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[2014

National Information and Communications Technology Act, 2009

CONSUMER PROTECTION RULE, 2014

I, Kila Gulo-Vui, Acting Chief Executive Officer of the National Information and Communications Technology Authority (also known as "NICTA"), by virtue of the powers conferred by Section 10 and in pursuance of Sections 2, 9 and 218 of the *National Information and Communications Technology Act, 2009* and all other powers me enabling, hereby make these Rules known as the *Consumer Protection Rule, 2014* and *Annual ICT Data Collection Rule, 2014* to be published, effective on the date of publication in the *National Gazette* —

1. NAME OF RULE

This rule is the *Consumer Protection Rule, 2014*.

2. PRELIMINARY

This rule is made by NICTA pursuant to its powers and responsibilities under Sections 2, 9 and 218 of the *National Information and Communications Technology Act 2009*.

3. COMMENCEMENT

This rule commences on the date on which it is notified in the *National Gazette*.

4. INTERPRETATION

(1) In this Rule, unless the contrary intention appears —

- (a) "Act" means the *National Information and Communications Technology Act, 2009* and includes any regulations made under that Act;
- (b) "point of sale" means a physical place at which a Service Provider's Retail Services are sold to Retail Customers, or subscribed to by Retail Customers, excluding places at which an agent sells, on behalf of the Service Provider, pre-paid credit for use in association with an existing Retail Service;
- (c) "rule" or "Rule" means this rule, the *Consumer Protection Rule, 2014*;
- (d) "terms and conditions" includes price-related terms.

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(2) Each of the following terms used in this rule has the meaning given to it by the Act —

- (a) Individual Licence;
- (b) NICTA;
- (c) Price;
- (d) Publish;
- (e) Retail Customer;
- (f) Retail Service; and
- (g) Service Provider.

5. PUBLICATION OF THE TERMS AND CONDITIONS OF SUPPLY

(1) A Service Provider that supplies a Retail Service shall —

- (a) provide accurate, relevant, current and easily understood information to its Retail Customers that describes the terms and conditions under which the Service Provider supplies, or offers to supply, the Retail Services;
- (b) ensure that that information is available to Retail Customers from its website and other sources and that they are easily accessible;
- (c) make that information available free of charge to Retail Customers and potential Retail Customers at all points-of-sale; and
- (d) provide Retail Customers and potential Retail Customers with the means of contacting authorized representatives of the Service Provider by telephone and in-person to query, clarify and understand the terms and conditions under which the Service Provider supplies, or offers to supply, the Retail Services.

(2) In respect to subsection 5(1)(c) of this Rule, the Service Provider shall make available to Retail Customers —

- (a) All information provided through their website free of charge;
- (b) All information provided through their Customer Care Call centres free of call charges; and
- (c) All information provided in the form of any printed physical document that the customer can retain free of charge.

6. LICENSEES TO PREPARE A CONSUMER GUIDE

(1) A Service Provider that supplies a Retail Service shall prepare and submit for NICTA's approval under sub-section (4) of this section a document to be called a "Consumer Guide". Once approved the document can be branded by the Service Provider as part of its overall service, provided the term "Consumer Guide" is retained prominently in the title.

(2) A Consumer Guide shall as a minimum address the following matters —

- (a) the geographic areas or locations in which the Service Provider's Retail Services can be accessed and used;
- (b) the means by which a Retail Customer can obtain a copy of the terms and conditions under which the Service Provider supplies, or offers to supply, Retail Services;
- (c) information about any post-sale support or assistance that is available to a Retail Customer, including any associated charges;
- (d) the means by which a Retail Customer can make an enquiry of the Service Provider in relation to the supply of a Retail Service;
- (e) the means by which a Retail Customer can lodge a complaint with the Service Provider in relation to the supply of a Retail Service;

Consumer Protection Rule, 2014—*continued*

- (f) the Service Provider's procedures for handling customers' complaints including the escalation procedures and channels and the types of remedies available;
 - (g) the means by which a Retail Customer can access, review or check information relating to his or her account, subscription, billing data or usage;
 - (h) the Service Provider's credit policies;
 - (i) the terms of any security deposits that the Service Provider may require of a Retail Customer, including the circumstances in which the security deposit may accrue interest, be forfeited or be repaid;
 - (j) the Service Provider's policies and procedures relating to the suspension, disconnection or cancellation of a Retail Service for reasons relating to non-payment or insufficient or incorrect usage of the service, and the procedures by which the service may be reinstated or reconnected;
 - (k) the Service Provider's quality of service standards or commitments, including any related obligations under the terms of its Individual Licence;
 - (l) the Service Provider's policies and processes in relation to the protection of the confidentiality of the customer's information, including service information; and
 - (m) any other matter specified by NICTA in writing for the purposes of this paragraph.
- (3) The Consumer Guide as submitted shall include all of the content that the Service Provider is proposing to publish so that NICTA will be in a position to assess whether the minimum data required as set out in subsection (2) has been obscured or impacted in its clarity by the other information proposed to be included.
- (4) NICTA shall make a decision to either approve or reject a Consumer Guide based entirely on whether the criteria and requirements in sub-sections (1), (2) and (3) of this section have been met, and notify the relevant Service Provider of that decision, within 90 days of the Service Provider submitting the Consumer Guide for NICTA's consideration.
- (5) NICTA may make approval of a Consumer Guide subject to the Service Provider making specific changes to the content of the proposed Consumer Guide for the purpose of meeting the criteria and requirements in sub-sections (1), (2) and (3) of this section.
- (6) If NICTA neither approves nor rejects a Consumer Guide by the end of 90 days, then NICTA shall be deemed, at the end of that period, to have approved the Consumer Guide and notified the relevant Service Provider accordingly. This form of approval shall be referred to as a "deemed approval".
- (7) If NICTA approves or is deemed to have approved a Service Provider's Consumer Guide then that Service Provider shall —
- (a) make available on its website and at all its points of sale, a copy of its approved Consumer Guide; and
 - (b) fulfill and conduct itself consistently with its approved Consumer Guide.
- (8) If NICTA rejects a proposed Consumer Guide, NICTA must include a statement of the reason for the rejection in written notice of the decision given to the Service Provider.
- (9) From time to time NICTA may request a Service Provider to revise or update its approved Consumer Guide and resubmit it for NICTA's approval.
- (10) Nothing in this Rule shall prevent a Service Provider from maintaining other means of providing information to consumers of its services, provided the information provided by other means is not inconsistent with the content of the Consumer Guide.

ANNUAL ICT DATA COLLECTION RULE, 2014

1. NAME OF RULE

- (1) This rule is the *Annual ICT Data Collection Rule, 2014*.

2. PRELIMINARY

- (1) This rule is made by NICTA pursuant to its powers under Section 218 of the *National Information and Communications Technology Act, 2009*.

3. COMMENCEMENT

- (1) This rule commences on the date on which it is notified in the *National Gazette*.

4. INTERPRETATION

- (1) In this rule, unless the contrary intention appears —
- (a) “Act” means the *National Information and Communications Technology Act, 2009* and includes any regulations made under that Act;
 - (b) “ICT Data” means the information identified and defined in Schedule 1 to this Rule;
 - (c) “nominated email address” means the email address specified in this Rule;
 - (d) “rule” or “Rule” means this rule, the Annual ICT Data Collection Rule, 2014;
 - (e) “Schedule 1” means the Microsoft Excel electronic workbook file located in the Public Register (on the website: www.nicta.gov.pg) under the submenu titled “NICTA Annual ICT sector data request”, and updated by NICTA from time to time, which constitutes the Schedule to this Rule;
- (2) Each of the following terms used in this rule has the meaning given to it by the Act —
- (a) ICT;
 - (b) ICT Service;
 - (c) Individual Licensee;
 - (d) NICTA; and
 - (e) Public Register.

5. ANNUAL SUBMISSION OF CERTAIN INFORMATION

- (1) All Individual Licensees shall submit to NICTA the ICT data specified in Schedule 1 to this Rule that relates to the ICT services that are supplied by the licensee.
- (2) Individual Licensees shall submit the ICT data to NICTA —
- (a) Electronically via email to ict.data@nicta.gov.pg the nominated email address;
 - (b) in the form of a Microsoft Excel electronic workbook file using the format set out in the Microsoft Excel electronic workbook file that constitutes Schedule 1 to this Rule; and
 - (c) by 31st January each year.

6. COLLECTION OF BASELINE DATA

- (1) Within the first six months of the commencement of this Rule, NICTA may request an Individual Licensee to submit, pursuant to Section (5), ICT data that relates to the five calendar years between January, 2008 and December, 2013.
- (2) For the avoidance of doubt, NICTA may seek ICT data of the type described in subsection 6(1) after the expiry of six (6) months but in that case the request would be pursuant to NICTA’s information gathering powers under Part XII of the Act.

Dated this 24th day of July, 2104.

K.GULO-VUI,
Acting Chief Executive Officer.