



**Promotion Regulations for Telecommunications Services**

**2018**

**LTA – DREG – 001C – 18**

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## **Part I: Introduction**

### **1. Preamble**

These Regulations have been developed by the Liberia Telecommunications Authority (LTA) pursuant to Part III Section 11 (m) (q) (r) (v) of the Telecommunications Act 2007, the LTA hereby issues these Promotion Regulations for Telecommunications Services in the Republic of Liberia.

### **2. Purpose and Scope of these Regulations**

These Regulations seek to establish a regulatory framework for licensed Telecommunications Service Providers to offer and promote their services and products in a fair and non-anticompetitive manner in the Republic of Liberia. These Regulations shall apply to all licensees that engage in or are about to engage in any telecommunications service promotional exercises.

### **3. Objectives**

The objectives of these regulations are to:

- a. Ensure ethical conducts and acceptable standards for the promotion of telecommunications services and products;
- b. Set clear and minimum requirements and standards for matters related to promotions of telecommunications services and products by licensed operators;
- c. promote the interest and/or rights of consumers; and
- d. To prevent any possible anti-competitive behavior and/or practice that may be hidden in any promotional package.

#### 4. Definition of Key Terms

As used in these Regulations, the defined terms shall have the following meanings and shall refer to both the singular and plural:

“**Act**” means the Telecommunications Act of 2007.

“**Advertisement**” means 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 behavior.

“**LTA**” means the Liberia Telecommunications Authority established by Telecommunications Act 2007.

“**License**” means an Individual License or a Class License issued pursuant to Part IV of the Act and the Telecommunications Licensing Authorization Regulations.

“**Licensee**” means a Person who holds a License under the Act.

“**Permit**” means the permission granted by the LTA in writing to a Telecom Operator and/or Licensee to conduct a promotion campaign of the services or goods delivered under its license.

“**Order**” means a written order made by the LTA pursuant to the Act, a regulation or rule.

“**Person**” means a natural or other legally recognized person or entity, and includes a joint stock company, a limited liability company, a partnership, a sole proprietorship, a joint venture, or other form of entity whether incorporated or unincorporated.

“**Promotion**” means any message, the content of which is controlled directly or indirectly by the Telecommunications Service Provider or Licensee, expressed in any language and communicated in any media to consumers with the intent to influence their choice, opinion or behavior in order to get a shared reward or benefit.

“**Relevant Laws**” means any applicable law or regulation with which a telecom operator must comply in connection with its license conditions.

“**Service Provider**” means a person or entity under permit or license by the LTA that provides a telecommunications service to the public or that owns or operates a telecommunications network used to provide telecommunications services to the public;

“**Telecommunications Service**” means any provision of the voice and data transmission; SIM cards and Pre-paid accessories; equipment and facilities to customers; or any form of transmission of signs, signals, text, images or other intelligence by means of a telecommunications network, but does not include a broadcasting service.

## **PART II: PROMOTIONAL ACTIVITIES**

### **5. Minimum Standards and Requirements for Promotion of Telecommunications Services**

5.1 All promotional activities shall meet the following minimum standards and requirements:

- a. A promotional activity or promotion shall have the effect of bringing the customers closer to the concerned Licensee, and that the promotion activity should be one through which the customers get effective service (**value for money**) which is the subject of the promotion;
- b. All Licensees shall provide to the LTA a descriptive report on the concerned products and services that are to be promoted vi-s-vis the target customers/consumers. The report to be submitted shall indicate the following:
  - i. A statement of intention for the promotion;
  - ii. The effect of the promotion on the concerned Licensee's service provision;
  - iii. The effect of the promotion on the Service Provider's revenue;
  - iv. The impact on the quality of service parameter(s) set by the LTA;
  - v. A proof of compliance with the LTA's type-approved standards;
  - vi. A statement of whether the promotion includes or relates to comparative advertising;
  - vii. The impact of the promotion on the basic consumer rights and obligations including but not limited to safety, privacy, information, and choice; all in the interest of transparency in service delivery.
  - viii. Indication of the customer's options in clear terms and conditions;
  - ix. An outline on resource requirement (e.g. numbers; i.e. codes, etc.) with a view to confirming any compliance with earlier allocations.

### **6. Conditions for Launching Promotions**

6.1 In order to launch any promotion, a Service Provider shall ensure that the following conditions are met:

- a) The licensee shall ensure that its network is capable of sustaining the traffic that may be generated from such promotion.

- b) The licensee must specify the time, duration, date and range of such promotion and the date of redemption of such promotional benefits.
- c) All promotions must not misrepresent the licensees' opportunity to provide the goods and services at the terms presented. If supply of the goods and services are limited, or the licensee can fulfill only limited demand, this must be clearly captured in the report and stated in the communication medium for the promotion.
- d) The licensee must specify the target customers for the promotion by clearly distinguishing if it targets new subscribers and or existing subscribers.
- e) The licensee must indicate if the products and or services (i.e. subjects of the promotion) are available to only a particular geographical region or group of customers.
- f) The licensee should consider a geographical balance while offering its promotional sales to its customers without an undue concentration on consumers in a particular geographical location.
- g) The licensee must communicate clearly and understandably to the subscribers all relevant terms and conditions of the promotions.
- h) Where a licensee communicates certain categories and or specific products and services as rewards or potential rewards for partaking in a promotion, it must ensure that the specific products and or services portrayed and /or promised are not changed.
- i) The Licensee must have the means and be able to prove any claim or representation in a promotion and, the LTA has the discretion to demand for any survey report or data from the Licensee for purposes of proving same.

## 7. Promotional Tariff

### 7.1 The Licensee shall ensure that:

- a) All promotional tariffs and financial implications are clearly communicated, and have no hidden or disguised predatory pricing, price adjustments/discrimination in a negative sense, unrealistic price comparisons and or exaggerated claims as to worth or value.
- b) 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 specifically instruct customers/consumers to see the print medium for details.
- c) The promotional tariff is bound by Part IX Sections 44, 45 & 46 of the Telecommunications Act 2007 governing Telecommunications or any other succeeding legislation thereto.

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## 8. Duration of Promotion

8.1 No Licensee shall conduct a promotion for the same product or service for more than three times within a year or twelve calendar months. The LTA shall prevent or restrict any Licensee from any such promotional exercise for the same product.

8.2 However, for the purpose of ensuring effective and fair competition in the telecommunications industry, one promotion cannot exceed a period of two months provided that no such promotion shall be in conflict with section 6(a) above.

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## 9. Advertorial Medium

9.1 The Licensee shall be required to make promotions via print, radio, mail, Licensee's website, text messages (consumers having the option to reject), electronic mail (where permitted by recipient to send such promotional material), and/or visual media, with accuracy and clarity of the goods and services being offered.

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9.2 No promotion shall contain or relate to any obscenities or profanities unsuitable for young persons and children or contain any racial or prejudicial content relating to national origin, religion, sex, gender or age.

9.3 Nothing in these promotions shall solely and wholly be an advertisement and no promotion shall be considered as an advertisement by a licensee provided that a reward or benefit is attached or clothed within that activity.

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## 10. COMPARATIVE ADVERTISING

10.1 Service Providers shall ensure that:

- a) Advertisements do not unfairly discredit, disparage or attack other products, services, advertisements of competitors or exaggerate the nature or importance of products or services of competitive differences.
- b) The slogans or illustrations of another advertiser are not imitated in such a manner as to mislead customers/consumers.

## 11. TELECOMMUNICATIONS SERVICE

11.1 Every Service Provider shall ensure that any telecommunications service which is the subject of a promotion shall be clearly defined with details relating to its limitations, scope,

duration etc. No surprises related to any promotion shall be entertained (For example internet service capacity and Quality of Service).

## **12. SUBMISSION OF A DESCRIPTIVE REPORT**

- 12.1** Every Licensee shall, prior to the release of any promotion of its products and services, provide a descriptive report to the LTA pursuant to Section 5 (b) of these Regulations.
- 12.2** The descriptive report shall be presented in accordance with the form provided in Schedule 1 to these Regulations. The form can also be directly obtained from the LTA.
- 12.3** The LTA shall react to the descriptive report after receiving the same and shall communicate to the concerned Licensee of any concern or otherwise with regards to the promotion within five (5) working days upon receipt of the descriptive report.
- 12.4** Where there is a need or a situation for an aspect of the promotion to be addressed, verified or altered the LTA may request the concerned licensee to remedy the situation or issue directives in that regard
- 12.5** The LTA may seek a formal meeting with the concerned-licensee with a view to having a thorough discussion on the subject- matter thereof and the concerned-licensee may be required to make a presentation on the same before the LTA gives its final directives on the matter.

## **PART III: ORDER OF CANCELLATION/CESSATION, REGULATORY SANCTIONS, AND RIGHT TO APPEAL**

### **13. ORDER OF CANCELLATION AND CESSATION**

13.1 The LTA may issue an immediate Order for the cancellation of any promotion prior to its commencement; stating the reason(s) therefor. The Order of cancellation may be based on but not limited to the following:

- a) Anti-competitive behavior;
- b) Lottery and gambling related promotions; or
- c) An act against public Order, Rule, Regulations, or Law.

13.2

13.3 Notwithstanding Section 12 (a) hereof, after the commencement of the promotion, the LTA may order the cessation of the promotions for reasons not limited to:

- a) Network Congestion;
- b) Poor performance in Licensee's services;
- c) Genuine consumer complaints;
- d) Proved misrepresentation of any material fact in relation to the promotion;
- e) Contravention of specific approval; and/or
- f) Variation from submitted content and/or context

13.4 Upon the Order of cancellation or cessation, the Licensee shall discontinue such promotions with immediate effect as contained in subject Order. The discontinuation shall be communicated to the subscribers via SMS, website publication, newspaper publication or any other effective medium of communication.

#### **14. ISSUANCE OF ANY ORDER OF DIRECTIVE**

14.1 Notwithstanding anything contained in these Regulations, particularly in Section 12 hereof, the LTA, in making any Order or directive pertaining to cancellation or cessation of promotion, shall also consider the following in complimenting the provisions of Section 12:

- a) An evaluation of the descriptive report and related documents;
- c) An evaluation of the interest of consumers, public health, safety, and environmental issues;
- d) An evaluation of the social and economic impacts of the promotion;
- e) An evaluation of mitigation measures to alleviate any problems identified in the second and third paragraphs of this subsection; and
- f) The relationship of the promotion to the existing national policies and strategies for the ICT sector development, the laws and regulations.

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- g) Any such order to be issued by the Authority shall contain, among other things, the name of the concerned licensee, the description of the promotion, the duration of the promotion and it shall bear a serial number, signed and sealed by the LTA.

## **15. REGULATORY OFFENCES/PENALTIES**

15.1 The LTA reserves the right to place appropriate sanctions on defaulting Licensees; and without prejudice to other sanctions provided for in other relevant laws or regulations, a violation of these Regulations shall attract the following sanctions:

- a) Imposition of fines and/or penalties in line with the provisions of relevant Laws, regulations, or Orders;
- b) The concerned Licensee shall pay a maximum fine of US\$ 5,000.00 per day for the number of days of the offense or violation in the following cases:
  - i. Proceeding with the promotions without providing the relevant descriptive report to the LTA;
  - ii. Proceeding with the promotions after an order of cancellation or cessation by the LTA;
  - iii. Having a promotion period more than what is provided for by these Regulations from the date of the extension;
- c) Providing falsified or misleading information to the LTA in relation to the promotion; or providing falsified or misleading information to the general public, the Licensee shall pay a maximum fine of US\$100,000.00; or
- d) Failing to comply with any specific Order or directive of the LTA in relation to the concerned promotion, the Licensee shall pay a maximum fine of US\$ 50,000.00 per day for the number of days of non-compliance.

## **16. RIGHT OF APPEAL**

16.1 There is a right of appeal available to any dissatisfied concerned-Licensee under these Regulations;

16.2 A concerned-Licensee is entitled to make an appeal in the following circumstances:

- a) Where a promotion is cancelled by an order;
- b) Where an order of cessation is issued by the LTA;

c) Where a fine has been imposed by virtue of these Regulations;

d) In a case where the concerned-Licensee is of the view that its License rights have been infringed upon.

16.3 Where an Order or directive is issued, the concerned-Licensee is entitled to appeal against the decision of the LTA by filing a Request for Appeal addressed to the LTA.

16.4 The Request for Appeal shall be in writing and filed to the LTA within seven working days from the date of the decision. The appealing- Licensee shall provide grounds for the appeal.

16.5 The Licensee making the appeal will be notified in writing with the date and time of the appeal hearing.

16.6 At the appeal hearing, the grounds of appeal shall be treated as a new complaint and the issues to be considered in their entirety.

16.7 Decisions of the LTA on the appeal shall be reached and communicated to the Licensee within seven working days from the date of the appeal hearing.

16.8 Decisions by the LTA shall be binding subject only to the revision a court of competent jurisdiction.

#### **Part IV: Amendment, Citation and Entry into Force**

##### **17.0 Amendment**

17.1 The LTA may review or amend these Regulations from time to time as it deems fit. In conducting a review or amendment of these Regulations, the LTA shall comply with the Consultation Process, Guidelines/Regulations for LTA Rule, Order or Regulations.

17.2 The LTA may issue additional rules, orders, or notices on any aspect of these Regulations.

##### **18.0 Citation and Entry into Force**

18.1 These Regulations may be cited as the Promotion Regulations 2018 and shall come into effect on the day it is published by the LTA.

**SCHEDULE 1: FORM OF DESCRIPTIVE REPORT**

1. Name of Service Provider/Licensee

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4. Operating Address

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5. Contact Person, email, fax, and telephone number

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6. Detailed Description of Promotion

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7. Media to be utilized for Promotion (tick as appropriate) Radio ( ) Print ( ) SMS ( ) Web ( )  
Television ( ) CD-ROM ( )

8. Other formats (please  
detail)

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16. Mode of claiming prizes

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17. Process of selecting winner(s)

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18. Geographical location and target consumer (s)

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19. Where appropriate, state who owns the copyright of the entries?

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20. State clearly whether winners will be used in post-event publicity Promotions Regulations Issued by the LTA.

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21. Details of any other factors likely to influence consumers' decisions or understanding of the promotion

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Dated of Submission

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Signature of Licensee's

Representative.....

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Name of

Representative.....

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Designation.....

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Declaration Statement

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