



# MINISTRY OF ICT & NATIONAL GUIDANCE

A Knowledge and Productive Society driven by ICT & National Ideology

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## PRINCIPLES FOR THE DRAFT INFORMATION AND COMMUNICATIONS BILL, 2022

### **1. Merge the regulatory functions of Uganda Communications Commission, the Media Council and NITA-U into a converged/single regulator for the Information and Communications Sector**

1.1 The single regulator shall be the Uganda Communications Regulatory Authority to be in harmony with the designation and best practices espoused by the International Telecommunications Union and the EAC (For example, the Communications Authority of Kenya, the Tanzania Communications Regulatory Authority and the Independent Communications Authority of South Africa).

1.2 The law shall provide for-

- a) The powers of the Minister.
- b) The Board of Directors of the Regulator consisting of 9 persons appointed by the Minister with the approval of Cabinet; [It is proposed that the new members represent Government, Creative, Film and Fixed Entertainments, and I&C Infrastructure].

- c) Qualifications of the Members of the Board which shall include qualifications and proven experience in telephony, content and media, postal, data and radio, law, engineering, economics or public administration;
- d) Functions of the Regulator;
- e) Powers of the Regulator; including powers to collect the gross annual revenue levy imposed under the Act;
- f) Tenure of the Board Members;
- g) Funding of the Regulator to include-
  - (i) Monies appropriated by Parliament;
  - (ii) Fees, charges and levies; *including fees for regulatory services;*
  - (iii) loans, grants, gifts and donations in accordance with the PFMA 2015 (as amended);
  - (iv) *a percentage of the gross annual revenue levy imposed under the Act;*
  - (v) *administrative citations; and*
  - (vi) *Fines imposed for offences under the Act to continue being deposited in the Consolidated Fund.*
- h) The Secretariat and staff of the Regulator; including the Executive Director, Secretary and other Staff.
- i) *Secretariat to provide advice to the Minister on policy and legislative proposals.*

**2. Provide for the categories of licenses and authorizations in the ICT sector which shall include infrastructure, services and combined licenses for-**

- (a) telephony;
- (b) media and content;
- (c) postal and courier;
- (d) value added services;
- (e) data and digital markets;
- (f) satellite orbital location and landing rights;
- (g) software; and
- (h) IT services

**3. Provide for issuance of a national operator license(s) in respect of telephony; broadcast, content & media, postal**

- (a) national coverage, requires access by national operators to communications resources to achieve this objective;
- (b) national operators to be charged with responsibility to share broadband, provide access and interconnect where applicable to other operators.
- (c) In accordance with the National Operator Policy, provide for listing by a National Operator of at least 20% of its ownership on the Stock Exchange. Listing will achieve two objectives, sharing wealth and reducing capital flight from 100% profit repatriation.

**4. Detail classes of services exempt from the requirement of a communications license for performance of defined official functions of**

the state [military, police, emergency, certain transport elements [aviation, railways etc.]

**5. Create a class of operators; *public operators*, established *and funded* by Government to serve specific public service needs in the communications sector including**

- (a) Broadcasting; *both public service broadcaster and broadcast infrastructure provider,*
- (b) *Public service broadcast infrastructure provider to focus on provision of infrastructure and not be required to obtain a content service provider licence;*
- (c) Telephony; *including emergency services and proposed successor of UTL.*
- (d) Postal and Courier;
- (e) Information Infrastructure *in respect of services provided by NITA- U;*
- (f) Media (proposed that policy responsibility for New Vision Printing and Publishing Corporation be transferred formally *from the Ministry of Finance (Privatisation Unit)* to the Min of ICT & NG.); and
- (g) Satellite orbital locations

**6. Certain Infrastructure to vest in government.**

- a) Critical information infrastructure at the coming into force of the Act owned by Government (vested in NITA Uganda, UTL etc) to be managed by an infrastructure provider to be set up by government.

- b) *Infrastructure operators to obtain a communications licence and authorised to sell services to other operators, authorised users and the public.*
- c) *UBC/Signet common carriage operation to be transferred to a public service operator (broadcast signal / infrastructure provider).*

**7. Strengthen the institutional, legal and regulatory frameworks for effective delivery of information and communications services by-**

- a) *Reviewing, harmonizing, consolidating and amending/repealing provisions in the core sector-governing laws viz: the Uganda Communications Act 2013, the Uganda Broadcasting Corporation Act 2005; the Press & Journalist Act CAP 49, the National Information Technology Authority of Uganda Act 2009, the Data Protection and Privacy Act 2019 and other appurtenant laws in order to address convergence while eliminating regulatory overlaps in the Information and Communications Sector; There will be established a single regulator in the communications sector.*
- b) *Licensing and registration of media professionals (domestic and foreign) under the Press and Journalist Act to be transferred to the Min of ICT & NG.*
- c) *Providing for the regulation, management and sharing of communications resources including spectrum, infrastructure, satellite orbital locations and landing rights, numbering resources, electronic addresses, and postal addresses;*

- d)* Updating the media and content regulatory framework to take into account changes in technology by detailed provisions regulating content creation, distribution, preservation and related services;
- e)* Updating the existing framework for broadcasting; production, distribution and exhibition of content; including film, advertising, stage plays, public performances and media and content services taking into account new technologies for publication and distribution of content, among others;
- f)* In respect of broadcasting consider introduction of market concentration rule
- g)* Regulating professional ethics, registering associated professionals and genre of practitioners.
- h)* Updating the definition of information, communications and information and communications technologies (technologies for I&C) that takes into account changes in technology, infrastructure; their regulation and scope; and
- i)* Provide for transfer of non-regulatory functions (in the information and information technology sub-sector) from NITA Uganda and other agencies as may be identified to the Ministry of ICT & NG.

**8. Provide for adequate funding to finance, regulate and develop the Sector by**

- a)* providing for funding in the law from spectrum and numbering resources fees, national and international licence fees and levies for regulatory services provided;

- b) Providing for sources of funding in the law from loans, grants, gifts, donations and appropriations from Government and other legally approved sources;
- c) Review current Section 68 of the Act and provide that all operators shall contribute to the Fund. Provide for tiers for the different subsectors; *or in the alternative create a content development fund with a mandate to support development of local content; support distribution and export of local content.*
- d) Draft provisions for governance of the Fund including stakeholder approvals; and
- e) Draft provisions for apportionment and distribution of the Fund.

**9. Enhance the role of the Uganda Institute for Information and Communications Technology as a center for excellence and specialized capacity building for the manpower needs of the sector.**

- a) Draft a provision detailing the role of Information and Communications sector stakeholders in identifying priorities for curriculum development, incubators and research.
- b) Draft provisions in respect of the funding of UICT.

**10. Provide for the regulation of emerging *areas* in information and communications services and markets including-**

- a) regulation of data management, protection and privacy in the ICT sector;
- b) designation and protection of critical communications infrastructure;

- c) providing for right of way, way leaves and “Big-once” in laying of critical communications infrastructure; *require infrastructure service providers to lay resource corridors to reduce the cost of installation of communications resources and infrastructure.*
- d) providing for the regulation of digital services and digital markets;
- e) providing for the authorization of numbering resources and number portability;
- f) providing for classification of licenses and allocation of communication resources (spectrum, numbering resources, satellite orbital location and landing rights, postal addresses and electronic addresses plan) etc.;
- g) providing for the regulation and management of mergers, acquisitions and takeovers;
- h) *provide a framework for managing and exiting distressed operators;*
- i) providing for the regulator’s oversight role in the supervision of distressed operators’ businesses;
- j) providing for: -
  - i. Sim Card registration;
  - ii. The Centralized Equipment Identification Registry; to track and disable stolen, illegally operated communications equipment;
  - iii. Management and operation of the national Computer Emergency Response Team (CERT) to respond to sector emergencies.
  - iv. *Advisory council on health, safety and e-waste disposal and management in accordance with the National Environment Act, 2019 including the circular economy;*



- v. Social media and multi-media; including Online safety to protect minors and other vulnerable persons, online safety against *cyber bullying, publication of false news, etc.*;
- vi. Advertising; *licensing, classification and setting standards, including outdoor electronic advertising*;
- vii. value added services;
- viii. interconnection and access; and
- ix. Infrastructure and *resource sharing in accordance with the National Broadband Policy 2018.*

**11. Provide for powers of the Regulator to manage cyber security and containing a national and communications emergency**

- (a) providing for cybersecurity and communications emergency;
- (b) providing for the role of the Regulator in a national emergency

**12. Detail new framework to regulate postal and courier services**

- (a) Define postal services including reserved postal services.
- (b) Define courier services.
- (c) Designate Uganda Post Limited (“UPL”) as the national postal operator.
- (d) Redefine the scope of postal services in line with best practices and standards to take care of the new definitions under the Universal Postal Union Convention and bring them up-to-date with current practices; and

- (e) Provide for the regulation of courier services to include definition, licensing and best practices.

**13. Provide for regulation and management of media and content by-**

- (a) Transfer responsibility for content censorship and registration of newspapers (print and online) from the Media Council to Communications regulator.
- (b) Appraise and develop functions of the Contents Committee established under Section 14(2) of the Uganda Communications Act 2013.
- (c) Providing for *regulation of* media and content services taking into account new technologies in respect of production, publication, distribution, classification, exhibition and preservation of content;
- (d) mandating the Regulator to develop media and content standards and codes of conduct;
- (e) providing for licensing and standards to regulate for content creation, preservation, distribution and retrieval. *Provide for registration of foreign media and correspondents];*
- (f) Define relationship of Minister with the New Vision Printing and Publishing Corporation;
- (g) Provide for licensing of software and software services.
- (h) Provide for licensing of stage plays and public entertainments;
- (i) Provide for licensing of fixed and mobile entertainments;
- (j) Provide for licensing and classification of film, documentaries and commercial still photography;

- (k) Providing support for development of content services for the benefit of under-served populations like persons with disabilities and hard to reach areas, *through the content development fund*;
- (l) Providing for the regulation of content services along the entire value chain from creation, performance, distribution, exhibition and use of information and communications technologies;
- (m) Providing for online safety and privacy and the protection of the fundamental rights and privacy of users;
- (n) Providing for deterrent penalties and offences for dissemination of harmful content; and
- (o) Provide for a must-carry obligation in respect of broadcasting for the public broadcaster.

**14. Provide for the regulation of collaboration/coordination with other sectors in management of Information and Communications infrastructure services and *resources* by-**

- (a) *Amend Section 18 of the Physical Planning Act, 2010 to provide for communications resource corridors and communication way leaves as an essential element of physical development plans approved under the Act.*
- (b) Establishing an information sharing platform for coordination and collaboration within the sector;
- (c) Providing for collaborative regulation with other *regulatory* agencies impacting on the information and communications sector;

- (d) Strengthening interconnection and providing for the regulation of access, infrastructure sharing and national roaming *to improve national coverage of information and communications services*;
- (e) Providing for an inter-agency framework to coordinate regulation of value-added services where there is more than one regulator, for example, mobile money and cyber security;
- (f) Harmonizing the roles of the Regulator with other players within the overall national cyber security framework;
- (g) Providing for an inter-agency framework to promote Uganda as a destination/location for film making;
- (h) Establishing a national infrastructure policy committee of Government to oversee and coordinate infrastructure planning for all utilities to give effect to the **dig-once policy**; and the development of a cross-sectoral national action plan for infrastructure rollout; and for the role of the Minister and Cabinet in its approval;

**15. Provide for consumer protection & empowerment by-**

- (a) Defining relationship between regulatory frameworks for consumer protection and the proposed national legal framework, specifying the role of each body;

- (b) Providing for implementation of a national consumer and competition policy or in the absence of such policy provide for consumer and competition regulatory frameworks for the Information and Communications Sector;
- (c) Updating regulatory frameworks to empower and protect consumers, survey markets and comply with regional and international obligations;
- (d) Providing a framework for regulation of prices, rates and tariffs including determination, transparency and elimination of unfair, harmful and predatory practices, and promoting fair competition;
- (e) Providing for the regulation and fair determination of bulk pricing for communications and intermediary access;
- (f) Updating the regulatory framework to prevent abusive market practices.
- (g) Providing for Ex-Ante Regulation (provide for rules that govern ICT businesses in Uganda);
- (h) Providing for the conduct of due diligence of entities and evaluation of technology prior to grant of first-time licence/authorisation and at the renewal of licences;

Providing a regulatory framework that takes into account the rapidly changing technological environment and that promotes the principle of parity in regulation and accommodating convergence of digital technologies while maintaining technology neutrality.

**16. Provide for dispute resolution mechanisms by-**

- (a) Providing for investigations, inquiries and arbitration by the Regulator under the Act;

- (b) Providing for appeals against decisions of the Minister and the Regulator under the Act;
- (c) Providing for the powers of the Regulator to register and regulate professionals in the Information and Communications sector (media, IT)  
*(To be in harmony with 6.1.8.(b) and (g))*
- (d) Providing for establishment of the Information and Communications Appeals Tribunal; to hear appeals from the decisions of the Minister and the Regulator;
- (e) Reviewing the membership of the tribunal to take into account the expanded mandate of the converged regulator and an expanded membership to ensure the ability to form coram and constitute a panel in the absence of a member; and
- (f) Providing for appointment of the Registrar of the Uganda Information and Communications Tribunal to serve as the administrative head of the tribunal.

**17. Providing for the oversight roles of the Minister in the ICT sector by-**

- (a) Providing for the role the Minister in issuance of policy directives;
- (b) Providing for the role of the Minister in grant of the NTO licence;
- (c) Providing for the roles of the Minister in the regulation of the sector;
- (d) Providing for Inspection of authorities from time to time and for the Minister to appoint inspectors to investigate the affairs of each authority and to report to the Minister;

- (e) Providing for the Minister's power to require infrastructure providers to maintain infrastructure records in respect of planning and rollout, to detail investigation processes, and to request for records in respect of ICT infrastructure planning and rollout and provide for penal provisions for noncompliance; and
- (f) Provide for the Minister's Power to carry out spot check inspections/verifications in respect of infrastructure installations, protection, and management.

**18. Provide for new offences and deterrent penalties**

Providing for new offences, review existing offences and enhance penalties for deterrence.

**19. Provide for *the making of regulations to be issued under the Act***

**20. Consequential Amendments.**

- a) *Amendment to the UBC Act, 2005 common carriage function-* Amend the UBC Act, to designate the broadcast infrastructure provider as the common carrier.
- b) *Amendments to the UBC Act, 2005 to:*
  - i. *Replace references to the Broadcasting Council with the Information and Communications regulator;*
  - ii. *Improve on governance and operational procedures in line with best practices;*
  - iii. *Provide that UBC may sell, distribute local content to other content service providers;*

- iv. Designate UBC as the depository of locally made films, documentaries and commercial still photography; and
- v. Provide funding mandate for and support to the public broadcaster's charter to disseminate news and information to the public either directly or through distribution to other content service providers.

**c) Amend the Data Protection and Privacy Act, 2019 to replace NITA-U with the *Uganda Communications Regulatory Authority***

**d) *Transfer of certain functions of the Media Council to the Ministry***

- i. Registration of foreign and international correspondents.
- ii. Registration of domestic media practitioners.
- iii. Discipline of media practitioners.

**e) *Transfer of certain functions of NITA to the Ministry***

Where not otherwise specifically provided, any function of NITA (U) immediately prior to the coming into force of this Act shall vest in the Ministry of ICT.

**21. Repeal the Press and Journalist Act, Cap, 105, the Stage Plays and Public Entertainments Act, Cap. 49, the Uganda Communications Act, 2013 and the NITA-U Act, 2009**

**22. Application of the Information and Communications Bills, 2022**



The law will apply to the information, communications and technologies and all related infrastructure and services including-

- (a) Value Added Services;
- (b) Content and Media, including broadcasting, publication, film and cinematography and multi-media;
- (c) Telephony; including telecommunication, radio communications and radio services;
- (d) Postal and courier services; and
- (e) Digital / Data markets and services
- (f) Information Technology

**23. Savings and transitional provisions to deal fairly with circumstances existing on commencement of the new Act, e.g., existing licenses and agreements, Staff, cases, assets and liabilities, etc.**

**24. New definitions/interpretation**

- a) Definition of communications to move from sector based to a term denoting: management, distribution, exchange of information between one or more persons using a communications medium, including the following definitions:
- b) Electronic communications.
- c) Digital.
- d) Information (to include data, audio-visual, printed)

- e) Information communications technology
- f) Minister (Minister responsible for Information, Communications Technology and National Guidance).

**25. International and National Representation and Policy Advisory to Government on Information and Communications Matters**

- a) Providing for the role of the Regulator in national and international representation and technical advisory (policy and legislative) to Government;
- b) Providing for the role of the Minister in international representation, adoption and domestication of international policy recommendations for Uganda;
- c) Providing for the role of the Minister in ratification of treaties under *Article 123 of the Constitution and the Ratification of Treaties Act, Cap 254*.

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**Hon. Minister for Information, Communications Technology and National Guidance, P. O. Box 7817, Kampala \_14<sup>th</sup> July, 2022**

**Annexures:**

1. *Regulatory Impact Assessment Report*
2. *President's letter to The RT. Hon. PM dated 16<sup>th</sup> June 2016*
3. *MoICT legislative agenda to RT. Hon. PM dated 3<sup>rd</sup> August 2021*

4. *Note Paper on Regulatory Overlaps in the Sector*
5. *UBC Committee report*
6. *Parliamentary ICT Committee Report on ICT&NG*
7. *UCC submission to Task Team*
8. *Media Council Submission to Task Team*
9. *UBC submission to Task team*
10. *MoICT report on amendment of UCC / NITA -U Acts*