

Postal and Telecommunications (Telecommunications Traffic Monitoring and Revenue Assurance) Regulations, 2020

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IT is hereby notified that the Minister of Information Communication Technology, Postal and Courier Services has, in terms of section 99 (2) of the Postal and Telecommunication Act [*Chapter 12:05*], after consultation with the Authority, made the following regulations:—

*Title*

1. These regulations may be cited as the Postal and Telecommunications (Telecommunications Traffic Monitoring and Revenue Assurance) Regulations, 2020.

*Interpretation*

2. In these regulations-

“BTS” means Base Transceiver Station;

“Call Detail Records (CDR)” means information generated by telephone exchanges or any other telecommunication equipment which contain detailed information about calls originating from, terminating at, or passing through the exchange or equipment;

“CLI” means Caller Line Identification;

“Data” means a representation of facts, concepts and instructions, presented in a formalized manner suitable for communication, interpretation or processing by human beings, or by automatic means;

“Gateway” means switching system through which telecommunications traffic is interchanged (interconnection) between local telecommunication operators and international carriers, with provisions for allowing physical monitoring of traffic flow;

“Grey traffic” means traffic that falls outside the regular course of business between the telecommunication licensed holder in each country. The grey-ness arises because at the far end the call is made to appear as if it originates locally, as a domestic call, rather than a more expensive international call and it is difficult to provide billing for such calls.

“IBCS” means Interconnect Border Control System;

“IMSI” means International Mobile Subscriber Identification;

“International incoming telecommunication traffic” means telecommunication traffic originating from outside Zimbabwe and terminating in Zimbabwe, either to a public Switched Telecommunications Network (PSTN), Public Land Mobile Network Operators, Internet Access Provider, Unified Telecommunication Service Operator, Network Facilities operator, Network service operator, International Gateway Services Operator and Application Service provider;

“International outgoing telecommunication traffic” means telecommunication traffic originating from Zimbabwe and terminating in any country outside Zimbabwe, from a telecommunication licence holder;

“Telecommunications Licensee” means any telecommunications network operator licensed in terms of the Postal and Telecommunications Act [*Chapter 12:05*];

“Monitoring” means observation and supervision of telecommunications traffic, in particular, signalling data, excluding the capability to record, monitor or tap into the content of any electronic communication;

“National interconnection traffic” means telecommunication traffic exchange between local operators in Zimbabwe;

“NOC” means Network Operations Centre;

“Revenue assurance” means systems and processes in place to ensure that revenues for licensed service providers are declared with accuracy, completeness, and integrity;

“SIM” means Subscriber Identification Module;

“Telecommunication” means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems;

“Telecommunication traffic” means the amount of data, volume of voice or the number of messages carried over a communication channel in a given period; and

“TTMS” means Telecommunication Traffic Monitoring System.

#### *Application*

3. (1) These Regulations shall apply to all telecommunication licence holders that-
- (i) terminate and originate international incoming electronic communication traffic, including transit traffic, through their own networks or other networks in Zimbabwe; and
  - (ii) interchange local telecommunication traffic using national gateways within Zimbabwe.

#### *Objective*

4. (1) The objective of these regulations is to provide for the conditions, requirements and procedures for monitoring telecommunications traffic in Zimbabwe through installation of tools that will;

- (i) ensure generation of reliable statistics for all incoming international calls and national interconnection traffic;
- (ii) monitor quality of service (QoS) for international and national interconnection traffic;
- (iii) detect, track and block bypass fraud through an anti-fraud system and ensure the elimination of network traffic fraud;
- (iv) provide International Mobile Subscriber Identity (IMSI) details and SIM card profile for fraudulent SIM cards;
- (v) provide the International Mobile Equipment Identity (IMEI) details for mobile devices;
- (vi) detect all new mobile devices that are connected to any telecommunications licensee’s network;
- (vii) verify the international returns of telecommunication licensees for international telecommunications traffic; and
- (viii) monitor mobile money gateways and transactions in order to capture transaction information from the USSD Centre/platform.

*Powers of the Authority*

5. (1) In relation to these regulations, the Authority shall-
- (i) exercise regulatory powers in respect of monitoring all telecommunications traffic;
  - (ii) procure, install, operate and maintain a telecommunication traffic monitoring and revenue assurance system for the measurement of all forms of international incoming, international outgoing and interconnection traffic at all international gateways and national interconnect gateways of all the telecommunication licence holders;
  - (iii) Ensure telecommunication traffic revenue assurance, through monitoring of the billing and settlement of international traffic and national interconnection traffic;
  - (iv) analyse telecommunications traffic for fraud detection and terminate fraudulent traffic routes and SIM cards;
  - (v) verify the returns of telecommunication licence holders;
  - (vi) monitor the traffic volume of mobile money transactions in Zimbabwe;
  - (vii) monitor quality of service for international and national interconnection routes; and
  - (viii) take any necessary steps or action in line with its mandate to enforce compliance with these regulations.

*Procedure for installation of TTMS*

6. (1) No person shall provide international incoming voice services without a license.
- (2) Telecommunication licence holders shall permit the Authority or any person acting on behalf of the Authority to conduct site surveys on their networks in order to facilitate design, dimensioning and installation of the TTMS.
- Provided that all site surveys for the TTMS shall be conducted in the presence of a telecommunication licensee holder or his authorised representative.
- (3) Telecommunication licence holders shall grant the Authority or any person acting on its behalf access to their gateways for monitoring all forms of international incoming, international outgoing and national interconnection traffic in Zimbabwe.
- (4) All telecommunication licence holders shall allow the Authority to install, operate and maintain telecommunication traffic probing systems, for the purpose of extracting information to facilitate measuring, monitoring and billing of telecommunication traffic at all international gateways and national interconnect gateways;
- (5) Any person who contravenes subsection (1), (2), (3) and (4) shall be guilty of an offence and liable to a fine of not exceeding level *fourteen*, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.
- (6) Notwithstanding the provisions of subsection (5), the Authority shall reserve the right to suspend and or revoke the licence of a telecommunication licence holder for breach of this section.

*Compliance with TTMS connectivity*

7. (1) No telecommunication licence holder shall-

(i) refuse, obstruct or delay the installation of a connection linking the TTMS NOC to the telecommunication licence holder's network.

(ii) refuse, obstruct or delay installation by the Authority on the licence holder's premises, an IBCS and transmission links between the same to the Authority's NOC.

(2) The Authority or its authorised agent, shall ensure that interfacing with existing telecommunication licence holder's international gateway shall be performed without affecting or changing their current traffic routing and carrier configurations, as provided in their existing international gateway licenses, that allow them to terminate and send international traffic in partnership with carriers of their choice.

(3) The telecommunication licence holders shall provide the Authority with any information relating to the entity or carrier managing international incoming traffic including but not limited to their IMSI or the BTS used for a specific call.

(4) The Authority or its authorised agent, shall ensure that the IBCS and any co-location equipment, for the purposes of TTMS, shall not cause any interference to the telecommunication licence holder's equipment, plant, facilities, networks and the equipment of any other telecommunication licence holder, in the co-location space, including when installing the IBCS equipment. In the event of any interference, all concerned parties shall take in good faith reasonable measures to resolve the problem promptly.

(5) Either party shall ensure that its employees, agents and approved sub-contractors comply with the procedures for access to shared sites, including any directions put in place by the Authority for the effective implementation of these Regulations.

(6) The Authority and the telecommunication licence holders shall agree on the costs relating to co-location, which cost shall include, but not limited to the rent for the collocation space, electricity and the transmission bandwidth needed by the Authority.

(7) Any person who contravenes sections (1) and (3) shall be guilty of an offence and liable to a fine of not exceeding level fourteen, or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(8) Notwithstanding the provisions of subsection (8), the Authority shall reserve the right to suspend and or revoke the telecommunication licence holder's licence for contravening this section

#### *Requirements for extraction, use and storage of signalling data*

9. (1) All telecommunication licence holders shall keep signalling data required to monitor telecommunication traffic in terms of these regulations.

(2) The signalling data under these regulations shall include origin, destination, service information, time and path of the communication and shall be processed and stored exclusively for the purpose of monitoring compliance with these regulations.

(3) Signalling data shall be stored in modified versions and with the appropriate security measures both physical and logical and shall only be stored for the duration necessary for the purpose of monitoring compliance under these regulations.

(4) The telecommunication licence holder and the Authority, shall not transmit the signalling data to third parties except as permitted by law.

(5) Telecommunication licence holders shall notify the Authority in advance of any upgrades or changes of their signalling system with detailed timelines to ensure the proper functioning of the TTMS system.

*Safety and security of TTMS devices*

10. (1) All telecommunication licence holders shall be responsible for ensuring the safety of TTMS devices installed in, on or under their network.

(2) Where a device installed in terms of subsection (1) is tampered with, destroyed, or damaged, the telecommunication licence holder shall -

- (i) pay for the cost of replacement of the tampered with, destroyed or damaged device; and
- (ii) Pay the amount payable to the Authority based on the previous highest returns plus 10% of the returns, during the period the device remains tampered with, destroyed or damaged.

(3) Where the device is destroyed or damaged by natural calamity, the Authority shall take responsibility.

(4)

*Provision of information for monitoring*

11. (1) Telecommunication licence holders shall submit to the Authority data (CDR) or information related to telecommunication traffic not later than the *sixth* calendar day, after the end of each calendar month.

(2) Upon request by the Authority of any data (CDR) or information related to telecommunication traffic, telecommunication licence holders shall submit such information to the Authority within *fourteen* (14) calendar days from the date the information is requested.

(3) Telecommunication licence holders shall submit the data (CDR) or any Information requested under these regulations online, by electronic means or in portable device such as external memory or compact disc (CD).

(4) For purposes of implementing these regulations, telecommunication licence holders shall provide to the Authority the following information:-

- (i) the CDRs for all national on-net and off-net traffic and international incoming and outbound telecommunications traffic, including transit and international telecommunications traffic in a format prescribed by the Authority;
- (ii) billing statements by international carriers or telecommunication licence holders for the telecommunication traffic terminated in Zimbabwe or invoices sent to international carriers or telecommunication licence holders;
- (iii) the traffic volume in minutes and revenue for telecommunication traffic terminated to each international carrier contracting the termination service with the telecommunication licence holder; and
- (iv) any other necessary information that is related to the management of the telecommunication licence holder's networks for the provision of data, SMS, voice services, including the telecommunication licence holders' network signalling data links, recorded telecommunication traffic, contracts and invoices with other carriers.

(5) Any person who contravenes this section shall be guilty of an offence and liable to a fine of not exceeding level fourteen or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

(6) Notwithstanding the provisions of subsection (3), the Authority shall reserve the right to suspend and or revoke the licence of a non-compliant telecommunication licence holder.

*Applicable international termination rates and billing*

11. (1). All telecommunication licence holders shall charge international carriers the minimum rate per minute for termination of telecommunication traffic in Zimbabwe for all international incoming electronic communication traffic, including transit traffic, as specified in the *First Schedule*.

(2) Telecommunication licence holders shall disclose all international interconnect gateways and routes to the Authority, including registration of all international carrier agreements with the Authority within sixty (60) days of these regulations coming into force.

(3) In line with the requirement referred to in subsection (1), all telecommunication licence holders shall-

- (i) collect revenues generated from the international incoming traffic through international gateways within Zimbabwe, which terminate on national networks and share the revenue equally between the gateway operators and the terminating networks
- (ii) retain the International Termination Rate as prescribed in the *First Schedule* for incoming traffic, pass on the revenue levied by the Authority for the operations of the TTMS as invoiced by the Authority;
- (iii) levy for the TTMS, six United States Cents (USD0.06) per minute for international incoming traffic;
- (iv) comply with international incoming transit traffic terminated in Zimbabwe, as per rate specified in the agreements between telecommunication licence holders and submit it to the Authority;
- (v) not charge a lesser rate than that specified in the *First Schedule*;

(4) For the avoidance of doubt, where a telecommunication licence holder transits an international incoming traffic from outside Zimbabwe through an international gateway within Zimbabwe and terminates it on other national networks, such traffic shall remain an international traffic up to its final destination, irrespective of its origin.

(5) Telecommunication licence holders shall honour invoices in their entirety and payment shall be made not later than *thirty* (30) days from the date of issuance and any query relating to an invoice shall be raised and communicated to the Authority within *five* (5) working days from the date of receipt and all such queries shall be addressed within *seven* (7) working days.

(6) Any person who contravenes this section shall be guilty of an offence and liable to a fine of not exceeding level fourteen or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(7) In addition The Authority may reserve the right to revoke the License of the telecommunication licence holder for breach of this section.

*Fraudulent telecommunication traffic*

12. (1) Any person or entity shall be considered to be engaged in the movement of fraudulent traffic when he/she uses telecommunication facilities or services:-

- (i) with the intention of avoiding payment;
- (ii) without correct payment or with no payment; and or
- (iii) by making someone else unknowingly pay, or by using a wrongful or criminal deception in order to obtain a financial or personal gain from the use of those facilities or services.

(2) Notwithstanding the provisions of sub-section (1) above, international incoming telecommunication traffic is considered as fraudulent when:-

- (i) it is managed by an entity without the relevant licence or authorisation required by the Authority;
- (ii) it is managed by a telecommunication licence holder but not declared to the Authority;
- (iii) it is managed by a telecommunication licence holder, but charged at a rate below the minimum rate, as provided for in the *First Schedule* to these Regulations;
- (iv) it is grey traffic by third parties or carriers whose traffic is terminated to networks in Zimbabwe where a network telecommunication licence holder is unable to bill or collect payment;
- (v) there is a reasonable expectation that an end user is not likely to pay the telecommunication bill because the calls are disputed as not originating from the telecommunication line for which the respective end user is responsible; or

(3) The Authority shall carry out the necessary regulatory surveillance for the detection and handling of fraudulent telecommunication traffic.

(4) Subject to sub-section (3), the Authority may, where there is fraudulent trafficking, direct or order the telecommunication licence holder to do any of the following:-

- (i) comply with any fraud surveillance obligations;
- (ii) disclose any fraud user SIM;
- (iii) deactivate any fraud user SIM within an hour after detection;
- (iv) provide for a balanced reporting on a fraud user SIM;
- (v) share any other fraud information and those related to the SIM;
- (vi) report any fraud or related criminal activity to the Authority and any other law enforcement institutions for further action.

(5) The delivery and termination of incoming telecommunication traffic by telecommunication licence holders, shall be limited to the routing of calls to either customers on their own network, or the customers of other telecommunication licence holders with whom they have an interconnection agreement for the provision of transit services, for the incoming telecommunication traffic.

(6) In the event of fraudulent traffic being detected in terms of these regulations, telecommunication licence holders shall be directed to block traffic without CLI or with modified CLI.

(7) Any person who contravenes subsections (1), (2), (3), (4), (5) and (6) shall be guilty of an offence and liable to a fine of not exceeding level *fourteen* or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(8) The Authority shall reserve the right to suspend and or revoke the telecommunication licence holder's licence for contravening this section.

#### *Monitoring and inspection*

13. (1) In monitoring telecommunications traffic, the telecommunication licence holders shall-

- (i) allow the Authority or any entity acting on its behalf, to install and maintain necessary equipment in, on, upon or under telecommunication licence holder's network;
- (ii) Provide all the required support and space for the installation of the monitoring system on their premises; and
- (iii) facilitate the installation of data transmission equipment between the Authority's monitoring system installed at their switch centres and the Authority's main operating centre.

(2) The Authority shall ensure that the data collected, is for the exclusive purpose of monitoring compliance with these regulations and that it is not transmitted or given to third parties, either public or private, except as permitted by law.

(3) Any person who contravenes subsections (1) and (2) shall be guilty of an offence and liable to a fine of not exceeding level *fourteen* or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(4) The Authority shall reserve the right to suspend and or revoke the telecommunication licence holder's licence for contravening subsections (1) and (2).

#### *Site access, operation and maintenance of co-location equipment*

14. (1). The Authority or its representative, shall be responsible for the installation, operation and maintenance of the TTMS equipment installed at all co-location sites.

(2) The telecommunication licence holder shall grant the Authority or its representative full access to the sites where TTMS equipment is co-located with the telecommunication licence holder's equipment.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level fourteen, or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(4) Notwithstanding the provisions of subsection (3), the Authority shall reserve the right to revoke the telecommunication licence holder's licence for breach of subsection (2).

(5) The procedure for accessing sites for the TTMS for the purposes of inspection, installation, operation, maintenance, replacement or repair by the Authority staff or its representatives, shall be prepared by the Authority in consultation with all telecommunication licence holders.

(6) In the event of any direct damage to the co-location plant, network equipment or facilities arising out of or during the course of installation, operation, maintenance, replacement or repair of the co-located facility or network in the premises of a telecommunication licence holder, the damage shall be reported to the Authority, whose representative or staff shall rectify the damage without delay.

(7) The Authority and the telecommunication licence holder shall ensure that their staff observe and comply with all applicable or specified safety rules and conditions, for the purposes of maintaining the installed equipment.

#### *Reports and record keeping*

14. (1) The Authority shall prepare monthly monitoring reports, trends of telecommunication traffic for international, national termination traffic, quality of service for international and national interconnection routes and report on fraud detection.

(2) The Authority shall collect any information from the telecommunication licence holders in order to ascertain, *inter alia*, quality of service and volume of traffic carried over the network of the telecommunication licence holders.

#### *Disclosure of information*

16. The Authority or any person employed by the Authority or telecommunication licence holder, shall not disclose any information received during the exercise of its powers or performance of duties under these regulations, except where release of such information is required by law

#### *Enforcement*

17. (1) All telecommunication licence holders shall comply with the directives or orders of the Authority issued under these Regulations, or matters affecting any of its provisions or the implementation thereof.

(2) Within its powers under the Act and these regulations, the Authority shall determine appropriate measures to ensure compliance with these regulations.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine of not exceeding level fourteen or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(4) Notwithstanding the provisions of subsection (3), the Authority shall reserve the right to suspend and or revoke the licence of the telecommunication licence holder for contravening subsection (1).

### *Appeals*

18. Any party aggrieved by a determination or decision of the Authority may appeal to the Minister in accordance with the provisions of the Act.

### *Offences and penalties*

19. (1) Any telecommunication licence holder found guilty of an offence under sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17 and 20 of these regulations shall be guilty of an offence and liable to a fine of not exceeding level *fourteen* or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Notwithstanding the provisions of subsection (1), the Authority shall reserve the right to issue a civil penalty in terms of *Second Schedule*, suspend and or revoke the licence of the telecommunication licence holder for contravening the sections mentioned in subsection (1).

(3) Should a telecommunication licence holder commit three breaches of this regulation, the Authority may consider revocation of license.

### *Transitional provisions*

20. (1) Upon these regulations coming into force telecommunication licence holders shall within sixty (60) days

- (i) amend existing carrier agreements and file these with the Authority; and
- (ii) Identify and comply with all the interconnection requirements for implementing these regulations.

### *Repeals*

21. The Postal and Telecommunications (International Termination Rates) (Amendment) Regulations, 2008, published in Statutory Instrument 163 of 2008 are hereby repealed.

SCHEDULE (Section 7)

Minimum termination rates applicable to all countries

Termination category	Minimum termination rate in special drawing Rights (SDR)	Minimum termination rate in US\$
Fixed	0.048	0.07
Voice	0.1383	0.20

SCHEDULE (Section 19)

CIVIL PENALTIES

OFFENCE	Penalty
The provision of international incoming voice services without license;	Ten times the benefit obtained with the action defined as a breach.
The termination of all international incoming electronic communication traffic, including transit traffic at a price below the minimum rate stipulated in the Schedule to these Regulations;	10% of gross monthly turnover for the month that the non-compliance is detected.
The refusal by a telecommunication licence holder to honour invoices or pay the Authority the fee prescribed by these Regulations	2% of gross monthly turnover for the invoiced month.
The delay by a telecommunication licence holder to honour invoices or pay the Authority the fee prescribed by these Regulations	100% of the invoice for each calendar month delayed.
The refusal or obstacle by a telecommunication licence holder to allow the installation of any equipment for monitoring under these Regulations;	2% of monthly turnover for the months that a telecommunication licence holder refuses to comply.
Failure by a telecommunication licence holder to disclose all International interconnection gateways with the Authority	10% of gross monthly turnover for the preceding month per route for each calendar month from the date of activation of route.
Failure by a telecommunication licence holder to file or register all international carrier agreements with the Authority	5% of gross monthly turnover for the month that non-compliance is detected per route for each agreement.
Failure to submit requested data or information within the prescribed time frame without a reasonable cause.	2% of gross monthly turnover t per day for every day after fourteen days until the day the information or data is submitted to the Authority.