



LEGAL NOTICE NO.....

**THE KENYA INFORMATION AND COMMUNICATIONS ACT
(Cap. 411A)**

**THE KENYA INFORMATION AND COMMUNICATIONS
(INFRASTRUCTURE SHARING) REGULATIONS, 2026**

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THE KENYA INFORMATION AND COMMUNICATIONS ACT
(Cap. 411A)

IN EXERCISE of the powers conferred by section 85A (3) of the Kenya Information and Communications Act, the Cabinet Secretary for Information, Communication, and the Digital Economy, in consultation with the Communications Authority of Kenya, makes the following Regulations—

**THE KENYA INFORMATION AND
COMMUNICATIONS (INFRASTRUCTURE
SHARING) REGULATIONS, 2026**

PART I—PRELIMINARY

Citation.

1. These Regulations may be cited as the Kenya Information and Communications (Infrastructure Sharing) Regulations, 2026.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

“access” means the provision to another licensee of facilities, services or infrastructure under specified terms and conditions for the purpose of enabling the provision of services under the Act;

“active infrastructure” means infrastructure that is electronically involved in the transmission and reception of information which includes —

- (a) access network infrastructure including base transceiver stations, base station controllers, radio network controllers, multi-service access gateways, multi-service access networks or wireless local loop; and
- (b) core network infrastructure including mobile services switching centers, soft switches, internet protocol multimedia sub-systems, serving gateway support node, short message service center, multimedia

gateways, mobile money transfer platforms or network management systems;

“active infrastructure sharing” means the sharing of active infrastructure;

“Act” means the Kenya Information and Communications Act (Cap. 411A);

“Authority” means the Communications Authority of Kenya established under section 3 of the Act;

“co-location” means the installation, operation or maintenance of facilities or equipment on the premises or infrastructure of another licensee;

“facility acquirer” means a network service licensee who has leased or shares facilities or has requested to lease or share facilities from a facilities provider;

“facility provider” means a network facilities licensee who owns or manages the network facilities and has been requested by a facilities acquirer for a lease or to share facilities;

“infrastructure” means both tangible and intangible facility, system, resource or right used or required for the provision of services under the Act;

“infrastructure sharing” means the provision to another licensee of access to—

- (a) tangible network elements used in connection with a public Communications network and includes lines, cables or wires whether fiber optic or other, equipment, power supply, apparatus, towers, masts, tunnels, ducts, risers, holes, pits, poles, landing stations, huts, lands, buildings or facilities; or
- (b) intangible rights or arrangements facilitating the use of a public communications network, including rights of way, easements, licences, franchises, permits and similar interests;

“infrastructure seeker” means a licensee who makes a request to enter into an agreement with an infrastructure provider for the purposes of accessing or sharing the provider’s infrastructure;

“infrastructure sharing agreement” means an agreement entered into by an infrastructure provider and infrastructure seeker setting out the terms and conditions for infrastructure sharing;

“infrastructure provider” means an entity that owns or manages Communications infrastructure or facility access to which another operator intends to enter into an agreement for the purposes of co-location, leasing or infrastructure sharing;

“licensee” means a person licensed under the Act;

“mobile network operator” means a licensee that provides mobile communications services over its own network infrastructure;

“mobile virtual network operator” means a licensee that provides mobile communications services using the infrastructure of one or more mobile network operators;

“national roaming” means the ability for a subscriber of one mobile network operator to access mobile communications services in areas outside that operator’s coverage by using the infrastructure of another mobile network operator;

“national roaming agreement” means an agreement entered into by an infrastructure provider and infrastructure seeker setting out the terms and conditions for national roaming;

“network facility” means any element that forms part of an electronic communications network and includes any wire, cable, antenna, mast or other thing which is or may be used for or in connection with communications;

“non-replicable infrastructure” means infrastructure which, by reason of technical, legal, economic, environmental or spatial constraints, cannot reasonably be duplicated at a particular location;

“passive infrastructure” means infrastructure that is not involved in the electronic transmission and reception of information that includes—

- (a) site sharing (space, tower, power, shelter, security); and

- (b) transmission (optic fiber cable, copper cable, trenches, manholes, ducts, poles);

“public network licensee” means a licensee authorised to provide public communications services;

“publicly owned infrastructure” means infrastructure owned, funded or controlled by the national government, a county government, or a public entity;

“reference infrastructure sharing offer” means a document setting out the terms and conditions upon which an infrastructure provider offers infrastructure sharing to other licensees on a non-discriminatory basis;

“service provider” means any licensee providing services under the Act to subscribers or other licensees.

Object of the Regulations.

3. The object of these Regulations is to—

- (a) establish a framework for infrastructure sharing in the communications sector;
- (b) eliminate unnecessary duplication of infrastructure;
- (c) promote the efficient use of existing and future infrastructure;
- (d) mitigate the adverse impacts of infrastructure proliferation on public health, safety and environment;
- (e) promote competition in the provision of Communications networks and services;
- (f) promote orderly and effective planning in Communications infrastructure and services in the country; and
- (g) promote investment and innovation in the provision of Communications services.

PART II— REQUIREMENTS FOR INFRASTRUCTURE SHARING

Criteria for
infrastructure
sharing.

4. An infrastructure provider shall, in considering a request for infrastructure sharing, take into account—

- (a) whether the infrastructure can be reasonably duplicated or substituted;
- (b) the existence of other technical and economically feasible alternatives;
- (c) whether the infrastructure is essential for the provision of services by the infrastructure seeker;
- (d) availability of capacity in the infrastructure;
- (e) whether sharing would promote efficient use of infrastructure; and
- (f) the cost, time and impact on the public of alternative means of providing access.

Conditions for
sharing of general
infrastructure.

5. (1) An infrastructure provider shall provide access to its infrastructure on a non-discriminatory, transparent and reasonable basis, subject to technical feasibility and capacity.

(2) An infrastructure provider shall not unreasonably refuse a request for infrastructure sharing.

(3) Publicly owned infrastructure shall be made available for sharing on an open access and non-discriminatory basis, subject to applicable law.

(4) Where infrastructure sharing is not feasible, a licensee may deploy its own infrastructure, subject to applicable law and approvals.

(5) The Authority may impose specific infrastructure sharing obligations on a licensee determined to have significant market power or dominance in a relevant market.

Non- replicable infrastructure.

6. (1) Where infrastructure is non-replicable, the infrastructure provider shall provide access on fair, reasonable and non-discriminatory terms.

(2) In determining access to non-replicable infrastructure, the Authority may impose conditions to prevent foreclosure of competition.

Grounds for refusal.

7. An infrastructure provider may refuse to provide infrastructure sharing only where —

- (a) the infrastructure seeker does not have the appropriate license to operate the requested infrastructure;
- (b) the request is rendered impossible as a result of technical specifications or capacity limitations; or
- (c) the sharing would pose a risk to safety, security, integrity of the network, or the environment.

Request for infrastructure sharing.

8. (1) An infrastructure seeker shall make a written request for infrastructure sharing to an infrastructure provider.

(2) An infrastructure provider shall, within thirty days from the receipt of the request—

- (a) accept the request and invite negotiations; or
- (b) reject the request.

(3) Where an infrastructure provider fails to respond within the specified period, the infrastructure seeker may refer the matter to the Authority.

Negotiation.

9. (1) Parties shall negotiate a proposed sharing agreement in good faith and shall —

- (a) act reasonably and without delay;
- (b) refrain from conduct that frustrates or delays agreement.

- (c) provide relevant information necessary for negotiations;
- (d) designate authorized representatives; and
- (e) collaborate with relevant agencies to obtain all necessary approvals.

(2) Parties shall use reasonable efforts to conclude negotiations within sixty days.

(3) Where a new or complex sharing arrangement is proposed, parties may agree to extend the negotiation period.

(4) An infrastructure provider shall maintain records of all requests and submit periodic reports to the Authority.

Failure to conclude negotiations.

10. (1) Where parties fail to conclude negotiations within the period specified under regulation 9 (2), either party may refer the matter to the Authority.

(2) The Authority may—

- (a) facilitate negotiations;
- (b) determine interim terms for infrastructure sharing; or
- (c) make a binding determination.

(3) An interim infrastructure sharing arrangement shall remain in force pending final determination or agreement.

Review of refusal to provide infrastructure sharing.

11.(1) Where an infrastructure provider rejects a request under regulation 8(2)(b), it shall provide written reasons for the rejection.

(2) An infrastructure seeker who is dissatisfied with the rejection may refer the matter to the Authority for determination.

(3) Where the Authority determines that the rejection is not justified in accordance with regulation 7, the Authority may direct the infrastructure provider to grant access to the infrastructure on such terms and conditions as the Authority may determine.

Content of
Infrastructure
sharing
agreements.

12. An infrastructure sharing agreement shall be in writing and shall include—

- (a) Infrastructure elements to be shared;
- (b) capacity and technical specifications;
- (c) charges and pricing structure;
- (d) duration;
- (e) service levels;
- (f) access procedures and maintenance arrangements;
- (g) any other agreed terms.

Filing of the
executed
agreement.

13. (1) Parties to an infrastructure sharing agreement shall file the agreement with the Authority prior to its implementation.

(2) The Authority may, on its own motion or upon complaint, review a filed infrastructure sharing agreement to determine compliance with the Act and these Regulations.

(3) Where the Authority determines that an infrastructure sharing agreement contains provisions that are inconsistent with the Act or these Regulations, it may—

- (a) direct the parties to amend the agreement within a specified period; or
- (b) declare the offending provisions void to the extent of the inconsistency, where the parties fail to comply with the direction.

National roaming.

14.(1) A request for national roaming shall be treated as a request for active infrastructure sharing.

(2) A licensee providing roaming services shall ensure transparency to subscribers regarding—

- (a) when they enter a roaming area that they are roaming in another network; and
- (b) the applicable charges.

(3) The Authority may require national roaming arrangements where necessary to promote coverage and service availability.

Mobile virtual
network operators.

15.(1) A request by an infrastructure seeker to facilitate provision of mobile virtual network operator services shall be treated as a request for active infrastructure sharing.

(2) A mobile virtual network operator may enter into agreements with one or more network operators, subject to approval where required.

Reference
Infrastructure
Sharing offer.

16.(1) A licensee that has been declared a dominant service provider in a relevant market shall prepare and publish a reference infrastructure sharing offer.

(2) The Authority may, where it considers it necessary to promote competition, efficiency, or access to infrastructure, require any other licensee to prepare and publish a reference infrastructure sharing offer.

(3) A licensee required under this regulation shall—

- (a) submit a proposed reference infrastructure sharing offer to the Authority for approval within such period as the Authority may specify; and
- (b) publish the approved reference infrastructure sharing offer in the manner directed by the Authority.

(4) The Authority may—

- (a) approve the reference infrastructure sharing offer with or without modifications; or
- (b) require the licensee to amend the offer to ensure compliance with the Act and these Regulations.

(5) A reference infrastructure sharing offer shall set out—

- (a) the categories of infrastructure available for sharing;
- (b) the terms and conditions of access;
- (c) pricing principles or methodologies;
- (d) service levels and operational arrangements; and
- (e) procedures for requesting and provisioning access.

(6) A licensee subject to this regulation shall provide infrastructure sharing in accordance with the approved reference infrastructure sharing offer.

(7) The Authority may review a reference infrastructure sharing offer from time to time and may direct the licensee to amend it where necessary to ensure continued compliance with the Act and these Regulations.

Infrastructure sharing in postal and courier network

17. (1) A request for access to or sharing of postal or courier delivery networks shall be treated as a request for infrastructure sharing for purposes of these Regulations.

(2) Postal or courier operators may enter into agreements for sharing delivery networks, subject to these Regulations.

(3) Infrastructure sharing agreements relating to postal or courier delivery networks shall comply with regulation 12.

PART III—GENERAL PROVISIONS

Dispute resolution.

18.(1) A dispute arising under these Regulations may be referred to the Authority for determination in accordance with the Act.

(2) In determining a dispute under this regulation, the Authority shall—

- (a) afford the parties an opportunity to be heard;
and
- (b) comply with the provisions of the Fair Administrative Action Act.

Cap. 7L.

(3) A person aggrieved by a decision of the Authority under this regulation may appeal to the Communications and Multimedia Appeals Tribunal.

Regulatory
sanctions.

19. A licensee who contravenes any provision of these Regulations shall be subject to enforcement action by the Authority in accordance with the Act, including the imposition of administrative sanctions under section 83A.

Made on the, 2026.

William Kabogo Gitau,
Cabinet Secretary for Information, Communications and the Digital
Economy.