



***Communications for all in East Africa***

## **POSTAL AND COURIER POLICY AND REGULATORY FRAMEWORK**

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## **1 PREAMBLE**

In line with the Treaty for Establishment of the East African Community, which aims at strengthening cooperation between Member States and harmonising development in the ICT sector, this document is a Model Postal and Courier Sector Policy in East Africa.

## **2 SCOPE**

This policy establishes a harmonised approach for the regulation of Postal and Courier Services. It lays down tasks for Member States and National Regulatory Authorities (NRAs) and establishes a set of procedures to ensure a harmonised application of the postal and courier strategy throughout the EAC.

## **3 SEPARATION OF FUNCTIONS**

Member States should guarantee the separation of functions relating to policymakers, regulators and service providers in the postal and courier sector and put in place legal and regulatory framework that clearly define the responsibilities of each of the following players:

- (a) The Government;
- (b) National Regulatory Authorities;
- (c) Service Providers; and
- (d) Consumers.

## **4 ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL REGULATORY AUTHORITIES (NRA)**

### **(a) Establishment of the NRAs**

Member States should provide for a law establishing NRAs with clear and precise mandate and powers.

### **(b) Independence of the NRAs**

Member States should guarantee the regulatory, financial and administrative independence and autonomy of the NRAs. This requirement of independence is without prejudice to the constitutional obligations of the member state. NRAs should be in possession of all the necessary resources including but not limited to staffing, expertise and financial means for the performance of their mandate.

**(c) Board Members and CEOs of NRAs**

Member States should ensure that in the appointment of the NRAs Board Members and CEOs and/or the equivalents, the following principles are applied:

- (i) appointment on the basis of their professional competence and integrity;
- (ii) a consultative process in the selection of the NRAs Board Members and CEOs; and
- (iii) Board members and CEOs and/or the equivalents should not be drawn from organizations from which legal separation from NRA is required such as licensees, members of parliament and Judicial Officers.

**(d) Staff of NRAs**

Staff of NRAs, should be recruited in a competitive manner and based on their competence.

The law establishing NRAs should also include governance issues such as vacation from office by the Board members and CEOs and/or the equivalents, meetings of the Board of NRAs, indemnity of members of NRAs and conflict of interest.

## **5 SOURCES OF FUNDING FOR NRAs**

The funds of the NRAs should consist of:

- (a) Money appropriated by Parliament for the purposes of the NRAs;
- (b) License fees and money paid to the NRAs for services rendered;
- (c) Money collected from the levy on the gross annual revenue of Service Providers
- (d) Revenue collected from license in respects of international incoming telecommunications traffic;
- (e) Money borrowed by the NRAs;
- (f) Any grants, donations, bequests or other contributions made to the NRAs
- (g) All administrative fines imposed by the NRAs
- (h) Any other payment or property due to NRAs in respect of any activity related to the regulated services.

## **6 UNIVERSAL SERVICE OBLIGATION (USO)**

1. The NRAs should grant exclusive rights to the public postal licensee to provide but not limited to:
  - (a) Post Offices
  - (b) Posting Boxes
  - (c) Private letter boxes or bags
  - (d) Acceptance, conveyance sorting and delivery of Letters, postcards, aerogrammes, packets and parcels to a certain weight;
  - (e) Postage Stamps
  - (f) Use of franking Machines
  - (g) Philatelic services
2. The Licensee shall fulfil the obligations of the designated operator as required by the international postal bodies such as the UPU, PAPU and EACO.

## **7 DISPUTE RESOLUTION**

Member States should ensure that their postal and courier legal and regulatory framework provides for dispute resolution mechanisms involving:

- (a) Consumers and Service Providers;
- (b) Service Provider and Service Provider; and
- (c) Service Providers and Regulator.

For disputes concerning:

- (a) Consumers and Service Providers;
  - i) Consumers should submit their complaints to the operator in the first instance for resolution.
  - ii) NRAs should be the second instance of hearing of complaints between consumers and Operators.
- (b) Service Provider and Service Provider.
  - i) Provider and Service Provider should be advised to resolve their disputes interparty before forwarding the same to the NRAs for resolution.

Should the NRA fail to resolve the dispute between the consumer and Service Provider or the Service Provider and Service Provider, the complainant should refer the matter to available member state legal provisions for resolution of disputes.

If the national courts of law fail to address the complaint between the consumer and Service Provider or complaint between the Service Provider and Service Provider,

the aggrieved party can refer the matter to the East African Court of Justice as established by the EAC treaty.

In disputes concerning Service Provider and a Regulator, disputes should be submitted to the available member state legal provisions for resolution and disputes.

## **8 FAIR COMPETITION AND EQUALITY**

Member States should enact legislation on competition issues in the postal and courier sector whose provisions may should include:

- (a) Designation of the National Postal Operator;
- (b) Prohibition of unfair competitive practices;
- (c) The criteria of determining if a product or service is effectively competitive in a given geographical area;
- (d) Significant market power and applicable remedies
- (e) Equality of treatment.

## **9 POSTAL AND COURIER OPERATIONS**

Member States should put in place a legal and regulatory framework on:

- (a) Modernised digital postal and courier services;
- (b) Provisions for digital advancement on postal and courier services;
- (c) Encouraging cross-border postal and courier services.
- (d) Encourage Postal and courier Interconnection
- (e) Encourage Peering and exchange points;
- (f) Consumer Protection, Quality of service & Affordability of services;
- (g) National Addressing System (NAS)
- (h) Development of electronic postal and courier systems for easy monitoring and tracking of postal and courier items and services across the region; and
- (i) Emerging postal and courier services and applications.

## **10 EMERGING TECHNOLOGIES AND SERVICES**

NRAs should take proactive measures to create a conducive regulatory environment that accommodates emerging digital postal and courier services.

## **11 DISASTER MANAGEMENT**

Member States should:

- (a) Ensure availability of electronic postal and courier facilities for disaster management;

- (b) Put in place measures to access emergency postal and courier services during disasters; and
- (c) Take appropriate measures for recovering postal and courier networks and services in case of natural disasters.

## **12 SANCTIONS**

Member states should ensure that the national postal and courier legal and regulatory framework provide the NRAs with a wide range of sanctions for breach of the law and licence terms and conditions including but not limited to;

- (a) Fines;
- (b) Suspension;
- (c) Revocation of licence
- (d) Compensation; and
- (e) Dispute resolution

## **13 CONSULTATION WITH STAKEHOLDERS**

Member States should consult stakeholders with regard to changes in the legal and regulatory framework in the postal and courier sector.

## **13. REQUIREMENT ON INFORMATION**

NRAs should have the right to request licensees and service Providers in their jurisdictions to submit periodic reports, statistics, financial data, estimated returns, or any additional information with a view to effectively monitor and enforce the legal and regulatory framework.