



**UGANDA
COMMUNICATIONS
COMMISSION**

TEXT AND MULTI-MEDIA MESSAGING IN UGANDA

Guidelines on Content, Services and Applications

Issued October 2012

Communications For All

1. INTRODUCTION

Text Messaging or Short Messaging Service (SMS) has grown over the years from being merely a supplementary service of GSM (Global System for Mobile Communications) utilised for point to point communication to a substantive and useful form of communication that supports not just personal communication across networks but provision of public and private services as well.

However, the developments in text messaging and the multimedia Message services (MMS) has resulted in the emergence of a number of concerns such as mobile spam, transparency of pricing to consumers, deceptive and misleading Messages, the need to protect children from inappropriate content, consumer privacy, and protection of national security.

Uganda Communications Commission (UCC) is mandated under the Uganda Communications Act, Cap 106 Laws of Uganda to, among others, regulate communications services; promote the interests of consumers and operators as regards the quality of communications services; improve communications services generally; and to carry on any other related or connected functions.

This document contains Guidelines set out by UCC to guide the provision and use of text and multi-media messaging in Uganda including

- origination of text and multi-media Messages,
- delivery of text and multi-media Messages, and
- termination of text and multi-media Messages originated by Customers or end users.

1.2 Applicability

These Guidelines shall apply to all originators and terminators of text and multimedia Messages accessed or initiated by telecommunications subscribers or users in Uganda including Telecommunication Operators, Information/Application Providers and assignees of short codes.

1.3 Exceptions

These Guidelines do not apply to Messages:

- 1.3.1 initiated by the Government or any statutory body and authorized by UCC on the occurrence of a state of emergency or the in public interest including health, safety and law enforcement;
- 1.3.2 personal communication by end users or Subscribers with family, friends, associates and other contacts;
- 1.3.3 authorized by UCC in public interest;

1.3.4 closed user group communication from an employer to staff.

1.4 Amendment of the Guidelines

In light of the ever evolving technology, UCC reserves the right to regularly review and modify the Guidelines.

1.5 Objectives

The principal objective of these Guidelines is to promote the use with confidence of text and multi-media Messages by telecommunication subscribers and end users of services in Uganda with minimised encumbrances from mobile spam.

The Guidelines also seek to provide a transparent mechanism for complaint handling in relation to text and multimedia messaging and ensuring complaints are handled in a fair and efficient manner.

In addition, the Guidelines also seek to establish a regime to ensure that reasonable steps are taken by Service Providers to protect children from viewing mobile content that is not suitable for them.

The Guidelines also aim at ensuring that the use of text and multimedia Messages adheres to the Laws of Uganda.

2. INTERPRETATIONS

2.1 Definitions

- a) **“Addressee”** is the intended recipient Subscriber of a Message.
- b) **“Commercial communication”** is a text or multimedia Message, sent by SMS or MMS or similar protocol, that is designed to promote, directly or indirectly, the sale or demand for the goods or services whether or not it invites or solicits a response from the recipient of the Message.
- c) **“Customer”** is a Subscriber or user of a mobile cellular telecommunications service that has indicated a willingness to access or utilise a service provided by a Message Originator or Application provider.
- d) **“End user”** means the person or consumer that actually uses the service offered by the Service Provider or the Telecommunication Operator.

- e) **“Information/Application Provider”** means anyone that creates and/or delivers informational products to telecommunication Subscribers or users through computer based applications, internet based applications, or other electronic services over the network of a Telecommunications Operator.
- f) **“Message”** means text or multi-media content generated from a mobile telephone, computer or other electronic system and conveyed using SMS or MMS. This includes but is not limited to pictures, video clips, mobile games, music, sounds and experiences such as gambling.
- g) **“Message Originator”** is the person or entity sending a Message to a Subscriber.
- h) **“Mobile spam”** means unsolicited communication sent to Subscribers or end users via text and multi-media Messages.
- i) **“Person”** means any natural or legal person.
- j) **“Recipient”** means a person who receives a Message, either intentionally or unintentionally.
- k) **“Service Provider”** is any person or entity engaged in the provision or supply of a service or content using text and/or multi-media Messages to Subscribers through a mobile device. This includes:
- Message originators;
 - Information/application providers;
 - Telecommunication Operators directly providing content to their Subscribers
- l) **“Subscriber”** means a person provided with a mobile cellular telecommunications service by a Telecommunications Operator, and who is responsible for payment of all charges and rentals therefore.
- m) **“Telecommunication Operator”** means holder of a National Telecommunications Operator, Public Infrastructure Provider or Public Service Provider licence issued under the Uganda Communications Act, Cap 106 Laws of Uganda
- n) **“Unsubscribe Request”** means a Message or request sent by a Subscriber to the Service Provider to cease sending further Messages to the Subscriber’s telephone number.

2.2 Acronyms

- MMS - Multimedia Messaging Service
SMS - Short Messaging Service
UCC - Uganda Communications Commission

3. GENERAL PROVISIONS

3.1 Professional and lawful conduct

- 3.1.1 Service Providers shall at all times conduct themselves in a professional manner in their dealings with the public, customers, Telecommunication Operators and other Service Providers.

3.2 Intellectual Property

- 3.2.1 Service Providers shall adhere to the intellectual property Laws of Uganda and shall, in particular, not infringe the intellectual property rights of their clients, suppliers and other parties.

3.3 Content Control

- 3.3.1 Service Providers and Telecommunication Operators shall not knowingly transmit or publish prohibited content.
- 3.3.2 If a Service Provider becomes aware of illegal content under that Service Provider's control, the Service Provider must immediately suspend access to that content. Where required to do so by law, the Service Provider must report the illegal content to the relevant enforcement authority.
- 3.3.3 Service Providers and Telecommunication Operators must co-operate with any content orders lawfully issued by law enforcement authorities or UCC.
- 3.3.4 Service Providers and Telecommunication Operators shall have procedures and mechanisms to trace the origin of content where applicable and shall upon the request by UCC provide details of such source.

3.4 Prohibited content

- 3.4.1 Service Providers shall not provide any content that is objectionable on the ground of public interest, public morality, public order, public security, national harmony or otherwise prohibited under the laws of Uganda.
- 3.4.2 Such content under 3.4.1 includes content that:

- 3.4.2.1 promotes or depicts sexual violence, bestiality, incest, paedophilia, any kind of coercion or non consensual sex;
- 3.4.2.2 promotes acts of extreme violence or cruelty
- 3.4.2.3 glorifies, incites or endorses ethnic, racial or religious hatred, strife or intolerance.
- 3.4.2.4 results in any unreasonable invasion of privacy;
- 3.4.2.5 induces an unacceptable sense of fear or anxiety;
- 3.4.2.6 encourages or incites any person to engage in dangerous practices or to use harmful substances; or
- 3.4.2.7 debases, degrades or demeans.

3.5 Employee Awareness

- 3.5.1 Service Providers must ensure that all the relevant employees are made aware of these Guidelines and the requirements and procedures associated therewith.

4. CUSTOMER RELATIONS

4.1 Provision of information to customers

- 4.1.1 Service Providers shall provide transparent and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers with no hidden charges.
- 4.1.2 Service Providers shall not disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.
- 4.1.3 Service Providers shall avail the terms and conditions of any of their services to customers and potential customers, on request.
- 4.1.4 Each Message sent must include a recognised accurate identifier. The recognised identifier shall be in a form which reasonably enables a Recipient to identify the Message Originator or Service provider of the Message. The Message shall also include clear and accurate information about how the Recipient can readily contact that Message Originator or Service Provider. If the sending party is an organisation, the organisation's name should also be included.
- 4.1.5 Such recognised identifier and associated contact details provided under 4.1.4 shall continue to be accurate for at least 45 days after the Message is sent.

- 4.1.6 Upon request from a validated Recipient, the Service Provider must, within a period not exceeding 36 hours, identify the source from which the Recipient's contact details were obtained.

4.2 Privacy and Confidentiality

- 4.2.1 Every Service Providers shall respect the constitutional right of Customers to personal privacy and privacy of communications and shall not provide unsolicited commercial communication to Subscribers unless prior consent has been obtained from the Addressee of the Message.
- 4.2.2 An exemption to 4.2.1 shall be made where the contact details of the target Addressee have been obtained in the context of the sale. This is conditional on the Service Provider making it clear to the Addressee, at the time of collecting the contact data, that the details may be used for direct marketing and on offering the Addressee a right to object or withhold consent at that time.
- 4.2.3 Each Commercial Communication made subsequent to obtaining contact data based on 4.2.2 shall include an indication to Recipient of an easy and efficient way for the Recipient to stop the receipt of further Messages from the Service Provider or to notify the Service Provider to stop sending any further Messages.
- 4.2.4 Every Service Providers shall respect the confidentiality of Customers' personal information and shall not sell or distribute or divulge such information to any other party without the explicit consent of the customer, except where required to do so by law.

5. SUBSCRIPTION SERVICES

5.1 Customer's Right to Opt-Out

- 5.1.1 Every Service Provider shall implement a functional, obvious, clear and efficient unsubscribe/opt out facility to enable a Customer to send notification to the Service Provider barring further Messages to the Customer from the respective Service Provider or specific application. Such notification shall be based on the word 'STOP'.
- 5.1.2 Such means implemented under 5.1.1 must be:
- 5.1.2.1 easy for all associated Customers to understand and use;
 - 5.1.2.2 minimise any inconvenience to the Customer; and
 - 5.1.2.3 be provided at the lowest or no cost to the Customer.

- 5.1.3 The Unsubscribe Request shall form an instruction to the Service Provider to cease sending any further Messages to the Subscriber, unless the Addressee specifies in the Unsubscribe Request categories of products or services which the Subscriber wishes to continue to receive. In case of such specification, the Service Provider may continue to send Messages about the specified categories of products or services to the respective Subscriber.
- 5.1.4 Once a Subscriber or Customer has opted out or unsubscribed from a service, a Message confirming the Unsubscribe/opt out Request shall be sent to that Subscriber or Customer. This Message must reference the specific service that the Subscriber or Customer has opted-out from.
- 5.1.5 Where the words 'END', 'CANCEL', 'UNSUBSCRIBE' or 'QUIT' are used in place of 'STOP' in an opt-out request, the Service Provider must honour the Unsubscribe Request as if the word 'STOP' had been used.
- 5.1.6 An Unsubscribe Request shall be honoured as soon as practicable not later than 24 hours of receipt of the request and this state shall remain in effect until cancelled by that Subscriber.
- 5.1.7 To facilitate investigation and enforcement, copies of such Unsubscribe Requests shall be retained by the Service provider for at least 1 year after they are received.

6. CONFORMITY

6.1 Arrangements between Telecommunication Operators and Service Providers or third parties

- 6.1.1 Each Telecommunication Operator that provides any Service Provider(s) text and/or multi-media Message connectivity or services to the Telecommunication Operator's Subscribers shall:
- 6.1.1.1 provide a copy of these Guidelines to each Service Provider to whom the Telecommunication Operator supplies text and/or multi-media Message connectivity or services; and
 - 6.1.1.2 inform each Service Provider that, unless it complies with these Guidelines, the Telecommunication Operator may be required under this guide to withdraw or terminate the supply of the text and/or multi-media Message connectivity or services to the Service Provider.

- 6.1.2 Where a Telecommunication Operator has established that a Service Provider using the Telecommunication Operator's network or services has not complied with the Guidelines, the Telecommunication Operator shall, at a minimum:
- 6.1.2.1 in the case of a single contravention or one of a minor nature, issue a written notification to the Service Provider pointing out the violation and the requirement on the Service Provider to comply with the Guidelines; and
 - 6.1.2.2 in the case of a systemic contravention or one of a significant nature, issue written warning to the Service Provider that if the Service Provider does not comply with the Guidelines, the Telecommunication Operator may suspend or terminate the supply of text and/or multi-media Message connectivity or services.
- 6.1.3 Where a Service Provider does not comply with the warning issued under 6.1.2.2 above, a Telecommunication Operator shall take appropriate action, which may include suspension or termination of the supply of text and/or multi-media Message connectivity or services to that Service Provider.

6.2 Enforcement of the Guidelines

- 6.2.1 Where UCC establishes that a Service Provider or Telecommunications Operator has contravened these Guidelines, UCC shall undertake enforcement proceedings against the Service Provider or Telecommunication Operator based on the provisions of the UCC enforcement regime and commensurate to the significance of the violation.
- 6.2.2 Service Providers and Telecommunication Operators shall comply with investigation procedures and requirements as well as any information requests instituted by UCC with respect to 6.2.1.
- 6.2.3 Sanctions imposed in respect of 6.2.1 for any contraventions to the Guidelines shall include:
- 6.2.3.1 penalties,
 - 6.2.3.2 publication of compliance or violation status,
 - 6.2.3.3 instruction to the Telecommunication Operators to suspend or terminate any contracts with the violating Service Provider,
 - 6.2.3.4 compensation or refunds to the affected Customer(s).
- 6.2.4 For contraventions under these Guidelines, Service Providers and Telecommunication Operators shall be held liable for the acts, practices or omissions of their employees and any agents.

6.3 Keeping of Records

6.3.1 Every Service Provider shall ensure that it keeps appropriate logs for all services or applications it offers so as to be in a position to deal with all consumer complaints and investigations by appropriate authorities. Logs shall include, but not be limited to, billing, time and date Message was sent; and content/information provided.

7. COMPLAINTS FRAMEWORK

7.1 Service Provider complaints handling

7.1.1 Each Service Provider shall put in place a system and procedures that enables the receipt, tracking and handling of any complaints made by Customers or Subscribers relating to the text and multimedia services and applications offered by the respective Service Provider.

7.1.2 All Complaints received by the Service Provider must be expeditiously acknowledged and responded to within a reasonable period of time.

7.1.3 Customer support and redress channels must be easily available and must not be limited to a medium that the customer is unlikely to have access to.

7.2 Telecommunication Operator complaints handling

7.2.1 If a Telecommunication Operator receives a complaint from any of its Subscribers alleging that a Service Provider that is using the Telecommunication Operator's network or services has acted contrary to the provisions of these Guidelines, the Telecommunications Operator shall investigate the complaint or refer the complaint to the respective Service Provider.

7.2.2 Where a complaint is referred to the Service Provider, a response must be provided to the Telecommunication Operator within 24 hours of the Service Provider receiving the complaint upon which the Telecommunication Operator shall advise the Subscriber.

7.3 UCC complaints handling

7.3.1 Any person may lodge a complaint to UCC against a Service Provider or Telecommunications Operator who, in their view, has acted contrary to the provisions of these Guidelines.

8. COMMERCIAL COMMUNICATIONS

8.1 Sending of Commercial Communications

8.1.1 Commercial communications may not be timed to be delivered between 19:00 and 06:00 hours, unless explicitly agreed to by the Recipient, or unless delivery during this period forms part of the upfront description of the service.

8.1.2 Messages alerting or notifying of an emergency related to health, fire or security are exempt from the restriction in 8.1.1.

8.2 Identification of Spam

8.2.1 Any Commercial Communication Message is considered unsolicited or mobile spam unless:

8.2.1.1 The Recipient has given consent to receive or has requested the Message;

8.2.1.2 The Recipient has had a direct and recent (within a period of three (3) months) prior commercial relationship with the Message Originator and the Recipient's contact details were obtained in a clear and transparent manner in accordance with the provisions of 4.2.2.

8.3 Sending of multiple Messages to a Subscriber

8.3.1 Service Providers shall desist from repetitively or continuously sending Messages to a Subscriber or Addressee encouraging directly or indirectly the Subscriber or Addressee to call or send a Message or other electronic communication to a premium rate number unless the consent of the Subscriber or Addressee has been obtained to continue sending the Message or a reminder of the same.

8.4 Reminder Message

8.4.1 Each Service Provider shall send a reminder to all its subscription service(s) Customers informing the Customer the service subscribed to, the tariff associated with the service, the identity of the respective Service Provider and how to unsubscribe from the service

8.4.2 The Message sent in relation to 8.4.1 shall be sent within 30 days of the initial subscription Message and thereafter, once every calendar month.

8.5 Restricted content

8.5.1 Service Providers shall ensure that Restricted Content is only provided to a Subscriber where:

8.5.1.1 The Subscriber has requested access to the Restricted Content, and

8.5.1.2 The Service Provider has taken reasonable steps to ensure that Subscriber is not below 18 years of age prior to the delivery of the Restricted Content.

- 8.5.2 Restricted content under 8.3.1 shall include, but is not limited to content that
- 8.5.2.1 would be likely to be rated as suited for 18 years and above;
 - 8.5.2.2 promotes or encourages activities that are legally restricted for those under 18 years such as drinking alcohol and sex;
 - 8.5.2.3 contains frequent and repetitive use of the strongest foul language;
 - 8.5.2.4 contains actual or realistic depictions of sexual activity and nudity or depicting pubic area and/or genitals;
 - 8.5.2.5 graphic violence, which, in particular, dwells on the infliction of pain, injuries or scenes of sexual violence;
 - 8.5.2.6 gross violence towards realistic humans or animals ;
 - 8.5.2.7 graphic, detailed and sustained violence towards realistic humans and animals;
 - 8.5.2.8 violence towards vulnerable or defenceless humans.
- 8.5.3 Material which genuinely seeks to inform and educate such as in matters of sexuality, safe sex and health and where explicit images are the minimum necessary to illustrate and educate in a responsible manner shall be exempt from the definition of Restricted Content under 8.3.2 and therefore the requirements of 8.3.1.
- 8.5.4 Reasonable steps under 8.3.1.2 shall include having a ‘opt- in’ or ‘subscribe’ application system that must be accompanied with information required by the Service Provider to verify the Subscriber’s or Customer’s identity and a declaration that the account holder is not aged below 18 years.