

**POTRAZ Consumer Protection Guidelines**

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# 1. Introduction

The Consumer Protection Guidelines pronounced herein, are issued to assist consumers and Service Provider(s) providing communication services in Zimbabwe to understand their rights and obligations when buying or selling communication services. The Guidelines also outline activities and measures to be taken by the Postal and Telecommunications Regulatory Authority of Zimbabwe (“POTRAZ”) in communicating with Consumers about their rights and obligations. These guidelines are not a law but are intended to guide consumers and Service Providers in best practice consumer relations. However, POTRAZ may determine to issue binding regulations in the form of regulatory notices, circulars and directives if it deems that consumer protection is not satisfactorily attained and maintained.

The guidelines are drawn from the following functions of the Authority as given under section 4 of the Postal and Telecommunications Act Chapter 12:05:

* To ensure the provision of sufficient domestic and international telecommunication and postal services throughout Zimbabwe.
* To promote the development of postal and telecommunication systems and services in accordance with practicable recognized international standards and public demand;
* To exercise licensing and regulatory functions in respect of postal and telecommunication systems and services in Zimbabwe, including the establishment of standards and codes relating to equipment attached to telecommunication systems;
* To secure that reasonable demands for postal and telecommunication services are satisfied.
* To promote the interests of consumers, purchasers and other users, in respect of the quality and variety of postal and telecommunications services provided and telecommunication apparatus supplied.
* To maintain and promote effective competition between persons engaged in the provision of postal and telecommunications services and any activities connected therewith;
* To monitor tariffs charged by cellular telecommunication, postal and telecommunication licensees with a view to eliminating unfair business practices among such licensees.

# 2. Objectives of the Consumer Protection Guidelines

 The objectives of these guidelines are to:

* Enhance awareness of consumers about their rights
* Provide consumers and Service Provider(s) with a clear understanding of what they should expect from each other;
* Give guidelines to Service Provider(s) on how they should respect and protect consumers’ rights;
* Encourage best practice by Service Providers and promote the provision of

high quality services to Consumers;

* Outline how the POTRAZ will communicate with Consumers and the industry.

# 3. Application of the Consumer Protection Guidelines

These Guidelines are applicable to all Service Providers providing Public

Telecommunications, Postal and Courier Services, including consumers of such services.

These Guidelines are not legally binding. However, Service Providers are encouraged to comply with these Guidelines and consumers are encouraged to request their Service Providers to meet these Guidelines.

# 4. Review process

POTRAZ will continually review these guidelines and the consumer protection framework in line with market developments, consumer preferences, technological developments and the Laws of the country in consultation with stakeholders.

Additional regulations may be issued or where possible and necessary, regulatory enforcement actions will be taken if the Authority deems that the objectives of these guidelines have not been met or that consumers are not adequately protected.

# 5. DEFINITIONS

5.1. Unless otherwise defined in this Guidelines any word, or expression, shall, unless the context so requires, have the same meaning as given in the Act, regulations or licence documents.

5.2. In the event of conflict or ambiguity between the terms defined herein and the terms defined in the Act, regulations or licence documents, the following order of precedence should apply:

(a) the Law and any laws issued addressing a similar matter in Zimbabwe

(b) Regulations;

(c) Service Provider(s)’ Licence documents;

(d) The Consumer Protection Guidelines.

5.3. For the purposes of use in these Guidelines, the following terms will have the ascribed meanings:

**Consumer** means any user or subscriber using or requesting publicly available

Telecommunication, Postal and Courier services for their use;

**Regulation** means any Regulation issued in terms of the Postal and Telecommunications Act.

**Subscriber** means, any Person that is party to a contract with a Public

Telecommunications Operator for the provision of Telecommunications services.

# 6. CONSUMER RIGHTS

**6.1. What Consumers should expect from Service Provider(s)**

Service Provider(s) should provide clear and comprehensive information about

tariffs, terms and conditions for available products and services.

6.2. Consumers should only be charged in accordance with tariffs, terms and conditions as they have agreed with their Service Provider.

6.3. Consumers are entitled to expect Service Providers to:

a. Provide Consumers with clear and accurate bills, so that they readily understand the tariffs charged and method of calculation used in producing bills for products and services;

b. Be fair, prompt and courteous when responding to problems presented by consumers.

c. Not discriminate among consumers, meaning that the consumer has the right to be treated equally as other consumers in similar circumstances;

d. Not engage in market abuse or unfair trade practices;

e. Ensure that complaints are properly and promptly dealt with, in accordance with the Service Provider’s customer service charter and internal complaints handling procedures;

f. Safeguard the Consumers’ right to complain in writing and receive a prompt response where appropriate.

g. Not hinder the Consumers’ right to have disputes resolved by POTRAZ.

# 7. Tariffs and Terms

7.1. All tariffs charged by Service Provider(s) should be approved by the Authority in accordance with Section 100 of the Act.

7.2. Full terms and conditions of the service together with full details of tariffs should be available to all subscribers before the provision of any service. These should either be provided in written form (whether electronic or hard copy) or subscribers should be directed to where they can obtain a copy of the terms and conditions.

7.3. New subscribers should be given a reasonable opportunity to inspect and review these terms and conditions prior to being bound by the terms of a new service.

7.4. All newly approved tariffs, including premium rate and value-added services, should be advertised in the national print media for at least seven days before implementation. Tariffs should be displayed for consumers in all the Service Provider’s outlets in printed form, as well as electronically on the Service Provider’s website.

7.5. The Authority should whenever necessary, provide consumers with information about premium charges or value-added services in order to guard against market abuse, fraud, false and misleading advertising, misrepresentation, or incomprehensible service charges.

7.6. Service Provider(s) should inform subscribers in writing of the Subscriber’s assigned credit limit, if any, with respect to each service or bundle of services purchased by the subscriber.

# 8. Consumer Contracts

8.1. All Service Provider(s) should file their standard Customer Service Agreements containing the terms and conditions with the Authority for approval.

8.2. All Service Provider(s) should ensure that their terms and conditions are fair, transparent and written in plain, clear and straight forward language.

8.3. Minimally, a standard Customer Service Agreement for a specific communication service should include terms that will explain adequately to the consumer the following, where applicable:

(a) The availability and limitations on the use of the service, volume of usage, and
 area of usage;

(b) The calculation of charges and fees, billing, charges for different services,
 method of payment;

(c) The process for suspending or disconnecting the service by the licensed
 operator;

(d) The process for effecting termination by the consumer;

(e) The policy relating to protection of personal information;

(f) Warranties in respect of the service and associated equipment;

(g) The consumer complaint and dispute resolution procedures;

(h) The contact details for the Service Provider’s customer service department; and

(i) The contact details for POTRAZ.

# 9. Billing

9.1. Service Provider(s) should issue bills which are:

(a) Clear, and establish verifiable charges in a format that can be easily understood;

(b) Complete so that Consumers can confirm or challenge billing information, including amongst other things calls charges, payments and late charges;

(c) Contain a disclosure of the basis of their billing (i.e., do they charge per second, per minute or per block of time) for all calls and an itemised list of all subscription charges;

(d) Itemised as to national and international usage, monthly subscription fees, premium rate or value-added service charges, internet subscription and usage fees where applicable, or directory assistance fees. Such information should be provided without additional charge for the first three (3) pages.

9.2. Service Provider(s) may offer online itemised bill display, downloads and

electronic bill payment as per their agreement with the consumer.

9.3. Billing records should be retained by the operators for a period of 3 years If a dispute commences within a month of a bill being raised Service Provider(s) should retain the records until settlement of that dispute.

# 10. Roaming charges

10.1. All roaming tariffs should be available in a user-friendly format to Consumers.

Service Provider(s) are required to comply with the Regulatory Circular No. 2 of November 2012 on International Roaming Services and any subsequent amendments to it.

10.2. Service Provider(s) should ensure that all roaming charges are billed to the

consumer as soon as possible from the call date but should endeavour at all times

to do so within sixty (60) days from the call date.

10.3. The due date for bills should be clearly indicated on all bills provided to consumers. POTRAZ recommends that Service Provider(s) do not require payment of bills by consumers for at least thirty (30) days from the billing date.

10.4. Consumers should have the right to query the accuracy of the bill and/or arrange a payment plan in order to avoid service disconnection within the provided due payment period.

# 11. Advance payments

11.1. Service Provider(s) may seek refundable advance payments from consumers in the following circumstances:

(a) The consumer has a poor credit history objectively determined by a reputable credit rating agency;

(b) New Subscribers;

(c) For roaming services.

# 12. Late payment fees and suspension or termination

12.1. These Guidelines do not inhibit Service Provider(s) from imposing reasonable late payment interests or following a suspension or disconnection procedure for a particular service if the subscriber fails to pay his/her bill within the contractual payment period and does not arrange a payment plan.

# 13. Complaints and redress

13.1 Service Provider(s) should provide their customer service centres with a Complaints Handling Procedure System that aims to resolve disputes in an effective and efficient manner. Additionally, Service Provider(s) are encouraged to provide consumers with a free phone number for inquiries and clear written and verbal complaint handling procedures.

13.2. Service Provider(s) should also make the Authority’s contact details available to consumers, notifying consumers that they may raise their complaint to the Authority if their original complaint is not handled to their satisfaction by their Service Provider and in accordance with that Service Provider’s complaints handling procedure.

# 14. Dispute resolution

14.1. Either the Service Provider or consumer may refer an unresolved dispute to POTRAZ.

14.2. POTRAZ may issue a regulation to ensure effective and efficient handling and resolution of disputes.

14.3. Whether or not a formal procedure is implemented,
 POTRAZ shall endeavour to:

(a) Promptly investigate any matter which is raised to the Authority by a
 consumer or Service Provider(s);

(b) Promptly respond to all written communications;

(c) Determine the periods that are reasonably necessary for the fair and
 adequate presentation of the matter by the respective parties;

(d) Require evidence or arguments to be presented in writing, other than in
 exceptional circumstances. POTRAZ will decide the matters upon which
 it will hear oral evidence or arguments; and

(e) Promptly make recommendations or resolve disputes between licensed
 operators and consumers.

14.4. Service Provider(s) should only suspend or terminate the services provided to consumers in accordance with the written terms and conditions of the service. Service Provider(s) should not suspend or terminate services merely due to a Subscriber initiating a complaint or dispute resolution process unless there is a significant risk of serious and irreparable harm to the Service Provider.

# 15. Privacy and confidentiality

15.1. Service Provider(s) should take steps to protect the Consumer’s privacy regarding personal information.

15.2. Consumers’ personal privacy should be protected. Service Provider(s) should protect consumers from unauthorised use of their personal records and information; illegal, unsolicited, unwanted or offensive communications.

15.3. Subject to any obligations to disclose information in accordance with the laws of Zimbabwe, Service Provider(s) should maintain the confidentiality of, and refrain from using or disclosing, other than for the proper purposes of providing telecommunications, Postal and Courier services, any:

(a) Confidential, personal and proprietary information obtained in the course
 of its business from any Consumer, where such information originates
 from any such Consumer;

(b) Information regarding usage of a Telecommunications Network or service;
 or

(c) Information received or obtained in connection with the operation of a

 Telecommunications Network or the provision of a Telecommunications,
 Postal and Courier service.

15.4. The above provisions should not apply where consumers give their informed

permission and express consent to the disclosure of personal information.

# 16. Telemarketing

16.1. Service Provider(s) are expected to protect consumers from unwanted or illegal electronic solicitations, including live voice solicitations, artificial pre-recorded voice advertisements, electronic mail, electronic wireless messages (e.g. SMS, MMS) and facsimile messages.

# 17. Insolvency of Service Provider(s) offering prepaid services

17.1. POTRAZ may put in place regulatory measures to protect consumers from the insolvency of Service Provider(s) offering prepaid services.

17.2. Any measures taken should not place an unwarranted financial burden upon

Service Provider(s) or act as a barrier to entry for newly Service Provider(s).

17.3. POTRAZ will consult on any measure(s) proposed to be implemented with Service Provider(s) and Consumers whenever necessary.

# 18. Protection of Families and Children

18.1. Service Provider(s) should make available educational material for consumers which informs them of any relevant protection or control mechanisms for their service which can be used to protect children.

18.2. POTRAZ encourages Service Provider(s) to prepare a set of guidelines to promote their social responsibility with regard to this matter.

# 19. Information Registration

19.1. Service Provider(s) should maintain a register of their Subscribers for the following services:

(a) Fixed line services

(b) Mobile services

(c) Broadband services

(d) Leased line services.

(e) Data services

19.2. This register should include at least the subscriber’s name and identification details and one or more addresses. Nothing in these guidelines limits Service Provider(s)’ duties under the law, licence obligations or any regulations, including the SIM Registration Process.

# 20. CONSUMER CHOICE

20.1. POTRAZ will continue to formulate strategies to promote and enhance competition within the Telecommunications, Postal and Courier sectors in order to provide consumers with increased choice of services, widespread availability of services, improved quality of service, and more affordable prices.

20.2. Service Provider(s) are encouraged to ensure that switching from one Service Provider to another Service Provider is efficient and easy for consumers. However, this should not be an excuse by consumers to avoid meeting their contractual obligations with Service Provider(s)

# 21. Undue discrimination

21.1. Subject to any legal requirements of area or population coverage, Universal Service or Access, a Service Provider may generally decide upon the location and type of services it wishes to offer consumers, however should be done on a non-discriminatory basis.

21.2. This does not prevent Service Provider(s) from differentiating services for different categories of consumers or targeting specific groups of Consumers for special offers.

# 22. Unfair Trade Practices

22.1. POTRAZ will monitor and may introduce a regulation where it considers that Service Provider(s) are using unfair trade practices. These unfair trade practices include:

(a) Conduct that is misleading and deceptive or is likely to mislead or deceive,
 including but not limited to:

(i) Misleading consumers through false or deceptive advertising;

(ii) Misleading consumers by giving false or deceptive information or
 failing to give important information in a clear manner;

(b) Using aggressive sales techniques that harass consumers or lead them to
 make decisions that they would not have made under other
 circumstances;

 (c) Engaging in anticompetitive behaviour, including any other activities and
 omissions deemed to be anti- competitive by POTRAZ; and

(d) Such other practices as may be identified by POTRAZ from time to time.

# 23. Service Provider information requirements

23.1. Service Provider(s) should take appropriate action as and when necessary to ensure that consumers can reasonably and reliably have access to information to assist them in the selection of the services of their choice. Such information should include details on installation, fault reporting, billing, price and directory assistance, product availability and delivery time.

23.2. Service Provider(s) should provide or make available to their subscribers, on request for an appropriate charge, directories, the form and content of which should include the following as a minimum:

(a) The name and telephone number of each of the Service Provider’s
 Subscribers that have agreed for this information to be published;

(b) The name and telephone number of other Service Provider(s)’ subscribers
 that have agreed for this information to be published;

(c) A list of national and international dialling codes;

(d) Emergency Numbers; and

(e) POTRAZ contacts details.

23.3. Licensed telecommunications operators should ensure that they have obtained the express permission of subscribers before publishing their information or providing it to another Service Provider. Service Provider(s) should provide to other Service Provider(s) the names and telephone numbers of their Subscribers that have expressly agreed for those details to be published by third parties, which shall be used solely for the purpose of compiling a directory, as referred to above.

23.4. POTRAZ encourages Service Provider(s) to work together to prepare a comprehensive directory that would be available to all Consumers.

# 24. COMMUNICATION

# 24.1. Information dissemination by POTRAZ

POTRAZ will act to inform Consumers about provisioning of services, service pricing, quality of service (“QoS”), billing practices, and dispute resolution.POTRAZ will:

(a) Communicate in English, using clear and simple language;

(b) Utilise a variety of media to communicate with Consumers;

(c) Take into account the interests of Consumers with disabilities including
 those with sight or hearing impairment;

(d) Solicit the opinion of stakeholders; and

(e) Request organisations and civic groups to become channels of
 communication.

24.2. POTRAZ will issue publications, in both electronic and printed formats, assisting Consumers to better understand their rights, responsibilities and opportunities. These publications will:

(a) Explain Consumers’ rights relating to the provision of Telecommunications,
 Postal and Courier services;

(b) Promote awareness of the changes affecting the Telecommunications,
 Postal and Courier sector and the role which POTRAZ plays in
 encouraging the provision of high quality services at reasonable prices;
 and

(c) Provide answers to frequently asked questions on POTRAZ’s website.

24.3. POTRAZ will publish on a regular basis information guides in accordance with international best practice, which will seek to ensure that consumers are aware of their rights in dealing with service providers and/or can make informed decisions regarding the available services.

24.4. POTRAZ will publish reports periodically, as it deems appropriate, on the

Telecommunications, Postal and Courier markets to ensure that consumers have up-to-date information on sector developments.

# 25. Monitoring and Reporting

26.1. Pursuant to the Quality of Service targets stipulated in Service Provider(s)’ licences, POTRAZ will monitor quality of service on a regular basis to ensure operators’ compliance.

25.2. For the purpose of performance monitoring, POTRAZ will also conduct annual Consumer Satisfaction Surveys.

# 26. Information programmes for consumer protection

26.1. POTRAZ will work with both Government and Non-Governmental organisations to provide public education and awareness programmes to improve consumer protection in line with technological developments and consumer preferences.

26.2. The consumer education programmes will be reviewed from time to time in line with changing consumer needs and technological developments.

# 27. Consultation

27.1. POTRAZ in collaboration with the Consumer Council of Zimbabwe will form Consumer Advisory Groups such as residential and business users’ groups to obtain feedback and opinions on proposed decisions and regulations by POTRAZ. POTRAZ will continue to engage with these groups and will endeavour to participate in further Consumer forums, trade group meetings and conventions in order to remain aware of relevant consumer issues.

27.2. POTRAZ will also seek consumer views through public consultations and surveys and may publish the results in summary form, together with POTRAZ’s position on such issues, resulting decisions and actions taken.