AND POSTAL COMMUNICATIONS (ACCOUNTING
SEPARATION) REGULATIONS, 2011

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Electronic and Postal Communications (Accounting Separation) Regulations, 2011.
- Application 2. These regulations shall apply to electronic and postal communication services licensees who-
- (a) have been declared by the Authority to hold a dominant position in the national wholesale (including but not limited to interconnection, and Access) market, or in two or more retail markets;
 - (b) have been granted multiple electronic or postal communication licenses;
 - (c) have business units in their entity which enter into transactions or otherwise do business with each other.
- Interpretation 3. In these Regulations unless the context otherwise requires:-
- Cap.306 “Act” means the Electronic and Postal Communications Act;
- Cap 172 “Authority” means the Tanzania Communications Regulatory Authority established under the Tanzania Communications

Regulatory Authority Act;

“accounting policies” means principles, bases, conventions, rules and practices applied by licensee which specify how the effects of transactions and other events are reflected in the financial statement;

“accounting estimates” means methods adopted by licensee to arrive at estimated amounts for the financial statements;

“accounting separation” means separating licensee accounts in a way that the costs, revenues and capital employed associated with each business unit, service and/or product can individually be identified and allocated;

“business unit” means a sub-division or segment of the licensee’s business;

“disaggregated activity” means a sub-service within a business unit which is treated as separate accounting segment;

“financial year” means accounting period of the licensee in respect of which statutory accounts are required to be prepared and audited in accordance with the requirements of the Companies Act;

Cap.212

“guidelines” means the guidelines issued by the Authority for a licensee to prepare separated accounts;

“licensee” means an entity licensed by the Authority to provide any electronic communications and postal services;

“market” has the meaning ascribed to it under the Tanzania Communications Regulatory Authority Act;

Cap 172

“separated accounts” means disaggregated licensee’s accounts as may be required by the Authority for regulatory purposes;

“transfer charge” means charge applied, or deemed to be applied by the licensee to itself for the provision of services by one of its business unit disaggregated activity to its other business unit or disaggregated activity.

PART II

ACCOUNTING SEPARATION

Preparation
of Separated
Accounts

4.-(1) The licensee shall prepare separated accounts for the following business units-

- (a) wholesale;
 - (b) retail; and
 - (c) other activities.
- (2) The licensee shall, in carrying out universal and non universal service obligation, maintain separated accounts for each.
- (3) The licensee shall in its separated account, provides the following -
- (a) a statement of accounting policies applied, including cost conventions;
 - (b) the names of business units and their disaggregated activities;
 - (c) a statement of the basis of allocation and apportionment of revenue, operating costs and capital employed;
 - (d) a summary of transfer charges made among the separated business units and disaggregated activities.
- (4) The separated accounts shall clearly show the costs and revenues for each business unit or disaggregated activity.
- (5) The Authority may from time to time issue guidelines on issues regarding the following-
- (a) regulatory accounting principles;
 - (b) regulatory accounting conventions;
 - (c) transfer charging; and
 - (d) costing methodologies for accounting separation.

Contents
and structure
of Separated
Accounts

- 5.-(1) The licensee shall prepare separated accounts in accordance with-
- (a) guidelines on accounting separation issued by the authority; and
 - (b) International Financial Reporting Standards and International Accounting Standards.
- (2) The separated accounts shall disclose any differences between costs allocated to different activities by the licensee and the costs that the Authority allows for the purpose of determining charges.
- (3) The separated accounts shall include transfer charges

between the main business units for services the licensee provides to itself and also disclose the equivalent transactions with competing licensees.

(4) The separated accounts shall be prepared annually and shall contain comparative information following the previous period.

Presentation
of Financial
Statement

6.-(1) The licensee shall, for every business unit or disaggregated activity submit to the Authority the following-

- (a) statement of comprehensive Income;
- (b) statement of financial position; and
- (c) notes of financial statements.

(2) The statement of comprehensive income shall disclose revenues and operating costs.

(3) The profits shall be stated before interest and tax.

(4) All accounts shall show any transfer charges to or from other business unit or disaggregated activity.

(5) The licensee shall present current and non-current assets and current and non-current liabilities as separate classifications in its statements of financial position.

(6) A licensee shall, in addition to the requirements under sub-regulation (1) submit to the Authority-

- (a) a statement of costs along with the reconciliation between result calculated apportioning of costs in a particular product or service;
- (b) reconciliation of the separated account to the audited statutory accounts of the licensee;
- (c) detail of significant changes in internal accounting policies, and estimates together with reasons of change if any.

(7) The reconciliation shall be made at the aggregated level for both the financial position information and Profit and Loss statement with any material reconciling item identified separately.

Audit of
separated
accounts

7.-(1) The separated accounts shall be subject to an independent audit.

(2) The Licensee shall appoint auditors to carry out the audit of the separated accounts and shall notify the Authority of such

appointment within seven days of such appointment.

(3) All audit work carried out on the separated accounts shall be at the expense of the licensee.

(4) The auditors shall plan and carry out such work as to enable them to provide an independent audit opinion on the separated account.

(5) The auditors shall take into consideration the following aspects that report -

(a) is presented in accordance with the accounting methodologies that are to be attached to the separated accounts, the results, mean capital employed and costs incurred by each of the business units and disaggregated activities disclosed in the separated accounts;

(b) comply with the act, the rules, the regulations, directives or decisions and determinations issued by the authority; and

(c) contain the information specified in the guidelines, as required to be published in the accounts.

(6) Where the Authority is not satisfied with results of audit of separated accounts, Authority shall appoint another auditor to audit, review or verify at the expense of the Authority.

(7) Where any such matters have come to the auditors' attention, these matters shall be clearly described in their report together with, where reasonably possible, the potential monetary impact on the results, mean capital employed or costs incurred by each of business unit or disaggregated activity disclosed in the accounts, or a statement that the estimation of the potential monetary impact is not reasonably possible to establish.

(8) The auditors shall address their report to the licensee.

(9) Notwithstanding the provision of sub-regulation (8), the audited report shall be attached but shall not form part of the separated account submitted to Authority.

(10) The auditors' report shall clearly set out the respective responsibilities of the auditor and the licensee and the basis on which the audit has been carried out and the opinion arrived at.

PART III
MISCELLANEOUS PROVISIONS

Publication
of
Separated
Accounts

8.-(1) The Authority may require the publication of the audited separated accounts, subject to the consideration of commercial confidentiality.

(2) Notwithstanding the provision of sub-regulation (1), the Authority shall consult with a licensee before publishing its separated accounts, or any information contained within those accounts, so as to ensure that appropriate levels of commercial confidentiality are maintained.

Timing of
separated
accounts

9.-(1) The first set of audited separated accounts shall be submitted to the Authority by the licensee not later than twelve months following either the determination of a licensee holding a dominant position in the market by the Authority or the publication of these Regulations and supporting guidelines.

(2) After submission of the first set of audited separated accounts referred to under sub regulation (1), the licensee shall submit its annual audited separated accounts to the Authority within six months after the end of each financial year.

(3) Notwithstanding the provision of sub regulations (1) and (2), the Authority may on considering the ground given by the licensee, extend the time for submission of the audited separated account.

(4) Without prejudice to the preceding provisions, the Authority may require the licensee to submit other accounting information or clarifications it may require in order to effectively supervise and enforce the terms of the licence.

(5) The licensee shall provide such information within a reasonable period of time as the Authority may determine.

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| Format of Separated Accounts | 10. The Licensee shall submit its separated accounts in the prescribed formats as may be prescribed by the Authority for the purpose of these Regulations. |
| Appeals on Accounting Separation | 11. The decisions of the Authority on matters relating to accounting separation may be appealed to the Fair Competition Tribunal. |
| Offences and Penalties | 12. Any Licensee who contravenes the provisions of these Regulations commits an offence and shall, upon conviction, be liable to a fine of not less than Shillings five million. |

Dar es Salaam
29th November, 2011

MAKAME M. MBARAWA
*Minister for Communication,
Science and Technology*