

CHAPTER 306
THE ELECTRONIC AND POSTAL
COMMUNICATIONS ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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CHAPTER 306

THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT

An Act to make provisions for the enactment of electronic and postal communications law with a view to keeping abreast with developments in the electronic communications industry; to provide for a comprehensive regulatory regime for electronic communications service providers and postal communications service providers, to establish the Central Equipment Identification Register for Registration of detachable SIM card and built-in SIM card mobile phones; to provide for duties of electronic communications and postal licensees, agents and customers, content regulation, issuance of postal communication licences and to regulate competitions and practices; to provide for offences relating to electronic communications and postal communications and to provide for transitional provisions, consequential amendments and other related matters.

[8th June, 2010]

[GN. No. 203 of 2010]

Acts Nos.	8 of 2020
3 of 2010	3 of 2021
17 of 2010	4 of 2021
14 of 2015	6 of 2021
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PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Electronic and Postal Communications Act.

Application

2.-(1) This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

Act No.
7 of 1997

(2) This Act shall not apply to Tanzania Zanzibar, with respect to those activities, which by virtue of the Zanzibar Broadcasting Commission Act, fall within the jurisdiction of the Zanzibar Broadcasting Commission.

Interpretation
Acts Nos.
2 of 2016 s. 8
4 of 2017 s. 6

3. In this Act, unless the context otherwise requires-

“abuse of the dominant position” means an act whereby-

- (a) a firm holds a position of such economic strength that allows it to operate in a market without being significantly affected by competition and it engages in conduct that is likely to impede the development or maintenance of effective competition;
- (b) a tied selling firm exercises, predatory pricing, exclusive dealing, market restriction and price squeezing but does not include an act where by a licensee’s vigorous competition takes business from less efficient competitors;

“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;
- (b) provision of an electronic communications service and use of electronic communications services;
- (c) to construct, maintain and operate an electronic communications network; and
- (d) to provide an electronic communications service;

“application service licence” means an electronic communications licence entitling the holder to provide one or more applications services;

“application service licensee” means a holder of an application service licence;

“assignee” means a person who holds an individual assignment or who is registered under a class assignment;

“assignment” means an individual assignment or a class assignment;

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“Authority” means the Tanzania Communications Regulatory Authority established under the Tanzania Communications Regulatory Authority Act;

“authorised dealer” includes agent and distributor authorised by applications service licensee to sell or distribute SIM cards and, or non SIM card devices to subscribers;

“blacklisting” means to render a mobile telephone inactive by any mobile cellular operator, and to deliberately disable any access which any person in control of the said mobile telephone may have to any of the mobile cellular operators;

“blacklist” means all IMEI numbers reported as lost, stolen or destroyed;

“broadcasting apparatus” means an apparatus for the reception of television broadcast or for reception of sound broadcasts and, where an apparatus is designed or constructed for the reception of both television and sound broadcasts other than those relating to television broadcasts, such apparatus shall be deemed to comprise two sets of apparatus, one for the reception of television which is television broadcasts and another one for the reception of sound broadcast which is radio, as the case may be;

“broadcasting flag” means a set of status bits or “flag” set in the data stream of a digital television programme that indicates whether or not the data stream can be recorded or if there is any restrictions in the recorded content;

“broadcasting service” means a radio communication service in which the transmissions are intended for direct transmissory reception by members of the general public and “broadcast” used as a verb shall be construed accordingly;

“broadcasting station” means all premises whatsoever used for the purpose of carrying on broadcasting services together with the transmitters, apparatus and equipment, including vehicles required in connection with them;

“built-in SIM card” means embedded SIM card to mobile terminal equipment;

“Central Equipment Identification Register” in its abbreviation CEIR means an electronic database which holds unique pairs of phone numbers and IMEIs in form of three lists white list, black list and grey list;

“class assignment” means a declaration issued by the Authority pursuant to this Act granting a class of persons, subject to certain rules, rights to use-

(a) frequencies; or

(b) numbers or electronic addresses;

“class licence” means a declaration issued by the Authority pursuant to this Act authorising a class of persons to provide electronic communication services subject to requirements as may be determined by the Authority;

“conditional access” means to restrict television programme access to certain groups of users either because of concerns for privacy or the desire to collect revenue for the services, this requires secure encryption of the programme content secure decryption in a set top box for each viewer;

“Centre” means the Subscribers Information Centre established under Part IV subpart (i);

“co-location” means the accommodation of two or more switches, antennas or other electronic communications equipment in or on a single building, tower or other structure;

“computer” means an electronic device used to input, process, store and output data;

“content” means information in the form of speech or other sound, data, text or images whether still or moving, except where transmitted in private communications;

“content service” means service offered for speech or other sound, text or images whether still or moving except where transmitted in private communications;

“contentservicellicence” means an electronic communications licence entitling the holder to provide one or more content applications services;

“content service licensee” means a holder of a content service licence;

- “construction permit” means the authorisation granted by the Authority to an applicant whose application for the provision of broadcasting services has been approved by the Authority for the construction of facilities for the provision of content services;
- “consumer” means any person who uses electronic communication or postal product or services;
- “convergence” means the integration of different networks into a common digital platform that allows various services to be deployed for example video, audio, text, graphics, data and other new services;
- “courier service” means specialised services for the speedy collection, conveyance and delivery of postal articles other than letter;
- “customer” means any person who obtains or seeks to obtain services of any kind from a person undertaking activities pursuant to this Act, and includes subscribers;
- “customer equipment” means equipment, including cabling, hardware and software, employed on the customer side of the network boundary;
- “dealer” means a person who-
- (a) carries on a trade, business or industry in which electronic communication apparatus are assembled, manufactured, imported, bought, sold, hired or exchanged;
 - (b) deals in motor vehicles in which broadcasting apparatus are installed; or
 - (c) auctions broadcasting apparatus;
- “Director General” means the Director General of the Authority;
- “dominant licensee” means a licensee who has been determined by the Authority to have more than thirty five percent of the electronic communication or postal services market;
- “electronic communication” means radio communication or, as appropriate, the communication of information in the form of speech or other sound, data, text or images, by means of guided and unguided electromagnetic energy;

“electronic communication equipment” means an equipment used for radio communication or, as appropriate, the communication of information in the form of speech or other sound, data, text or images, by means of guided or unguided electromagnetic energy;

“electronic communications licence” means an individual licence or a class licence;

“electronic communications licensee” means a person who holds an individual licence or who is registered under a class licence;

“electronic communications market” covers all the electronic communications market and services including fixed line voice telephone, mobile and broadband communications and cable and satellite television;

“electronic communications network” means any network that enables or facilitates the provision of an electronic communications service;

“electronic communications service” means any service the purpose or effect of which is to enable or facilitate electronic communication;

“electronic communication system” means any system used or intended to be used for electronic communication;

“Electronic Serial Number in its abbreviation “ESN” means a unique code or number used by electronic communications network to identity an individual electronic communications equipment;

Cap. 285 “Fair Competition Commission” means the Fair Competition Commission established under the Fair Competition Act;

Cap. 285 “Fair Competition Tribunal” means the Fair Competition Tribunal established under the Fair Competition Act;

“financial services” means money orders, postal orders, postal drafts, postal cheques, postal travelers’ cheques, giro, cash-on-delivery, savings service, electronic commerce services and any other related services;

“grey list” means entries that are temporarily blocked or temporarily allowed;

“hybrid postal services” means services resulting from a process in which an operator combines telecommunications and information technology with a physical network to convert a message into correspondence during the performance of activities inherent in postal services;

“International Mobile Equipment Identity” in its abbreviation “IMEI” means a unique code used to identify an individual mobile telephone in Global Systems for Mobile Communication networks;

“individual assignment” means a document issued by the Authority pursuant to this Act granting the holder, subject to certain rules, rights to use-

- (a) radio frequencies; or
- (b) numbers and electronic addresses;

“individual licence” means a document issued by the Authority pursuant to this Act authorising the licensee, subject to certain rules to-

- (a) construct, maintain, own and make available one or more network facilities;
- (b) provide one or more network services; or
- (c) provide one or more content services;

“installation or plant used for posts” means all buildings, lands, structures, machinery, equipment, boxes and receptacles used or intended for use in connection with the transmission of postal articles by post;

“interconnection” means the physical or logical linking of one public electronic communications network to another for the purpose of allowing the persons using one of them to be able to-

- (a) communicate with users of the other network; or
- (b) make use of services provided by means of the other one;

“letters” means any form of written communications in the nature of current and personal correspondence and includes postcards;

“licence” means a licence issued under the provisions of this Act;

“mail bag” means any bag, container, envelope or covering in which postal articles are conveyed;

“Minister” means the Minister responsible for communications except in relation to content and broadcasting services;

“mobile telephone” means a mobile apparatus or mobile terminal equipment which is capable of connection to a cellular telecommunication system and which is used by a customer to transmit or receive indirect communications over such telecommunications system;

“multiplex” means a digital transmission channel which combines programme material and other data in a digital form for transmission via a frequency channel;

“multiplex operator” means the entity that compiles, operates content offering on a digital multiplex that decides on the conditional access and Subscriber Management System (SMS) to be used and provides signal transmission to the end user;

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

“network service” means a service for the carrying of information in the form of speech or other sound, data, text or images, by means of guided or unguided electromagnetic energy but does not include services provided solely on the customer side of the network boundary;

“network service licence” means an electronic communications licence entitling the holder to provide one or more network services;

“network service licensee” means a holder of a network service licence;

“parcel” means a postal article which is posted at a post office as a parcel or is received at a post office by parcel post;

“physical co-location” means a type of co-location where the party controlling the building, tower or other structure in or on which another party’s switches, antennas or other electronic communications equipment are accommodated, also allows the other party to operate those switches, antennas or other electronic communications equipment;

“post” means a system for the collection, dispatch, conveyance, handling and delivery of postal articles by or through a public postal licensee;

“postcode” or “postal code” means a series of letters or digits appended to a postal address for the purpose of making the processing and delivery of mail precise, easier and faster;

“post office” means any building, house, room, vehicle or place where postal articles are received, delivered, sorted, made up or dispatched;

“postage” means the fee chargeable for the transmission by post of postal articles;

“postage stamp” means any label or stamp for denoting any postage or other sum payable in respect of a postal article, and including any adhesive postage stamp or stamp printed, impressed or otherwise indicated on a postal article, whether the postage stamp is issued under this Act or by the government of any other country;

“postal article” or “postal item” means material goods, with or without mercantile value, that comply with the portability requirements determined by this Act and by regulation, and that are delivered via a physical network to a specified address or a person with a specified address;

- “postal communications” means the communications of information by means of post;
- “postal exclusivity” means exclusive rights given to the public postal operator to issue stamps, installing private and posting letter boxes and the use of the words “Post Office”, “letter box and postage stamps”;
- “postal licence” means a licence issued pursuant to Part III of this Act;
- “postal licensee” means a person who holds a postal licence;
- “postal service” means conventional postal, hybrid postal and couriers’ services;
- “postal undertaking” means all the lands, buildings, and other property, movable or immovable, vested in the Minister immediately before the transfer date for the postal purposes of the Minister and all assets, powers, rights, interests, privileges, debts, liabilities and obligations connected therewith;
- “postcard” means a card recognised as a postcard in accordance with the terms of the convention regulating the affairs of the Universal Postal Union;
- “posting box” means any pillar box and wall box and any other box or receptacle provided by or under the authority of a public postal licensee for the purpose of receiving postal articles for transmission by, or under the authority of, a public postal licensee;
- “public postal licensee” means a person designated by the Authority under this Act;
- “public postal licensee’s installation or plant” means any installation or plant used for posts belonging to or used by a public postal licensee;
- “radio communication” means electronic communications by means of radio waves;
- “service neutral” means in relation to the converged licensing framework whereby a licensee is authorised to provide any electronic communication service;

“shareholder” means an individual or company, including a corporation that legally owns one or more shares of stock in a joint stock company;

“SIM card” means Subscriber Identity Module which is an independent electronically activated device designed for use in conjunction with a mobile telephone to enable the user of the mobile telephone transmit and receive indirect communications by providing access to telecommunication systems and enabling such telecommunication systems identify the particular Subscriber Identity Module and its installed information;

“subscriber” means a person who receives an applications service or a content service under an agreement with or pursuant to terms and conditions established by an applications service licensee or a content service licensee;

“technology-neutral” means the use of any technology for the provision of electronic communication services;

“TBC” means the Tanzania Broadcasting Corporations established by the Tanzania Broadcasting Corporations (Establishment) Order;

“undeliverable postal article” means items which for some reasons have not been claimed by addressee;

“Universal Communication Services” means a defined minimum set of communications service of specified quality which is available to all users independent of their geographical location, and in the light of specific national conditions, at an affordable price;

“Universal postal services” means basic postal services within the United Republic which includes the acceptance, conveyance and delivery of letters up to 500gms, parcel and packets of up to 10kgs, and financial services delivered at equal tariffs and conditions accessible by all the population;

“user” means any person or body of persons who uses or operates a radio communication channel or frequency or runs telecommunication systems or services;

GN. No.
186 of 2007

“virtual co-location” means a type of co-location where the party controlling the building, tower or other structure in or on which another party’s switches, antennas or other electronic communications equipment are accommodated, operates those switches, antennas or other electronic communications equipment on behalf of the other party;

“whitelist” means any unique pairs of subscriber number and IMEI number as captured by a licensee of electronic communication service where IMEI is not in the blacklist.

PART II

ELECTRONIC COMMUNICATIONS

(a) *Licensing*

Power to
issue licence
and regulate
electronic
communication
systems

4.-(1) Subject to the provisions of this Act, the Authority shall have the power of licensing and regulating electronic communication systems and services in the United Republic.

(2) The power conferred on the Authority under subsection (1) shall-

(a) include the right to issue licence and to regulate the establishment, installation, use, working, maintenance, development, construction, promotion, hiring and selling of electronic communication systems and services; and

(b) extend to every vessel or aircraft registered in the United Republic and to every other vessel, aircraft and any vehicle, whether mechanically propelled or not, in the United Republic.

(3) The power conferred under this section shall not be infringed by-

(a) the running by any person solely for his own use or for the purpose of his business and not for providing any telecommunication services to another person or electronic communication system in which all the equipment comprised therein is situated-

(i) on a single set of premises in a single occupation;

- (ii) in a vessel, aircraft or vehicle or in two or more vessels, aircraft or vehicles mechanically coupled together;
- (b) the operation of the electronic communications system in the course of their duties by the armed forces, the police force and national security officers of the United Republic; or
- (c) a licence granted under subsection (1) to a person or class of persons, may be granted either to any person, or class of persons and may in addition, contains conditions requiring the interconnection or access to electronic communication systems of any person or class of persons licensed under subsection (1).

Types and
duration of
licences

5.-(1) Types of licences issued under this Act are-

- (a) network facilities licences;
- (b) network services licences;
- (c) application services licences;
- (d) content services licences;
- (e) postal and courier services licences; and
- (f) other licences as may be determined by the Authority.

(2) The duration of the licence shall be as specified in the regulations made under this Act.

Application for
licence
Acts Nos.
2 of 2016 s. 9
4 of 2021 s. 4

6.-(1) A person or a company that wishes to operate any electronic communications system or offer postal communications, electronic communications or content services shall apply to the Authority for a licence.

(2) An applicant for a licence shall be required to submit the following information-

- (a) a certificate of incorporation or registration;
- (b) business plan for the proposed services;
- (c) technical proposal for the services to be provided including roll out plans;
- (d) memorandum and articles of association evidencing shareholding structure as prescribed under section 26;

- (e) previous experience in the provision of the services;
- (f) proof of the applicant being financially capable; and
- (g) any other information as the Authority may require.

(3) An applicant for electronic communication licence which uses frequency bands that are competitive shall, in addition to requirements under subsection (2), submit the following:

- (a) network plan and configuration for deployment;
- (b) technical specifications and manuals of equipment to be used; and
- (c) products and services to be offered.

(4) Every applicant shall be required to have physical address in a place within the United Republic and provide the same to the Authority.

(5) A licensee shall inform the Authority of any change of physical address.

(6) Where an applicant for an individual licence has submitted to the Authority all the relevant requirements for the licence application, the applicant shall present business and technical plans to the Authority.

(7) Where an agreement provides for special arrangement relating to the implementation of this section, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.

Failure to submit documents or information

7. Where an applicant fails to submit documents or information as required under this Act, the Authority shall reject the application and the applicant shall be so informed in writing.

Publication of notice of application

8.-(1) Upon receipt of an application, the Authority shall publish a notice of the application in local newspapers inviting comments from the public, within fourteen days from the date of publication.

(2) The requirement for publication shall not apply to licence of a duration below five years.

Rejection of application

9.–(1) The rejection of an application pursuant to the provisions of this Act shall not prevent the applicant from resubmitting another application with the required information except where a tender process is involved.

(2) Resubmission of application under subsection (1), shall be treated as a new application.

Grant of licence

10.–(1) On completion of evaluation process, the Authority shall, within thirty days, notify the successful and unsuccessful applicants the results of the application.

(2) Where frequency requirement is involved, the applicant shall make a separate application for a radio frequency user licence.

(3) A grant of licence shall be subject to satisfaction of the Authority that the facilities are in accordance with conditions stipulated in the construction permit.

Network facilities licence

11. A person shall not install, operate, manage, construct, maintain, own or make available network facilities in the United Republic except under the terms and conditions of an individual licence granted by the Authority.

Network services licence

12.–(1) A person shall not operate, manage and provide network services in the United Republic except in accordance with the terms and conditions of an individual licence granted by the Authority.

(2) An applicant for network services licence shall, in addition to conditions stipulated for in sections 6 and 26 of this Act, submit the following:

(a) interoperability and compatibility of the system with other systems; and

(b) availability of access to emergency services.

(3) The network services shall be operated and managed in the United Republic by a holder of network services licence.

Content services
licence
Acts Nos.
12 of 2019 s. 4
6 of 2021 s. 4

13.–(1) A person shall not provide content services except in accordance with the terms and conditions of an individual or class licence granted by the Authority.

(2) Successful applicant for content service licence shall be given construction permit for a period of not more than two years.

(3) The Authority shall define each content service licence in relation to one of the following categories:

- (a) public services;
- (b) commercial services;
- (c) community services; or
- (d) any other licence as may be determined by the Authority.

(4) Every Content Service Licensee shall be required to enter into a service level agreement with the multiplex operator who is a holder of Network Facilities Licence for purposes of transmission and distribution of broadcasting signals.

Application
services licence

14. A person shall not provide application services except in accordance with the terms and conditions of an individual licence granted by the Authority.

Licence fees

15.–(1) An applicant shall pay to the Authority the fees as may be prescribed and such fees shall include-

- (a) an initial licence fee payable before the licence is issued;
- (b) an annual fee of the amount specified in the rules made under this Act;
- (c) fee in respect of the assigned frequency, frequency bandwidth or radio communication station; and
- (d) fee in respect of assigned electronic numbering resource.

(2) The Authority may review the licence fee.

Individual licence

16.–(1) An individual licence shall be issued by the Authority to any person fulfilling the eligibility requirements set forth in section 6 and who, in the Authority's reasonable opinion,

is financially and technically capable of meeting his statutory and regulatory obligations as well as the obligations set forth in the individual licence concerned.

(2) The Authority shall make rules-

- (a) setting forth in details the procedures to be followed for the grant of an individual licence under this section;
- (b) determining the format of individual licence application forms, which shall include a section where the applicant indicates in detail the training and instruction programmes which he intends to implement in accordance with the obligations of the individual licence;
- (c) determining-
 - (i) filing fees of individual licence application forms; and
 - (ii) initial licence fees payable for the actual granting of individual licence.

(3) The procedures prescribed in the rules made under this section shall be fair, non-discriminatory and transparent.

Terms and
conditions of
individual licence

17. An individual licence shall include terms and conditions set by the Authority including quality of service, licensed area, interconnection, consumer protection, universal service obligation, shareholding structure and roll out plan.

Additional
obligations for
network service
licensee holding
individual licence

18.-(1) A licensee holding individual licence shall be obliged to provide network services, or ensure that a third party provides essential applications services twenty four hours a day or seven days a week, at a level of quality as set by the Authority in all areas without discrimination and shall include-

- (a) emergency service numbers;
- (b) directory assistance service, enabling any subscriber to obtain a telephone number through the assistance of an operator or through automated means;
- (c) operator assistance service, enabling any subscriber to obtain assistance regarding, amongst other things, accessing services, setting up calls and remedying faults; and

(d) such other applications services as may be reasonably determined by the Authority.

(2) The essential applications services shall be provided in accordance with the terms and conditions of a class licence granted under this Act.

(3) A licensee of a network service shall provide the following essential and emergency services free of charge-

- (a) emergency service;
- (b) operator assistance for remedying faults;
- (c) customer assistance;
- (d) crime stoppers;
- (e) child help line;
- (f) health help line;
- (g) anti-corruption services;
- (h) fire services;
- (i) ambulance services; and
- (j) any other services relating to human safety and life.

Renewal of
individual licence

19. The Authority shall renew an individual licence for a term to be agreed between the Authority and the licensee concerned, where the licensee-

- (a) continues to fulfill the shareholding requirements set forth in section 26;
- (b) in the Authority's reasonable opinion, continues to be financially and technically capable of meeting its statutory and regulatory obligations as well as the obligations to be set forth in the individual licence concerned; and
- (c) has not, during the current term of the licence, committed a material breach of this provisions.

Modification of
licence
Act No.
6 of 2021 s. 5

20.-(1) The Authority and the licensee shall agree in writing to modify licence conditions during the duration of the licence in either of the following ways:

- (a) by a licensee submitting to the Authority a written request for modification of licence and the request for modification shall be considered by the Authority to

establish whether or not such request is contrary to the provisions of this Act or regulations made there under and shall respond to the licensee accordingly; or

- (b) by the Authority subject to subsection (2) of this section.

(2) The Authority shall, prior to modifying the licence, issue a notice in writing, to the licensee stating the following:

- (a) the reasons for the proposed modifications;
- (b) the modification to the licence that the Authority proposes to make; and
- (c) the date by which the licensee shall respond in writing to the proposed modifications within twenty eight days from the date on which the Authority serves the notice on the licensee.

(3) Where the licensee fails to respond in accordance with this Act or where the licensee responds but subsequently withdraws that response, the Authority may modify the licence as specified in the notice.

(4) Where the licensee responds in accordance with subsection (2)(c), the Authority may either-

- (a) issue the licence modified in accordance with the notice;
- (b) issue the licence with modifications by incorporation of the licensee's response partially or wholly as it may deem fit; or
- (c) make no modifications to the licence.

Material breach
Act No.
2 of 2016 s. 10

21. The following shall constitute fundamental or material breach:

- (a) failure of a licensee to commence constructions of the network within twelve months from the date of issuance of the licence;
- (b) failure of a licensee to provide service to customers within twelve months from the date of issuance of the licence;
- (c) failure to comply with requirements of section 26;

- (d) continuous interruption of service for a consecutive or combined period of thirty days over any six months period provided that the interruption is not a result of force majeure;
- (e) bankruptcy or filing of any insolvency proceeding against the licensee or adjudication of the same in favour of creditors of such proceeding is filed against the licensee;
- (f) any proceeding or assignment of assets for the benefit of creditors, or any state of the licensee which may be considered as “insolvency” under any written law in force;
- (g) repetition or continuation of an event of infraction following written notice by Authority to cease operation or a combination of the events of infraction;
- (h) repeated failure of a licensee to pay licence fees as provided under the rules or regulations made under this Act;
- (i) failure to comply with any other condition set out in the licence;
- (j) breach of joint venture contract by the majority shareholder which results into the dissolution of the joint venture or otherwise jeopardises the performance of the licensee; and
- (k) alienation of shares by majority shareholder without prior approval of the Authority and to transfer, subcontract or assign any interest in his shares or the majority shareholder be reduced to a minority shareholder.

Suspension and
cancellation of
licence

22. The Authority may suspend or cancel a licence where-

- (a) the licensee is in material breach of licence conditions provided for in section 21 or the provisions of section 26 and has not remedied any such breach within thirty days of receiving notification of the breach from the Authority;

- (b) the licensee and the Authority have agreed in writing to terminate the licence; or
- (c) the licence terminates upon expiry of the term and is not renewed.

Registration of
installation and
maintenance,
importation
and distribution
licence
Act No.
6 of 2021 s. 6

23.—(1) Notwithstanding any other written law to the contrary, a class licence shall be issued to any person who intends to undertake the following activities:

- (a) construction, installation and maintenance of electronic communication equipment or broadcasting apparatus;
- (b) importation of electronic communication equipments;
- (c) distribution of electronic communication equipments; and
- (d) providing V-SAT services and any other services to be determined by the Authority:

Provided that, such person shall register and apply to the Authority to obtain approval of appropriate class licence, upon payment of fee as may be prescribed by the Authority.

(2) The Authority shall make rules prescribing the format of class licence and registration forms referred to in subsection (1).

(3) A person who undertakes the activities of importation or distribution of communication equipment or broadcasting apparatus shall issue a warranty for a minimum of one year to protect the consumer.

(4) A person registered and granted a class licence under this section shall not be bound by the requirement on shareholders under section 26.

Transfer of
licence

24.—(1) A licence issued under this Act shall not be transferred, assigned, pledged or otherwise disposed off without prior written consent of the Authority.

(2) Where a licensee proposes to transfer a licence, the licensee and the person to whom the licence is proposed to be transferred to, shall jointly submit a request in writing to the Authority for consent of the transfer.

(3) The transferor shall submit the request together with the transferee's documents to the Authority for consent of the transfer.

(4) An application to transfer a licence shall be treated by the Authority in the same manner as a request for the issuance of a licence under this Act.

Transfer of shares **25.** Any shareholder or licensee shall not transfer, alienate, sub-contract or assign any interest in his shares under the licence without approval of the Authority.

Shareholding requirements
Acts Nos.
17 of 2010 s. 4
2 of 2016 s. 11
4 of 2017 s. 7
8 of 2020 s. 19

26.—(1) Notwithstanding the provisions of any other law, a company incorporated in the United Republic holding an individual or class licence under this Act shall-

- (a) in the case of a holder of network facilities or network services licence, have a minimum of public shareholding of twenty five percent of its issued and paid up share capital, as an ongoing obligation throughout the life of its licence; and
- (b) in the case of a content service licensee, have a minimum local shareholding of fifty one percent of its authorised share capital as an ongoing obligation throughout the life of its licence.

(2) The minimum of twenty five percent public shareholding requirement under subsection (1)(a) shall be obtained through a public offer in accordance with the Capital Markets and Securities Act.

Cap. 79

(3) A person licensed to provide network facilities or Network Services before 1st July, 2016, notwithstanding the provisions of any other written law to the contrary and in accordance with the Capital Markets and Securities Act shall, within six months from 1st July 2016, be required to offer shares to the public and subsequently list its shares on a stock exchange in Tanzania.

Cap. 79

(4) A person licensed to provide network facilities or network services from 1st July 2016 shall be required to offer shares to the public and subsequently list its shares on a stock

Cap. 79 exchange in Tanzania in accordance with the requirements of the Capital Markets and Securities Act within two years from the date of grant of licence.

Cap. 79 (5) A company licensed to provide network facilities or network services that intends to transfer shares shall comply with the Capital Markets and Securities Act.

(6) Where after conducting an initial public offer, a licensee referred to in subsection (1)(a) does not attain the prescribed threshold of twenty five percent of its issued and paid up share capital, the Capital Markets and Securities Authority shall, upon consultation with the Minister responsible for Capital Markets and after taking into account conditions prevailing in the market, issue directives on how the licensee may obtain the twenty five percent.

(7) Notwithstanding the provisions of subsection (1), the conditions of having public shareholding shall not apply to the following licences:

- (a) network facilities or network services licence wholly owned by the Government;
- (b) network facilities or network services licence in which the Government owns twenty five percent shares or more; and
- (c) network facilities licence for lease of towers.

(b) Interconnection and Access

Interconnection **27. The Authority shall-**

- (a) regulate all interconnection arrangements between network service licensees where there is market failure;
- (b) issue interconnection negotiations procedure and guidance on approval or rejection of interconnection agreements;
- (c) place all interconnection agreements in the public Register; and
- (d) arbitrate or appoint an arbitrator to arbitrate on interconnection disputes.

Access

28.—(1) Every electronic communications licensee has the right, for purposes of enabling the provision of electronic communications services to the public, to negotiate an agreement for access to-

- (a) electronic communications network elements of any network facilities licensee; and
- (b) electronic communications services provided by any network service licensee,

that appear in a list as published in the *Gazette* by the Authority, and, when solicited in writing by an electronic communications licensee, every network facilities licensee and every network service licensee has, for purposes of enabling the provision of electronic communications services to the public, the obligation to negotiate such an agreement.

(2) The Authority shall-

- (a) regulate access arrangements between network service licensees;
- (b) issue access negotiations procedure and guidance on approval or rejection on interconnection agreements; and
- (c) place all access agreement in the public Register.

Co-location and
infrastructure
sharing

29.—(1) The Authority shall have the powers to-

- (a) regulate the co-location arrangements between network facilities licensees;
- (b) issue access negotiations procedure and guidance on approval or rejection on co-location agreements; and
- (c) place all co-location agreements in the public Register.

(2) The Authority shall, on infrastructure sharing, determine standards of communication infrastructure and regulate-

- (a) passive network elements including towers, masts, ducts, poles, power systems and cooling systems, among network facilities licensee;
- (b) active network elements including microwave transmission fibre, antenna access network and related elements and infrastructure sharing amongst network facilities licensees;

Cap. 80

- (c) infrastructure sharing arrangements between network facilities licensees;
 - (d) in liaison with the Tanzania Civil Aviation Authority established under the Civil Aviation Act, the establishment of broadcasting stations so as to prevent harmful interference with aircraft navigation systems.
- (3) The provisions of this section shall not apply to towers, masts, ducts, poles, power systems and cooling systems, which have been constructed prior to the commencement of this Act.

Interconnection,
access, co-
location and
infrastructure
sharing

30. The Authority shall-

- (a) set forth rules and procedures to be followed in settlement of interconnection, access, co-location and infrastructure sharing disputes; and
- (b) have a mandate to approve or reject communication services providers' infrastructure sharing agreements.

Prices for services
to public

31.-(1) Subject to the provisions of this Act and any regulations or declarations made under this Act, electronic communications licensees may, for the applications services and content services which they provide to the public, set and revise such prices as they deem appropriate.

(2) The prices so determined by an electronic communications licensee shall respect the following principles:

- (a) be transparent, based on objective criteria, and non-discriminatory;
 - (b) not contain discounts that unreasonably prejudice the competitive opportunities of other licensees providing applications services and content services to the public; and
 - (c) take account the regulations and recommendations of the international organisations of which the United Republic is a member.
- (3) Each electronic communications licensee shall-
- (a) file with the Authority the prices so determined at least two weeks prior to their introduction; and

(b) publish the prices at its own expense in the public media at least one week prior to their introduction.

(4) An electronic communications licensee shall provide all its application services and content services in accordance with the prices filed with the Authority.

(5) The Authority shall be entitled to carry out reviews of the prices referred to in this section in order to ensure that they respect the principles set forth in subsection (2).

(6) Electronic communications licensees shall, for the application services or content services which they provide to the public, make sufficient detailed billing information to enable customers to verify whether or not they have been billed correctly.

(7) The Authority shall have powers to carry out reviews of rates and charges applied by electronic communications service licensees in provision of the licensed services.

PART III

POSTAL COMMUNICATIONS

Powers to make rules as to types of postal services

32. The Authority shall make rules describing the types of postal services in terms of their nature, form and scope, the mode of postage, technology used, service standards and attributes.

Power to issue postal licence and to regulate provision of postal services

33.-(1) The Authority shall have the power to issue postal licence for-

- (a) conveying by post from one place to another whether by land or by sea or by air all letters, postcards and commercial valuable documents;
- (b) performing all incidental services of receiving, collection, sending, dispatching and delivering all letters and postcards, except those letters falling within any of the following categories:
 - (i) trade announcements, circulars, printed extracts from newspapers, or advertisements, not addressed to any person;

- (ii) letters delivered by an employee of the sender;
- (iii) letters delivered by a messenger employed by the sender especially for the purpose, not being a person employed or engaged in the course of his business or employment in delivering or procuring the delivery of letters;
- (iv) letters exceeding 500 grammes in weight per letter;
- (v) letters concerning goods sent with the goods and delivered therewith;
- (vi) letters carried to or from a post office;
- (vii) letters carried in accordance with an agreement entered into by the licensee;
- (viii) transfers between document exchanges;
- (ix) letters carried to the premises of a provider of electronic main service for purposes of being transmitted as electronic mail, or letters carried from the premises of such a person after having been so transmitted;
- (x) letters carried and delivered by a private friend without hire, reward or other profit; and
- (xi) letters carried and delivered personally by the sender.

(2) Where any question arises as to whether or not any postal article is a letter within the meaning of this Act, the decision of the Authority shall be final.

Postal licence
to be issued
unconditionally
or subject to
condition

34.—(1) The Authority may grant a postal licence on such terms and conditions and in consideration of such payments as it thinks fit to any person for the doing of any act or the performance of service falling within section 33 as is specified in the postal licence, and anything done in accordance with a postal licence granted under this section shall not constitute an infringement of the privilege conferred by section 33.

(2) A postal licence granted under subsection (1), may be granted either to any person, class of persons or particular person, and may include without prejudice to the power to

impose conditions conferred by that subsection and conditions requiring the payment of a fee to the Authority on the grant of the postal licence or the payment to the Authority of a periodic fees during the validity of the postal licence or to both of such amount as may be determined under the postal licence.

(3) A payment required by subsection (2) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

Designation of
public postal
licensee

35.—(1) The Authority shall have the power to designate a public postal licensee to perform all or any of the functions relating to the operation and provision of universal postal services in the United Republic.

(2) The public postal licensee shall have postal exclusivity rights to issue stamps, installing private and installing posting letter boxes and use of the word “Post Office” “letter box” and “postage stamps” for a period to be determined by the Authority.

Application of
postal licence

36. A person shall not operate postal services in the United Republic unless that person is licensed as a postal licensee under this Act.

Application for
postal licence to
be in writing

37.—(1) An application for a postal licence under this Act shall be addressed in writing to the Authority.

(2) The Authority may, in consideration of any application under this Act, require the applicant to produce evidence or information to show the capacity to operate postal systems and services as the Authority may deem necessary to enable it make a decision.

(3) The Authority may require an application for a postal licence to be accompanied by such a fee as the Authority may describe.

Grant of postal
licence

38.—(1) The Authority may, subject to subsection (2) of this section, grant a postal licence to an applicant under this Act if it is satisfied that the information supplied to the Authority by the applicant is suitable to operate the postal system and services.

(2) The Authority shall, upon receipt of application, consider it and within sixty days may in its absolute discretion either, grant a postal licence or refuse the application.

(3) A postal licence granted under this Act may be renewed on its expiry on application within the prescribed period by the Authority.

(4) A postal licence shall not be transferred except with the prior consent in writing of the Authority.

Modification of
postal licence

39.—(1) The Authority may modify the conditions of a postal licence granted under this Act.

(2) The Authority shall, prior to making modifications of the conditions of a postal licensee under this section, give notice to the licensee by-

- (a) stating that it proposes to make modifications in the manner as specified in the notice and the compensation payable for any damage caused thereby; and
- (b) specifying the time not being less than twenty eight days from the date of service of the notice on such a licensee within which written representation in respect to the proposed modification may be made.

(3) Upon receipt of any representation referred to under subsection (2), the Authority shall consider such a representation and may-

- (a) reject the representation; or
- (b) amend the proposed modifications or compensations payable in accordance with the representation or otherwise, and in either event, it shall issue a direction in writing to licensee requiring him to make proposed modification specified in the notice or any other modifications as subsequently amended by the Authority within reasonable time.

Suspension or
cancellation of
postal licence

40.—(1) Where the Authority is satisfied that, a person who is granted a postal licence under this Act or any postal regulations made under this Act is contravening any of the conditions of the postal licence or the provisions of this Act, the Authority may cancel or suspend the licence.

(2) A person aggrieved by the decision of the Authority under this section may appeal to the Fair Competition Tribunal.

Addresses
and postcodes
publication

41. The Authority shall-

- (a) allocate, manage and regulate addresses, and postcodes; and
- (b) regulate the publication and sale of postcode list and directories in compliance with the principle of publicity and requiring postal licensees to keep deliveries and postcode directories to be available to public free of charge.

Secrecy of
correspondence,
confidentiality
and integrity of
postal items

42.-(1) A postal licensee shall be responsible for the inviolability of the secrecy of correspondence and for the confidentiality and integrity of postal items.

(2) Notwithstanding subsection (1), correspondence and other postal items may legally be opened only in exceptional circumstances expressly established under this section.

(3) The following acts shall not constitute violations of the secrecy of correspondence or of the confidentiality and integrity of postal items by:

- (a) opening correspondence or obtaining knowledge of its contents when performed by a person residing at the same address as the addressee;
- (b) submission of correspondence to the verification and control performed by competent police, senior staff of the Authority or Government customs or revenue official;
- (c) opening of postal items that present signs of containing material subject to taxation;
- (d) opening of correspondence or postal items earmarked for destruction by Authority or postal licensee; and
- (e) opening of correspondence or postal items that present signs of containing material or substance whose dispatch, use or distribution is prohibited.

Postal licensee
liability for losing

43.-(1) The postal licensee shall be responsible for correspondences and postal items entrusted to it and pay compensation to customers for losing, misplacing, delaying

delivery or failing to guarantee the integrity of correspondence or postal items in the form and amount specified in rules made by the Authority.

(2) The compensation of correspondences and postal items dispatched or received from abroad shall comply with the international conventions and treaties ratified by the United Republic.

(3) The postal licensee shall not assume liability to the customer for losing, misplacing, delaying delivery or failing to guarantee the integrity of correspondence or a postal item if that customer-

- (a) owing to user behavior involving an infringement of the law or regulation; and
- (b) owing to defects or risks inherent in the nature of correspondence or postal items.

(4) Any postal customer who has correspondence or a postal item lost, misplaced, delivered with delay, spoiled or damaged in conditions specified in this Act shall apply to the postal operator for compensation in the form and amount specified in the regulations.

(5) Where the postal licensee fails to comply with the request for compensation, the postal customer may complain to the Authority in the form and period specified in the regulations.

Posting and
ownership of
correspondence
and postal item

44.-(1) A postal article shall be deemed to have been posted if it is deposited into a posting box or handed over to an employee or agent of a postal licensee authorised to receive it.

(2) Correspondences and postal items which have been posted shall remain the property of the sender until final delivery to the addressee or to the displayed address, except when they are apprehended by a competent authority.

(3) A postal article shall be in the course of transmission by post from the time of its being posted with or handled over to the postal licensee to the time of its being delivered to the addressee, or its being returned to the sender or otherwise disposed of in accordance with this Act.

Delivery of
correspondence
and postal item

45. For purposes of this Act, a postal article shall be deemed to be delivered if it is delivered into the private letter box or private bag of the addressee or is left at the house or office of the addressee, or with the addressee, or with his employee, or agent, or other person authorised to receive it and, where the addressee is a guest or is resident at a hotel, hostel or lodging of a similar nature, if it is left with the proprietor or manager thereof or with his agent.

Prohibitions in
postal services

46.-(1) A postal licensee may refuse to accept correspondence or a postal item that does not fulfill the requirements established in this Act or by regulations made under it with regard to shape, weight, value, dimensions, safety, packaging, franking, registration or address, including the correct postcode.

(2) The public postal licensee shall not receive, distribute or deliver anywhere in the United Republic or dispatch abroad any of the following articles:

- (a) correspondence or a postal item whose weight dimension, volume, shape, address, franking or packaging is in breach of the regulations or the international conventions and accords approved by the United Republic; or
- (b) an explosive, fetid, corrosive, radioactive, perishable, with other characteristic that may constitute a hazard to damage other correspondence, postal items or constitute a hazard to public health and safety such as:
 - (i) firearms or armaments of description;
 - (ii) drug and other prohibited narcotic substances except those legally authorised or dispatched for medical or scientific purposes;
 - (iii) live animals or plants except those allowed by international conventions ratified by United Republic;
 - (iv) dead animals;
 - (v) correspondence or postal items whose envelope, container or packaging contains words, image, drawing or other messages of an injurious, threatening or offensive nature;

(vi) correspondence or postal items whose circulation in United Republic on export or imports is prohibited; or

(vii) perishable foodstuffs.

(3) Failure to comply with any of the provisions of this section shall entail retention of the offending correspondence or postal item by the postal licensee or its apprehension by the competent authority, in accordance with the rules and without prejudice to the applicable administrative and penal sanctions.

(4) The sender shall be liable to the postal licensee for any damage caused by failure to comply with the portability requirements established in this Act, except in cases of error or negligence by the postal licensee involved in any of the activities inherent in postal services.

(5) The correspondence or postal items subject to legal or fiscal formalities shall be accepted only under total and exclusive liability on the sender's part as to compliance with such requirements.

(6) The Authority may establish special rules regarding the packaging and safety of correspondence or postal items to enable them to be received, distributed or delivered in the situations to which this section refers.

Power to make
postal regulations

47.-(1) The Minister may make postal regulations for purposes of carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters:

(a) the classes and the conditions for the grant of postal licences by the Authority; and

(b) the regulations of postal tariffs.

Provision of
postage stamps
and power to
make rules

48.-(1) A public postal licensee may, subject to such directions as the Authority may give, cause postage stamps to be provided of such kinds and denoting values as the licensee may determine.

(2) The postage stamps provided under subsection (1) shall be used for the prepayment of postage or other fees or sums chargeable under this Act in respect of postal articles, except where the public postal licensee determines, directs that prepayment may be made in some other manner.

(3) The Authority may make rules for the use of postage stamps as prepayment of fees or other sums chargeable under any written law by any Government agency for services rendered and the recovery of the revenue from the licensee.

Philatelic materials

49.—(1) All philatelic archival materials produced by a public postal licensee shall belong to the Government and be kept in such custody as the Authority directs.

(2) For the purpose of subsection (1), philatelic archival material shall include—

- (a) postage stamps;
- (b) artworks, proofs, progressive sheets, printed sheets and printing plates of postage stamps; and
- (c) date-stamps, slogan dyes, and other artifacts used in connection with the production of postage stamps.

Exemption from postal charges

50.—(1) The Authority may make rules as to the exemption of certain classes of persons from postal charges on letter-post items and fees or other charges payable for services rendered.

(2) In particular and without prejudice to the generality of the foregoing power, the rules made under subsection (1), may exempt letter-post items for charitable purposes from postal charges.

Power to make rules as to transmission by post of postal articles

51.—(1) The Authority may make rules as to the transmission by post of postal articles and in particular such rules may—

- (a) provide for the performance of supplementary services in respect of transmission by post of postal articles;
- (b) prescribe the special charges or fees to be charged for the supplementary services provided;
- (c) prohibit the transmission by post of postal articles not specified in section 46 or lay down special conditions on which such articles may be transmitted by post; or

- (d) provide for the payment of compensation for the loss or damage in course of transmission by post of postal articles, and the conditions under which such compensation may be paid and the limit of the amount of such compensation.

(2) For purposes of this section, “supplementary services” includes the registration, insurance and storage of postal articles, *Poste Restante* and any other form of supplementary service.

Transmission by post of anything injurious, etc prohibited

52.—(1) A person shall not send by post any article or thing which is likely to injure any person or postal article in the course of transmission by post.

(2) Except as otherwise provided by regulations made under this Act and subject to the condition as may be prescribed, a person shall not send by post any explosive, inflammable, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure any person or any postal article in course of transmission by post.

(3) A person shall not send by post opium, morphine, cocaine or any narcotic except under such rules as the Authority may make in this behalf.

(4) This section shall not affect the provisions of any written law relating to deleterious drugs.

Prohibition of transmission by post of anything indecent

53. A person shall not send by post any-

- (a) indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article;
- (b) postal article having or on the cover, have any words, marks or designs of any indecent, obscene, seditious, scurrilous, threatening or grossly offensive character;
- (c) postal article bearing any fictitious stamp or purporting to be prepaid with any postage stamp which has previously been used to prepay any other postal article or which has been previously used in payment of any stamp duty; or
- (d) other article which the Authority may prohibit.

Authority to
make rules
dealing with
prohibited
articles

54. The Authority may make rules for preventing the sending and delivery of articles prohibited under this Act and detaining, disposing of, or destroying any such postal article sent or tendered for transmission by post.

Obligation of
licensee to inform
Authority

55.—(1) Where a postal article sent by post is reasonably suspected by the licensee to be sent in contravention of this Act, any rules made thereunder or any other written law, the licensee shall immediately inform and hand over such postal article to the Authority or any authorised officer.

(2) On receiving the information made under subsection (1), an authorised officer shall detain such postal article for opening and examination.

Disposal of postal
articles forfeited
under this Act

56.—(1) Where a postal article opened or examined under this Act or of any other written law is found to be in contravention or to have been posted in contravention, the Authority or authorised officer may direct that the postal article be returned to the sender or forwarded to its destination, in each case charged with such additional postage, as the Authority may prescribe unless otherwise dealt with under subsections (2), (3), (4), and (5) of this section.

(2) Any postal article sent by post contravenes section 46 may, under the directions of the Authority or authorised officer, be forfeited and destroyed.

(3) Any postal article sent by post which contravenes section 52 may, under the directions of the Authority or authorised officer, be destroyed.

(4) Any postal article sent by post in contravention of section 53 shall be dealt with as the Authority may direct.

(5) Notwithstanding any provisions in any written law to the contrary, where any postal article opened under this Act is found to be in contravention of the Customs (Management and Tariff) Act, shall be handed over to the customs Department to be dealt with in accordance with that Act.

(6) Any postal article opened under this Act and found to contain any valuable or saleable enclosure shall, together with its contents, be safely kept pending its disposition under this section, and a list of any such postal articles together with a memorandum of the contents thereof shall be made and preserved.

(7) The detention, destruction or disposal under this Act of a postal article or its enclosure shall not relieve any person from liability for any offence under this Act or any other written law.

Power to make rules as to disposal of undeliverable postal articles

57.—(1) The Authority may make rules as to the disposal of undeliverable postal articles.

(2) The rules made under subsection (1) may—

- (a) prescribe the period during which undeliverable postal articles at a post office shall remain in that office;
- (b) provide for the publication of lists of undeliverable postal articles, or of any class of undelivered postal articles; and
- (c) provide for the manner in which undeliverable postal articles shall be finally dealt with or disposed of.

Power to provide for postal financial services and to make rules thereon

58.—(1) The Authority may allow the public postal licensee to carry out postal financial services on its own account or on behalf of Government and Non-Government agencies and may make rules as to such services prescribing for.

(2) For purposes of this section, “postal financial services” includes money orders, postal orders, postal drafts, postal cheques, postal travellers’ cheques, giro, cash-on-delivery, and collection of bills, savings service, subscription to newspapers and periodicals and any other form of financial service.

Powers of President in emergency or in national or public interest

59.—(1) The President may, on occurrence of any event which gives rise to an emergency, or in the interest of national or public security, authorise the Authority to—

- (a) suspend the public postal licence of postal licensee and take temporary possession of any post office under the control of any such licensee;

- (b) withdraw either totally or partially the use of any postal service from any person or class of persons or from the public at large; or
 - (c) order that any postal article or class of postal articles or any letter or class of letters to or from any person or class of persons or relating to any specific subject shall not be conveyed, intercepted, detained or delivered to any officer mentioned in the order to be opened, examined or dealt with in such a manner as the President may direct, or that postal article or postal articles or letter or letters or the contents thereof shall be disclosed to an officer mentioned in the order.
- (2) The President may also authorise any other public officer employed by the Government to carry out the powers conferred under subsection (1).
- (3) The licensee shall give all necessary assistance whenever required to do so by an officer carrying out any of the powers conferred under this section.

PART IV

COMPETITIVE PRACTICES AND CONDUCT

(a) Anti-Competitive Practices and Conduct

Anti-competitive
practice and
conduct

60.—(1) A dominant licensee shall not take advantage of its power in a market for the supply of electronic and postal services with a view to-

- (a) eliminating or substantially damaging another licensee in the market in which it operates or in any other market;
- (b) preventing the entry of any other person in that market or any other market; and
- (c) deterring any other licensee from engaging in competitive conduct in that or any other market.

(2) A dominant licensee shall not discriminate between persons who acquire or make use of electronic communication service in the market in which he operates in relation to-

- (a) any fees or charge for the service provided;
- (b) the quality of service provided; or
- (c) any form or condition on which the service is provided.

(3) Subsection (2)(a), shall not prevent a dominant licensee from making a reasonable allowance, subject to the approval of the Authority, for the cost of providing an electronic and postal services where the difference results from-

- (a) different quantities in which the service is supplied;
- (b) different transmission capacities needed for the supply of the service;
- (c) different places from, or to which the service is provided;
- (d) different periods for which the service is provided;
- (e) different performance characteristics of the service provided; or
- (f) doing an act in good faith to meet a price or benefit offered by a competitor.

(4) Where it appears to the Authority that a dominant licensee telecommunications systems provider is taking or intends to take any action which has or is likely to have the effect of giving an undue preference to or causing undue discrimination against any person or category of persons, the Authority may, after giving the dominant licensee concerned an opportunity to be heard, direct the licensee by written notice to cease or refrain from taking such action, as the case may be.

(5) A person who contravenes any of the provisions of this section commits an offence and on conviction, shall be liable to a fine not exceeding twenty thousand US dollars or its equivalent in Tanzania shillings.

Powers of
Authority on
dominant
licensee

61. The Authority shall have powers to determine dominant position of electronic communication licensee in the relevant market.

(b) *Competitive Practices*

Electronic
communications
licensees holding
dominant
position

62.—(1) The Authority shall, not later than 31st December of each year, publish in the *Gazette* a list for the following calendar year of:

- (a) all electronic communications markets that will or are likely to exist; and
- (b) electronic communications licensees determined by the Authority to hold for each electronic communications market a dominant position.

(2) The Authority shall determine an electronic communications licensee to hold a dominant position in a given electronic communications market for a given calendar year for the electronic communications market and the electronic communications licensee has more than thirty five percent, acting alone, be able to profitably and materially restrain or reduce competition.

(3) The Authority shall produce and make public guidelines, for use by the Authority, on the manner of defining an electronic communications market and of determining whether a licensee holds a dominant position therein.

(4) The Authority shall be entitled at any time, by notice published in the *Gazette*, to modify for the remainder of the calendar year concerned, any list published pursuant to subsection (1) of this section, subject to a notice period of at least four weeks.

Prices for services
to public offered
by licensees
holding dominant
position

63.—(1) Any application service licensee or content service licensee that has, for the calendar year in question, been deemed to hold a dominant position in a given electronic communications market in accordance with section 60 of this Act, shall, as concerns that electronic communications market-

- (a) submit to the Authority for its prior approval the prices it intends to charge to the public for each applications service and each content applications service, together with a detailed justification of such prices; and

(b) refrain from applying the prices in question until they have been approved by the Authority in accordance with subsection (2).

(2) Subject to subsection (4), the Authority shall issue a written decision approving or disapproving the prices so submitted, together with the reasons for such decision, within four weeks of the receipt of the submission.

(3) The Authority shall base its decision on the extent to which the prices proposed by the licensee-

- (a) are in line with the principles set forth in section 31(2);
- (b) are reasonably cost oriented; and
- (c) meets criteria as the Authority may reasonably consider relevant.

(4) The Authority may make reasonable requests for additional information from the applications service licensee or content service licensee concerned and, where it does so, the time limit set forth in subsection (2), shall recommence upon receipt of the additional information requested.

Prohibition
on entering
into collusive
agreement

64. A licensee shall not enter into any understanding, agreement or arrangement, whether legally enforceable or not, which provides for-

- (a) rate fixing;
- (b) market sharing;
- (c) boycott of a supplier of apparatus; or
- (d) boycott of another competitor.

Prohibition on
tying or linking
arrangements

65. A licensee shall not, at any time or in any circumstances, make it a condition for the provision or supply of a product or service in a communications market that the person acquiring product or service in the communications market is also required to acquire or not to acquire any other product or service either from himself or from another person.

Guidelines as
to meaning
of "dominant
position"

66.-(1) Subject to the provisions of this Act, the Authority may publish guidelines for determination of dominant licensees.

(2) The guidelines may specify the matters which the Authority may take into account, including-

- (a) the relevant economic market;
- (b) global technology and commercial trends affecting market power;
- (c) the market share of the licensee;
- (d) the licensee's power to make independent rate setting decisions;
- (e) the degree of product or service differentiation and sales promotion in the market; and
- (f) any other matters which the Authority deems fit.

(3) Where the conduct of a dominant licensee has the effect or may have the effect of substantially lessening competition, the Authority may make an order requiring the dominant licensee to-

- (a) cease the said conduct;
- (b) impose a fine; and
- (c) impose any other appropriate remedy.

Register of
authorisations

67. The Authority shall maintain a Register of current authorisations of a conduct under this section in accordance with provisions of this Act.

Remedies for
non-compliance

68.-(1) The Authority or a person may seek an interim or interlocutory injunction against any conduct prohibited in this section.

(2) A person shall obtain a certificate from the Authority for leave to proceed to the court for enforcement of the provisions of this section except in the case of an injunction.

Penalty for
offences

69. A person who contravenes any prohibition under this Part commits an offence and on conviction, shall be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than five years or to both and shall be liable to a further fine of one thousand shillings for every day or part of a day during which the offence continues.

(c) *Regulatory Forbearance*

Regulatory
forbearance

70.-(1) The Authority may forbear from applying to a licensee or a class of licensees, in any of its geographic markets, any provision of sub-part (b) and any regulation, declaration, guideline or other rule issued, if the Authority reasonably considers, after consultation with the Minister, that-

- (a) application of such provision, regulation, guideline or rule is not necessary for-
 - (i) the protection of consumers; or
 - (ii) the promotion of competition amongst licensees; and
- (b) forbearance from applying such provision, regulation, guideline or rule is consistent with the provisions of this Act.

(2) Where, pursuant to the provision of subsection (1), if the Authority decides to forbear from applying any provision, regulation, guideline or rule, it shall, without undue delay, publish a notice of forbearance in the *Gazette*, setting forth the details of, and the reasons for the decision, and inviting interested parties to make submissions in relation to that decision within a period specified in that notice, but in any event not shorter than four weeks from the date of publication of that notice.

(3) The Authority shall give due and proper consideration to any representation it may receive in accordance with subsection (2) and thereupon issue its final decision.

(d) *Spectrum Management*

Authority to
manage and
assign national
radio frequency
spectrum

71.-(1) The Authority shall have powers to manage and control all radio communication frequencies spectrum or frequency channels and provide mechanisms governing allocation and assignment to persons for limited periods of time by issuing licences under conditions determined by the Authority.

(2) The Authority shall make rules-

(a) governing harmful interference to other communications; and

(b) establishing minimum performance standards of electronic appliances;

in regard to manufacture, import, sale, shipment and use of such devices or appliances.

(3) The Authority shall-

(a) classify radio stations, prescribe the nature of service to be rendered by each station, assign bands of frequencies to each class of stations and assign frequencies and time during which it may operate;

(b) make regulations to-

(i) prevent interference between stations under this Act;

(ii) require stations to maintain such records of communications or signals as the Authority may deem necessary; and

(iii) require stations to submit to the Authority reports as the Authority may require.

(4) The Authority shall have power to inspect all radio installations associated with stations required to be licensed under this Act to ascertain whether they comply with the requirements of the regulations in regarding to construction, installation and operation.

Powers to
allocate,
reallocate, assign
etc

72.-(1) Notwithstanding the provisions of any written law, compact, concession, contract, deed, deed of settlement, licence, memorandum of understanding or any other kind of agreement or provision to the contrary, the Authority shall, in the maintenance of its control over radio communication frequencies spectrum or frequency channels have power to allocate, reallocate, assign, reassign, issue, reissue, redistribute, retrieve, suspend, cancel, or otherwise modify the distribution amongst users or licensees of any radio communication frequencies or frequency channels.

(2) The Authority may exercise the powers conferred by subsection (1) where-

- (a) as a result of any investigations or inquiry carried out by it or any other public authority; or
- (b) in the ordinary course of performing its functions, under this Act, pursuant to subsection (10); and
- (c) the Authority is of the view that it is necessary or desirable in the public interest that it exercises its powers in relation to any user or licensee of any radio communication frequencies or frequency channels.

(3) Where the Authority carries out an investigation or inquiry pursuant to subsection (2)(a) and it is proved to its satisfaction that a user or licensee of a radio communication frequencies or frequency channels, who has had the opportunity to be heard by the Authority is-

- (a) utilising the radio communication frequencies spectrum or frequency channels for purposes other than those originally permitted;
- (b) not utilising the radio frequencies efficiently or effectively;
- (c) misusing, abusing or hoarding the radio communication frequencies or frequency channels or frequencies;
- (d) engaging in practices intended to drive competitors out of business or deter any other licensee or user from establishing a competitive business in the country or in any specific area or location within the country;
- (e) carrying out acts intended or likely to hurt, injure, infringe, harm or interfere with the radio communication frequencies or frequency channels or frequencies of other users or licensees;
- (f) using or operating a radio communication frequencies or frequency channels or frequency without having a licence issued under this Act; or
- (g) contravening any other conditions in relations to the assigned frequencies,

the Authority shall exercise the power conferred by subsection (1) and in writing notify the user or licensee of a radio communication frequencies or frequency channels

the decision of the Authority and direct him as to what he is supposed to do to comply with that decision.

(4) When the Authority takes the measures under subsection (6) in pursuance of subsection (3), compensation shall not be paid by the Authority or any other authority to the user or licensee of radio communication frequencies or frequency channels.

(5) Where in the ordinary course of performing its functions under this Act, pursuant to subsection (2)(b) or upon complaint to the Authority by a user or licensee of a radio communication frequencies or frequency channels or frequency or by any other authority, the Authority thinks it desirable to consider whether or not it shall exercise any of the powers under subsection (1) in relation to any user or licensee, it shall, by notice in writing, notify any person intended or likely to be affected by the exercise, stating-

- (a) the measure that it proposes to institute; and
- (b) the time not exceeding twenty eight days within which any party affected or likely to be affected may make representations to the Authority.

(6) Where no representations are submitted by any person in response to any notice specified in subsection (5), the Authority shall proceed to institute measures under subsection (1).

(7) Where any party makes representations to the Authority in pursuance of subsection (5), the Authority shall, within fourteen days of receipt of such representations, consider those representations including whether or not any compensation is payable under this Act, and may-

- (a) reject the representations or any of them;
- (b) amend the proposed measures in response to the representations;
- (c) decide to exercise any of the powers conferred by subsection (2); and

(d) direct in writing the user or licensee of radio communication frequencies or frequency channels or frequency concerned to give effect to the decision of the Authority.

(8) Upon receipt of a decision of the Authority on the representations pursuant to subsection (7), the user or licensee to whom the decision of the Authority relates, shall not institute any action in any court of law in relation to the said decision where-

(a) he has not previously made any representations to the Authority; and

(b) he institutes any action, in the High Court, on procedural issues or on grounds that the decision of the Authority was based on extraneous factors.

(9) In exercising its powers conferred under subsection (1), the Authority may fix or prescribe the minimum or maximum number or amount of radio communication frequencies or frequency channels which any user or licensee may be granted for purposes of this Act.

(10) In the exercise of any power, the performance of any duty or the discharge of any right, privilege or obligation by any person or authority in pursuance of the provisions of this Act, shall always be regarded to the fact that all radio communication frequencies or frequency channels are national resource which is held in trust for the people by the Government, and maintained and controlled by the Authority for carrying out purposes and provisions of this Act.

(11) A person who is aggrieved by a decision of the Authority under this section may, within twenty eight days of the notice of the decision of the Authority, appeal to the High Court on procedural issues or on grounds that the decision of the Authority was based on extraneous factors.

Prohibition
to transfer
frequency

73. A person to whom radio frequency have been assigned shall not be permitted to transfer the rights to use such frequency to any third party, whether for remuneration or otherwise.

Offences

74.—(1) A person who fails, neglects or refuses to comply with any directions of the Authority given under section 72(3), (6) or (7) commits an offence.

(2) A person who commits an offence under subsection (1) on conviction, shall be liable to a fine of not less than two billion five hundred thousand million Tanzanian shillings and in case of a continuing offence to a further fine of not less than seventy five million Tanzanian shillings for everyday or part thereof during which the offence continues after conviction.

(3) Notwithstanding the provisions of subsections (1) and (2), any person who wilfully contravenes or fails to comply with the conditions imposed on his licence granted under this Act in relation to the use of a radio communication frequencies or frequency channel, shall have his licence cancelled.

Deposit before conviction

75.—(1) The Authority may require any licensee who has been issued a frequency user licence to deposit an amount not exceeding one billion two hundred million Tanzanian shillings or execute a bond to be secured against the assets of a user or licensee of a similar amount to defray any cost or liability incurred by the Authority or any other person which may arise out of any criminal or civil process in relation to this Act.

(2) Refusal or failure to pay the deposit or execute a bond under subsection (1) shall be deemed to be an offence against this subsection, and punishable as a continuing offence.

(3) Where a user or licensee is sentenced to pay a fine under this section, the court shall order forfeiture to the United Republic any deposit made or bond executed under this Act.

(e) Spectrum Consultative Committee

Establishment of Spectrum Consultative Committee

76.—(1) The Authority shall establish a Spectrum Consultative Committee which shall consist of the following members:

- (a) one member of the Board of the Authority who shall be the Chairman of the Committee;
- (b) four members appointed by the Authority consisting of experts of spectrum from the public sector, private sector, military and academic;

- (c) one senior officer of the Authority from the department responsible for spectrum management who shall be the Secretary of the Committee;
 - (d) one senior lawyer of the Authority; and
 - (e) one senior officer of the Authority from the department responsible for licensing.
- (2) The Authority may determine functions of the Committee which shall carry out the functions in relation to-
- (a) advise on National Spectrum issues; or
 - (b) prepare issues for discussion at international fora.

Powers of
Authority
in spectrum
management

77.-(1) The Authority shall have powers to manage and control all radio communication frequencies spectrum or frequency channels and provide mechanisms governing allocation and assignment to persons for limited periods of time by issuing licences under the conditions determined by the Authority.

(2) The Authority shall make rules-

- (a) governing allocation, assignment and use of radio frequencies or frequency channels;
- (b) governing harmful interference to other radio communications stations and services;
- (c) establishing minimum performance standards of electronic equipment, appliances and devices in regard to manufacture, import, sale, shipment and use of such equipment, appliances or devices.

(3) The Authority shall manage the radio frequency spectrum through the national frequency spectrum plan, under this Act.

Spectrum
allocation and
assignment
Act No.
12 of 2019 s. 5

78.-(1) A national frequency spectrum plan developed by the Authority shall-

- (a) be divided into such number of frequency bands as the Authority deems appropriate for the purpose of regulating radio communications under this Act;
- (b) designate one or more bands to be used primarily for the general purpose of the Government;

- (c) specify the general purpose for which any other band may be used including the reservation of any band, whether for present or future use for public or community purposes or for the prevention or control of interference;
- (d) provide for one or more purposes for which any part of a band and include any particular frequency or frequency channel which may be used whether with regard to a specified geographical area, period or otherwise; and
- (e) include such other matters as the Authority deems necessary to give full effect to the spectrum plan.

(2) The Authority may develop a new national frequency spectrum plan to replace an existing national frequency spectrum plan, when the need arises, and prior to that, the Authority shall issue a public notice in that respective.

(3) The Authority may revise, vary or revoke a national frequency spectrum plan under subsection (2), and shall issue a public notice to that effect.

(4) Where the Authority has developed a new national frequency spectrum plan under subsection (2) or has revised, varied or revoked any existing national frequency spectrum plan under subsection (1), the new national frequency spectrum plan or the revised, varied or revoked spectrum plan shall supersede the existing national frequency spectrum plan or to the extent of the revision, variation or revocation, as the case may be.

(5) The Authority may make rules for spectrum assignment plan which shall consist of-

- (a) methods, procedures and timetable to be followed for issuing an assignment;
- (b) subdivision of the relevant frequency bands in the spectrum plan for the purposes of issuing an assignment;
- (c) amount of the frequency spectrum in relevant bands that is to be reserved for future use or for public or community services;

(d) conditions which may be included in an assignment to be issued; and

(e) any other matter as the Authority may deem necessary.

(6) The spectrum assignment plan and any material modification of it shall be made available to the public for comment, and any comments received shall be considered by the Authority before issuing an assignment.

(7) The procedures for spectrum assignments shall be determined by the Authority and may include the following:

(a) the method of determining the price;

(b) the method of payment of the assignment's fees;

(c) the advertisement of the proposed assignment;

(d) the potentiality of applications including the type of technology that may be used;

(e) the intensity of demand;

(f) the extent of spectrum usage; and

(g) qualitative factors such as-

(i) band quality;

(ii) flexibility of band usage;

(iii) availability of equipment for use in the band;

(iv) ranges of band; and

(v) any other matters as the Authority may deem necessary.

(8) The Authority may modify or vary the spectrum assignment plan as it deems fit, under the provisions of Radio Communication and Frequency Spectrum Regulations.

(9) The Authority shall-

(a) classify radio stations, prescribe the nature of service to be rendered by each station, assign radio frequency bands to each class of station and the time during which it may operate; and

(b) make rules with respect to-

(i) management and prevention of interference between stations and to carry out the requirements under this Act;

- (ii) require communication stations to maintain such records of radio communications operations or signals as the Authority may deem necessary; and
 - (iii) require communication stations to submit to the Authority such reports as the Authority may require.
- (10) The Authority shall have power to-
- (a) inspect all wireless Network and radio installations associated with stations required to be licensed under this Act; and
 - (b) ascertain whether the wireless networks and radio stations conform to the requirements of the regulations and licence conditions.

(f) Numbering and Electronic Addressing

Number and
electronic address
assignment

79. The Authority shall regulate all electronic communication numbering and electronic addresses and ensure efficient use by-

- (a) performing proper planning, allocations and monitoring;
- (b) maintaining the national electronic communication numbering and electronic address Register for all carriers and operators in respect of resources which have been assigned;
- (c) performing an oversight role on the management of country's code Top Level Domain (ccTLD); and
- (d) maintaining electronic address Register of electronic numbers assigned to service providers and their subscribers list.

Assignment
exception

80.-(1) Notwithstanding the provisions of this Act, an assignment shall not be required for the activities listed in a declaration to be issued by the Authority.

(2) The Authority may, by declaration published in the *Gazette*, after consultation with the Minister, exempt a person or class of persons from the requirement to hold an individual assignment or a class assignment.

Prohibition to transfer numbers or electronic addresses

81. A person to whom electronic numbers or electronic addresses have been assigned shall not be permitted to transfer his rights to use such numbers or electronic addresses to any third party, whether for remuneration or otherwise.

(g) Technical Standards

Technical standards for equipment connected to network

82.—(1) The Authority shall be responsible for the establishment and publication of technical standards relating to all regulated services in the United Republic.

(2) In establishing such standards, the Authority shall—

- (a) where appropriate, seek submissions from other interested parties, in particular those persons likely to be most affected by the publication of such standards; and
- (b) participate in standardisation activities and take due account of any relevant standards prescribed by international organisations to which the United Republic belongs, such as the International Telecommunications Union and other sub-regional groupings.

Approval and management of equipment connected to network
Act No.
12 of 2019 s. 6

83.—(1) Any equipment to be used for connection to any electronic communications network for the purpose of receiving and, or transmitting electronic communication signals shall be approved by the Authority.

(2) Subject to applicable procedures and fees, the Authority shall, at the request of any electronic communications licensee, equipment manufacturer or equipment supplier, conduct type approval tests, and issue type approval certificates, in respect of electronic communications equipment intended for use in the United Republic.

(3) The Authority shall, in conducting type approval of equipment, be guided by the technical standards formulated by the Authority under this Act.

(4) The Authority shall manage the electronic communications equipment end-of-life processes.

(h) Central Equipment Identification Register (CEIR)

Establishment
of Central
Equipment
Identification
Register

84.—(1) There shall be established an equipment Register known as Central Equipment Identification Register.

(2) The Register shall be maintained by the Authority within its structure as the Authority may deem fit.

Cellular
identification
information

85.—(1) The Central Equipment Identification Register shall maintain whitelist, blacklist and greylis.

(2) Whitelist shall hold information on any mobile telephone used in any networks.

(3) Blacklist shall hold information of all reported lost or stolen or destroyed mobile telephone.

(4) Greylis shall hold information of any pair that does not fit in the white or blacklist.

(5) White, black and grey lists shall contain all unique mobile telephone number or as IMEI number pairs.

IMEI registration
requirement

86. All cellular operators shall capture any pair of subscriber number and IMEI number generated in the network.

Sub-register

87. Each network services licensee shall maintain a sub-register containing all the entries submitted to the CEIR and update black list.

Loss of mobile
telephone

88. A subscriber shall report loss of his mobile telephone to the serving network services licensee who shall accordingly effect such changes to the Register.

Keeping of data
base

89. Every subscriber information shall be kept within the Authority.

Power of network
services provider
to blacklist
stolen mobile
telephones

90.—(1) A network services licensee shall blacklist reported stolen, lost or damaged mobile telephones.

(2) The procedure to blacklist reported stolen, lost or damaged mobile telephone shall include-

- (a) a consumer whose mobile telephone has been stolen, lost or damaged shall report to the network service licensee; or

- (b) the network services licensee shall block the SIM card and deactivate the stolen mobile telephone so that it cannot be used on any network in Tanzania.
- (3) All licensee shall create a procedure on blacklisting mobile telephone and publish for consumer information.

(i) Subscribers Information

Subscribers
database

91.—(1) There shall be a database kept within the Authority in which all subscriber information shall be stored.

(2) The Authority shall take charge of monitoring and supervision of the information stored in accordance with subsection (1).

(3) Every application services licensee shall be required to submit to the Authority once a month a list containing its subscriber's information.

(4) The Authority shall issue guidelines on details of subscribers information to be submitted.

List and
information of
dealers

92.—(1) Every application service licensee shall keep and maintain records of all dealers engaged in selling or distribution SIM card.

(2) Every application service licensee shall submit to the Authority once a month a verified list of dealers or outlet national wide which they engage.

*(j) Detachable SIM Card and Built-in SIM
Card Mobile Telephone Registration*

SIM card
registration
Act No.
12 of 2019 s. 7

93.—(1) A person who owns or intends to use detachable SIM card or built-in SIM card mobile telephone shall be obliged to register SIM card or built-in SIM card mobile telephone.

(2) A person who sells or, in any other manner, provide detachable SIM card or built-in SIM card mobile telephone to any potential subscriber shall, on selling or providing such SIM card, or built-in SIM card mobile telephone, register the same.

(3) The application service licensee, distributor, agent or dealer authorised to sell or provide the detachable SIM card or built-in SIM card mobile telephone by the respective

application service licensee or operator shall verify the information obtained from subscriber and retain in hard copy or electronically all information obtained during registration.

(4) Registration and verification of SIM card or built-in SIM card mobile telephone shall be conducted in the manner provided in the Electronic and Postal Communication (SIM Card Registration) Regulations.

Provision of
information

94. A person desiring to own and use detachable SIM card or built-in SIM card mobile telephone shall, before purchase thereof, avail to the application service licensee or to the authorised distributor, agent, dealer or any person selling or distributing the detachable SIM card or built-in SIM card mobile telephone all the information specified under section 93.

Submission of
information
Act No.
12 of 2019 s. 8

95. An authorised distributor, agent or dealer dealing with selling or distributing the detachable SIM card or built-in SIM card mobile telephone shall submit to the respective application services licensee all the information and documents obtained during distribution or registration.

Change of
information

96. Any change to the information required in detachable SIM card and, or built-in SIM card mobile telephone registration shall be registered with the network services licensee or operator within fifteen days from the date of occurrence of such change.

Sale, distribution
by dealer and use
by subscriber

97.-(1) A dealer shall not sell or distribute in any manner a detachable SIM card or built-in SIM card mobile telephone without prior authorisation of the respective application service licensee.

(2) Every subscriber shall in pursuant to the provisions of this section use a registered SIM card and built-in SIM card mobile telephone.

(3) Any subscriber or dealer selling or distributing detachable SIM card or built-in SIM card mobile telephone without prior authorisation of respective application service licensee commits an offence.

*(k) Duties of Network Service Licensee or
Operator, Agents and Customers*

Duty of
confidentiality

98.—(1) A person who is member, employee of application service licensee, or its agent, shall have a duty of confidentiality of any information received in accordance with the provisions of this Act.

(2) A person shall not disclose the content of information of any customer received in accordance with the provisions of this Act, except where such person is authorised by any other written law.

Disclosure of
information by
authorised person
for official duties

99. A person shall not disclose any information received or obtained in exercising his powers or performing his duties in terms of this Act except—

- (a) where the information is required by any law enforcement agency, court of law or other lawfully constituted tribunal;
- (b) notwithstanding the provision of this section, any authorised person who executes a directive or assist with execution thereof and obtains knowledge of information of any communication may—
 - (i) disclose such information to another law officer to the extent that such disclosure is necessary for the proper performance of the official duties of the authorised person making or the law enforcement officer receiving the disclosure; or
 - (ii) use such information to the extent that such use is necessary for the proper performance of official duties.

Duty to report
theft, loss of
mobile telephone
or SIM card

100.—(1) Where a mobile telephone or detachable SIM card is lost, destroyed or stolen, the owner of that equipment or detachable SIM card shall report such loss, theft or destruction

in person or through a person duly authorised by him to police and to the application service licensee or to whose network the owner subscribed.

(2) An authorised person, who receives the report provided in subsection (1), shall provide the reporter with written proof of the report which shall be accompanied with a special number.

(3) The customer shall, at the time of filling a report, produce unique identity number of the lost, stolen or damaged detachable SIM card or mobile telephone.

Duty to use
registered mobile
telephone and
SIM card

101. A person who owns, posses, or controls a mobile telephone or detachable SIM card shall have a duty to register mobile telephone or detachable SIM card.

Duty to report
change of
ownership of
mobile telephone
or SIM card

102.—(1) A person who owns, possesses or has control of mobile telephone or detachable SIM card shall have a duty to report any change of ownership or possession of mobile telephone or SIM card to the respective application services licensee or to the network, the owner is subscribed to.

(2) A person who owns, possesses or has control of mobile telephone or detachable SIM card which was previously owned by another person shall have a duty to register the mobile telephone or detachable SIM card as provided for under section 101 of this Act.

(l) Content Regulations

Regulations of
content related
matters

103.—(1) The Minister may make regulations upon recommendation of the Committee on content related matters.

(2) In exercising its powers, the Authority acting upon recommendation of the content Committee may make rules on content related matters.

Code of conduct
for content
service licensees

104.—(1) The code of conduct contemplated in this section shall-

- (a) be binding on all content service licensees;
- (b) prohibit the provision of content which is indecent, obscene, false, menacing or otherwise offensive in character.

(2) Without derogating from the generality of subsection 1(b), the code of conduct shall be designed to achieve the following objectives:

- (a) the protection of children;
- (b) the exclusion of material likely to encourage or incite the commission of crime, from content provided by content service licensees;
- (c) the presentation of comprehensive, accurate and impartial news;
- (d) the presentation of religious material in a balanced and responsible manner;
- (e) the protection of the public against offensive and harmful content;
- (f) appropriate regulation of advertising and sponsorships; and
- (g) the prevention of communication methods or techniques that communicate a message to viewers or listeners, or otherwise influence their minds, without their being aware, or fully aware, of what has occurred, or that has the potential for doing so.

Events of national
interest

105.—(1) The regulations pertaining to the provision of content regarding events of national interest shall-

- (a) be designed to ensure that content regarding events of national interest shall be reasonably accessible to members of the public simultaneously with the occurrence of such events or without undue delay after the occurrence of such events;
- (b) clearly identify the nature of events that fall to be categorised as events of national interest; and
- (c) not interfere unduly with the commercial affairs of content service licensees.

(2) Events of national interest shall include, but not be restricted to significant sporting events that are of interest or importance to a substantial proportion of Mainland Tanzanian society.

(3) The Authority shall make rules or regulations to regulate subscription content service provider from acquiring exclusive rights that prevent or hinder the public broadcaster from broadcasting sporting events that are of national interest.

News and
current affairs

106.—(1) The regulations relating to news and current affairs shall be made to ensure that content service licensees provide news and information on current affairs—

- (a) on a regular basis;
- (b) that is accurate, balanced, impartial and fair; and
- (c) dealing with international, regional, national and, where appropriate, local matters.

(2) The regulations relating to news and current affairs shall give due regard to the commercial interests of content service licensees.

Original and
independent
productions of
local content

107.—(1) The regulations pertaining to local content, independent and original productions shall be made to—

- (a) stimulate the production of content in Mainland Tanzania;
- (b) prevent the excessive provision by content applications service licensees of—
 - (i) content that is not relevant to, or not conducive to the development of, as appropriate, Mainland Tanzanian society; and
 - (ii) which is already, or has previously been made, available to the public.

(2) The regulations pertaining to local content, independent and original productions may specify—

- (a) the extent to which content service licensees shall provide and include—
 - (i) the content produced in Mainland Tanzania;
 - (ii) the content produced by independent producers; and
 - (iii) the content of an original nature;
- (b) the times of the day or week when such content is provided.

Use of official
language

108. The Minister may make regulations on the use and promotion of the use of official languages in a content provided by content service licensees.

Advertising and
sponsorship

109. Without derogating from the generality of the power of the Authority to make rules, pertaining the advertising and sponsorships of such rules it may include the following provisions:

- (a) prohibiting, restricting or regulating advertisements of specified goods, products, services, activities, prohibiting, restricting or regulating specified forms and methods of advertising or sponsorship;
- (b) prohibiting, restricting or otherwise regulating political advertising;
- (c) restricting or otherwise regulating the extent of coverage of advertising and sponsorships which a content service licensee may give in the provision of its service, including, but not limited to-
 - (i) the maximum amount of time to be allocated to advertisements in any hour or other period;
 - (ii) the minimum interval which elapse between any two periods allocated to advertising;
 - (iii) the number of such periods to be allowed in any hour or day;
 - (iv) the prominence that may be given to advertisements or sponsorships; and
 - (v) the exclusion of advertisements or sponsorships from a specified part of a licensed service.

Content of
educational
nature

110.—(1) The rules made by the Authority in relation to the provisions of content of an educational nature may impose an educational obligation on content service licensees, or on certain specified classes of content service licensees, to ensure that a specified proportion of content provided by each one of them constitutes content of an educational nature.

- (2) The rules contemplated in subsection (1) shall-
 - (a) include an appropriate definition of the term “content of an educational nature”;
 - (b) specify the extent to which content service licensee-
 - (i) shall be obliged to finance the production of content of an educational nature; and
 - (ii) may acquire and provide content of an educational nature produced by other persons;
 - (c) include provisions designed to ensure that content of an educational nature is provided by content service licensee;
 - (d) require content service licensees, or specified classes of content applications service licensees, to ensure that a specified proportion of the content provided by them constitutes content of an educational nature are-
 - (i) of high quality; and
 - (ii) suitable to meet the needs and requirements of Mainland Tanzanian society;
 - (e) may distinguish between different categories of content of an educational nature and impose differential obligations on content service licensees in relation to such categories.

Content designed
for visually
impaired and
hearing impaired
persons

111.-(1) The regulations made by the Minister relating to the provision of content designed to cater for the needs and interests of persons with sight or hearing impairments may determine the following:

- (a) the extent to which content service licensees, or certain specified classes of content service licensees, shall promote the understanding and enjoyment of content provided by such content service licensees by persons-
 - (i) who are deaf or hard of hearing;
 - (ii) who are blind or partially sighted; and
 - (iii) with a dual sensory impairment;
- (b) the means by which such understanding and enjoyment should be promoted; and

(c) different classes of content to which such regulations or rules shall apply.

(2) The content by persons of the nature described in subsection (1)(a) shall include-

- (a) accompaniment of content by subtitling;
- (b) accompaniment of content by audio-description for the blind; or
- (c) translation of content into sign language.

(3) In making rules under this section, the Authority shall have regard to the following:

- (a) the extent of the benefit which is conferred by the relevant form of assistance for disabled people;
- (b) the size of the intended audience or recipients of the content concerned;
- (c) the number of persons who would be likely to benefit from the relevant form of assistance, and the extent of the likely benefit to them;
- (d) the technical difficulty of providing the relevant form of assistance; and
- (e) the cost of providing the relevant form of assistance.

Content of
political nature

112.-(1) Any regulation made by the Minister in relation to the provision of content of a political nature, other than political advertising, may-

- (a) not prohibit content service licensees from providing content of a political nature;
- (b) regulate the provisions of content of a political nature by content service licensees in a manner which is consistent with the fundamental objectives, directives, principles, basic rights and duties set out in Parts II and III of the Constitution of the United Republic of Tanzania, 1977.

(2) The regulation under subsection (1) may differentiate between different classes of content services licensees and may establish differential standards in respect of the provision of content of a political nature by such classes of content service licensees.

Cap. 2

Counter-versions **113.**—(1) A content service licensee shall broadcast a counter-version presented by any person affected by an assertion of fact in any programme transmitted by that licensee, if the person concerned claims that the assertion of fact is in fact false.

(2) Notwithstanding the provision of subsection (1), a content service licensee shall not transmit a counter-version where—

- (a) the person or organisation concerned has no direct interest in the transmission of the counter-version; or
- (b) the counter-version is not of reasonable length, and in particular, if it is substantially longer than the part of the broadcast which dealt with the false assertion of fact.

(3) The counter-version referred to in subsection (1) shall—

- (a) be limited to a factual account;
- (b) not contain any material which may reasonably be anticipated to expose the content service licensee to legal action if such material were to be broadcasted;
- (c) be made in writing;
- (d) specify the programme and the assertions to which objection is raised; and
- (e) be signed by the person affected or, in the case of an organisation, by the Chief Executive Officer.

(4) A person or body of persons affected shall not be entitled to insist on the transmission of a counter-version as contemplated in subsection (1) where the counter-version is presented to the content service licensee after the expiry of a period of thirty days from the date of broadcast of the false assertion of fact.

(5) The content service licensee shall, subject to the provisions of subsections (2) and (4)—

- (a) at the first opportunity, but not later than ten days from receipt of a counter-version referred to in subsection (1), broadcast the counter-version within the same programme or programme section as the one in which

the false assertion was made and at the same time of day or, not be possible, at time equal in value to that of the programme objected to;

- (b) broadcast the counter-version without any omissions and interruptions; and
- (c) broadcast the counter-version free of charge.

(6) A content service licensee shall, immediately upon receipt of the counter-version referred to in subsection (1), inform the Authority of that fact, and shall keep and store the programme objected to and the counter-version until the content service licensee receives a notice to the contrary from the Authority.

(7) This section shall not apply to a broadcast of a public meeting or of the National Assembly.

PART V ENFORCEMENT

Powers to take
enforcement
measures

114. The Authority may take enforcement measures against any person who contravenes licence conditions, regulations and provisions of this Act.

Powers to inspect

115.-(1) The Authority may appoint any person to carry out inspection for purposes of this Act.

(2) An inspector or authorised officer of the Authority may carry out an inspection of an electronic communication service station, postal services station or office and either licence issued under this Act, plant, apparatus or premises used by licensees to provide the licensed services.

PART VI OFFENCES AND PENALTIES

(a) Offences Relating to Electronic Communications

Failure to
observe licence
requirements
Act No.
6 of 2021 s. 7

116.-(1) A person who installs, operates, constructs, maintains, owns or makes available network facilities without obtaining any relevant individual licence, commits an offence

and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or imprisonment for a term of not less than twelve months or to both.

(2) A person who provides network services without obtaining any relevant individual licence, commits an offence and on conviction, shall be liable to a fine of not less than six million Tanzanian shillings or imprisonment for a term of not less than twelve months or to both.

(3) A person who-

- (a) provides application services without having first obtained any relevant individual licence;
- (b) provides content services without having first obtained any relevant individual licence, or any relevant class licence;
- (c) imports or distributes electronic communication equipment or apparatus, establishes, installs, maintains and operates an electronic communication system or imports non-type approved electronic communication equipment or apparatus into the United Republic without a licence,

commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or imprisonment for a term not less than twelve months or to both.

Failure to observe
assignment
requirements
Act No.
12 of 2019 s. 9

117.-(1) A person who uses radio frequency spectrum without obtaining any relevant individual assignment, commits an offence and on conviction, shall be liable to a fine of not less than two billion five hundred thousand million Tanzanian shillings or imprisonment for a term of not less than twelve months or to both and shall be liable to a fine of not less than seventy five million Tanzanian shillings for everyday during which the offence continues.

(2) Notwithstanding the provision of subsections (1) and (3) any person who willfully contravenes or fails to comply with the conditions imposed on his licence granted under this Act in relation to the use of radio communication channel or frequency, shall have his licence cancelled.

(3) A person who uses one or more numbers or electronic addresses without obtaining any relevant individual assignment or class assignment, commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or imprisonment for a term not less than twelve months or to both, and shall be liable to a fine of seven hundred and fifty thousand Tanzanian shillings for everyday during which the offence continued.

Penalty for
transmission
of obscene
communication
Act No.
12 of 2019 s. 10

118. A person who-

- (a) by means of any network facilities, network services, applications services or content services, knowingly makes, creates, or solicits or initiates the transmission of any comment, request, suggestion or other communication which is obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass another person;
- (b) initiates a communication using any applications services, whether continuously, repeatedly or otherwise, during which communication may or may not ensue, with or without disclosing his identity and with intent to annoy, abuse, threaten or harass any person at any number or electronic address;
- (c) by means of any network services or applications service provides any obscene communication to any person; or
- (d) permits any network services or application services, under the person's control to be used for an activity described in section 117 (3),

commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or imprisonment for a term not less than twelve months, or to both and shall also be liable to a fine of seven hundred and fifty thousand Tanzanian shillings for every day during which the offence continued.

Penalty for
failure to obtain
radio frequency
spectrum licence

119. A person who uses radio frequency spectrum without having first obtained any relevant class licence commits an offence and on conviction, shall be liable to a fine of five million Tanzanian shillings or imprisonment for a term of not less than twelve months or to both and shall also be liable to a fine of not less than one million five hundred thousand Tanzanian shillings for every day during which the offence continued.

Penalty for
interception of
communications

120. A person who, without lawful authority under this Act or any other written law-

- (a) intercepts, attempts to intercept, or procures any other person to intercept or attempt to intercept any communications;
- (b) discloses, or attempts to disclose to any other person the contents of any communications, knowingly or having reason to believe that the information was obtained through the interception of any communications in contravention of this section; or
- (c) uses, or attempts to use the contents of any communications, knowingly or having reason to believe that the information was obtained through the interception of any communications in contravention of this section,

commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months, or to both.

Authorised
person discloses
interception to
others

121.-(1) A person who is authorised under this Act intentionally discloses, or attempts to disclose, to any other person the contents of any communications, intercepted by means authorised by this Act-

- (a) knowing or having reason to believe that the information was obtained through the interception of such communications in connection with a criminal investigation;

(b) having obtained or received the information in connection with a criminal investigation; or

(c) improperly obstructs, impedes, or interferes with a duly authorised criminal investigation,

commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

(2) It shall be lawful under this Act for an officer, employee or agent of any network facilities provider, network service provider, application service provider or content service provider whose facilities or services are used in communications, to intercept, disclose, or use those communications in the normal course of his employment while engaged in any activity which is a necessary incident to the performance of his facilities or services or to the protection of the rights or property of the provider of the facilities or services, but the provider shall not utilise the facilities or services for observing or random monitoring unless it is for mechanical or service quality control or checks.

Penalty for
fraudulent use of
network facilities,
network services,
applications
services and
content services

122. A person who-

(a) dishonestly transmits or allows to be transmitted any communication or obtains a service provided by a licensed network facilities provider, network services provider, applications services provider or content services provider with intent to avoid payment of any rate or fee applicable to the provision of that facility or services; or

(a) possesses, obtains or creates a system designed to fraudulently use or obtain any network facilities, network service, application service or content service, commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term not less than two years or to both.

Penalty for interference of transmission of electronic communications

123.—(1) A person who without probable cause, interferes with or obstructs the transmission or reception of any electronic communications commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term not less than two years or to both.

(2) When a court is convicting a person of an offence under this section may, in addition to any penalty that may impose, order forfeiture to the Authority of any electronic communication equipment or other material in relation to or in connection with the means the offence was committed.

(3) Notwithstanding subsection (2), an order for forfeiture shall not be made by the court where it is proved that the electronic communication equipment in question is not owned by the person so convicted.

Establishment of National Computer Emergency Response Team Act No. 14 of 2015 s. 53

124.—(1) There is hereby established a National Computer Emergency Response Team (CERT), which shall coordinate response to cyber security incidents at the national level and cooperate with regional and international entities involved with the management of cyber security incidents.

(2) The Minister may make regulations with respect to the composition and duties of CERT.

(b) Offences and Penalties Relating to SIM Card

Sale, transfer, or disposal of SIM cards without authority of network service licensee

125. A dealer or person who sells or distributes any SIM card without authorisation of the appropriate network service licensee commits an offence and on conviction, shall be liable to a fine of seven million Tanzanian shillings or to imprisonment for a term of two years or to both.

Failure to give satisfactory account of mobile telephone or SIM card

126. A person who is found in possession of any mobile telephone or SIM card in regard to which there is reasonable suspicion that it has been stolen and is unable to give a satisfactory account of such possession, commits an offence

and on conviction, shall be liable to a fine not exceeding five hundred thousand Tanzanian shillings or to imprisonment for a term not exceeding three months.

Absence of reasonable cause for believing mobile telephone or SIM card properly acquired

127.—(1) A person who, in any manner acquires or receives into his possession from any other person a stolen mobile telephone or SIM card without having reasonable cause to believe that at the time of such acquisition or receipt that mobile telephone or SIM card was the property of the person from whom he acquires or receives it or that person has been duly authorised by the owner to deal with it or dispose of, commits an offence.

(2) In the absence of evidence to the contrary which raises a reasonable doubt, proof of such possession is sufficient evidence of the absence of reasonable doubt.

(3) A person who commits an offence under this section on conviction, shall be liable to a fine of seven million Tanzanian shillings or to imprisonment for a term of two years or to both.

Failure to report loss or theft of mobile telephone or SIM card

128.—(1) A person who fails to report the loss, theft or destruction of a mobile telephone or SIM card commits an offence.

(2) Whenever a person is charged with an offence under subsection (1) and it is proved that such person was, at the time, the owner or authorised possessor of the mobile telephone or SIM card alleged to have been lost, stolen or destroyed, proof that the person has failed to produce such mobile telephone or SIM card within seven days of a written request by a police or other law enforcement officer, shall, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the mobile telephone or SIM card has been lost, stolen or destroyed.

(3) A person who commits an offence under this section on conviction, shall be liable to a fine of three hundred thousand Tanzanian shillings but not more than five hundred thousand Tanzanian shillings or to imprisonment for a term of six months or to both.

Tampering with
mobile telephone
and SIM card

129. A person who, intentionally and unlawfully in any manner-

- (a) tempers, modifies, alters, reconfigures or interferes with mobile telephone or SIM card or any part thereof; and
- (b) reverse engineers, decompiles, disassembles or interferes with mobile telephone or SIM card, or any part thereof,

commits an offence and on conviction, shall be liable to a fine of thirty million Tanzanian shillings or to imprisonment for a term not exceeding ten years or to both.

Recording sale of
mobile telephone
and SIM card

130.-(1) A person who sells or in any other manner provides, any mobile telephone or SIM card to any other person, natural or legal, without recording the particulars of that person as required by section 102 of this Act, commits an offence and on conviction, shall be liable to a fine of three million Tanzanian shillings or to imprisonment for a term of twelve months or to both.

(2) Where the offender is a network service licensee or operator it shall be liable to a fine of fifteen million Tanzanian shillings.

(3) Where the offender is an employee of the network service licensee or a legal person, he shall be liable to the same penalty as provided under subsection (1).

Use of
unregistered SIM
card
Act No.
12 of 2019 s. 11

131.-(1) A person who knowingly and with intent to defraud uses an unregistered SIM card or built in SIM card mobile telephone or in any manner, misuses SIM card, commits an offence and on conviction, shall be liable to a fine not less than three million Tanzanian shillings or imprisonment for a term of not less than six months or to both.

(2) A service provider, distributor, agent or dealer authorised to sell or distribute the detachable SIM card, or built-in SIM card mobile telephone, who in any manner causes to be used unregistered SIM card, commits an offence and on conviction, shall be liable to a fine of not less than ten million Tanzanian

shillings or imprisonment for a term of twenty four months or to both and shall also be liable to a fine of seven hundred and fifty thousand Tanzanian shillings for each day during which the commission of offence continues.

False information
or statement

132. A person who furnishes information or makes a statement knowing that such information or statement is false, incorrect or misleading or not believing it to be true, commits an offence and on conviction, shall be liable to a fine of three million Tanzanian shillings or to imprisonment for a term of twelve months or to both.

Obstruction to
perform duties

133. A person who obstructs, hinders or interferes with an authorised person to execute any direction issued under this Act or assists with the execution thereof, commits an offence and on conviction, shall be liable to a fine not exceeding three million Tanzanian shillings or to imprisonment for a term of twelve months or to both.

Offence of
allowing use of
blacklisted phone

134. A network service licensee who allows any blacklisted mobile telephones to operate commits an offence and on conviction, shall be liable to a fine of seventy five million Tanzanian shillings or imprisonment for a term of five years or to both.

Tampering
with blacklisted
phones

135. A person who physically or electronically tempers with any blacklisted mobile telephone commits an offence and on conviction, shall be liable to a fine of one million five hundred thousand Tanzanian shillings or imprisonment for a term of five years or to both.

No prosecution if
acts in course of
employment or in
good faith

136. A person shall not be liable to prosecution for a contravention of this Act if he acts in the course of his employment or in good faith assists an authorised person and believes that such authorised person is acting in accordance with this Act.

Prohibitions in respect of radio communication and electronic communication equipment
Act No. 6 of 2021 s. 8

137.—(1) A person shall not possess any radio communication equipment except in accordance with a licence issued under this Act.

(2) A person who contravenes or fails to comply with subsection (1), commits an offence.

(3) For the purpose of this section, the term “radio communication equipment” means—

- (a) SIM Box;
- (b) signal jammer equipment; or
- (c) any other related equipment that is capable of facilitating—
 - (i) signal jamming; or
 - (ii) the passing of traffic.

(c) Offences Relating to Postal Communications

Penalty for operating without postal licence

138. A person who—

- (a) conveys, otherwise than in accordance with the terms of a valid postal licence, and letter or postal article;
- (b) performs any service incidental to conveying, otherwise than in accordance with the terms of a valid postal licence, any letter or postal article;
- (c) sends, tenders or delivers in order to be sent otherwise than in accordance with the terms of a valid postal licence, any letter or postal article as aforesaid; and
- (d) makes a collection of letters or postal articles as aforesaid for the purpose of sending them otherwise than in accordance with the terms of a valid postal licence,

commits an offence and shall, on conviction, in case of a first offence, to a fine of not less than five hundred thousand Tanzanian shillings and in the case of a subsequent offence, to a fine not exceeding four hundred and fifty million Tanzanian shillings for every day during which the offence continue.

Penalty for transmission of prohibited articles

139. A person who sends by post any postal article or anything which is injurious, indecent or prohibited under this Act, commits an offence and on conviction, shall be liable to

a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

Penalty for
damaging or
destroying letter
boxes

140. A person who places in or against any letter box provided for public postal by the licensee for the reception of postal articles any fire, match or light, or any explosive, dangerous, filthy, noxious, or deleterious substance or any fluid, or commits a nuisance in or against any such letter box, or does anything likely to destroy or damage any such letter box or its appurtenances or contents, commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

Penalty for
affixing without
authority
anything to, or
spoil appearance
of post office

141. A person who, without due authority affixes any placard, for advertisement, notice, list, documents, board or other thing in or on, or paints, tars, or in any way spoils the appearance of any post office, commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings.

Penalty for
unlawfully
detaining mails
or opening mail
bags

142. A person who, except under the authority of this Act or in obedience to the order in writing of the Minister, the Authority or the directions of a competent court, detains the mails or any postal article in the course of transmission by post or on any pretence, opens a mail bag in course of transmission by post, commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings.

Penalty for
wilfully retaining
postal articles or
mail bags

143. A person who fraudulently retains or unlawfully secretes or makes away with or keeps or detains or when required by an authorised officer neglects or refuses to deliver up, any postal article in the course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, commits an offence and on conviction, shall be

liable to a fine of not less five million Tanzanian shillings or imprisonment for a term of not less than two years or to both.

Penalty for
unlawfully
diverting letters

144. A person who, wilfully and maliciously with intent to injure any other person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or imprisonment for a term of not less than six months or to both.

Penalty for
unlawfully
disclosing
contents of postal
article

145. A person who reveals, discloses or in any way makes known the contents of any postal article opened under the authority of this Act, except so far as may be necessary for the purpose of returning the same or so far as may be authorised by the Authority in writing, commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or imprisonment for a term of not less than twelve months or to both.

Penalty for
making fictitious
stamps

146.-(1) A person who-

- (a) makes or knowingly alters, deals in, hawks, distributes, or sells any fictitious stamp or knowingly uses for postal purposes any fictitious stamp;
- (a) has in his possession without lawful excuse any fictitious stamp;
- (b) makes or without lawful excuse, has in his possession, any dye plate, instrument or materials for making any fictitious stamp; or
- (c) makes, issues or sends by post any stamped or embossed envelope, wrapper, card, form or paper in imitation of one issued under the authority of the licensee,

commits an offence and on conviction, shall be liable to a fine of not less five million Tanzanian shillings or to imprisonment for a term of not less than two years or to both.

(2) A stamp, plate, instrument or materials found in the possession of any person in contravention of this Act shall be seized and forfeited.

(3) Forfeiture under this section may be declared by a magistrate's court, and all things forfeited shall be dealt with as the court may direct.

(4) This section shall not be held to exempt any person from any punishment to which he may be liable under any other law.

Prohibition of false notices as to reception of letters

147. A person who, without authority from the Authority, places or maintains in or on any house, wall, door, window, box, pillar, or other place, belonging to him or under his control, any of the following words, letters, or marks-

- (a) the words "Post Office" or "Postal Office";
- (b) the words "letter box", accompanied with words, "letters", or "marks", which signify or imply or may reasonably lead the public to believe that it is a post office letter box;
- (c) any words, letters, or marks which signify or imply or may reasonably lead the public to believe that any house or place is a post office, or that any box is a post office letter box,

commits an offence and shall, on conviction, in case of the first offence, be liable to a fine not less than five million Tanzanian shillings and, on a subsequent conviction, to a fine not exceeding three hundred for every day during which the offence so continued.

Offence by officer, employee or agent of public postal licensee

148. An officer, employee or agent of a public postal licensee who destroys or throws away any postal articles in the course of transmission by post or anything contained therein-

- (a) steals or otherwise dishonestly misappropriates or secretes any postal article in the course or transmission by post or anything contained therein;
- (b) except in obedience to an order under the hand of the Minister or the direction of a court, wilfully opens or causes to be opened contrary to his duty any mail bag

- or postal article in the course of transmission by post or wilfully detains or delays or causes to be detained or delayed the mail bag or postal articles;
- (c) issues or causes to be issued a document specified for use in connection with the remittance of money with fraudulent intent;
 - (d) fraudulently puts any wrong official mark or a postal article;
 - (e) fraudulently alters, removes or causes to disappear any official mark on a postal article;
 - (f) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money which is not chargeable under this Act;
 - (g) sends by post, or puts into any mail bag any postal article upon which postage has not been paid or charged intending thereby to defraud the public postal licensee of the postage on the postal article;
 - (h) being entrusted with the preparation or custody of any document relating to the public postal licensee, fraudulently prepares the document incorrectly, or alters, or secretes or destroys the document; or
 - (i) being employed to carry or deliver any mail bag or postal article in the course of transmission by post does any act with intent to induce the belief that he has visited a place, or delivered a postal article or mail bag, which he has not visited or delivered,
- commits an offence and on conviction, shall be liable to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than three years or to both.

Obstruction of
public postal
licensee

149. A person who-

- (a) while on any premises used for purposes of the business of a public postal licensee, intentionally obstructs the course of business of the licensee concerned; or

(b) assaults or intentionally obstructs or incites any person to obstruct or impedes an officer or employee of a public postal licensee in the performance of his duties, commits an offence and on conviction, shall be liable to a fine of five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

Protection of
installation or
plant used by
public postal
licensee

150.—(1) A person shall not, without the written approval of a public postal licensee—

- (a) lay or carry any mains, pipes, conduits, circuits or wires in, along, through, across, over or under any street or place in a manner which is likely to interfere with or cause damage to any installation or plant used for postal services;
- (b) perform any work of laying, installing, construction or maintaining any equipment for postal services; or
- (c) affix any placard, advertisement, notice or other thing in or on, paint, tar or in any way disfigure any installation or plant used for postal services.

(2) An approval under subsection (1) may be granted or withheld by the licensee concerned or may be granted upon such terms and conditions as the licensee concerned thinks fit to impose.

(3) A dispute relating to the withholding of any approval under subsection (1), or the terms and conditions attached to the granting or such approval, shall be referred to the Authority whose decision shall be final.

(4) Where an offence under subsection (1) is due to the act or default of some other person, that other person commits an offence and may be charged and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(5) In any proceedings for an offence under subsection (1), it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by subsection (5) involves an allegation that the author of the offence was due to the act or default of another person, the person charged shall not without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(7) A person who contravenes or fails to comply with the provision of subsection (1) commits an offence and shall, in addition to the forfeiture of any equipment seized, be liable on conviction to a fine of not less than five million Tanzanian shillings and, in the case of a continuing offence, a fine of not less than five million Tanzanian shillings for every day during which the offence continues after conviction.

(d) Additional Offences and Penalties

Damaging postal
or electronic
communication
installation or
plant

151.—(1) A person who wilfully removes, destroys or damages any installation or plant used for postal or electronic communication services, commits an offence and on conviction, shall be liable to a fine of not less than one million shillings, or to imprisonment for a term of not less than three years or to both.

(2) Notwithstanding subsection (1), any person who damages or suffers to be damaged any cable of a communication system belonging to or under the management or control of a public postal licensee, commits an offence and on conviction, shall be liable to a fine of not less than one million shillings, or to imprisonment for a term of not less than three years or to both.

(3) Where an offence under subsection (2) is committed by any person acting as the agent or employee of another person, or being otherwise subject to the supervision or instructions of another person for purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person,

be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) In any proceedings for an offence under the provision of subsection (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

General offences

152.—(1) Subject to the specific penalties set forth elsewhere in this Act, any person who contravenes or fails to comply with a provision of this Act commits an offence and on conviction, shall be liable for each such breach, to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

(2) Subject to any specific penalties set forth therein, any person who contravenes or fails to comply with a provision of a regulations, rules, guidelines, declarations, determinations or other decision issued pursuant to this Act, including, in respect of interconnection, access and co-location rights and obligations, commits an offence and on conviction, shall be liable for each breach, to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than six months or to both.

(3) A person who, without lawful excuse, contravenes or fails to comply with any term or condition expressed in a licence he holds, commits an offence and on conviction shall be liable, for each such breach, to a fine of not less than five hundred thousand shillings.

(4) A person who-

- (a) fails or refuses to furnish a return to supply information in the manner and within the time prescribed by the Authority or furnishes a false or incomplete return or supplies false or incomplete information;

(b) on being required to do so, fails or refuses to produce to an inspector or a duly authorised officer of the Authority a licence, book, record or any document relating to any electronic communication service, equipment or apparatus or relating to postal service which is in his possession or under his control; or

(c) obstructs, in any manner, an inspector or officer of the Authority to perform any duties authorised to be performed under the provisions of this Act,

commits an offence and on conviction, shall be liable for each such breach, to a fine of not less than five million Tanzanian shillings or to imprisonment for a term of not less than twelve months or to both.

Offences by body
corporate

153. Where an offence under this Act has been committed by a body corporate, any person who, at the time of the commission of the offence was a director, manager or other principal officer of the body corporate or was purporting to act in such capacity shall, as well as such body corporate, be deemed to have committed that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

Penalty for
abetting or
attempting to
commit offences

154. A person who abets the commission of any offence punishable under this Act, or attempts to commit any offence so punishable, on conviction, shall be liable to the penalty provided for that offence.

Power of
Authority to
compound
certain offences

155.—(1) Where a person commits an offence under this Act, the Director General may, at any time prior to the commencement of court proceedings—

(a) compound the offence other than offences related to theft, fraud, forgery and other similar offences; and

(b) order the person to pay a sum of money specified by the Director General but not exceeding the amount of the fine prescribed for the offence.

(2) The Director General may compound an offence under this section if the person concerned admits in writing that he has committed the offence.

(3) Where the Director General compounds an offence under this section, in accordance with the order referred to in subsection (1)-

(a) shall be in writing, specifying the offence committed, the sum of money to be paid and the date for payment and have attached the written admission referred to in subsection (2);

(b) shall be final and not subject to any appeal; and

(c) may be enforced in the same manner as an order of the High Court for the payment of the amount stated in the order.

(4) Where the Director General compounds an offence under this section, the person concerned shall not be liable for a penalty in respect with that offence.

Recovery of fee
or royalty from
person owing
money to licensee

156.-(1) Where this section applies, the Director General may, by notice in writing, require any person-

(a) owing or who may subsequently owe money to the licensee;

(b) holding or who may subsequently hold money for or on account of the licensee;

(c) holding or who may subsequently hold money on account of a third person for payment to the licensee; or

(d) having authority from a third person to pay money to the licensee,

and the payer shall pay, on account of and to the extent of the fee due by the licensee, the money to the Director General on the date specified in the notice.

(2) A person who contravenes the provision of subsection (1) commits an offence, and shall be liable on summary conviction to a fine twice the amount stated on the notice or in default to imprisonment for a term not less than two years or to both.

(3) The Director General shall serve the payer with the notice referred to in subsection (1) and, as soon as practicable after that service, serve the licensee with a copy of the notice.

(4) The date specified in the notice under subsection (1), shall not be a date before-

- (a) the money becomes payable to the licensee; and
- (b) the payer is served with the notice.

(5) A notice under subsection (1) ceases to have effect where the fee or royalty with respect to which the notice is issued is paid or otherwise satisfied.

(6) Where a person served with a notice is unable to comply with the notice by reason of lack of moneys owing to, or held for, the licensee shall, as soon as practicable and in any event before the payment date specified in the notice, notify the Director General accordingly in writing setting out the reasons for the inability to comply.

(7) Where a notice is served on the Director General under subsection (6), the Director General may, by notice in writing-

- (a) accept the notification and cancel or amend the notice issued under subsection (1); or
- (b) reject the notification.

(8) A person making a payment pursuant to a notice under subsection (2) is treated as having acted under the authority of the licensee and of all other persons concerned and is hereby indemnified in respect of the payment against or proceedings, civil or criminal, and all processes, judicial or extra-judicial, notwithstanding any provision to the contrary in any written law, a contract or agreement.

(9) For the purpose of this section, “money” includes a debt obligation dominated or payable in money.

Suit for unpaid
fees or royalty

157. A person who fails to pay fees or royalties to the Authority commits an offence and shall be liable in any court of competent jurisdiction.

Charges over
assets

158.—(1) The Authority may cause a charge to be created in its favor over the assets of a licensee who has defaulted payment of fees or royalty on or before the date the fee or royalty is due.

(2) The Authority shall create a charge referred to in subsection (1) by serving a licensee with a notice in writing specifying the licensee, the assets charged, the extent of the charge as provided for in subsection (3), the licensee to which the charge relates and details regarding the Authority's power of enforcement under section 116.

(3) The assets of a debtor licensee charged under subsection (2) are charged to the extent of the fee or royalty payable, interest accruing with respect to that fee or royalty and any costs of charge and sale.

(4) A charge created under subsection (2), shall not have effect until—

(a) where interest in land or buildings is charged, the Authority files an application to register the charge under subsection (6); and

(b) in any other case, the notice is served on the debtor licensee under subsection (2).

(5) A charge created under subsection (2) shall be released when the debtor licensee pays to the Authority in full the amounts referred to in subsection (3) that are secured by the charge.

(6) Where the Authority creates a charge over an interest in land or buildings under subsection (2), the Registrar of Titles or otherwise referred to as the Registrar shall, without fee, register the charge on the title of the interesting land or buildings.

(7) Where a charge over an interest in land or buildings is released under subsection (5), the Registrar shall, without fee, remove the entry of the charge from the title of the interest in land or buildings within thirty days of the release.

(8) The activities of the Authority under this section, irrespective of whether they result in the transfer of title to an asset, are exempt from stamp duty.

(9) The Authority may, at any time, serve on a debtor licensee a notice in writing specifying any costs of charge and sale with respect to assets of the debtor licensee incurred by the Authority to the date of service and requiring the debtor licensee to pay those costs to the Authority by the date specified in the notice.

(10) For the purpose of this section “costs of charge and sale” with respect to assets, means any expenditure incurred or to be incurred by the Authority or an authorised agent-

- (a) under this section with respect to creating or releasing a charge over the assets; or
- (b) under section 114 with respect to taking possession of, holding and selling the charged assets.

Sale of charged
assets

159.-(1) The Authority shall notify the licensee of the Authority’s intention to sell charged assets owned by the licensee.

(2) The notice issued under subsection (1), may be incorporated into or accompany a notice referred to in section 158 and shall be in writing, served on the debtor licensee and specify-

- (a) the charged assets, the Authority’s intention to sell those assets and the proposed method and timing of the sale; and
- (b) in the case of tangible assets, that the Authority intends to take possession of, the manner in and the place at which the possession shall occur.

(3) The Authority-

- (a) may take possession of tangible assets referred to in subsection (1), whether directly or through an authorised agent, at any time after the notice is served;
- (b) for purposes of taking possession, may enter at any time, any premises described in subsection (1), and request the assistance of the police;

- (c) shall, at the time of taking possession, provide the debtor licensee with an inventory of assets seized; and
 - (d) where the assets are tangible assets other than an interest in land or buildings, store the assets at the cost of the debtor licensee, at any place the Authority considers appropriate.
- (4) Where the Authority serves a debtor licensee with a notice under subsection (1), the Authority may, after public notice, sell the charged assets but not before-
- (a) where the charged assets are an interest in land or buildings, thirty days after taking possession under subsection (3);
 - (b) where the charged assets are perishable tangible assets, one day after taking possession under subsection (3);
 - (c) where the charged assets are tangible assets other than those referred to in paragraph (a) or (b), ten days after taking possession under subsection (3); and
 - (d) in any other case, ten days after service of notice under subsection (1).
- (5) The proceeds of sale under subsection (4) shall be used to pay the costs of charge and sale of the assets sold, then to pay the fee or royalty due and interests accrued with respect to that fee or royalty and any remainder shall be paid to the debtor licensee.
- (6) After applying sale proceeds in accordance with subsection (5), the Authority shall serve the debtor licensee with a written notice detailing the manner in which the sale proceeds have been applied.
- (7) Where the proceeds of a sale applied in accordance with subsection (5) are insufficient to pay in full the costs of the charge and sale, the fee and royalty due and interest accrued with respect to that fee or royalty, the Authority may proceed to collect the insufficiency with fresh actions charge and sale of other assets.
- (8) This section does not restrict the exercise of any other avenues the Authority has for recovery of fees and royalties.
- (9) The activities of the Authority under this section, irrespective of whether they result in the transfer of title to an asset, are exempt from stamp duty.

Proof of
outstanding fees
or royalty

160. In proceedings for recovery by the Authority of the outstanding fees or royalty, production of a certificate signed by the Director General of the Authority or a person acting on his behalf in that capacity stating the name and address of the debtor licensee and the amount of fees or royalty payable by the debtor licensee is *prima facie* evidence of the amount of fees or royalty payable by such licensee.

PART VII

MISCELLANEOUS PROVISIONS

Access to public
land

161.—(1) A network facilities licensee or network services licensee shall, for purposes of enabling the provision of any electronic communications service to the public—

- (a) seek the consent of a local government authority or public body stating the nature and extent of the act to be done upon any public land;
- (b) enter upon any public land under control of a local government authority or other public body in order to construct, erect, place, maintain, examine, alter or remove any line, pole or radio link installation which is, respectively, either the property of the network facility licensee or is under the control of the network service licensee; and
- (c) a local government authority or other public body may, upon request under paragraph (a), permit, subject to such conditions, including the payment of service and property fees for the use of the property, time or more of execution of works, or for any other related activity undertaken by the telecommunication operator under the section as may be agreed between the telecommunication operator and the relevant local authority.

(2) A licensee dissatisfied with the terms or conditions imposed by a local government authority under paragraph (c), may apply to the land tribunal for the review of such terms and conditions within thirty days without unduly interfering with the use and enjoyment of such public property.

(3) Where any significant damage to land or property is caused, by reason of the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to receive compensation for it from the network facilities licensee or network services licensee.

(4) The licensee shall, in respect of services operated, maintained or offered under his licence, take all proper and adequate safety measures to safeguard life or property, including exposure to any electrical emission or radiations emanating from equipment or installation from such operations.

Access to
private land and
acquisition of
private property

162.—(1) Where, for purposes of enabling the provision of electronic communications service to the public, a network facilities licensee or network services licensee reasonably requires to enter upon private land, or to effect the acquisition of private property or an interest in private property, and no reasonable alternatives to such entry or acquisition exist, the network facilities licensee or network services licensee shall be entitled to seek and obtain consent of the land or property owner for the entry onto such land or acquisition of such property or property interest.

(2) Where a network facilities licensee or network services licensee seeks to enter upon private land, or to effect the acquisition of private property or an interest in private property, a network facilities licensee or network services licensee shall provide notice of the proposed entry or acquisition to the owner of the land or property, and other land or the property owners who may reasonably be expected to be affected by the proposed entry or acquisition, and seek their written comments.

(3) Where the land or property owner and the network facilities licensee or network services licensee, as the case may be, cannot agree, the network facilities licensee or network services licensee may apply to the relevant authority having jurisdiction over such private land or property in order to request that the authority order the proposed entry or undertake the proposed acquisition under applicable land laws.

(4) Where any significant damage to land or property is caused, by reason of the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to receive compensation for it from the network facilities licensee or network services licensee.

Power of search
and seizure

163.—(1) A police officer or an employee authorised by the Authority may, if he has reasonable grounds to believe that an electronic communication system or service has been established, installed, maintained, operated or provided in contravention of this Act or any regulations made thereunder or in breach of any licence issued by the Authority that the electronic communication equipment used is of a type that is not approved by the Authority in the case of any-

- (a) communication equipment or any electronic communication system or service, other than any radio communication system or service, enter and inspect any place in which the electronic communication equipment is used or the electronic communication system or service is established, installed, maintained, operated or provided, and may seize any electronic communication system or equipment found therein which appears to be used for or in connection with electronic communication; and
- (b) radio communication system or service, enter any place in the United Republic or stop or board any vessel, aircraft or vehicle and inspect any place and may seize any radio communication system or equipment found therein which appears to be used for or in connection with radio communications.

(2) Where any police officer or any employee authorised by the Authority has reasonable grounds for believing that an offence has been or is being committed under sections 113, 114, 115 and 121, he may seize electronic communication system, equipment, radio communication system or equipment used in the commission of the offence.

(3) Where there is no prosecution with regard to any equipment or system seized under this section, the equipment or system shall be taken and deemed to be forfeited to the Authority unless a claim is made within two months from the date of seizure.

(4) A person asserting that he is the owner of the equipment or system may personally or by his authorised agent give written notice to the Authority that he claims the same.

(5) On receipt of the notice, the Authority may direct that the equipment or system be released or may refer the matter to a resident magistrate's court or a district court.

(6) The resident magistrate's court or the district court may proceed to the examination of the matter and upon examination shall order that the equipment or system be forfeited or released.

Admissibility of documents

164.—(1) Notwithstanding any other law to the contrary-

- (a) any document, or copy of or extract from any document, relating to the affairs of any person that has been seized or obtained by;
- (b) any statement of a person relating to the affairs of any person has been seized or obtained by; or
- (c) any statement of a person relating to the affairs of the person that is made to,

an officer of the Authority in accordance with the provisions of this Act, is admissible in any proceedings with respect to any offence under this Act.

(2) A document, copy, extract or statement is admissible under subsection (1) irrespective of whether any person was induced to provide the document, copy or extract or making the statement by reason that the person was led to believe-

- (a) that the Director General or any officer of the Authority might, on any terms, settle the institution or prosecution of proceedings; or

- (b) that the decision of the Director General or any officer of the Authority as to whether to settle the institution or prosecution of proceedings would be influenced by the fact that the person confessed to committing an offence and provided full facilities for investigation.

Repealed

165. [Repealed by Act No. 7 of 2023 s. 6]

[s. 164A]

Imposition of
fees on
television decoder
subscription
Act No
5 of 2022 s.38

166.—(1) There is imposed a fee to be charged on television decoder subscription paid at a rate ranging from 500 to 2,000 shillings.

(2) The Minister shall, upon consultation with the Minister responsible for finance, make regulations prescribing the manner and modality under which the fee shall be collected and accounted for.

[s. 164B]

Regulations
Act No.
12 of 2019 s. 12

167. The Minister may make regulations for better carrying out or giving effect to the provisions of this Act.

[s. 165]

Requirement
to put in place
mechanisms to
implement this
Act

168.—(1) The licensee shall put in place mechanisms within its organisation or its main agents for keeping information and register his customers as required by this Act.

(2) A licensee who contravenes the provision of subsection (1) commits an offence.

[s. 166]

Registration of
subscribers after
commencement
of Act

169. The licensee shall register all new subscribers within three months from the date of commencement of this Act.

[s. 167]

Repeal

170. Repeals the Broadcasting Services Act, No. 6 of 1993 and the Tanzania Communications Act, No. 18 of 1993.

[s. 186]

PART VIII
TRANSITIONAL PROVISIONS

Omitted **171.** [Omitted.]

[s. 168]

PART IX
CONSEQUENTIAL AMENDMENTS

Omitted **172.–188.** [Omitted.]

[s. 169–185]

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