

23 April 2018



## New Online Content Regulations 2018 now operational

- **Vest TCRA with powers to regulate online content**
- **Impose legal obligations on online content providers and users, application services licensees, online radio, online television and blogger, online content host, internet café and social media user**
- **Bloggers, online forums (including YouTube blogs), online radio and online television to be registered**
- **Registration commenced on 21 April 2018, ends 5 May 2018**
- **Provide for protection of children against indecent online content**
- **Non-compliance with the Regulation is punishable by a fine, imprisonment or both**

On 16 March 2018, the Electronic and Postal Communications (Online Content) Regulations 2018 were published as GN No. 133 of 2018 by the Minister of Information, Culture, Arts and Sports. These Regulations apply to online content including: application services licensees; bloggers; internet cafes; online content hosts; online forums; online radio or television; social media; subscribers and users of online content; and any other related online content.

The Regulations vest the Tanzania Communications Regulatory Authority (TCRA) with powers to keep register of bloggers, online forums, online radio and online television; to take action against non-compliance with the Regulations, including to order removal of prohibited content; and to conduct public awareness in relation to safe use of online content.

Under the Regulations, online content provider have legal obligations to: ensure that online content is safe, secure and does not contravene the provisions of any written law; take into account trends and cultural sensitivities of the general public; establish online policy or guideline and make it available to users; use moderating tools to filter prohibited content; have in place mechanisms to identify source of content; take corrective measures for objectionable or prohibited content and ensure prohibited content is removed within 12 hours upon being notified.

In the same regard, a subscriber and user of online content services is responsible and accountable for the information he/she posts in an online forum, social media, blog and any other related media. Such person is also to ensure that his/her posts do not contravene the provision of the Regulations and/or any other written law.

An application services licensee is obliged, when entering into a contract with subscribers, to incorporate terms and conditions of service which include the right to deny access or terminate service where a subscriber contravenes these Regulations and/or remove prohibited content in accordance with these Regulations.

According to the Regulations, a licensee of online radio and television intended for broadcasting over the public internet with the objective of informing, entertaining and educating the public shall adhere to the following conditions: Contents streamed to abide to regulations governing the broad casting services; adhere to journalism ethics and professionalism; payment of regulatory fees; submit to the regulator the human resource development plan; adhere to copyright and intellectual property laws and Regulations; adhere to ownership and corporate obligations provided under the Act; and adhere to local content requirements.

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**About FB Attorneys**  
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This obligation applies to Tanzanian residents, Tanzanian citizens outside the country, non-citizens of Tanzania residing in the country, blogging, or running online forums with contents for consumption by Tanzanians. The Regulations oblige an online content host to adopt a code of conduct for hosting content. Further to that, upon notification the hosted content must be removed.

Under the Regulations internet café or business center are obliged: to ensure that all computers used for public internet access at the café are assigned public static IP addresses; establish and publish a safe internet use policy for safe use of the internet with regards to online content and post it on conspicuous place; computer home screen or display the same on visible areas for users to read before using the service; to put in place mechanism to filter access to prohibited content; to install surveillance camera to record and archive activities inside the café; and to keep a proper service user register and ensure every person using internet service is registered upon showing a recognized identity card.

The Regulations provide explicitly that a social media user is responsible and accountable for the information he publishes on a social media. In this regard, a social media user is obliged to use a password to protect any user equipment or access equipment or hardware to prevent unauthorized access or use by unintended persons. This means unauthorized access by the third parties is not a defence for publication of prohibited online contents.

The Regulations prohibit TCRA or its employees from disclosing any information received or obtained during the exercise of its powers or performing its duties, except, where the information is required by any law enforcement agency, Court of law or other lawfully constituted tribunal.

The Regulations enumerates the prohibited content to include: in decent content save for sex and nudity sex scenes approved by the body responsible for film censorship; Obscene content; Hate speech; Explicit sex acts or pornography; sex crimes, rape or attempted rape and statutory rape, or bestiality; content that portrays violence, whether physical, verbal or psychological; that can upset, alarm and offend viewers and cause undue fear among the audience or encourage imitation content that portrays sadistic practices and torture, explicit and excessive imageries of injury and aggression, and of blood or scenes of executions or of people clearly being killed; content that causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder; content which advocates hate propaganda or promotes genocide or hatred against an identifiable group; content that may threaten national security or public health and safety; content that uses bad language; and false content which is likely to mislead or deceive the public unless where it is clearly pre-stated that the content is satire and parody, fiction or where it is preceded by a statement that the content is not factual.

A person who provides online content, access to online content, hosts or uses online content or operates an internet café shall take all possible measures to ensure that children do not register, access or contribute to prohibited content and that users are provided with content filtering mechanism and parental control.

Any person who wishes to provide online content services shall fill in an application form as prescribed in the First Schedule and pay fees as set out in the Second Schedule to these Regulations. Applications for provision of online content services to be in prescribed form. TCRA reserves the right to cancel the content services licence where the terms and conditions are breached. Meanwhile on 20 April 2018, the TCRA issued a public notice inviting applications for registration. The existing online content providers including bloggers, online forums, online radio and TV stations must be registered by 5 May 2018. So far there is no mention of registration of WhatsApp groups.

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Any person who alleges publication of prohibited content may file a complaint to the online content provider against application services licensees; bloggers; internet cafes; online content hosts; online forums; online radio or television; social media; subscribers and users of online content. The online content provider must resolve the complaint within 12 hours. A complainant who is not satisfied with the decision of the online content provider may appeal to the TCRA within 30 days.

Any person, who contravenes the provisions of these Regulations, commits an offence and shall, upon conviction be liable to a fine of not less than TZS 5M or to imprisonment for a term of not less than twelve months or to both.

## Interpretation of key terms

**Application services licensee** means a licensee of the Authority in the category of application Service licence limited to the provision of online content or facilitation of online content producers;

**content** means sound, data, text or images whether still or moving;

**hate speech** means speech that refers to any portrayal by words, speech or pictures or otherwise, which denigrates, defames, or devalues a person or group on the basis of race ethnicity, religion, nationality, gender, sexual orientation, or disability;

**indecent content** means any content which is offensive, morally improper and against current standards of accepted behavior, such as nudity and sex;

**obscene content** means a content which gives rise to a feeling of disgust by reason of its lewd portrayal and is essentially offensive to one's prevailing notion of decency and modesty, with a possibility of having a negative influence and corrupting the mind of those easily influenced;

**online forum** means an online discussion site where people can hold conversations in the form of posted messages or journals;

**social media** means an online-based applications and platforms that build on the ideological and Technological foundations of web and that allow the creation and exchange of highly interactive user generated content and platforms through which individuals, organizations and communities share, co-create, discuss, and modify user-generated content;

**user** means a person or legal entity accessing online content whether by subscriptions or otherwise ; and

**Web page, website or site** means files of content accessible on the World Wide Web by a requested URL.

## Online content service fees

SN	Type of License	Application of Fees	Initial License Fees	Annual License Fees	Renewal Fees	Duration of License
1	Online Content Services	TZS 100,000	TZS 1,000,000	TZS 1,000,000	TZS 1,000,000	3 years
2	Simulcasting Television License (streaming content on the Internet)	TZS 50,000	TZS 200,000	TZS 200,000	TZS 200,000	3 years
3	Simulcasting Radio License (streaming content on the Internet)	TZS 50,000	TZS 200,000	TZS 200,000	TZS 200,000	3 years

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