

Postal and Telecommunications (Telecommunications Traffic
Monitoring System) Regulations, 2021

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SCHEDULE: Minimum termination rates applicable to all countries.

IT is hereby notified that the Minister of Information Communication Technology, Postal and Courier Services has, in

Postal and Telecommunications (Telecommunications Traffic Monitoring System) Regulations, 2021

terms of section 99(2) of the Postal and Telecommunication Act [Chapter 12:05], after consultation with the Authority, made the following regulations:—

Title

1. These regulations may be cited as Postal and Telecommunications (Telecommunications Traffic Monitoring System) Regulations, 2021.

Interpretation

2. In these regulations—

“BTS” means Base Transceiver Station;

“call detail records” or “CDR” means information generated by telephone exchanges or any other telecommunication equipment which contain detailed information about calls originating from, terminating at, or passing through the exchange or equipment, and calls duration;

“CLI” means Caller Line Identification;

“data” means a representation of facts, concepts and instructions, presented in a formalized manner suitable for communication, interpretation or processing by human beings, or by automatic means;

“gateway” means switching system through which telecommunications traffic is interchanged (interconnection) between local telecommunication operators and international carriers, with provisions for allowing physical monitoring of traffic flow;

“grey traffic” means international traffic that is illegally exchanged between the licensed telecommunication operators in Zimbabwe and foreign operators operating from outside Zimbabwe, bypassing the legal routes and exchanges;

“IBCS” means Interconnect Border Control System;

“IMSI” means International Mobile Subscriber Identification;

- “international incoming telecommunication traffic” means telecommunication traffic originating from outside Zimbabwe and terminating in Zimbabwe, either to a Public Switched Telecommunications Network (PSTN), Public Land Mobile Network Operators, Internet Access Provider, Unified Telecommunication Service Operator, Network Facilities operator, Network service operator, International Gateway Services Operator and Application Service provider;
- “international outgoing telecommunication traffic” means telecommunication traffic originating from Zimbabwe and terminating in any country outside Zimbabwe, from a telecommunication licence holder;
- “monitoring” means observation and supervision of telecommunications traffic, in particular, signalling data, excluding the capability to record, monitor or tap into the content of any personal communication;
- “national interconnection traffic” means telecommunication traffic exchanged between local operators in Zimbabwe (off-net) and telecommunication traffic within the network of telecommunication licensees (on-net);
- “NOC” means Network Operations Centre;
- “revenue assurance” means systems and processes in place to ensure that revenues for licensed service providers are declared with accuracy, completeness, and integrity;
- “SIM” means Subscriber Identification Module;
- “telecommunication” means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems;
- “telecommunication traffic” means the amount of data, volume of voice or the number of messages carried over a communication channel in a given period; and
- “TTMS” means Telecommunication Traffic Monitoring System.

Objective

3. In order to ensure accurate revenue collection, the objective of these regulations is to provide for the conditions, requirements and procedures for monitoring of telecommunications traffic in Zimbabwe. Through the installation of a civil tool that will monitor and measure all forms of telecommunication interconnect traffic handled by telecommunications licensees, it is expected that this will—

- (a) ensure generation of reliable statistics for all incoming international calls and national traffic on limited call detail records;
- (b) detect, track and block bypass fraud through an anti-fraud system and ensure the reduction of network traffic fraud;
- (c) provide International Mobile Subscriber Identity (IMSI) details and SIM card profile for fraudulent SIM cards;
- (d) verify the international returns of telecommunication licensees for international telecommunications traffic.

Function of telecommunication traffic monitoring system

4.(1) The specific signalling information extracted by the TTMS by tapping into signalling links, shall the calling party number the called party number and the call duration.

(2) As such, without affecting quality of service of licensee, telecommunication traffic monitoring system shall—

- (a) collect call detail records without any interception of contents of communications such as voice or SMS detail records;
- (b) generate reliable statistics for both, local on-net and off-net within regional and international telecommunication traffic;
- (c) provide terminal identification details;
- (d) provide fraudulent SIM card profile;
- (e) track and detect fraud through an anti-fraud system and services within international gateway traffic and cause the bypass fraud to be blocked.

(3) The passive probes used are to be connected to the signalling links or channels and not interfere with the operator's traffic channels and generate their own call detail records based on protocol analysis from the signalling link.

(4) The TTMS must not have the capability to actively or passively record, monitor or tap into the content of any incoming or outgoing electronic communication traffic, including voice, video and data existing discretely or on a converged platform whether local or international and no further regulatory measure under these regulations shall give or ensure such capability.

(5) Further, to ensure compliance with subsection (1), all network operators shall carry signalling data necessary for the management of the communications (origin, destination, service information, time and path of the call) over a dedicated link, in such a way that the dedicated link does not carry data for telecommunications traffic of network operators in Zimbabwe other than data the content of the communications which is strictly required by these regulations for the collection of statistics by the Authority.

(6) A telecommunications traffic monitoring system or monitoring hardware and software will only be installed over such dedicated links with signalling information where it shall be physically impossible for the Authority to record, monitor or tap into the content of any personal communication.

(7) For the avoidance of doubt, it is declared that the Authority is not, for any reason permitted by these regulations to tap into any communication of subscribers.

(8) Any licensee who finds any indication of access to information that this system is not permitted to access, by an official of the Authority is required to notify the Authority, the TTMS Committee and the subscriber concerned concurrently.

(9) Any such subscriber can then make use of existing law to find recourse.

(10) The Authority or any person employed by the Authority or any employee of any entity acting on its behalf that it might employ in the installation and maintenance of the TTMS shall not disclose any information received or obtained during the exercise of its powers or performing its duties under these regulations.

(11) Any person who contravenes subsection (6) and (8) shall be guilty of an offence and liable to a fine of not exceeding level 10 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Powers of the Authority

5. (1) In relation to these regulations, the Authority shall—

- (a) monitor all telecommunications traffic statistics;
- (b) procure, install, operate and maintain a telecommunication traffic monitoring and revenue assurance system for the measurement of all forms of international incoming, international outgoing and interconnection traffic at all international gateways and national interconnect gateways of all the licensees;
- (c) monitor international traffic and national interconnection traffic statistics, in order to ensure revenue assurance;
- (d) analyse telecommunications traffic statistics for fraud detection and fraudulent traffic routes and SIM cards.

(2) The data collected by the Authority shall only be used for the purposes of statistic and revenue collection only.

Procedure for installation of TTMS by the Authority

6. (1) All equipment to be connected to or for the TTMS shall be of reputable standards with satisfactory quality and fit for their purpose.

(2) Licensees shall permit the Authority or any person acting on behalf of the Authority to conduct site surveys on their networks in order to facilitate design, dimensioning and installation of the TTMS:

Provided that, all site surveys for the TTMS shall be conducted in the presence of a licensee or his or her authorised representative.

(3) A licensee shall grant the Authority or any person acting on its behalf, access to their gateways for monitoring of all forms of international incoming, international outgoing, national interconnection traffic in Zimbabwe.

(4) All licensees shall allow the Authority to install, operate and maintain telecommunication traffic probing systems, for the purpose of extracting information to facilitate measuring and monitoring and billing of telecommunication traffic, at all international gateways and national interconnect gateways.

(5) The Authority must ensure that the TTMS and any co-location equipment, does not cause any interference to the network operators' equipment, plant, facilities, networks and the equipment of any other operator, in the co-location space, including when installing the IBCS equipment. In the event of any interference, all concerned parties shall take in good faith reasonable measures to resolve the problem promptly.

(6) The Authority or its representative shall be responsible for the operation or maintenance of its co-location equipment or as may be mutually agreed with a network operator.

(7) Either party shall ensure that its employees, agents and approved sub-contractors comply with the procedures for access including any further directions put in place by the Authority for the effective implementation of these regulations.

(8) The IBCS and all other co-location equipment must be marked to clearly indicate their specifications and for which party it represents.

(9) The Authority and licensees shall ensure that their staff observe and comply with all applicable or specified safety rules for the purposes of the signalling link.

(10) Any person who contravenes this section shall be guilty of an offence and liable to a fine of not exceeding level nine or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Compliance with TTMS connectivity

7. (1) No licensee shall—

- (a) refuse, obstruct or delay the installation of a connection linking the TTMS NOC to their network;

- (b) refuse, obstruct or delay installation by the Authority on the licensee's premises, an IBCS and transmission links between the licensee to the Authority's NOC.

(2) The Authority or its authorised agent shall ensure that interfacing with the licensee's existing international gateway, shall be performed without affecting or changing their current traffic routing and carrier configurations, as provided in their existing international gateway licenses that allow them to terminate and send international traffic in partnership with carriers of their choice.

(3) Every licensee shall provide the Authority with any information relating to the entity or carrier managing international incoming traffic and/or the national traffic including but not limited to the identity of the entity or carrier (entity name) and or the base transceiver station used for a specific call.

(4) The Authority or its authorised agent shall ensure that the IBCS and any co-location equipment, for the purposes of TTMS, shall not cause any interference to the licensee's equipment, plant, facilities, networks and the equipment of any other licensee, in the co-location space, including when installing the IBCS equipment. In the event of any interference, all concerned parties shall take, in good faith reasonable measures to resolve the problem promptly.

(5) The Authority and the licensee shall agree on cost sharing ratios relating to co-location, which cost shall be limited to issues relating to the rent for the collocation space, electricity and the transmission bandwidth needed by the Authority.

(6) Any person who contravenes sub-sections (1) and (3) shall be guilty of an offence and liable to a fine not exceeding level 9, or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Requirements for extraction, use and storage of signalling data

8. (1) Every licensee shall grant access to the Authority to the signalling data required to monitor telecommunication traffic in terms of these regulations.

(2) The signalling data under these regulations shall include origin, destination, service information, time and path of the communication and shall be processed and stored exclusively for the purpose of monitoring compliance with these regulations.

(3) Signalling data shall be stored in modified versions and with the appropriate security measures both physical and logical and shall only be stored for a period of three (3) years which is necessary for the purpose of monitoring compliance under these regulations.

(4) The licensee and the Authority, shall not transmit the signalling data to any third party.

(5) Licensees shall notify the Authority by giving 14 days' advance notice of any upgrades or changes of their signalling system, with detailed timelines to ensure the proper functioning of the TTMS system.

Safety and security of TTMS devices

9. (1) A licensee and the Authority, shall share the responsibility for ensuring the safety of TTMS devices installed in, on or under the licensee's network.

(2) Where a device installed in terms of subsection (1) is through negligence of the licensee tampered with, destroyed, or damaged, the licensee shall—

- (a) pay for the cost of replacement of the tampered with, destroyed or damaged device; and
- (b) pay the amount payable to the Authority based on the previous highest returns plus 10% of the returns, during the period the device remains tampered with, destroyed or damaged.

(3) Where the device is destroyed or damaged by natural calamity, the Authority shall take responsibility.

(4) The Authority shall be responsible for ensuring the TTMS devices are installed in, on or under the licensee's network.

Provision of information for monitoring

10. (1) Every licensee shall submit to the Authority call detail records or information related to telecommunication traffic not later than the tenth calendar day, after the end of each calendar month.

(2) Upon request by the Authority for any call detail records or information related to telecommunication traffic, licensees shall submit such information to the Authority within fourteen (14) calendar days from the date the information is requested.

(3) Licensees shall submit the data call detail records or any information requested under these regulations online, by electronic means or in a portable device such as an external memory or compact disc (CD).

(4) For purposes of implementing these regulations, licensees shall provide to the Authority, the following information—

- (a) the call detail records for all national on-net and off-net traffic and international incoming and outbound telecommunications traffic, including transit and international telecommunications traffic in a format prescribed by the Authority;
- (b) billing statements by international carriers or telecommunication licence holders for the telecommunication traffic terminated in Zimbabwe or invoiced to international carriers or telecommunication licence holders;
- (c) the traffic volume in minutes and revenue for telecommunication traffic terminated to each international carrier contracting the termination service with the telecommunication licence holder; and
- (d) any other necessary information that is related to the management of the telecommunication licence holder's networks for the provision of data, SMS, voice services, including the telecommunication licence holders' network signalling data links, recorded telecommunication traffic, contracts and invoices to and from carriers.

(5) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding level 9, or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Applicable international termination rates and billing

11. (1) Every licensee shall charge international carriers not less than the prescribed minimum rate per minute for termination of telecommunication traffic in Zimbabwe for all international incoming electronic communication traffic, including transit traffic, as specified in the Schedule.

(2) A licensee shall disclose all international interconnect gateways and routes which they use to the Authority, including registration of all international carrier agreements with the Authority within sixty (60) days of these regulations coming into force.

(3) In line with the requirement referred to in subsection (1), all licensees shall—

- (a) collect revenues generated from the international incoming traffic through international gateways within Zimbabwe, which terminate on national networks and share the revenue in line with the applicable interconnection agreement;
- (b) retain the International Termination Rate as prescribed in the Schedule for incoming traffic and pass on the revenue levied by the Authority for the operations of the TTMS as invoiced by the Authority;
- (c) levy for the TTMS, six United States Cents (USD0.06) per minute for international incoming traffic;
- (d) comply with international incoming transit traffic terminated in Zimbabwe, as per rate specified in the agreements between licensees and submit it to the Authority; and
- (e) not charge a lesser rate than that specified in the Schedule;

(4) For the avoidance of doubt, where a telecommunication licence holder transits an international incoming traffic from outside Zimbabwe through an international gateway within Zimbabwe and

terminates it on other national networks, such traffic shall remain international traffic, up to its final destination, irrespective of its origin.

(5) Licensees shall honour levy invoices in their entirety and payment shall be made not later than thirty (30) days from the date of issuance of the invoice and any query relating to an invoice, shall be raised and communicated to the Authority within five (5) working days from the date of receipt of the invoice and any such query shall be addressed by the Authority within seven days thereafter.

(6) Any person who contravenes this section shall be guilty of an offence and liable to a fine of not exceeding level 9, or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Fraudulent telecommunication traffic

12. (1) Any person or entity shall be considered to be engaged in the movement of fraudulent traffic when he/she uses telecommunication facilities or services—

- (a) with the intention of avoiding payment; or
- (b) without payment, or with payment of termination rates indicated in the Schedule; or
- (c) by making someone else unknowingly pay, or by using a wrongful or criminal deception in order to obtain a financial or personal gain from the use of those facilities or services.

(2) Notwithstanding the provisions of subsection (1) above, international incoming telecommunication traffic is considered as fraudulent when—

- (a) it is managed by a person without the relevant licence or authorisation required by the Authority;
- (b) it is managed by a telecommunication licence holder, but not declared to the Authority;
- (c) it is managed by a telecommunication licence holder, but charged at a rate below the minimum rate, as provided for in the Schedule to these regulations;

- (d) it is grey traffic by third parties or carriers whose traffic is terminated to networks in Zimbabwe, in circumstances where a network telecommunication licence holder is unable to bill or collect payment;
- (e) there is a reasonable suspicion that an end user is not likely to pay the telecommunication bill because the calls are disputed as not originating from the telecommunication line for which the respective end user is responsible.

(3) The Authority shall carry out the necessary regulatory surveillance for the detection and handling of fraudulent telecommunication traffic.

(4) Subject to subsection (3), the Authority may, where there is fraudulent trafficking, direct or order the telecommunication licence holder to do any of the following—

- (a) disclose any SIM used fraudulently;
- (b) deactivate any SIM used fraudulently within an hour after detection;
- (c) provide for a balanced reporting on a fraud user SIM;
- (d) share any other fraud related information and information related to the SIM (call detail records, recharge logs, customer profile of the fraud numbers detected, etc.);
- (e) report any fraud or related criminal activity to the Authority and any other law enforcement institutions, for further action.

(5) The delivery and termination of incoming telecommunication traffic by telecommunication licence holders, shall be limited to the routing of calls to either customers on their own network, or the customers of other licensees with whom the relevant licence service provider has an interconnection agreement for the provision of transit services, for the incoming telecommunication traffic.

(6) In the event of fraudulent traffic being detected in terms of these regulations, telecommunication licence holders shall be directed to block traffic without CLI or with modified CLI.

(7) Any person who contravenes subsections (1), (2), (3), (4), (5) and (6) shall be guilty of an offence and liable to a fine not

exceeding level 9, or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Monitoring and inspection

13. (1) For purposes of monitoring telecommunications traffic, the licensee shall—

- (a) allow the Authority or any entity acting on its behalf, to install and maintain necessary equipment in, on, upon or under telecommunication licence holder's network;
- (b) provide all the required support and space for the installation of the monitoring system on their premises; and
- (c) facilitate the installation of data transmission equipment between the Authority's monitoring system installed at their switch centres and the Authority's main operating centre.

(2) Any person who contravenes subsections (1) and (2) shall be guilty of an offence and liable to a fine of not exceeding level 9 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Site access, operation and maintenance of co-location equipment

14. (1) The Authority or its representative, shall be responsible for the installation, operation and maintenance of the TTMS equipment installed at all co-location sites.

(2) The licensee shall grant the Authority or its representative, full access to the sites where TTMS equipment is co-located with the licensee's equipment.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level 9, or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) The procedure for accessing sites for the TTMS for the purposes of inspection, installation, operation, maintenance, replacement or repair by the Authority staff or its representatives, shall be prepared by the Authority in agreement with all licensees.

(5) In the event of any direct damage to the co-location plant, network equipment or facilities arising out of or during the course of installation, operation, maintenance, replacement or repair of the co-located facility or network in the premises of a licensee, the damage shall be reported to the Authority, and the Authority will rectify within twenty-one 21 days.

Establishment of committee

15. (1) The Minister shall create a committee to be known as the TTMS Committee for the purpose of implementing these regulations.

(2) Members of the TTMS Committee shall be—

- (a) a Principal Director (or his or her representative) from the Ministry who shall be the chairperson;
- (b) a representative from the ministry responsible for finance;
- (c) a representative from the ministry responsible for protection of personal information;
- (d) a representative from the Attorney-General's Office;
- (e) a representative from the Zimbabwe Human Rights Commission;
- (f) the Chief Executive Officers for licensees or their representatives, connected to the traffic monitoring system; and
- (g) two representatives from the Authority one of whom shall be the secretary of the committee.

(3) The committee shall be responsible for—

- (a) being the privacy of communications protector;
- (b) receiving all complaints made against the Authority with regard to the TTMS and give remedy;
- (c) providing advice to the Ministry and the Authority on the efficient operation of telecommunication traffic monitoring system; and
- (d) giving report to the Minister on how the TTMS is operating and any information relevant to the information which is being received and accessed by the Authority;

(e) carrying out performance evaluation of the Telecommunications Traffic Monitoring System;

(4) Where there is a violation or a complaint, or a report has been received in terms of section (5) the TTMS Committee shall have the power to make an inquiry into the matter and give an order to the Authority to remove the cause of the complaint or report as the case may be in order to remedy it.

(5) Where the TTMS fails to remedy any complaint to the satisfaction of an aggrieved person, such aggrieved person shall be entitled to pursue other remedies in terms of the law.

(6) Members of the committee are expected to meet at least once every calendar month. All meetings and expenses of the committee shall be borne by the Authority.

Reports and record keeping

16. (1) The Authority shall prepare monthly monitoring reports, on telecommunication traffic for international, national termination traffic, quality of service for international and national interconnection routes and report on fraud detection.

(2) The Authority shall collect information from every licensee in order to ascertain, *inter alia*, quality of service and volume of traffic carried over the telecommunication networks.

Disclosure of information

17. (1) The Authority or any person employed by the Authority or licensee, shall not disclose any information received during the exercise of its powers or performance of duties under these regulations.

(2) Any person who contravenes this section shall be guilty of an offence and liable to a fine of not exceeding level 10 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Enforcement

18. (1) Every licensee shall comply with the directives or orders of the Authority issued under these regulations, or matters affecting any of its provisions or the implementation thereof.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine of not exceeding level 9, or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Transitional provisions

19. Upon these regulations coming into force telecommunication licence holders shall within sixty (60) days—

- (a) amend existing carrier agreements and file these with the Authority; and
- (b) Identify and comply with all the interconnection requirements for implementing these regulations.

Repeals

20. The Postal and Telecommunications (International Termination Rates) (Amendment) Regulations, 2008, published in Statutory Instrument 163 of 2008, are hereby repealed.

SCHEDULE (*Section 11(1)*)

MINIMUM TERMINATION RATES APPLICABLE TO ALL COUNTRIES

Termination category	Minimum termination rate in Special Drawing Rights (SDR)	Minimum termination rate in US\$
Fixed	0.048	0.07
Voice	0.1383	0.20

