

REPORT OF THE CONSUMER ISSUES COMMITTEE



1. INTRODUCTION

The Consumer Issues committee held two meetings, first in Kampala on 9th – 11th November 2011, while the second meeting was held in Dar es Salaam on the 22nd - 23rd March 2012. During the two meetings, representatives from all five countries were present and the Committee was thus able to progress its work during the two meetings.

The members of the Committee that participated in the work of the Consumer Issues during the year were as listed below.

Burundi	–	Alexis Sinarizi
Kenya	–	Liston Kirui
Rwanda	–	Venerande Mukamurera
Tanzania	–	Richard Kayombo
	–	Thadayo Ringo
	–	Isaac Mruma
	–	Dr. Raynold Mfungahema
Uganda	–	Joseph Kizito
	–	Julius Mboizi
	–	Irene Nakagwa

2. CONSULTATIONS WITH OPERATORS ON GUIDELINES ON MOBILE ROAMING AND MARKETING COMMUNICATIONS

2.1 Consultations on Guidelines

The guidelines on Mobile roaming and marketing communications, were adopted in principle during the 18th EACO congress in Kigali in 2011 subject to final comments from operators. The guidelines were circulated to operators for final comment, and the responses were as follows:

- Burundi circulated the guidelines in November 2011 but no response had been received by the time the Committee met in Dar Es Salaam in March 2012.
- Kenya circulated the guidelines in January 2012 and received comments that were subsequently discussed by the Committee and incorporated into the guidelines.

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- Rwanda circulated the two sets of guidelines in June 2011 and received comments on marketing communications from MTN, which were discussed and factored into the guidelines.
- Tanzania reported that the provisions of the marketing communications guidelines had been incorporated into the Consumer Protection regulations of 2011 and as such, the guidelines on marketing communications were not circulated since the input to the regulations were as received through stakeholder engagement.
- Uganda reported that both guidelines were circulated, and comments were received from operators and incorporated into the guidelines.

The committee noted that in the absence of feedback from some operators, it was assumed that they were in agreement with the provisions in the guidelines and that the revised guidelines would therefore be presented to the EACO congress for final approval.

The Committee reviewed the Guidelines taking into consideration the comments received from the stakeholders. These are presented at Annex 1 and Annex 2.

2.2 Other Regional Mobile Roaming Issues

The Committee noted that roaming had been dealt with extensively in the regional roaming guidelines. The Committee **agreed** that in order to address concerns, such as that raised during the 18th congress to the effect that some operators had quietly withdrawn the one-network without informing consumers, an additional requirement that changes to regional roaming arrangements should be communicated to consumers prior to the implementation of such changes be incorporated into the regional roaming guidelines.

The Committee, upon deliberating on the other issues referred to it, **agreed** that the roaming issues were outside the scope of the Consumer Issues Committee and should either be dealt with by the NRAs administratively or by a team comprising of economists.

In this regard and in the interest of better efficiency, the Consumer Issues Committee is proposing the establishment of a separate Task Force to undertake the impact assessment on account of the following:

- (a) issues identified mostly relate to competition
- (b) members of the consumer issues committee would not contribute substantially to the aforementioned issues and yet spend much time on them.

3. GUIDELINES ON ICT ACCESSIBILITY FOR PEOPLE WITH SPECIAL NEEDS

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The committee will standardize the guidelines developed by Tanzania on ICT accessibility for people with special needs to the EACO format. The Committee also intends to consider the implications of the Kampala declaration on persons with disabilities in concluding this particular assignment during the next inter-congress period.

4. CONSUMER EDUCATION INFORMATION

To date, the Consumer Issues Committee has shared various consumer education material for use by NRAs in their education and outreach programmes. The latest, prepared and submitted to the team by Uganda was on environmental, health and safety issues.

It was **agreed** that due to the ongoing analogue to digital migration initiatives in the region, all NRAs share consumer awareness information on analog to digital migration with other EACO members, since the issues to be addressed were similar across the region.

It was further **agreed** that:

- The committee reviews, with a view to adopting, the analogue to digital migration information developed by the Communications Regulators of Southern Africa (CRASA) and circulated by Tanzania to the other members of the committee.
- Burundi considers adopting information on Consumer rights and obligations with from Rwanda to enrich its consumer education content.
- The Consumer Issues Committee sends a liaison statement to the E-waste Task force to ensure that the e-waste task force is aware of the awareness aspects on E-waste that the Consumer Issues Committee is developing to avoid duplication.

5. BENCHMARKING & RELATED CONSUMER PROTECTION ACTIVITIES

Uganda benchmarked with Tanzania on Consumer awareness related to SIM card registration.

The findings and report from these benchmarking exercises are to be shared amongst member NRAs.

6. OTHER ONGOING ASSIGNMENTS

Publication of comparative tariff information:

- i) It was noted that Burundi has had difficulty in obtaining tariffs information from operators and the committee recommended that ARCT benchmarks with sister regulators in EAC for best practices.

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- ii) Uganda publishes Telecommunications voice and postal tariffs on a regular basis
- iii) Tanzania publishes Telecommunications voice tariff on quarterly basis.
- iv) Rwanda publishes Telecommunications voice tariff on quarterly basis.
- v) Kenya had published Tariffs for a wide range of ICT services but had not been able to publish them regularly because of operators' reluctance to provide information on time.

7. Work Plan

The Committee agreed to hold its next meeting in September 2012 in Kenya, and another in February 2013 in Rwanda.

8. RECOMMENDATIONS

The Consumer Issues Committee recommends the following.

- i) Adoption of the guidelines on regional mobile roaming as amended following consultations with the operators
- ii) Adoption of the guidelines on marketing communications as amended following consultations with the operators



EACO GUIDELINES ON ROAMING SERVICES

Eaco consumer ISSUES committee

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1.0 INTRODUCTION

1.1 Background

Regional mobile roaming (RMR) enables consumers to use their mobile phones beyond their countries by connecting to partner provider networks in the region. While RMR services and coverage in the region have improved over time, there is still a need for a framework to guide the provision of this service.

The EACO congress tasked the Consumer Issue committee to develop guideline for Regional Mobile Roaming. The Committee has henceforth developed a set of guidelines to enable member countries in providing consumers with access to the information necessary for making informed decisions in the usage of roaming services in the region.

1.2 Definitions

For purposes of these guidelines;

“Calling Party” means the SIM number that originates a call.

“Consumer Information” means any set of information provided by a service provider or regulator aimed at guiding the customer in their consumption of a service.

“Customer” means the party that seeks to use a mobile network provider’s service.

“Home Mobile Network Operator” The customers subscribed network provider in their home country

“Multimedia service” means the situation where more than one channel of communication is used to relay information.

“Originating Network Operator” means any network that directs information at a customer.

“Partner Network” means any network that may have prior arrangements with customer home mobile network provider.

“Receiving Party” means the SIM number at which a call is terminated.

“Redress” means the process service provider undertakes to address a customer’s desire for guidance.

“Regional Mobile Roaming” means the act of a customer being able to use their SIM number while beyond the network coverage of their service provider.

“Regulator” means the agency mandated by government to oversee communication services in a country.

“Service Provider” means any licensed entity whose network a customer seeks to utilise for charge.

1.3 Objectives of the guidelines

The guidelines aim to provide regulators and network operators in the region with a guiding framework to enable consumers to make informed choices between RMR pricing plans and technology solutions that best suit their purposes.

These guidelines aim to enhance consumer awareness through the encouragement of service providers to avail comprehensive and accessible information on RMR charges and services to consumers.

To facilitate this process, the guidelines:

- outline the information that mobile phone service providers should avail to consumers;
- provide modalities to convey information on roaming charges and services to consumers;
- encourage regulators and service providers to inform consumers of new technologies and/or other industry developments that may have an impact on RMR services.

1.4 Scope of the guidelines

These guidelines focus on the type of information that is considered useful to improve consumer awareness on the usage of roaming services, including

- (i) Tariff plans available.
- (ii) Available technologies and alternatives.
- (iii) Redress mechanisms

2.0 CURRENT SITUATION

2.1 Overview

Regional mobile roaming services and technologies vary between economies. Some providers offer a wider variety of services and better information on RMR

arrangements than others. In order to avoid unexpected high charges, consumers should be aware of these issues before they subscribe to the services.

2.2 Call types

There are a variety of RMR services and associated call charges available to consumers travelling in the region. These include:

- receiving voice calls originating from home country when in a visited country.
- receiving voice calls originating from third country when in a visited country;
- receiving voice calls originating from the visited country;
- making a voice call from a visited country to a home country;
- making a voice call from a visited country to a third country;
- making a voice call from a visited country to the same country;
- sending and receiving short message service (SMS) and multi-media service (MMS);
- premium mobile content;
- Internet Protocol (IP) data such as the use of the Internet, email, Voice over IP (VoIP) and other data services such as social networking using mobile telecommunications data ; and
- Specialised services such as premium mobile content, where additional tariffs often apply.

2.3 Mobile phone technologies

There is a variety of mobile phone technologies used within the EACO region. These include GSM,HSPDA, GPRS,W-CDMAGPRS,CDMA, among others.

Consumers should be aware of the available mobile technologies before they travel to enable them determine which devices are required to roam in their intended destinations. The consumer should also be made aware of whether their domestic service provider has reciprocal roaming arrangements with a provider(s) at their intended destination.

Regulators and mobile service providers are encouraged to make relevant information available to consumers on the mobile phone protocols and frequencies used, as well as mobile network coverage maps.

2.4 Activation of regional mobile roaming

RMR services are often automatically activated when consumers travel in the region. However, some carriers require consumers to enable roaming on their handsets and/or contact their mobile service provider to request for mobile roaming services activation.

Service providers are encouraged to avail comprehensive information regarding RMR action to consumers, including any handset or SIM locking features that may disable roaming.

2.5 Charging arrangements

2.5.1 Receiving party pays

In most EACO countries, there are consumer mobile phone plans available where the call recipient is not charged for receiving domestic mobile calls. However, with regional roaming, the receiving party often pays to receive a call. To avoid unexpected mobile phone bills, regulators and operators in countries with a 'calling party pays' regime are encouraged to make consumers aware of these arrangements.

2.5.2 Fixed or flat fees

Some service providers are moving towards providing 'fixed' or 'flat' fee roaming services, that allow comparison of roaming charges and thereby enabling consumers to choose a predetermined tariff rather than being charged at a different rate each time they roam on to a different mobile service provider's network. Service providers should be encouraged to, where possible, provide consumers with an option for a flat fee RMR service.

2.5.3 Similar charges when roaming with the same network provider abroad

Service providers operate networks in several countries and offer rates similar to those charged in the home country. Service providers shall ensure that where such arrangements exist sufficient publicity is made for consumer awareness. In the event that same network arrangements are withdrawn equally sufficient consumer awareness shall be made by the service providers.

3.0 ACCESS TO CONSUMER INFORMATION

3.1 Overview of access to information

In the context of complex charging arrangements and customers exposure to high RMR rates, service providers are encouraged to provide consumers with clear information associated with using their mobile devices while in the region.

This information should comprehensively cover the charging structures for different mobile service providers in visited country.

Consumers should also be able to easily access information that allows them to determine and configure their devices to their preferred solutions. Service providers are encouraged to avail this information through the “Simple Push” method where the user receives a welcome SMS with information on how to access on roaming prices.

It is recognized however, that other alternatives of providing information to roaming customers may exist and may be preferred by service providers; where an alternative method is used; such method shall have the following features.

- a) Information shall be easily accessible buy customers regardless of the simplicity or complexity of their mobile devices through the partner networks while the customer is away from their home network.
- b) Information shall be accessible free of charge.

3.2 Information to be provided to consumers

Regulators are encouraged to ensure information is available to consumers on every mobile network active in their respective countries. This information should include RMR service packages for each mobile service provider and any information available on their partner networks abroad.

Further, mobile service providers are encouraged to provide consumers with information relating to cost of different roaming types. Service providers should supply information on roaming charges onto partner providers’ networks abroad.

3.3 Recommended Best Practice

3.3.1 SMS/MMS or voicemail on arrival at an international destination

Upon arrival to a visited country, an SMS/MMS or voicemail message should be sent by the originating service provider through its partner that clearly explains the rates charged by their partner providers in the destination economy for the following call types;

- (a) Intra network calls on the partner’s network.
- (b) Inter network calls within the country where the customer has roamed into.
- (c) Call to the home network of the customer

3.3.2 Use of SMS messages and the carrier websites

Mobile phone providers are encouraged to utilise SMS and the Internet to provide their customers with an option to access information on account balances and service charges via a handset at a minimal or no cost to the consumer.

Access to the account balance should allow customers to receive a break-down of service use. Price information should include cost of all services, including voice calls, messaging, data and termination charges of both the home network as well as the roaming network.

3.3.3 Point of sale or activation of service

Service providers should avail information to customers either at the point of sale of a mobile service or upon the activation of the mobile service. The information should direct the customer to further detailed information outlining roaming service conditions, options, charges and requirements to activate the roaming service.

3.4 Emerging technology and regulatory issues

Regulators are encouraged to monitor consumer information on roaming provided by service providers. Regulators are also encouraged to provide consumers with information on any changes to the regulatory environment both domestically and regionally that would have an impact on the charges and conditions associated with roaming services.

3.5 Substitute Technologies

3.5.1 Alternatives available to consumers

Regulators are encouraged to provide information on substitute technologies.

3.5.2 Restrictions on mobile services

Service providers are encouraged to consider availing restriction packages to roaming so that non-emergency voice calls are barred and only SMS, MMS or voicemail services function, with the option of the customer to fully activate the roaming service

3.5.3 Purchase of Local pre-paid SIM cards

Regulators and service providers are encouraged to offer the visiting customer the option to purchase a local SIM card as an alternative to roaming. This is on the premise that local pre-paid SIM cards offer cheaper rates than roaming services.

4.0 EVALUATION

Aside from considering approaches to regulating the roaming market, it is believed that steps can be taken to improve current service arrangements. Service Provider and the National Regulatory Authorities shall as an evaluation mechanism undertake regular surveys and dialogue to review the guidelines.



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1 Introduction

These Guidelines are to be known as the “**EACO Guidelines on Marketing Communications.**” They have been developed as part of the EACO ICT Consumer Protection Guidelines, to provide mechanisms through which member states and their National Regulatory Authorities can effectively ensure transparency and accuracy of Service provider (Marketer) marketing communications that go out to the public.

In these guidelines, Marketing Communications have generally been defined to mean Advertising and Public Relations tools & information that go out to the public.

1.1 Background

Marketing Communications play a significant role in consumer behavior and decision making in the utilisation of communications services. As such a well defined framework addressing marketing communications is part and parcel of any successful consumer protection strategy. This is aimed at enabling consumers to effectively make informed decisions in as far as appreciating marketing communications availed by service providers.

The increased competition in provision of communication services in the region has led to an increase in promotions and advertising. This development has in several instances resulted in consumer dissatisfaction due to a number of factors related to the manner and content they are communicated. This scenario has led to need to develop minimum guidelines aimed at ensuring that the information provided to consumers by providers of communications services are accurate, reliable, and not of a misleading nature.

1.2 Objectives of these guidelines

The main objective of these guidelines is to guide the national regulatory authorities and providers of communication services the region on effectively ensuring that marketing communications to consumers are clear and accurate so as to enable consumers make informed choices, seek redress, and be conscious of their rights and obligations. Specifically the guidelines aim to:

- (i) ensure that service providers and other communications marketers in the region conform to minimum basic standards in their advertising and public relations communications to the public, and
- (ii) harmonize regulators’ guidelines on dealing with corporate and marketing communications of service providers to the public.
- (iii) ensure ethical conduct and acceptable standards for marketing.
- (iv) protect and promote consumer interests.

1.3 Scope of the Guidelines

These guidelines shall apply to service providers of regulated communication services operating or providing these services within the East African region.

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The guidelines will be applicable to all marketing communications services; excluding public safety/emergency service communications and other information as may be identified, subsequently accepted by the respective NRAs.

It is recommended that member countries adhere to the principles set out in these guidelines with a view to:

- a) Achieving acceptance by Member countries of certain minimum standards;
- b) Reducing differences between relevant domestic rules and practices of Member countries to minimum; and
- c) Ensuring that in protecting consumers they take into consideration the interests of other member countries and the need to avoid undue interference with investigations of other member countries.

The guidelines shall cover issues related transparency, fairness and credibility, and redress. As is the case with international best practice, it is envisaged that in applying these Guidelines, NRAs shall exercise their discretion with respect to the degree of stringency with which the Guidelines are to be implemented, and with respect to the scope of the measures to be taken.

Definitions

For the purposes of these Guidelines, the following definitions shall be applicable:

“Advertisement” means any message, whose content is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intention of influencing their choice, opinion or behavior.

“Consumer” means a person who acquires a communications service or product for the primary purpose of personal or domestic use.

“Fraudulent and deceptive commercial practices” refers to misleading commercial practices that cause actual harm to consumers, or that pose an imminent threat of such harm if not prevented, such as;

1. A practice of making misrepresentations of material fact, including implied or factual misrepresentations that cause significant detriment to the economic interests of misled consumers,
2. A practice of failing to deliver products or provide services to consumers after the consumers have been charged, and
3. A practice of charging or debiting consumers accounts without their authorisation.

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"National Regulatory Authority" means any national public body, as determined by each member country, which is specifically responsible for regulation, monitoring, and development of the Communications Sector.

"Service provider" means any one that offers services to end users, either by using the basic service and infrastructure provided by network operators on a re-sale basis, or by providing services through the service provider's own infrastructure where it forms part of a network operation.

"Promotion" means any message, whose content is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence their choice, opinion or behavior in order to receive a reward or benefit.

Abbreviations

EAC - East African Community

EACO - East African Communications Organization

NRA - National Regulatory Authority

NRA's - National Regulatory Authorities

2 THE GUIDELINES

These Guidelines are minimum standards for adaption into domestic regulation and are capable of being supplemented by additional measures for the protection of consumers.

In order to address the challenges faced by consumers in the region with regard to marketing communications, service providers should adhere to the following guidelines.

2.1 General Provisions concerning Style and Content of Marketing Communications

- 2.1.1 Marketing communications should be legal, decent, honest and truthful;
- 2.1.2 Marketing communications should be prepared with a sense of responsibility to the consumers and should in no way be offensive;
- 2.1.3 Marketing communications should clearly present the odds of winning and prizes on offer and in no way, implicitly or explicitly, misrepresent the probability of winning.
- 2.1.4 Before publishing marketing and advertising communications, service providers shall obtain consent prior to publishing or causing to be published anything which identifies or may be used to identify the winner, except, where prior information is expressly and clearly stated in the terms and conditions related to that specific communication;

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- 2.1.5 Marketing communications should specify how customers can subscribe or unsubscribe from their subscription-based services and should, at a minimum, provide contact information that customers can use to seek redress;
- 2.1.6 Marketing & corporate communications delivered by SMS or e-mail shall be free and shall have an opt out option, unless consented by the subscriber; and
- 2.1.7 Marketing communications shall run within defined timeframes as the defined by regulator in approving them.

2.2 Vulnerable consumers

Marketing communications should not take unfair advantage of vulnerable groups such as children and people with special needs. For this reason marketing communications of any sort should consider the rights of such groups as well as special considerations for their inclusion or exclusion.

2.3 Promotion Information

- 2.3.1 All advertising material in the media or otherwise shall clearly identify the responsible service provider (marketer) by name or trade mark;
- 2.3.2 All advertising materials must specify where additional details about the particular product or promotion, including terms and conditions, can be accessed with ease by customers. Such details shall include contact details for the providers;
- 2.3.3 All information must be correct, clear, complete, accurate and up to date. It must be capable of independent verification;
- 2.3.4 The cost of participating in particular promotions shall be clear in all advertising material and related marketing communications.

2.4 Advertising with Third Parties;

Where sponsorships or merchandising arrangements, co-promotions, and any other advertising with any third parties are conducted, a service provider shall take particular care to ensure that:

- 2.4.1 The provisions of these guidelines are adhered to when dealing with third parties; and
- 2.4.2 These guidelines are applied in accordance with the relevant legislation and industry regulation standards that apply to advertising in respective jurisdictions.

2.5 Privacy

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- 2.5.1 The names, addresses, and any other details that may lead to the identification of winners (whether as individuals or as part of a group) and their families must be kept confidential and must not be made available by a Licensee or its contractors, suppliers or retailers to any third party without the consent of the relevant winner, unless such permission has been obtained as part of the promotion's terms and conditions;
- 2.5.2 Terms and conditions shall be easily accessible, readable, available and shall also cover promotions where consumers are automatically entered by virtue of being subscribers to an operator or a service;
- 2.5.3 Terms and conditions associated with a marketing communication shall clearly state public relations activities that may involve the use of the winner's personal details.
- 2.5.4 In the event that a winner subsequently decides against featuring in post promotion Public Relations activities, their wish shall be honoured as far as is reasonably possible, notwithstanding that approval has been obtained.

2.6 Consumer Education and Awareness

It is recognized lack of consumer awareness is a possible channel for exploitation. To avoid such a possibility;

- 2.6.1 Regulators shall co-operate with service providers, and consumer groups in enhancing consumer education in regard to marketing communications;
- 2.6.2 Service providers, in designing marketing communications, shall give special consideration to the needs of physically challenged consumers;
- 2.6.3 Service providers shall provide clear and accurate information to consumers on the costs involved, redress procedure and duration of the promotion.

3 ENFORCEMENT AND EVALUATION

In order to have the mandate to enforce these guidelines, member countries are encouraged to incorporate the provisions in their national legislations to form part of the regulators routine activity with specific terms of reference for proper evaluation of the successful remedial actions to consumer concerns related to marketing communications.