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THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT

(Cap. 306)

REGULATIONS

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(Made under section 103(1))
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THE ELECTRONIC AND POSTAL COMMUNICATIONS
(ONLINE CONTENT) REGULATIONS, 2017

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THE ELECTRONIC AND POSTAL COMMUNICATIONS (ONLINE CONTENT)
REGULATIONS, 2017

PART I

PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Electronic and Postal Communications (Online Content) Regulations, 2017.
- Application 2. These Regulations shall apply to online content including:-
(a) application services licensees;
(b) bloggers;
(c) internet cafes;
(d) online content hosts;
(e) online forums;
(f) online radio or television;
(g) social media;
(h) subscribers and users of online content; and
(i) any other related online content.
- Interpretation 3. In these Regulations, unless the context requires otherwise -
Cap.306 “Act” means the Electronic and Postal Communications Act;
Cap. 172 “Authority” means the Tanzania Communications Regulatory Authority established under the Tanzania Communications Regulatory Authority Act;
“application services licensee” means a licensee of the Authority in the category of application service license limited to only the provision of online content or facilitation of online content producers;
“blog or weblog” means a website containing a writer’s or group of writer’s own

experiences, observations, opinions including current news, events, journals, advertisements and images, video clips and links to other websites;

“blogger” means a writer or group of writers owning and performing the act of blogging and any other acts similar to blogging;

“electronic media” means a mode of communication of content to the public by television, radio, video, cinema, e-newspaper or by any other electronic means and devices including social media, applications and any other related means;

“content” means sound, data, text or images whether still or moving;

“hate material” means content which advocates or promotes genocide or hatred against an identifiable group of people;

“hate speech” means any portrayal (words, speech or pictures, etc.), which denigrates, defames, or otherwise devalues a person or group on the basis of race, ethnicity, religion, or disability;

“indecent material” means material which is offensive, morally improper and against current standards of accepted behaviour which includes nudity and sex;

“internet café” alternatively known as a cybercafé means a retail establishment, café or coffee bar or small, informal restaurant that offers online access on its own computers or customers laptops, usually for a fee;

“online content host” means any Server that hosts or provides access to online accessible content which may include file transfer protocol Servers, Telnet Servers, webhosting companies and Web Servers

“online” means a networked environment available via online whereby content is accessible to or by the public whether for a fee or otherwise and which is intended for consumption in or originated from Tanzania.

“online forum” means an online discussion site where people can hold conversations in the form of posted messages or journals and whereby most forums allow anonymous visitors to view forum postings, but require creation of an account in order to post messages in the forum in which new topics known as “threads” are posted and replies within existing threads;

“online radio, web radio, net radio, streaming radio, e-radio, or webcasting” means an audio service whether licensed or not licensed by the Authority which is transmitted via the Online. Broadcasting on the Online is usually referred to as webcasting since it is not transmitted through traditional wireless broadcasting

means;

“online television” alternatively known as online television or web television is the digital distribution of television content, short programs or videos created by a wide variety of companies and individuals whether licensed or not licensed by the Authority delivered online through webstreaming and intended for consumption by citizens of the United Republic;

“prohibited content” means content whose publication, distribution or posting is prohibited under these Regulations;

“social media” means an online-based applications and platforms that build on the ideological and technological foundations of web and that allow the creation and exchange of highly interactive user generated content and as platforms through which individuals, organizations and communities share, co-create, discuss, and modify user-generated content;

“user” means a person or legal entity accessing online content whether by subscriptions or otherwise; and

“web page, web site, site” means files of content accessible on the World Wide Web by a requested URL.

PART II

GENERAL PROVISIONS

- Powers of the Authority
4. (1) The Authority shall have the following powers in regulating online content:-
- (a) to keep register of bloggers, online forums, online radio and online televisions;
 - (b) to take action against non-compliance to these Regulations, including to order removal of prohibited content; and
 - (c) to conduct public awareness in relation to safe use of online content.

PART III

GENERAL OBLIGATIONS FOR ONLINE CONTENT

- Obligations of online content providers and users
5. (1) For the purpose of these Regulations an online content provider shall have the obligations to:-
- (a) inform online content users in making informed selection of the content

Obligations of application service licensees

- they consume;
 - (b) ensure that online content is safe, secure and does not contravene the provisions of any written law;
 - (c) take into account trends and cultural sensitivities of the general public;
 - (d) establish and make available online safe use policy or guideline;
 - (e) use moderating tools to filter prohibited content;
 - (f) have in place mechanisms to identify source of content;
 - (g) take corrective measures for objectionable or prohibited content; and
 - (h) ensure prohibited content is removed within 12 hours upon being notified.
- (2) Every subscriber and user of online content shall:
- a) be responsible and accountable for the information he posts in an online forum, social media, blog and any other related media; and
 - b) ensure his posts do not contravene the provision of these Regulations and any other written law.
- (3) An online content provider shall cooperate with law enforcement officers in pursuing functions under these Regulations.
6. 1) An application services licensee shall, when entering contract with subscribers, incorporate terms and conditions of service which include the right to:
- (a) deny access or terminate service where a subscriber contravenes these Regulations; and
 - (b) remove prohibited content provided such removal is carried out in accordance with these Regulations.
- (2) The existence of terms and conditions shall be in a manner and form easily accessible by its subscribers.
- (3) Once the licensee is notified by the Authority or by the person affected by the content of existence of prohibited content shall, within 12 hours from the time of notification, inform its subscriber to remove the prohibited content.
- (4) Upon receipt of notification pursuant to Sub regulation 3, the subscriber shall, within 12 hours from the time of notification, remove the prohibited content.
- (5) Where the subscriber fails to remove the prohibited content within 12 hours, the licensee shall suspend or terminate the subscribers' access account.

Obligations of bloggers and online forums

7. (1) Subject to Regulation 5 every blogger and online forum shall-
- a) register with the Authority in a manner prescribed under these Regulations;
 - b) ensure that, where his blog or online forum allows the general public to post content, he sets mechanism that content is not published prior to the blogger's review;
 - c) use moderating tools to filter content and set mechanism to identify the source of such content;
 - d) assist users by providing information on the blog or forum's website about tools that are available for users to control access to the forum, which shall contain:
 - (i) user ethics in accessing and providing content over the forum;
 - (ii) responsibilities of adult user over children under their care in relation to the use of forum;
 - (iii) measures which may be taken by parents, guardians and teachers to control children's access to online content;
 - (iv) appropriate channel to which a complaint regarding online Content may be made, and the procedures by which such a complaint is to be made.

(2) Sub Regulation 1 shall apply to Tanzania residents, Tanzanian citizens outside the country, non-citizens of Tanzania residing in the country, blogging or running online forums with contents for consumption by Tanzanians.

Obligations of online content host

8. Subject to Regulation 5 an online content host shall:-
- (a) adopt a code of conduct for hosting content;
 - (b) upon notification by the person affected by the content, the Authority, or law enforcement agency, remove the hosted content.

Obligations of internet cafe

9. Subject to Regulation 5 every internet café shall have the following obligations:
- (a) establish and make available online safe use policy with regards to online content;
 - (b) adopt code of conduct for the café and post it on conspicuous place;
 - (c) put in place mechanism to filter access to prohibited content;
 - (d) install surveillance camera to record and archive activities inside the cafe.

Obligations of social media user

10. Subject to Regulation 5 every social media user shall:
- a) be responsible and accountable for the information he publishes on a social media;
 - b) use password to protect any user equipment or access equipment or hardware to prevent unauthorized access or use by unintended persons.

Disclosure of information

11. (1) The Authority or any person employed by the Authority shall not disclose any information received or obtained during the exercise of its powers or performing its duties under the provisions of these Regulations, except, where the information is required by any law enforcement agency, court of law or other lawfully constituted tribunal.

(2) Notwithstanding sub regulation (1) or other provisions of these Regulations, any authorized person who executes a directive or assists with execution of such directive and obtains knowledge of any information shall not-

- a) disclose such information to another person unless that other person is a law enforcement officer and to the extent that such disclosure is necessary for the proper performance of the official duties of the authorized person or the law enforcement officer receiving the disclosure; or
- b) use such information to the extent that such use is necessary for the proper performance of official duties.

Prohibited content

12. (1) Online content provider shall not publish:-

- a) indecent content save for sex and nudity sex scenes approved by the body responsible for film censorship;
- b) obscene content ;
- c) hate speech;
- d) explicit sex acts or pornography
- e) sex crimes, rape or attempted rape and statutory rape, or bestiality.
- f) content that portrays violence, whether physical, verbal or psychological, that can upset, alarm and offend viewers and cause undue fear among the audience or encourage imitation.
- g) content that portrays sadistic practices and torture, explicit and excessive imageries of injury and aggression, and of blood or scenes of executions or of people clearly being killed.
- h) Content that causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder.
- i) content which advocates hate propaganda or promotes genocide or hatred against an identifiable group;
- j) content that may threaten national security or public health and safety such as:-
 - i) making available instructions and guidance on bomb-making, illegal drug production or counterfeit products;
 - ii) disseminating false information with regards to outbreak of racial

- disturbances in a specific part of the country;
- iii) circulating information and statements with regards to possible terrorist attacks;
- iv) circulating or making available information with regards to the outbreak of a deadly or contagious diseases;
- v) any other content related to the above.
- k) Content that uses bad language including but not limited to:-
 - i) the use of disparaging or abusive words which is calculated to offend an individual or a group of persons;
 - ii) crude references words, in any language commonly used in the United Republic, which are considered obscene or profane including crude references to sexual intercourse and sexual organs;
 - iii) hate speech.
- l) False content which is likely to mislead or deceive the public except where it is clearly pre-stated that the content is:-
 - i) satire and parody
 - ii) fiction; and
 - iii) where it is preceded by a statement that the content is not factual.

(2) For the purpose of this Regulation:

“indecent content” means” content which is offensive, morally improper and against current standards of accepted behavior, including nudity and sex;

“obscene content” means content which gives rise to a feeling of disgust by reason of its lewd portrayal and is essentially offensive to one’s prevailing notion of decency and modesty, with a possibility of having a negative influence and corrupting the mind of those easily influenced;

“hate speech” means speech that refers to any portrayal (words, speech or pictures, etc.), which denigrates, defames, or otherwise devalues a person or group on the basis of race, ethnicity, religion, nationality, gender, sexual orientation, or disability and is prohibited.

Protection of children online

13. Online content provider shall ensure that-
- (a) children do not register, access or contribute to prohibited content;
 - (b) users are provided with content filtering mechanism and parental control.

PART IV COMPLAINTS HANDLING

Complaints handling by online content

14. (1) Any person may file a complaint to the online content provider against parties referred in Regulation 2 in relation to any matter connected with

provider

prohibited content.

(2) Online content provider shall, within 12 hours, resolve the complaint filed under this Regulation.

(3) Where the online content provider fails to resolve complaint under this regulation, the aggrieved person may, within thirty days refer the complaint to the Authority.

Referral of
complaints to
Authority

15. (1) Upon receiving the complaint under this regulation, the Authority shall serve the online content provider with copy of the complaint and require the online content provider to reply within 12 hours.

(2) Where a person is not satisfied with the response of the content provider in Sub regulation 1, the Authority may consider and deal with complaint through Content Committee procedures.

PART V

MISCELLANEOUS PROVISIONS

Offences and
penalty

16. Any person, who contravenes the provisions of these Regulations, commits an offence and shall, upon conviction be liable to a fine not less than five million Tanzanian Shillings or to imprisonment for a term not less than twelve (12) months or to both.

Dar es Salaam
....., 2017

DR. HARRISON G. MWAKYEMBE (MP)
Minister for Information, Culture, Arts and Sports