COMMUNICATIONS AUTHORITY OF KENYA

DETERMINATION ON MOBILE AND FIXED TERMINATION RATES - INTERCONNECTION DETERMINATION NO. 4 OF 2023

I. INTRODUCTION

1. The Communications Authority of Kenya ("the Authority") is the regulatory agency for the ICT sector in Kenya with responsibilities in telecommunications, e-commerce, broadcasting, postal and courier services. The Authority is also responsible for managing the country's numbering and frequency spectrum resources, administering the Universal Service Fund (USF) as well as safeguarding the interests of consumers of ICT services.

2. The Authority is also mandated to manage competition in the ICT sector, which entails, *inter alia*, regulation of retail and wholesale tariffs for communications services in accordance with the *Kenya Information and Communications (Tariff) Regulations, 2010*.

3. Interconnection involves the physical and logical linking of telecommunication networks to allow customers of one service provider to communicate with customers of another service provider. Essentially, this implies that for customers of one operator to communicate with the customer of another operator, the systems of the two (2) operators must be interconnected for the traffic to flow through.

4. Interconnection is an essential component of telecommunication regulation as its pricing and access framework can be used as a barrier to entry and expansion, thereby impeding competition. Moreover, high interconnection rates are associated with high retail tariffs, which negatively impact on affordability of communication services, resulting in a reduction of consumer welfare.

5. In light of the foregoing, interconnection is regulated under the *Kenya Information and Communications (Interconnection and Provision of Fixed Links, Access and Facilities) Regulation, 2010*.

II. BASIS OF REVIEW OF THE INTERCONNECTION RATES

6. In the past, the Authority has issued three (3) Determinations on the Termination Rates as follows:

(a.) Determination *No.1 of 2007 on Retail and Interconnection Rates among the Fixed and Mobile Telecommunications Networks in Kenya;*
(b.) *Determination No. 2 of 2010 and Addendum No. 2 on Pure Long Run Incremental Cost (LRIC) Based Interconnection Rate Regime; and*
(c.) *Determination No.3 of 2021 on Mobile Termination Rate (MTR) and Fixed Termination Rate (FTR).*

7. The first two (2) Determinations were implemented over a period of four (4) years each, whilst the third Determination provided for a single rate of KES. 0.12 to be implemented in the interim to enable the Authority conduct a detailed Network Cost Study. However, this single rate was not implemented as it was challenged at the Communications and Multimedia Appeals Tribunal (CAMAT) in *CAMAT Appeal No. E003 of 2021*.

8. Pursuant to a Consent recorded at CAMAT on 4th August 2022, the Parties in *CAMAT Appeal No. E003 of 2021* agreed to a Revised Interim Rate of KES. 0.58 to operate for a 12-month period with effect from 1st August 2022. This period was subsequently extended to 17th November 2023 awaiting the completion of a study to inform the new termination rate.

III. REVIEW PROCESS

9. The Authority conducted a National Roaming, Telecommunications Tower Sharing and Termination Rates Network Cost Study in Kenya in 2022. The main objectives of the study were to:

(a.) Develop a regulated pricing and access framework that would be applicable to all licensees seeking capacity and/or access (towers, national roaming and interconnection).
(b.) Develop a network pricing framework that defines an appropriate regulated pricing model for tower sharing and national roaming, to be applied by licensees, in order to enhance competition in the telecommunications sub-sector in Kenya.

10. The study was aligned with the provisions of Section 84W and 85A of the *Kenya Information and Communications Act, 1998*, and was expected to improve efficiency and competition by providing a framework that would allow networks to share infrastructure through leasing, roaming and interconnection regimes.

11. The review process recommended a reduction of the MTR/FTR in line with falling termination rates globally.

12. Adjustment of interconnection rates ensures that economic regulations imposed accurately reflect the current structure of the Kenyan telecommunications market and takes into account the prevailing economic situation in the country. In particular, in undertaking the review of the MTR/FTR, the Authority is cognisant of:
    (a.) The need to strike a balance between promotion of investment and protection of consumers; and
    (b.) The prevailing economic environment.

13. In light of the foregoing, the Authority recommends a moderated reduction in the MTR/FTR for the next two (2) years, during which the Authority shall undertake a further study.

IV. THE DETERMINATION

14. Having undertaken a detailed network costing exercise in the telecommunications sub-sector in Kenya and taking into consideration inputs from stakeholders, the Authority hereby determines as follows:

    (a.) That all mobile and fixed telecommunications operators in Kenya shall implement the MTR/FTR for a period of two (2) years with effect from 1st March 2024 as outlined in Table 1 of this Determination:

Table 1: Interconnection Rates for Mobile and Fixed Operators	
Effective Date	**1st March 2024 – 28th February 2026**
Mobile Termination Rate/Fixed Termination Rate (MTR/FTR) in KES per Minute)	0.41

    (b.) That the MTR/FTR shall apply to only local voice traffic. For the avoidance of doubt, this refers to traffic originating and terminating within Kenya;
    (c.) That the prescribed MTR/FTR is a price cap, therefore, all operators have the latitude to negotiate interconnection rates that are lower;
    (d.) That whereas the effective date of implementation of the new rate is **1st March 2024**, all operators will be required to vary their interconnection agreements in line with this Determination and file with the Authority their Deeds of Variation by **1st February 2024**; and

(e.) That the prevailing SMS Termination Rate of **KES 0.05 per SMS** will remain unchanged.

15. The current MTR/FTR of **KES 0.58** shall apply until the rate specified in Paragraph 14 takes effect.

Dated this…………. day of.………………………2023

CHRISTOPHER WAMBUA
AG. DIRECTOR GENERAL/CEO
COMMUNICATIONS AUTHORITY OF KENYA