

**REGULATIONS ON PROMOTION BY TELECOMMUNICATION OPERATORS**

**ISSUED BY THE**

**REGULATORY BOARD**

**RWANDA UTILITIES REGULATORY AUTHORITY**

**(RURA)**

**NO 001/R/CA-MCA/RURA/016**

**DATE 26TH DAY OF JULY, 2016**

**TABLE OF CONTENTS**

**PREAMBLE** .....3

**CHAPTER ONE: GENERAL PROVISIONS** .....4

Article One: Purpose of these regulations .....4

Article 2: Definitions of terms .....4

Article 3: Scope.....5

Article 4: Objectives of these regulations .....5

**CHAPTER II: PROCEDURE AND REQUIREMENTS FOR PROMOTIONS** .....5

Article 5: Intent of promotion .....5

Article 6: Requirements for promotion .....5

Article 7: Conditions for launching promotions.....5

Article 8: Content of descriptive Report .....6

Article 9: Submission of a descriptive report .....7

Article 10: Response of the Regulatory Authority .....7

Article 11: Approval of the application.....7

Article 12: Means of Communication .....7

Article 13: Content of decision making .....8

**CHAPTER III: PROMOTIONS OF SERVICES AND PRODUCTS** .....8

Article 14: Services .....8

Article 15: Promotional Tariff.....8

Article 16: Duration of the promotion.....8

**CHAPTER IV: ADVERTISEMENTS OF PRODUCT AND SERVICES**.....9

Article 17: Methods of advertising.....9

Article 18: Advertising with complicated price structures and information .....9

Article 19: Comparative advertising .....9

**CHAPTER V: MONITORING AND ENFORCEMENT** .....9

Article 20: Cancellation of promotion.....9

Article 21: Cessation of promotion .....10

Article 22: Faults and administrative fines .....10

Article 23: Right of appeal .....11

Article 24: Procedure for appeal .....11

**CHAPTER VI: FINAL PROVISIONS** .....11

Article 25: Repealing provision .....11

Article 26: Commencement .....11

## **PREAMBLE**

### **The Regulatory Board of the Rwanda Utilities Regulatory Authority;**

Pursuant to Law N°09/2013 of 01/03/2013 establishing Rwanda Utilities Regulatory Authority (RURA) and determining its mission, powers, organization and functioning;

Pursuant to Law N° 24/2016 of 18/06/2016 governing information and communication technologies;

Pursuant to Presidential Order No 04/01 of 15/03/2004 determining specific duties of the Regulatory Board in Telecommunications matters, especially in Article 3;

Having reviewed the Regulations N° 002/RURA/2011 of 06th May 2011 on promotions by telecommunications operators;

Based on the recommendations made during the consultative meeting held on 10/05/2016 between RURA and stakeholders in ICT industry for a better service delivery;

AND AFTER deliberation in its meeting of 26<sup>th</sup> July/2016;

**HEREBY issues the following regulations;**

## **CHAPTER ONE: GENERAL PROVISIONS**

### **Article One: Purpose of these regulations**

The purpose of these regulations is to establish a regulatory framework for telecommunication operators to promote services or products in a fair and competitive manner in Rwanda.

### **Article 2: Definitions of terms**

In these regulations unless the context otherwise requires, these terms shall have the following meanings:

**1° Advertisement :** any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any media to consumers with the intent to influence their choice, opinion or behavior;

**2° Gambling or gaming :** any game played with cards, dices, tickets, equipment or any mechanical, electronic or electromechanical device or machine for money, property, checks, credit or credit card or any representative of value;

**3° License:** the legal permission granted by the Regulatory Authority under the Law N° 24/2016 of 18/06/2016 governing information and communication technologies;

**4° Licensee:** any natural or legal person holding a valid license issued by the Regulatory Authority;

**5° Permit:** includes the permission granted by the Regulatory Authority in writing to a Telecom Operator and or licensee to conduct a promotion campaign of the services or goods delivered under its license;

**6° Presidential Order :** the Presidential Order N° 04/01 of 15/03/2004 determining specific duties of the Regulatory Board in telecommunications matters or any succeeding legislation thereto;

**7° Promotion:** any message, content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any media to consumers with the intent to influence their choice, opinion or behavior in order to get a shared reward or benefit;

**8° Regulatory Authority:** the Rwanda Utilities Regulatory Authority established by Law N°09/2013 of 01/03/2013 establishing Rwanda Utilities Regulatory Authority (RURA) and determining its mission, powers, organization and functioning;

**9° Relevant laws:** any applicable law or regulation with which a telecom operator must comply including his license conditions;

**10° Telecom operator:** all Operators in Telecom industry holding a valid license to operate in Republic of Rwanda.

**11 Year:** twelve (12) calendar months.

### **Article 3: Scope**

These regulations shall apply to all telecommunications operators that are engaged in or are about to be engaged in any promotional exercise.

Gambling is not subject to these Regulations.

### **Article 4: Objectives of these regulations**

The objectives of these regulations are:

- i. To ensure ethical conduct and acceptable standards for promotions;
- ii. To set clear and minimum requirements and standards for matters related to promotions by the licensed operators governed by these regulations;
- iii. To protect and promote consumer interests or rights; and
- iii. To prevent any possible anti-competitive behavior and practice that may be hidden in any promotional package.

## **CHAPTER II: PROCEDURE AND REQUIREMENTS FOR PROMOTIONS**

### **Article 5: Intent of promotion**

All promotional exercise shall have the effect of bringing the customers closer to the concerned licensee in order to get effective service value for money which is the subject of promotion.

### **Article 6: Requirements for promotion**

Any Licensee intending to carry out promotion of services or product shall fulfill the following:

1. Ensure that there's no access fees required to opt-in;
2. Ensure that the consumer is sure to benefit for opting in;
3. Seek for the Regulatory Authority approval before launching the service or products.
4. Ensure that promotions are loyalty programmes to reward customers
5. Ensure that promotions are transparent, fair and truthful.

### **Article 7: Conditions for launching promotions**

The Licensee who is under process of launching promotion of the services or products must meet the following Conditions:

- a) Ensure that its network is capable of sustaining the traffic that may be generated from such promotion;
- b) Specify the time, duration, date and range of such promotion and the date of redemption of such promotional benefits;
- c) Not misrepresent the licensees' opportunity to provide the products and services at the terms presented. If supply of the products and services are limited, or the licensee can fulfill only limited demand, this must be clearly captured in the report and stated in the communication medium for the promotion;
- d) Specify the target subscribers for the promotion by clearly distinguishing if it targets new subscribers and or existing subscribers;
- e) Indicate if the products and or services subjects to promotion are available to only a particular geographical region or group of customers;
- f) Ensure a geographical balance while offering its promotional sales to its consumers without an undue concentration on consumers in a particular geographical location;
- g) Communicate clearly and effectively to the subscribers all relevant terms and conditions of the promotions;
- h) Ensure that the specific items or services portrayed and /or promised are not varied in the event of certain categories or specific products; and
- i) Have the means and be able to prove any claim or representation in a promotion and the Regulatory Authority has the discretion to demand for any survey report or data from the licensee for purposes of proving the same.

### **Article 8: Content of descriptive Report**

Before the launch of promotion of service or product, the Licensee must submit a descriptive report indicating the following information:

- i. A statement of intention for the promotion;
- ii. The general impact of the promotion on the concerned licensee's service provision;
- iii. The impact on the Quality of Service parameters set by the Regulatory Authority;
- iv. The impact on grade of service set by the Regulatory Authority;
- v. A proof of compliance with the Regulatory Authority's type-approved standards;
- vi. State if the promotion includes or relates to comparative advertising;

- vii. The impact of the promotion on the basic consumer rights and obligations including but not limited to safety, privacy, information, choice all in the interest of transparency in service delivery;
- viii. Indicate the customer options; and
- ix. Outline if the licensee would require any scarce resources such as numbers or codes with a view of confirming any compliance with earlier allocations.

#### **Article 9: Submission of a descriptive report**

A descriptive report shall be submitted to Director General of the Regulatory Authority prior to the release of any promotion of products and service.

The descriptive report shall be presented as per annex I of these Regulations.

The form to be used is available to the Regulatory Authority's website at [www.rura.rw](http://www.rura.rw)

#### **Article 10: Response of the Regulatory Authority**

After receiving the descriptive report, the Regulatory Authority shall react and communicate to the Licensee the outcome of the assessment of the report.

In the event, there's a concern in relation to promotion to be addressed, the Regulatory Authority shall request the licensee to remedy that situation through a letter.

The Regulatory Authority may seek for a formal meeting with the concerned licensee prior to issuing its decision.

#### **Article 11: Approval of the application**

To approve the application for promotion, the Regulatory Authority takes into consideration the following:

- i. An evaluation of the descriptive report and related documents;
- ii. An evaluation of the interest of consumers, public health, safety, and environmental issues;
- iii. An evaluation of the social and economic impacts of the proposed promotion;
- iv. An evaluation of mitigation measures to alleviate any problems identified; and
- v. The relationship of the proposed promotion vis-à-vis the existing national policies and strategies, laws and regulations in ICT sector.

#### **Article 12: Means of Communication**

Any licensee intending to conduct promotion of products or services shall submit an electronic request to the Regulatory Authority and the latter must reply in a period not exceeding three (3) working days.

### **Article 13: Content of decision making**

The decision to conduct promotion issued by the Regulatory Authority shall contain at least the following elements:

- i. the name of the concerned licensee;
- ii. the description of the promotion;
- iii. the duration of the promotion; and
- iv. a serial number, signed and sealed by the Regulatory Authority.

## **CHAPTER III: PROMOTIONS OF SERVICES AND PRODUCTS**

### **Article 14: Services**

Any service which is subject to promotion shall be clearly defined with details relating to its limitations, scope and duration. The surprises related to any promotion are not allowed.

Unsolicited short messages in connection with promotion are strictly prohibited unless the subscribers have expressly requested for that service.

### **Article 15: Promotional Tariff**

The licensee must clearly communicate all promotional tariffs and their financial implications.

During the promotion of tariff, the Licensee is not allowed to:

- i. hide or disguise the predatory pricing and price adjustments;
- ii. promote discrimination in a negative sense;
- iii. promote unrealistic price comparisons or exaggerated claims as to worth or value.

The promotional tariff must be bound by the article 106 of the law N° 24/2016 of 18/06/2016 governing information and communication technologies or any other succeeding legislation thereto.

### **Article 16: Duration of the promotion**

No licensee shall conduct a promotion for the same product or service for more than four (4) times within a year.

Notwithstanding the paragraph of this provision, the Regulatory Authority may, in the same year, prevent or restrict any such promotion of the same product or service.

The promotion of same product or service cannot exceed a period of one (1) month within the same year.



## **CHAPTER IV: ADVERTISEMENTS OF PRODUCT AND SERVICES**

### **Article 17: Methods of advertising**

The licensee shall advertise their products and services with accuracy and clarity of the products and services being offered.

The methods of advertising are as follows:

- 1) via print media,
- 2) Social medial and online platforms
- 3) radio and television,
- 4) mail,
- 5) licensee's website, and
- 6) Electronic mail where permitted by recipient to send such promotional material.

Promotion containing any obscenities or profanities unsuitable for young persons and children or any racial or prejudicial content relating to national origin, religion, sex, gender or age is strictly prohibited.

### **Article 18: Advertising with complicated price structures and information**

Advertising with complicated price structures and information shall not only appear in transient types of media such as radio and television but must be accompanied with detailed print media explanations, and on the licensee's website.

The transient media must facilitate consumers to see the print mediums for details.

### **Article 19: Comparative advertising**

Advertisements must not, unfairly, discredit, disparage or attack one or more products, services, advertisements, companies or entities, or exaggerate the nature or importance of competitive differences.

No licensee shall imitate the slogans or illustrations of another advertiser in such a manner as to mislead the consumer.

## **CHAPTER V: MONITORING AND ENFORCEMENT**

### **Article 20: Cancellation of promotion**

The Regulatory Authority shall have the right to cancel any promotion prior to the commencement of the promotion based on the following :

- i. Anti competitive behavior;

- ii. Lottery and gambling related promotions;
- iii. An act against public order; or
- iv. Any other act that may be contrary to public moral.

The Regulatory Authority shall communicate to the licensee the reasons for cancellation of the promotion.

**Article 21: Cessation of promotion**

The Regulatory Authority shall have the right to order for cessation of any promotions after the commencement of the promotion for the following reasons:

- i. Network Congestion;
- ii. Poor performance in licensees' services;
- iii. Genuine Consumer complaints;
- iv. Proved misrepresentation of any material fact in relation to the promotion;
- v. Contravention of specific approval;
- vi. Variation from submitted content and /or context.

Upon the decision of cancellation or cessation, the licensee must discontinue such promotions with immediate effect.

The discontinuation must be communicated to the subscribers via SMS, website publication, newspaper publication or any other effective medium of communication.

**Article 22: Faults and administrative fines**

The Regulatory Authority shall place appropriate sanctions on defaulting licensees.

Without prejudice to other sanctions provided for in other relevant laws, a violation of these regulations shall attract the following sanctions;

- i. The concerned licensee shall pay a maximum fine of 5,000,000 Rwf per day in the following cases:
  - a. Proceeding with the promotions without providing the relevant descriptive report to the Authority with effect from the actual date of the promotion;
  - b. Proceeding with the promotions after an order of cancellation or cessation by the Authority, with effect from the effective date of notification of the order;

- c. Having a promotion period more than what is provided for by these regulations from the date of the extension.
- ii. Providing falsified or misleading information to the Regulatory Authority for the purposes of the promotion, falsified or misleading information to the general public, the licensee shall pay a maximum fine of 10,000,000 Rwf
- iii. Failing to comply with any specific order or directive of the Regulatory Authority in relation to the concerned promotion, the licensee shall pay a maximum fine of 5,000,000 Rwf per day of its non compliance.

**Article 23: Right of appeal**

A dissatisfied licensee has right to appeal before the Regulatory Board if the promotion of his service or product is cancelled by the Regulatory Authority.

**Article 24: Procedure for appeal**

The Appeal must be in writing and addressed to the Chairperson of the Regulatory Board within thirty (30) working days from the date of the decision. The concerned- licensee must provide the grounds of such appeal.

The Regulatory Board may decide to call a hearing and the decision of the Regulatory Board shall be communicated to the licensee within thirty (30) days.

The Decision of the Regulatory Board shall be binding unless overruled by a competent Court of law.

**CHAPTER VI: FINAL PROVISIONS**

**Article 25: Repealing provision**

The Regulations N° 002/RURA/2011 of 06th May 2011 on promotions by telecommunications operators and any other provision of regulations contrary to these are hereby repealed.

**Article 26: Commencement**

These regulations shall come into force on the date of approval and signature by the Chairperson of the Regulatory Board.

Kigali, .../..../2016

**Eng. Collette U. RUHAMYA**

**Chairperson of the Regulatory Board**

**ANNEX I: FORM OF DESCRIPTIVE REPORT**

1. Operator/Licensee

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2. Licensee number

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3. Number and date of registration under the  
Companies

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4. Registered address

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5. Contact address, email, fax, telephone  
number

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6. Detailed description of Promotion

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7. Media to be utilized for Promotion (tick as appropriate)

Radio ( )

Print ( )

SMS ( )

Web ( )

Television ( )

CD-ROM ( )

8. Other formats (please detail)

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9. List of attachments submitted

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10. Commencement date

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11. Closing date

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12. Prizes to be won, if any

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13. Conditions of participation

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14. Mode of participation

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15. Mode of Notification

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16. Mode of claiming prizes

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17. Process of selecting winners

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18. Geographical location and targeted consumer (s)

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19. Where appropriate, state who owns the copyright of the entries?

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20. State clearly whether winners will be used in post-event publicity

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21. Details of any other factors likely to influence consumers' decisions or understanding of the promotion

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Dated of submission and Signature of licensee's representative

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Name of representative .....

Designation.....

Declaration Statement

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Seal

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**SEEN TO BE ATTACHED TO THE REGULATION No .../RURA/2016 OF**

**26/07/2016**

**Eng. Collette U. RUHAMYA**

**Chairperson of the Regulatory Board**