

REGULATIONS GOVERNING LICENSING FOR DIGITAL TERRESTRIAL
TELEVISION

ISSUED BY

REGULATORY BOARD

RWANDA UTILITIES REGULATORY AGENCY - (RURA)

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**REGULATIONS N° 004/RURA/2011 OF 07/09/2011 GOVERNING
LICENSING FOR DIGITAL TERRESTRIAL TELEVISION**

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Preamble

Pursuant to Law n° 39/2001 of 13 September 2001 establishing the Rwanda Utilities Regulatory Agency, especially in its articles 2 and 5;

Pursuant to Law n° 44/2001 of 30 November 2001 governing telecommunications, especially in its articles 1: 24°, 5, 9, 11, 28, 29, 32,33,42 and 56;

Pursuant to Presidential Order n° 04/01 of 15/03/2004 determining specific duties of the Regulatory Board in telecommunication matters, especially in its articles 3 and 4;

Pursuant to Presidential Order n° 05/01 of 15 March 2004 determining the functioning of the Universal Access Fund and Public Operator's contributions, especially in its articles 24, 29, 30 and 31;

Pursuant to Ministerial Order n° 09/2004 of 07 June 2004 on conditions to be incorporated into telecommunications and radio-communications licenses, especially in its articles 3 to 12;

Pursuant to Ministerial Order n° 4 /DC/04 of 07/06/2004 on annual fees payable by Public Utilities

Pursuant to Ministerial Order n° 03/RURA/2005 of 14/07/2004 on Radio communication fee;

Considering the Broadcasting Policy of March 2011;

Considering the Media Policy of June 2011;

The Regulatory Board hereby issues the following regulations governing licensing for terrestrial digital broadcast:

Article 1: Interpretation

All terms used in the following text shall have the following meanings:

- a) **“Broadcasting”** means the emission or transmission of sound or images for direct reception by the general public by means of receivers adapted for that purpose, whether the delivery is effected by means of

or uses of the radio frequency spectrum, cable, optical fiber, satellite or any combination of these.

- b) **“Distribution”** means equipments where the multiplexed transport streams are distributed (and monitored) to the transmitter sites in the digital television network either through fixed wireless links, fiber or satellite link
- c) **“Head-end”** means equipments where the various program feeds are collected (from television studios or from satellite feeds), assembled, encoded and multiplexed onto one or more transport streams.
- d) **“License”** means the official document issued by the Regulator granting rights and obligations of operating a signal distribution.
- e) **“Multiplexer”** means the equipment that simultaneously transmits two or more messages on a single transmission path.
- f) **“Multiplex Services”** means making available network facilities, and includes the operation of content multiplexing, bundling and distribution in combination.
- g) **“Regulatory Authority”** means the Rwanda Utilities Regulatory Agency established by the Law n°39/2001 of September 2001.
- h) **“Service”** means provision of content from the DVB head-end (studio) to the end users Television receiving equipments using Terrestrial Digital Broadcasting network.
- i) **“Signal Distributor”** means a licensed operator providing terrestrial broadcasting network and multiplexing services.
- j) **“Signal Distribution Service”** means making available network facilities, and includes the operation of content distribution to the customer premise.
- k) **“Transmitters”** means where the multiplexed are fed to the antennas for the broadcasting of the Digital television signal.
- l) **“Value Added Services”** means a telecommunication and broadcasting Industry term for non-core services beyond standard services.

Article 2: Scope of application

These regulations shall be applicable to:

- (1) any activity relating to the construction, installation, maintenance, ownership, operation, management and make available digital multiplex and signal distribution services in the Republic of Rwanda including the installation and operation of the Head-end, the Transmission and the Transmitters.

- (2) the provision of signal distribution services as a common carrier of licensed content service providers;

Article 3: General Condition of Operating a Signal Distribution Network

- a) Any person wishing to operate Signal Distribution Network must hold a license issued by the Regulatory Authority.
- b) A Signal Distribution License shall enable the holder thereof to initiate, carry out and or build the Terrestrial Digital Broadcasting Platform and the transmission networks for the distribution of Broadcasting Services Digital Broadcasting Services and other value added services to the end users based on the specifications issued and given by the Regulatory Authority as may be specified in the licenses.

Article 4: License Categories

- a) There shall be three license categories for Signal Distribution Broadcasting Services to ensure economy of scale in providing broadcasting services, and they are as follows;
 - i. National Signal Distribution License
 - ii. Regional Signal Distribution License
 - iii. Community Distribution License
- b) Considering the size of the market and the spectrum resource there shall be two National Signal Distributors in the Republic of Rwanda. The number of Signal Distributor may change from time to time as the Regulatory Authority finds it necessary.

Article 5: Primary Obligations of a Signal Distributor

A Signal Distributor shall, among other things, comply with the following;

- i. Provide signal distribution services as a common carrier of licensed Content Service Providers;
- ii. To ensure that any broadcasting signal or content carried through the network of the Signal Distributor is sourced from a licensed Content Provider;
- iii. Broadcasting signal or content carried through the network of a Signal Distributor shall be of the specified and required quality and standard as may be prescribed by the Regulatory Authority;

- iv. Provide Signal Distribution Services in an equitable, reasonable and non discriminatory manner;
- v. The licensee shall allocate one multiplex in each three multiplexes or one third of the transmitted channels for Free to air services. Where a need arises, the Regulatory Authority shall give priority to Free to Air Services as part of its mandate to promote Universal Access and Services;
- vi. A priority shall be given to Free to Air programs with local content to the amount of 20% of the Free to Air program.
- vii. To ensure that the Signal Broadcasting Network is interoperable with other Electronic Communication Networks;
- viii. To submit to the Regulatory Authority updated coverage and roll-out plans on the provision of its services and that, such updated roll-out shall be subject to inspection and approval by the Regulatory Authority;
- ix. Comply with any other conditions as may be prescribed by the Regulatory Authority.
- x. To ensure that the Digital Broadcasting Signal reaches at least the following percentage of the country coverage:
 - a) 95% of Kigali City within the first year after the grant of license
 - b) 50% of the remaining 4 provinces within the first year after the grant of license
 - c) 95% of the whole country within the second year after the grant of license
- xi. To make available, provisioning of content aggregation and programme bouquet handling system that shall support data paths embedded in the DVB stream based on open source (non-proprietary) multimedia system to support Electronic Programme Guide (EPG) and Electronic Programme Information (EPI) for FTA and Conditional Access (subscription) services. The schedule on STB shall describe all services carried on the DTT platform for the following 7 days.
- xii. The Signal Distributor shall ensure that there is interoperability as follows:
 - a. all Free to Air Channels shall be accessible without constraints to a single universal Set-Top-Box (STB) and integrated digital television (iDTV);

- b. all conditional access television channels shall be accessible through a single Set-Top-Box and integrated digital television using mechanisms such as, smart cards, passwords or keys or any other mechanisms compatible with the single receiver system;
- c. Provide capability to interface with any Content Service Provider.

Article 6: Functions of the Signal Distributor

- a) The Signal Distributor shall carry out the following primary functions;
 - i. Establish, operate and maintain a Digital Terrestrial Television broadcasting network including but not limited to the Head End, the Transmission network and the Transmitters;
 - ii. Provide and manage connectivity to broadcasting studios of the authorized Content Service Providers;
 - iii. Provide and manage delivery of multimedia service to the consumers conditions of which service delivery shall be determined by a Service Level Agreement Comply with adopted Quality of Services standards.
 - iv. Make an agreement with Must Carry programs owners.
 - v. Comply with any other regulatory requirement.
- b) The licensee can provide data services as value added service to the Digital Television Broadcasting provided that it does not exceed 15% of the capacity allocated to a broadcaster in each multiplex.
- c) The Licensee shall combine the function of multiplex operator, service provider and service distributor.
- d) The License shall be allowed to unbundle the chain and outsource the function of a Service provider and Service Distributor to enhance the efficiency of its activities provided that the licensee shall remain the sole responsible of the fulfillment of the license obligations.

Article 7: Special Criteria for the Issuance of License and Duration

A license shall be granted for a maximum of 15 years depending on category and service type provided that:

- i. The applicant has sufficient economic resources to meet the network operator obligations;

- ii. The Regulatory Authority has no justifiable reason to suspect that the applicant will violate the provisions of this license conditions or any other law on broadcasting communications or related legislations; and
- iii. The Regulatory Authority has no justifiable reason to suspect that the activity of the applicant would endanger state security or public safety which reasons cannot be disclosed to the applicant.

Article 8: Safety Measures

The Licensee shall in respect of services operated, maintained or offered under its Licence take proper and adequate safety measures to safeguard life or property, including exposure to any electrical emissions or radiations emanating from equipment or installation from such operations.

Article 9: Licensing Requirements

- a) For purposes of the issuance of any License, any person who intends to commence the business of building and running a Signal Distribution Network shall submit a written application to the Regulatory Authority.
- b) The written application shall contain an expressed declaration of intention to commence the business of building and running an Electronic Communications Network as well as the provision of the following information:
 - i. the name and business registration particulars of the applicant;
 - ii. The names, addresses and contact numbers of the legal representative of the applicant;
 - iii. a clearance from the Rwanda Revenue Authority;
 - iv. Registration certificate issued by Rwanda Development Board and or Business license if any;
 - v. information on the shareholding status of the applicant;
 - vi. Article of association/ MOU of the Company if any;
 - vii. description of the network and services with 5 years roll out targets;
 - viii. the geographical area of activity;
 - ix. description or plan concerning the communications network;
 - x. an estimation of the investments and their financing required for the activity;

- xi. a 5 year business plan;
 - xii. network standards and technology to be used;
 - xiii. Technical specifications of the equipment to be used within the network;
 - xiv. the commitment of the applicant to follow the laws and regulations covering the operations of the license under reference; and
 - xv. The performance bond from an insurance company or bank guarantee of \$ 200,000 valid for the duration of the license;
- c) The Regulatory Authority may request for any other information from the applicant for the purposes of the license application.
- d) On the basis of a written application and subject to the fulfillment of all requirements, the Regulatory Authority shall issue the License within three months from the date of receipt of the corresponding application. At the request of the applicant, the Regulatory Authority shall also include an overview of the rights and obligations relating to the installation of facilities according to the application.
- e) An applicant fulfilling the criteria, as set out in the required information list shall be granted a license subject to the conditions above.

Article 10: Accuracy of the Provided Information and Publications

- a) An applicant that submits a notice or application is responsible for the authenticity of information provided to the Regulatory Authority. The Regulatory Authority must be informed by the applicant of any changes to the information submitted. The notice shall be submitted to the Regulatory Authority not later than three working days from the date of the changes to the information submitted.
- b) The Regulatory Authority shall publish on its web site the names, addresses and telephone numbers of all licensed Signal Distributors.

Article 11: Confidentiality and Public Security

The Licensee shall not disclose any information about any of Content Service Providers or any other Licensee of the Regulatory Authority requesting connectivity to the multiplexes that the Licensee is rendering connectivity services to any third party except to the extent that such information is required:

- a) for the purposes of debt collection by the Licensee from the Content Service Providers concerned;

- b) by the Licensee's auditors for the purpose of auditing the Licensee's accounts;
- c) by the Licensee's attorney(s) in connection with any potential threat or actual litigation between the Licensee and the customer concerned;
- d) by the Regulatory Authority for the purpose of performing its functions in terms of the laws;
- e) In consultation with the Regulatory Authority whereby the statistical or research work is conducted for the purpose of the development of the sector;
- f) by an order of the court in respect of legal proceedings between the customer and another party pending in court.

Article 12: Frequency Assignment

- a) The Regulator shall assign the spectrum rights to the Signal Distributor according to the requirement and availability of the frequency. It is the responsibility of the Signal Distributor to decide the allocation of the available capacity to the various Content Service Providers without discrimination.
- b) The validity of the radio frequency license is dependent upon the validity of the parent license granted to the licensed operator, that is, holder of a license. The validity of frequencies used by the Signal Distributor is dependent upon their signal distribution license.

Article 13: Cancellation of Radio Frequency Spectrum Licenses

Notwithstanding any other provisions relating to cancellation of licenses, the Regulatory Authority may, in full or in part, cancel a radio license;

- a) if the radio license holder, despite ordered corrective measures, seriously and repeatedly violates a license conditions essential for non-interference in radio communications, or fails to meet the liability to pay for a radio license or frequency reservation;
- b) If the radio license holder, deliberately or through carelessness, transmits a false distress signal or disturbs or harms safety radio communication in some other way;
- c) If a radio transmitter uses radio frequencies in an inappropriate way due to its technical characteristics and the license holder has been advised to correct up the technical failure but he fails to rectify the error;

- d) a license granted ceases to be valid or expires; or
- e) a new law or a binding international agreement on the Republic of Rwanda that requires such revocation.

Article 14: Modification and Alteration of a License

- a) The Regulatory Authority has the power to make modifications and/or alterations to Signal Distribution Licenses subject to the following conditions:
 - i. Any modification or alteration shall be carried out in an objective and non-discriminatory manner;
 - ii. The requirement to comply with the provisions of any new law which is relevant to the license;
 - iii. The requirement of any regulatory changes that are intended to ensure equal opportunities and effective competition in Digital Terrestrial Television markets in both rural and urban areas;
 - iv. Adjusting to the changes necessitated by an existing market conditions.
 - v. The requirements of any technological developments or changes;
 - vi. The non-fulfillment of a license term by the licensee.
- b) Licensees may apply to the Regulatory Authority for alteration of any term of their license and the Regulatory Authority has the right to effect such alterations if it considers it appropriate to do so, having due regard to the provisions of the laws and regulations in force.
- c) If any licensee is aggrieved by the decision of the Regulatory Authority, it may refer the matter to the court of law.

Article 15: Cancellation, Suspension and Revocation of License

- a) The Regulatory Authority may cancel the license of a licensee in part or in full, if:
 - i. the Signal Distributor has repeatedly and seriously violated the provisions of this regulation or any other law on broadcasting or the license terms referred to in these regulations or in orders made under it; or

- ii. the Signal Distributor has no longer sufficient financial resources to meet its obligations in view of the nature and extent of the operation;
 - iii. if the licensee, despite being requested to do so, fails to rectify its conduct or replenish its financial resources to a sufficient level within a reasonable deadline of at least three months.
 - iv. if the licensee loses effective control of the license and/or the license ownership undergoes a change without the approval of the Regulatory Authority.
- b) The Regulatory Authority may suspend or revoke any license where after the grant of the license if it is found that the licensee:
- i. is guilty of fraud or intentional misrepresentation when applying for the license;
 - ii. Is engaged in or is supporting activities amounting to a treasonable offence under the Penal Code of the Republic of Rwanda.
- c) Any intention to change control contemplated hereunder shall be notified immediately to the Regulatory authority for approval before the change of control is effective. The licensing authority shall decide on whether to cancel the license within twenty-one working days from the date of the notification failing which the licensed operator shall proceed with processing of the change of the control.

Article 16: Fees Related to Licenses

- a) Fees to be levied by the Regulatory Authority for Signal Distribution licenses are as follows:
- i. For license applications, whether or not the application is successful: USD 1,000
 - ii. The license fees to be paid once: USD 104,000.

The license fees are not refundable in case of suspension or revocation of the license for failure to fulfil any license obligation.

- iii. Annual fees payable by Public utilities of 1% of annual turnover for the contribution to the functioning of the Regulatory Authority
- iv. Annual contribution to the Universal Access Fund on the Turnover generated during the previous year. The annual contribution to the Universal Access Fund shall be determined by the Regulatory Board and shall not exceed 2.5 % of the annual Turnover.

- v. Initial and annual fee for radio frequency in accordance with the Regulations determining fees for radio communication licenses.
- b) The Regulatory Authority may from time to time amend the fees applicable to different types of licenses and revised charges are applied to all licenses of the same type.
- c) License fees shall be paid to the Regulatory Authority. Failure to pay the fee within the prescribed time shall result in delay in issuing or renewal of the license, or suspension of the license. The suspension here may provide a specific restriction in relation to a specific service provision.
- d) The Regulatory Authority may use the method of Auctioning to get the best bidder for the signal distribution if it deemed necessary.

Article 17: Grounds for Refusing to Grant License

- a) An applicant may be refused a license by the Regulatory Authority on the following grounds;
 - i. in order to protect the national integrity and/or national security
 - ii. for reasons of limitations on the frequency spectrum resources
 - iii. If the Regulatory Authority reasonably believes that competition in the the signal distribution sector can be adversely affected.
 - iv. If the applicant has failed in meeting the information requirement and related obligations.
- b) The applicant must be given written reasons about refusals and delays in the granting of license as soon as the Regulatory Authority has made its decision except that the Regulatory Authority shall not be bound to provide reasons for the grounds of refusal to the applicant on the national security matters.

Article 18: Renewal of License

- a) License holders may apply to the Regulatory Authority for renewal of a license not later than three months before the expiry of the existing license and the procedure for the renewal of license is the same as that procedure applicable to the granting of the original license;
- b) Signal Distribution Networks who fail to renew their licenses or whose application for renewal is rejected by the Regulatory Authority shall cease to have any legal authority to continue to operate or install the broadcasting networks.

Article 19: Universal Service Obligation

The Licensee shall comply with the Universal Service/access obligations as may be provided for under applicable laws and regulations.

Article 20 : Human Resource Development

- a) The Licensee shall submit to the Authority the Human Resource Development Plan outlining strategies towards empowerment of its local staff.
- b) The Licensee shall annually submit the Authority the report of implementation of the Human Resource Development Plan.
- c) The Licensee shall facilitate participation of its technical staff in training within or outside the Republic of Rwanda.

Article 21: Liability for Damages

- a) A Licensee who is declared as an operator with dominant market power with obligation that deliberately or through negligence violates the provisions of its license in relation to its obligations imposed by virtue of the operation of these regulations for terrestrial digital broadcast shall be liable to pay damages as compensation to the affected licensed operator.
- b) Compensation for damage consists of compensation for costs, the price difference and other direct financial losses caused by the concerned licensees' activities referred to above.
- c) The Regulatory Authority can consider adjusting damages to be paid as compensation if the sum is found to be an unreasonable burden having regard to the nature of the offence, the extent of the damage, the circumstances of the concerned licensees and other factors.
- d) Subject to an act of force majeure, the right to compensation expires if the action for payment of damages is not brought within one year from the date on which the concerned licensee received or should have received the information on the occurrence of the violation.
- e) In handling an action for damage, the competent Court may request for the professional opinion of the Regulatory Authority on the matter.

Article 22: Fines

The Licensee shall be liable to payment of any fines imposed pursuant notably to the Law establishing the Regulatory Authority and the Telecommunications Law as may be amended from time to time, and shall make such payment promptly and in accordance with applicable laws and regulations.

Article 23: Repealing provisions

All dispositions prior to these Regulations and contrary to them are hereby repealed.

Article 24: Coming into Force

These regulations shall come into force on the date of their signature.

Done at Kigali, -----

Eugène KAZIGE
Chairperson of the Regulatory Board