

DETERMINATION NO. 3 OF 2024 ON TERRESTRIAL BROADCASTING SIGNAL DISTRIBUTION (BSD) TARIFFS

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 and multimedia, postal and courier services. The Authority is also responsible for managing the Universal Service Fund (USF) as well as the country’s numbering and frequency spectrum resources. In addition, it is responsible for safeguarding the interests of consumers of ICT services.
2. Further, the Authority is mandated to promote effective competition in the ICT sector, which entails, among others, regulation of retail and wholesale tariffs, including Broadcasting Signal Distribution (BSD) tariffs.
3. The *Kenya Information and Communications Act, 1998*, defines Broadcasting Signal Distribution (BSD) as the process whereby the output signal of a broadcasting service is taken from the point of origin, being the point where such signal is made available in its final content format, from where it is conveyed to any broadcast target area by means of a telecommunication process and includes multi-channel distribution.
4. Therefore, Broadcasting Signal Distribution (BSD) is integral to terrestrial broadcasting regulation, since its pricing and access framework can be used as a barrier to market entry and expansion.
5. Defining and determining an appropriate pricing and access framework that would foster development of competition in the broadcasting sub-sector in Kenya is, therefore, key to the fulfilment of the Authority’s mandate.

II. BASIS FOR REVIEW OF THE TERRESTRIAL BROADCASTING SIGNAL DISTRIBUTION (BSD) TARIFFS

6. In the past, the Authority has issued two (2) Determinations on the Terrestrial Broadcasting Signal Distribution (BSD) Tariffs as follows:
 - (a.) *Determination No.1 of 2013 on Cost-Based Terrestrial Digital Broadcasting Signal Distribution (BSD) Tariff*; and
 - (b.) *Determination No.2 of 2016 on Cost-Based Terrestrial Digital Broadcasting Signal Distribution (BSD) Tariff*;
7. The *Determination No. 1*, issued on 16th December 2013, provided for a rate of broadcasting signal distribution in Nairobi and another rate for “other cities” to be

implemented in the interim, to enable the Authority conduct a detailed network costing exercise. The *Determination No. 2*, which was cost-based, was issued on 9th November 2016, to be implemented through a glide-path over a period of three (3) years. The tariffs for the third year were applicable for the subsequent years pending the implementation of Determination No. 3 of 2024.

III. REVIEW PROCESS THAT LED TO THE DETERMINATION NO. 3 OF 2024 ON TERRESTRIAL BROADCASTING SIGNAL DISTRIBUTION (BSD) TARIFFS

8. The Authority conducted a Competition Study In the Broadcasting Sub-Sector and Review of the Broadcasting Signal Distribution (BSD) Pricing and Access Framework in Kenya in 2023 and 2024. The main objectives of the study were to:
 - (a.) *Assess* competition in the broadcasting sub-sector, including considering the impact of Over-the-Top (OTT) services; and
 - (b.) *Develop* a regulated pricing and access framework that would be applicable to all broadcasters (content providers).
9. The study recommendations are expected to enhance fair and healthy competition in the broadcasting sub-sector in order to maximize the efficiency of the market. This determination is aligned with the Section 46 (A)(a), ((d) and (g) of the *Kenya Information and Communications Act, 1998*.
10. The findings of the study, which were subjected to stakeholder consultation, recommended that the Authority implements the following with respect to Broadcasting Signal Distribution (BSD) tariffs:
 - (a.) Signal transmission per site per month tariffs of KES 127,030.12 per Mbit/s for Nairobi/Limuru, KES 97,715.49 per Mbit/s for Other Cities and KES 68,400.84 per Mbit/s for Rural Areas;
 - (b.) A tariff of KES 427,592.00 per channel per month for the satellite uplink;
 - (c.) Adjust these tariffs based on inflation and reassess the applicable rates in three (3) years; and
 - (d.) Enforce accounting separation and ensure that broadcasting signal distributors file with the Authority separate accounts for signal distribution to 3rd parties and that tariffs charged to internal channels (subsidiaries) should be similar to those charged to third party channels.
11. In light of the foregoing and considering the prevailing social and economic environment, the Authority recommends revision of the current Broadcasting Signal Distribution (BSD) tariffs as per the Determination in the section below.

IV. THE DETERMINATION

12. Having undertaken a detailed broadcasting signal distribution network costing exercise in the broadcasting sub-sector in Kenya and considering the inputs received from stakeholders during the consultation, the Authority hereby determines as follows:

- (a.) *That all operators licensed to provide Digital Terrestrial Broadcasting Signal Distribution (BSD) services in Kenya shall implement the Broadcasting Signal Distribution (BSD) Tariff Caps for a period of three (3) years with effect from 1st July 2024 as outlined in Table 1.*

Table 1: Broadcasting Signal Distribution (BSD) Tariff Caps		
Service		Tariffs in Kenya Shillings (KES)
Transmission (per Site per Mbit/s per Month)	Nairobi	127,030.12
	Other Cities/Towns	97,715.49
	Rural Areas	68,400.84
Satellite Linking (per Channel per Month)	National	427,592.00

- (b.) *That all broadcasters and broadcast signal distributors are at liberty to **negotiate lower tariffs subject to the capped rates** outlined in the Table 1 above.*
- (c.) *That all broadcasters and broadcast signal distributors shall be required to **renegotiate their Service Level Agreements (SLAs) in line with this Determination by 1st July 2024.***
- (d.) *That save for the channel(s) designated by the Authority as mandatory must carry channel(s), **all broadcasters must pay all the listed charges for the services purchased from a broadcast signal distributor using the Reference Access Offer (RAO) attached to this Determination as Annex 1 and in line with the Licence Conditions.***
- (e.) *That vertically integrated operators shall be required to **apply transfer charges in regulatory accounting statements and file with the Authority separate accounts for broadcasting signal distribution.***
- (f.) *The classification of broadcast transmission sites is shown in **Annex 2 to this Determination.***

Dated this 5th day of June 2024



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