



**National Communications Authority**

**PUBLIC NOTICE  
ADOPTION OF RULES FOR INTERCONNECTION**

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**December 2018**

## **Public Notice**

**Subject: Adoption of Rules for Interconnection**  
**Docket No. 2018-xx**

1. The National Communications Act of 2017 (the Act) established the National Communications Authority (the NCA) for the purpose of licensing and regulating telecommunications and broadcasting. In particular, the Act directs the NCA to adopt rules in a number of specific areas that are critical to the proper functioning of the telecommunications and broadcasting industries. One of the essential elements for promoting competition and the efficient functioning of the telecommunications market is the establishment of interconnection rules. Chapter 8 of the Act, Articles 49-53 of the Act, specifically gives the NCA the authority to adopt rules for interconnection among telecommunications operators and identifies particular issues that these rules should address.

2. The attached draft Rules for Interconnection are intended to fulfill the requirements of the Act and to establish a framework for network interconnection that will permit any subscriber of any network in Somalia to contact any other subscriber anywhere in Somalia.

3. Chapter 8 of the Act makes clear that the Parliament understands the importance of interconnection to the functioning of the telecommunications industry. Indeed, Chapter 8 begins with the statement that “The interconnection of telephone communication services is a public interest and there is a necessity to interconnect the lines of different companies that are in the business of telephone services, to facilitate for the public the utilization of one SIM Card, that enables them to connect with other companies that are working in the country.”

4. The Act, recognizing the critical importance of interconnection, imposes additional obligations on telecom operators. A telecom operator is required to negotiate interconnection upon the request of another operator. The operators must conclude an agreement, in writing, and the agreement must comply with the terms of the Act and of any regulations that the NCA adopts. The NCA may be involved in the negotiation and in the event the parties do not reach an agreement the NCA has the authority to resolve the disputed terms. (*See Article 50*). In addition, operators are prohibited from terminating an interconnection agreement without the written approval of the NCA. In these circumstances, the NCA is also empowered to mediate any dispute between the parties and the NCA is charged with giving priority to the public interest in deciding any such dispute. (*See Article 53*).

5. The Act also expressly gives the NCA the authority to adopt regulations concerning interconnection between telecom operators, and specifically lists the following areas for regulation:

- The time and discussion of the finalization of the interconnection agreement.
- The quality and the level of service.
- The process of tariff payment.
- Safeguarding of private ownership.
- Safeguarding business information.
- Facilitation of the interconnection of the parties.
- Determining the tariff for interconnection in the event that the parties do not reach an agreement.

(See Article 52).

6. Although the Act sets a very clear policy in favor of mandatory interconnection in order to serve the public interest, it leaves many details to be filled in by the NCA in the rules that Article 52 of the Act authorizes the NCA to adopt. This Public Notice discusses our proposals to implement the mandatory interconnection requirements of the Act and we propose to adopt the draft Rules for Interconnection contained in the Appendix to this Public Notice, subject to any changes we might make in response to comments from the public.

7. *Times and Discussion of Finalization of Interconnection Agreement.* Consistent with international best practice, the Act establishes a process of commercial negotiation between operators for the establishment of interconnection. At the same time, however, the Act recognizes that commercial discussions must be conducted in accordance with established rules and subject to regulatory intervention if the parties cannot reach agreement. Article 52(2)A provides that the NCA can adopt rules concerning the “time and discussion of finalization of interconnection agreements.”

8. In any negotiation, it is important to have an expected schedule for the conduct of discussions. In the case of interconnection, this process begins with a request from one telecom operator to another requesting interconnection. We propose, as our attached rules provide, that when a telecom operator submits a request for interconnection to another telecom operator, the parties must begin negotiations not later than thirty (30) days after the date of the request for interconnection. We further propose that the parties shall be expected to conclude an agreement for interconnection within sixty (90) days of the date on which negotiations are begun, in other words, not more than ninety (120) days after the date on which the request for interconnection is presented.

9. We anticipate that some parties may consider these timelines to be too short – in particular, the Ninety (90) days period for the conclusion of an interconnection agreement. They may contend that interconnection is a complicated subject that involves technical, economic, and legal issues and that interconnection negotiation often provoke extremely contentious discussions. Indeed, the history of interconnection in Somalia clearly shows that it can be very difficult to conclude interconnection agreements. We conclude, however, that the long history of interconnection discussions that telecom operators and the Ministry of Post, Telecommunications and Technology have already conducted over a period of years establish a firm basis on which to establish interconnection arrangements promptly. Multiple telecom operators have entered into interconnection agreements in the past, although these agreements have ultimately failed due to disputes over payment of invoices for termination of traffic. Despite the commercial disagreements that have arisen between the operators, the basic technical, commercial, and legal terms for interconnection between telecom operators should already be well understood and operators therefore should be able to enter into interconnection agreements quickly. In addition, telecom operators all over the world have entered into thousands of interconnection agreements in the past several decades and there are many examples of model interconnection agreements that Somali telecom operators can use as a model for their interconnection agreements. We specifically invite public comments on our proposed timeline for negotiation of interconnection and on our conclusion that past interconnection agreements and international examples of interconnection provide a sound basis for the expeditious conclusion of interconnection agreements.

**10. *The Quality and Level of Service.*** Article 52(2)B authorizes the NCA to make rules concerning the quality and level of interconnection service that telecom carriers must provide. The purpose of requiring telecom carriers to interconnect is to ensure that subscribers of one network can call subscribers of any other network and receive the same quality of service that they would receive if they were calling on the same network. From the customer's perspective, interconnection should be entirely seamless and there is no reason why a subscriber should even be aware of the fact that he is calling a different network. In order to ensure this seamless connection between subscribers of different networks, we conclude that telecom operators must provide interconnection of a quality and level of service equivalent to the quality and service level that it provides to connect traffic on its own network. Among other things, this requires that interconnection facilities must be sufficient to ensure that call completion rates for calls originated on competing networks will meet the same standards as for a telecom operator's on-network calls.

**11.** We invite comment on our conclusions as to the appropriate standards of quality and level of service that telecom operators must provide to interconnecting telecom operators. In particular, we ask for comment on specific provisions that our rule should include in addition to those that are stated in the rules contained in the Appendix (x). For example, should our rules specify a required Grade of Service (that is, level of call blocking) that would be acceptable? In addition, should our rules contain enforcement mechanisms in the event that a telecom operator fails to provide interconnection service of an adequate quality, or should our rules require that interconnection agreements include provisions that would penalize inadequate service quality? We also invite commenters to identify other issues that our rules, or interconnection agreements, should address in order to ensure service quality.

**12. *The Process of Tariff Payment.*** Article 52(2)C authorizes the NCA to adopt rules concerning the process of tariff payment for interconnection in the event that the parties failed to reach an agreement. Typically, telecom operators settle accounts for the exchange of traffic periodically, for example, once a month. Interconnection agreements also ordinarily provide for netting of traffic – that is, if one operator originates 100 minutes of inter-carrier traffic and the other operator originates 90 minutes of inter-carrier traffic, the first operator would pay the second operator for the ten minutes of imbalanced traffic.

**13.** Telecom operators usually negotiate provisions concerning the settlement of accounts without the need for regulatory intervention. Subject to any rules we may adopt pursuant to Article 52(2)G of the Act, we ask commenters to address whether the NCA should adopt specific rules concerning settlement of interconnection traffic or should rely on telecom operators to negotiate reasonable terms. Alternatively, we could adopt rules that would serve as a default in the event that telecom operators are unable to agree on a mechanism for settlement of accounts. We include a draft rule that addresses this issue in the Appendix, although we believe this is likely a matter that is best left to commercial negotiation.

**14. *Safeguarding of Private Ownership.*** Article 52(2)D authorizes the NCA to adopt interconnection rules for the purpose of safeguarding private ownership. All Somali telecom operators are privately owned and there is no reason to expect that the process of interconnection will in any way undermine private ownership of telecom operators. Accordingly, we do not propose to adopt any rules to safeguard private ownership, but we solicit comment from interested parties on this matter.

**15. *Safeguarding of Business Information.*** Article 52(2)E authorizes the NCA to adopt rules to safeguard business information. In negotiating interconnection

agreements, the parties will typically have to exchange confidential information about each other's networks and businesses. The parties, nevertheless, want to ensure that this information is only used for the purpose for which it is exchanged and is not disclosed to third parties. Although this is a matter of great importance to the private parties, it is not necessarily an issue that directly affects the public interest and is therefore not an issue in which the regulator ordinarily needs to intervene. Instead, we would expect both parties to an interconnection agreement to have an incentive to negotiate confidentiality provisions that limit how confidential information is to be used and that may also impose penalties for unauthorized release or misuse of confidential information. We are therefore not proposing to adopt a rule to safeguard business information, but we invite interested parties to comment on whether they believe such a rule is needed and, if so, what our rules should provide in order to safeguard business information.

**16. *Facilitation of the Interconnection of the Parties.*** Article 52(2)F authorizes the NCA to adopt rules that would facilitate the interconnection of the parties. We consider all of the rules proposed in this Public Notice to be intended to facilitate interconnection between telecom operators. First, we are proposing to establish a timeline for the commencement and conclusion of interconnection negotiations. We are also proposing to require telecom operators to ensure that they provide service to interconnecting carriers and their customers that is equal to the quality of service they provide for communications of their own customers. Further, we have asked whether we need to adopt rules concerning payment of tariffs for interconnection, safeguarding of private ownership, and safeguarding business information. Finally, the Act also provides that in the event telecom operators are either unable to reach an agreement for interconnection of their networks or, after reaching an agreement have a dispute concerning application of the agreement, the NCA has the power to resolve such disputes. *See* Articles and 50(2), 50(4), and 53(3). We invite interested parties to suggest additional measures that we can now take to facilitate the interconnection of telecom operators.

**17. *Determining the Tariff for Interconnection.*** Finally, Article 52(2)G authorizes the NCA to adopt rules related to determining the tariff for interconnection. In general, interconnection agreements should be arms-length commercial contracts that the two-telecom operators can determine based on their own economic interests.

**18.** Finally, we also invite interested parties to make specific suggestions on how we can improve the attached draft Rules for Interconnection. It is our intention to adopt these rules, as revised in light of the comments that we receive, promptly in order to bring the benefits of interconnection to all Somali telecom customers as soon as possible

#### Procedural Matters

**19.** Pursuant to Article 30 of the Act [and Article 12 of the NCA's proposed Rules of Procedure,] we invite interested members of the public to comment on the proposed Rules of Procedure contained in this Public Notice. In particular, we ask commenters to discuss whether they consider the proposed Rules for Interconnection to be consistent with the provisions of the Act and an effective way to achieve the policy objectives contained in the Act. We also invite commenters to submit any suggestions they have for improving these rules. Comments may be filed within thirty (30) days of the date on which this Public Notice is published on the NCA's web site, [www.nca.gov.so?] In addition, any member of the public may respond to the first round of comments within 15 days after the initial comments are

filed (that is, within 45 days of the publication of this Public Notice on the NCA’s web site.)

**20.** Commenters should file comments electronically by submitting them to [comments@nca.gov.so]. The subject line of the e-mail submitting comments should reference “Adoption of Rules for Interconnection.” Any party that is unable to file electronic copies may submit paper copies of their comments at the NCA’s headquarters, or P. O. Box 55]. All comments and reply comments that the NCA receives by the deadline will be made publicly available and will be posted on the NCA’s web site. After reviewing the comments, the NCA will issue a formal decision that will adopt Rules for Interconnection, subject to any revisions that we decide to make to this proposal based on the comments submitted to us.

**NATIONAL COMMUNICATIONS AUTHORITY**

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