

Laws of South Sudan



National Communications Tariffs
Regulations, 2016.

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**Laws of South Sudan
National Communications Tariffs Regulations, 2016**

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Laws of South Sudan
National Communications Tariffs Regulations, 2016

In accordance with the provisions of Section 59 read together with Section 92 of the National Communications Act, 2012, the Authority with the approval of the Competent Minister, issue and promulgate the following into Regulations:

Chapter I
Preliminary Provisions

1. Title and Commencement

These Regulations shall be cited as the National Communications Tariffs Regulations, 2016, and shall come into force on the date of its signature.

2. Repeal and Saving

Any existing regulations or orders, directives, rules and guidelines governing the subject of these Regulations is hereby repealed; provided that any orders issued or regulations made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with provisions of these Regulations shall continue in force and effect until repealed or amended by these Regulations.

3. Purpose and Object

1. The purpose of these Regulations is to provide regulatory framework for determination of tariffs and tariff structures.
2. Without prejudice to generality of sub-regulations (1) of this Regulation, these Regulations seek to:
 - a. ensure licensee maintain financial integrity and attract capital;
 - b. protect interests of investors, consumers and other stakeholders;
 - c. provide market incentives for licensee to operate efficiently;
 - d. promote efficient and fair competition within the framework, for free market economy; and
 - e. ensure compliance with all competition applicable laws.
3. In the exercise of its powers, the Authority shall ensure that, decisions made pursuant to the provisions of these Regulations are consistent with the objectives outlined in sub-regulation (2) of this Regulation.

4. Interpretation

In these regulations, all words and expressions that are defined under the Communications Act, 2012, shall have the same meanings herein; unless the context otherwise requires:

“Act”

means the National Communications Act, 2012.

“Just and Reasonable Tariffs”

means tariffs that enable licensee to maintain its financial integrity, attract capital, operate efficiently and fully compensate investors for risks borne.

“Promotion or Special Offer”

means any information, whose content is controlled directly or indirectly by licensee, expressed in any language and communicated through any medium with intention of influencing choice, opinion or behaviour of consumers.

“Tariff”

means any charge, price, levy and underlying terms and conditions imposed by licensee for services provided.

“Regulated Services”

means any service offered or supplied by licensee:

- a. in market or market segment that is uncompetitive or
- b. where licensee has been declared dominant in the relevant market or market segment.

“Uncompetitive Market”

means market or market segment in which there is no competition in provision of service or in which consumer choice of service provider or service is either absent, limited, impeded, obstructed or constrained.

Chapter II
Tariffs Determination on Regulated Services

5. Tariffs Setting

1. Licensee shall set tariffs that are:
 - a. just and reasonable;
 - b. sufficiently clear and enable any user to determine description of service, details relating to nature of service and charges payable for service; and
 - c. non-discriminatory and guarantee equality of treatment.

2. Licensee shall provide accurate billing information on tariffs to enable customers to verify whether they are billed correctly.

3. Licensee shall not apply tariffs that prevent market entry or distort competition.

4. Any tariff shall not be in breach of this regulation, if it is shown to satisfaction of the Authority that there are legitimate commercial reasons for the tariff, such different costs of providing service and different identifiable market segments that have different ability to pay and different levels of usage and customer preference shall be look into.

5. Subject to provisions of sections 97 and 98 of the Act, any licensee that contravenes this Regulation commits an offence and shall on conviction be punishable with fine not exceeding **South Sudanese Pounds equivalent of US Dollars Three Hundred Thousand (USD 300,000)** or imprisonment for period not exceeding two (2) years or both.

6. Filing of Tariff Rates

1. All licensees shall, on quarterly basis, file schedules of their tariff rates, including those of its agents and correspondents with the Authority.

2. Licensee shall not charge its customers using tariff rates that have not been filed with the Authority under sub-regulation (1) of this Regulation.

3. Licensee shall ensure that all tariff rates filed with the Authority are available to public for review and inspection and shall furnish its customers with filed tariff rates, upon request.

4. Subject to provisions of sections 97 and 98 of the Act, any licensee, who contravenes this Regulation commits an offence and shall on conviction be punishable with fine not exceeding **South Sudanese Pounds equivalent of US Dollars One Hundred Thousand (USD 100,000)** or imprisonment period not exceeding one (1) year or both.

7. Tariff approval For Regulated Services

1. The Authority may, from time to time, publish in Public Media schedule of regulated services.

2. Any licensee shall change regulated services using tariffs that have been filed and approved by the Authority prior to use, whereas licensee shall charge non-regulated services using tariffs that have been filed with the Authority prior to use.

3. Subject to regulation 8 of this regulation, all applications for approval of tariffs for regulated services shall be filed with the Authority and shall:

- a. conform with form, manner and methodology set by the Authority; and

b. be accompanied by relevant documents, including all calculations, notes and any other information in support of the application.

4. The Authority may not approve tariffs proposed by licensee for regulated service and recommends that, the licensee makes adjustments specified to proposed tariffs; the licensee shall adjust the proposed tariff accordingly.

5. Licensee shall not discontinue provision of regulated service without prior written approval of the Authority.

6. When the Authority determines that service no longer meets conditions that describe regulated service, the Authority shall through a Public Media, notify the public that the service is no longer regulated service.

7. Licensee providing regulated services shall comply with guidelines relating to regulated services that the authority may issue from time to time.

8. Subject to provisions of sections 97 and 98 of the Act, any licensee, that contravenes this Regulation commits an offence and shall on conviction be punishable with fine not exceeding **South Sudanese Pounds equivalent of US Dollars Five Hundred Thousand (USD 500,000)** or imprisonment for period not exceeding three (3) years or both.

8. Increase of Tariffs for Regulated Services

1. Any licensee, that desires to increase tariffs for regulated service shall file an application for approval of the increase with the Authority, in prescribed manner, at least thirty (30) days before proposed increase is intended to come into effect.

2. Obligations that relate to provision of regulated service shall, cease when the Authority determines that, such tariff regulation is no longer necessary in view of market developments.

9. Notice on Increase of Tariffs for Regulated Services

1. The Authority shall, within thirty (30) days after receiving an application to increase tariff of regulated service under these Regulations, place notice in Public Media and in such other manner as it considers necessary.

2. The notice under sub-regulation (1) of this regulation shall:

- a. contain name and particulars of the licensee or class of licensees providing the service to which tariffs relates;
- b. state new tariff and reasons for proposed increase of tariff; and
- c. specify the period, which shall not be less than thirty (30) days, within which written objections or representations to proposed new tariff may be made.

3. The Authority shall, in considering application for tariff increase, take into account any written representations or objections received under sub-regulation (2) of this Regulation.

10. Decision on Tariff Increase Application

1. The Authority shall, within thirty days of notification under regulation 9(1) of these Regulations, approve or reject such application.
2. The Authority may reject application for increase of any tariff if, it is of the view that the proposed tariff is unjustified, unfair or unreasonable.
3. Any decision of the Authority rejecting proposed tariff shall:
 - a. be in writing;
 - b. state the reasons for rejection; and
 - c. be made available to licensee.
4. When the Authority approves new tariff, licensee shall notify its customers of the new tariff, through publication in two local daily newspapers with nationwide circulation or through any other method as the Authority may determine and shall in the notice provide for grace period of not less than fourteen days before implementing the new tariff.
5. Subject to provisions of sections 97 and 98 of the Act, any licensee that contravenes this Regulation commits an offence and shall, on conviction be punishable with fine not exceeding **South Sudanese Pounds equivalent of US Dollars One Hundred Thousand (USD 100,000)** or imprisonment for period not exceeding one (1) year or both.

Chapter III Miscellaneous Provisions

11. Investigation of Tariffs

1. The Authority may, on its own motion or pursuant to any complaint made under this Regulation, investigate any tariff set by licensee when the tariff is suspected to be anti-competitive.
2. A complaint made against levied tariff under sub-regulation (1) of this Regulation shall:
 - a. be in writing;
 - b. specify name and address of complainant;
 - c. state interest of complainant; and
 - d. state reasons why the tariff shall be investigated.
3. After investigations under regulation (1) of this Regulation, the Authority is of the view that, the tariff is anticompetitive and shall, be adjusted, it may recommend to licensee to make necessary adjustments on tariffs.

4. Notwithstanding, sub-regulation (1) of this Regulation, if the Authority intends to adjust tariffs after investigation, the Authority shall notify the licensee and give licensee twenty-one days to respond to intended adjustment.

12. Promotions and Special Offers

1. The Authority may, from time to time, issue guidelines on promotions and special offers.
2. Licensee shall apply for approval at least seven days before date of implementation of promotion or special offer, and shall file all details of the promotion or special offer with the Authority for approval, provided that, if no objection is given by the Authority within seven days, the licensee shall proceed with promotion or special offer.
3. Licensee shall ensure that all Promotions and special offers:
 - a. provide information on duration and date of promotion or special offer, where the same is time-bound; provided that no promotion or special offer shall run for more than ninety days and be repeated before three months have elapsed.
 - b. state clearly the threshold to be applied, where duration of the promotion or special offer is not time-bound, but subject to attainment of specific target;
 - c. provide terms and conditions and details of manner of participation;
 - d. provide clear information to its customers on terms and conditions of promotion or special offer, through publication in two local daily newspapers with nationwide circulation and where applicable, in electronic media, sign language or any other method that the Authority may determine;
 - e. indicate and publish, where special offer or promotion requires customer to pay charge, the applicable rate;
 - f. has obtained necessary approval from Betting Control and Licensing Board, where special offer or promotion involves games of chance, and inform its consumers accordingly;
 - g. provide details on minimum number and nature of any prizes, where applicable, state if prizes are to be awarded in installments or to be shared among recipients;
 - h. state whether or not any restrictions based on, among others, age or need to obtain permission to enter from an adult or employer, to participation apply;
 - i. provide name and business address of licensee in case of direct promotions or particulars of third parties in case of indirect promotions;
 - j. promoters do not overstate consumer chances of winning prizes; and
 - k. are not discriminatory or anti-competitive.
4. Prior to launch of promotion or special offer, licensee shall submit statement of compliance with sub-regulation (3) of this regulation, to the Authority.
5. The Authority may, discontinue promotion or special offer that may not comply with this regulation and state reasons for discontinuity.

13. Offences and penalties

Subject to provisions of sections 97 and 98 of the Act, any person who commits an offence under these Regulations shall, on conviction be punishable with fine not exceeding **South Sudanese Pounds equivalent of US Dollars Three Hundred Thousand (USD 300,000)** or imprisonment for period not exceeding two (2) years or both.

14. Transitional provisions

1. Subject to sub-regulation (2) of this Regulation, a licensee that provides regulated service shall, within thirty (30) days of these Regulations coming into force or commencement of offer of regulated service to public, file tariffs applicable to regulated service with the Authority for approval.
2. Licensee that provides regulated services at commencement of these Regulations shall continue to provide regulated services at rate and subject to terms and conditions in effect after that date.
3. Licensee that provides non-regulated services shall, within thirty (30) days of commencement of these Regulations, file schedules of their tariff rates, including terms and conditions of their agents and correspondents with the Authority.

Issued by the National Communications Authority this day 29th.....in the month of December.....in the year 2016.



Hon. Joseph Lual Achuil
Chairperson,
Board of Directors
National Communications Authority
Republic of South Sudan
Juba

In accordance with the provision of Section 7(4) read together with Section 92 of National Communication Act, 2012; I, Michael Makuci Lueth, Minister of Ministry of Information, Communication Technology and Postal services; do hereby grant approval and authorize the National Communications Authority to issue these Regulations.



Hon. Micheal Makuai Lueth
Minister,
Ministry of Information, Communication
Technology and Postal Services
Transitional Government of National Unity
Republic of South Sudan
Juba