

Rwanda

## Regulation on Promotion by Telecommunication Operators Regulation 1-R-CAMCA of 2021

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## Rwanda

# Regulation on Promotion by Telecommunication Operators

## Regulation 1-R-CAMCA of 2021

Published in Official Gazette 10 on 22 March 2021

**Assented to on 26 July 2016**

**Commenced on 26 July 2016**

*[This is the version of this document from 22 March 2021.]*

### **The Regulatory Board of 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, organisation and functioning, especially in Article 4;

Pursuant to Law n° 24/2016 of 18/06/2016 governing Information and Communication Technologies;

Pursuant to Presidential Order n° 04/01 of 15/03/2004 determining specific duties of the Regulatory Board in Telecommunications matters, especially in Article 3;

Having reviewed Regulation n° 002/RURA/2011 of 06<sup>th</sup> 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 Information and Communication Technologies (ICT) industry for a better service delivery;

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

**ISSUES THE FOLLOWING REGULATION:**

## **Chapter One**

### **General provisions**

#### **Article One – Purpose of this regulation**

This regulation establishes a regulatory framework for telecommunication operators to promote services or products in a fair and competitive manner in Rwanda.

#### **Article 2 – Definitions**

In this regulation, the following terms 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 behaviour;
- 2° **gaming:** any game of chance 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:** a legal document issued by the Regulatory Authority granting rights and imposing obligations to the operator of regulated activities;
- 4° **licensee:** any natural or legal person holding a valid license issued by the Regulatory Authority;

- 5° **permit**: the permission granted by the Regulatory Authority in writing to a telecommunication operator or licensee to conduct a promotion campaign of the services or goods delivered under its license;
- 6° **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 behaviour in order to get a shared reward or benefit;
- 7° **Regulatory Authority**: Rwanda Utilities Regulatory Authority;
- 8° **telecommunication operator**: all operators in telecommunication industry holding a valid license to operate in Republic of Rwanda;
- 9° **year**: twelve (12) calendar months.

### Article 3 – Scope of this regulation

This regulation applies to all telecommunications operators that are engaged in or are about to be engaged in any promotional exercise.

Gaming is not subject to this regulation.

### Article 4 – Objectives of this regulation

The objectives of this regulation are the following:

- 1° to ensure ethical conduct and acceptable standards for promotions;
- 2° to set clear and minimum requirements and standards for matters related to promotions by the licensed operators governed by this regulation;
- 3° to protect and promote consumer interests or rights;
- 4° to prevent any possible anti-competitive behaviour 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 must have the intention 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 must fulfil the following:

- 1° to ensure that there is no access fees required to opt-in;
- 2° to ensure that the consumer is sure to benefit for opting in;
- 3° to seek for the Regulatory Authority approval before launching the service or products;
- 4° to ensure that promotions are trustworthy programs to reward customers;
- 5° to ensure that promotions are transparent, fair and truthful.

## Article 7 – Requirements for launching promotions

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

- 1° to ensure that its network is capable of sustaining the traffic that may be generated from such promotion;
- 2° to specify the time, duration, date and range of such promotion and the date of redemption of such promotional benefits;
- 3° to represent the licensees' opportunity to provide the products and services at the terms presented. If the supply of the products and services are limited, or the licensee can fulfil only limited demand, this must be clearly captured in the report and stated in the communication medium for the promotion;
- 4° to specify the target subscribers for the promotion by clearly indicating if it targets new subscribers or existing subscribers;
- 5° to indicate if the products or services subjects to promotion are available to only a particular geographical region or a group of customers;
- 6° to ensure a geographical balance while offering its promotional sales to its consumers without an undue concentration on consumers in a particular geographical location;
- 7° to communicate clearly and effectively to the subscribers all relevant terms and conditions of the promotions;
- 8° to ensure that the specific items or services portrayed or promised are not varied in the event of certain categories or specific products;
- 9° to 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:

- 1° a statement of intention for the promotion;
- 2° the general impact of the promotion on the concerned licensee's service provision;
- 3° the impact on the Quality of Service parameters set by the Regulatory Authority;
- 4° the impact on grade of service set by the Regulatory Authority;
- 5° a proof of compliance with the Regulatory Authority's type-approved standards;
- 6° to state if the promotion includes or relates to comparative advertising;
- 7° the impact of the promotion on the basic consumer rights and obligations including, safety, privacy, information, choice all in the interest of transparency in service delivery;
- 8° to indicate the customer options;
- 9° to outline if the licensee requires 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 must be submitted to the Director General of the Regulatory Authority prior to the publication of any promotion of products and services.

The descriptive report must be presented as per annex of this regulation.

The form to be used is available to the Regulatory Authority's website at <https://www.rura.rw>.

### **Article 10 – Response of the Regulatory Authority on the descriptive report**

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

In case there is a concern in relation to promotion to be addressed, the Regulatory Authority requests by writing the licensee to remedy that situation.

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:

- 1° evaluation of the descriptive report and related documents;
- 2° evaluation of the interest of consumers, public health, safety, and environmental issues;
- 3° evaluation of the social and economic impacts of the proposed promotion;
- 4° evaluation of mitigation measures to alleviate any problems identified;
- 5° relationship of the proposed promotion *vis-a-vis* the existing national policies and strategies, laws and regulation in Information and Communication Technologies sector.

### **Article 12 – Procedure to apply for promotion**

Any licensee intending to conduct promotion of products or services must submit an electronic request to the Regulatory Authority.

### **Article 13 – Response to the application for promotion**

Regulatory Authority must reply in a period not exceeding three (3) working days from the date of reception of the application.

### **Article 14 – Content of decision of promotion**

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

- 1° the name of the concerned licensee;
- 2° the description of the promotion;
- 3° the duration of the promotion;
- 4° serial number signed and sealed by the Regulatory Authority.



## **Chapter III Promotion of services and products**

### **Article 15 – Services**

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

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

### **Article 16 – 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:

- 1° to hide or disguise the predatory pricing and price adjustments;
- 2° to promote discrimination;
- 3° to promote unrealistic price comparisons or exaggerated claims as to worth or value.

The promotional tariff must comply with relevant laws.

### **Article 17 – Duration of the promotion**

A licensee conducts a promotion for the same product or service for only four (4) times a year.

Notwithstanding the provisions of Paragraph One of this Article, 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 products and services**

### **Article 18 – Methods of advertising**

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

The methods of advertising are as follows:

- 1° print media;
- 2° radio and television;
- 3° mail;
- 4° licensee's website;
- 5° electronic mail where permitted by recipient to send such promotional material.

The 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 prohibited.

### **Article 19 – 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 20 – 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 of compliance**

### **Article 21 – Cancellation of promotion**

The Regulatory Authority has the right to cancel any promotion prior to its commencement basing on the following:

- 1° anti-competitive behaviour;
- 2° lottery and gaming related promotions;
- 3° an act against public order.

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

### **Article 22 – Cessation of promotion**

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

- 1° network congestion;
- 2° poor performance in licensees' services;
- 3° genuine consumer complaints;
- 4° proved misrepresentation of any material fact in relation to the promotion;
- 5° non-compliance with specific approval;
- 6° variation from submitted content or context of the report.

### **Article 23 – Effects of cancellation or cessation of promotion**

Upon 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 of wide circulation.

## **Chapter VI Faults and their sanctions**

### **Article 24 – Defaulting in promotions**

The concerned licensee who commits one of the following acts;

- 1° proceeding with the promotions without providing the relevant descriptive report to the Regulatory Authority with effect from the actual date of the promotion;
- 2° proceeding with the promotion after an order of cancellation or cessation by the Regulatory Authority, with effect from the effective date of notification of the order;
- 3° having a promotion period more than what is provided for by this regulation from the date of the extension;

commits a fault and is liable to a maximum fine of five million Rwandan francs (FRW 5,000,000) per day.

### **Article 25 – Non-compliance with an order or a directive relating to promotion**

The licensee who fails to comply with any specific order or directive of the Regulatory Authority in relation to the concerned promotion, commits a fault and is liable to a maximum fine of five million Rwandan francs (FRW 5,000,000) per day of its non-compliance.

### **Article 26 – Provide false or misleading information**

The licensee who provides the falsified or misleading information to the Regulatory Authority for the purposes of the promotion, falsified or misleading information to the general public, commits a fault and is liable a maximum fine of ten million Rwandan francs (FRW 10,000,000).

## **Chapter VII Powers to impose sanctions and appeal**

### **Article 27 – Powers to impose sanctions**

Notwithstanding other sanctions provided for in other relevant laws, the Regulatory Authority imposes the provided sanctions the defaulting licensees.

### **Article 28 – Right of appeal**

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

### **Article 29 – Procedure for appeal**

The appeal is done in writing and addressed to the Chairperson of the Regulatory Board within a period of thirty (30) working days counted 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 is communicated to the licensee within seven (7) working days from the date of the appeal.

The decision of the Regulatory Board is binding unless overruled by a competent court.

## **Chapter VIII**

### **Final provisions**

#### **Article 30 – Repealing provision**

Regulation n° 002/RURA/2011 of 06<sup>th</sup> May 2011 on promotions by telecommunications operators and all prior provisions contrary to this regulation are repealed.

#### **Article 31 – Commencement**

This regulation comes into force on the date of its approval and signature by the Chairperson of the Regulatory Board.

#### **Annex**

#### **Form**

*[Editorial note: The forms have not been reproduced.]*