



RESULTS OF PUBLIC CONSULTATIONS ON
COMMUNICATIONS (TYPE APPROVAL)
REGULATIONS AND TYPE APPROVAL FEES

1. INTRODUCTION

The Malawi Communications Regulatory Authority (MACRA) has concluded public consultations on the Communications (Type Approval) Regulations and Type Approval Fees. MACRA commenced the consultation process in June 2020 by publishing a draft of the Regulations and the fees inviting stakeholders and the general public to submit written comments.

MACRA hereby publishes the results of the consultations in line with section 202(2) of the Communications Act (Cap 68:01 of the Laws of Malawi).

MACRA is established under section 4 of the Communications Act. Its general mandate is to regulate and monitor the provision of communication services in Malawi. The Act requires MACRA to establish a type approval regime for terminal equipment and other electronic equipment.

Type approval is a procedure where MACRA certifies the acceptability of an electronic equipment or product based on conformity of the equipment or the product to minimum regulatory technical and safety requirement before the equipment or the product is used in the country.

Through the type approval process, MACRA ensures that electronic equipment meets applicable standards to allow interoperability of communication networks and equipment and to protect public health. The Communications (Type Approval) Regulations were therefore developed to compliment the Act and provide for processes for type approval of electronic equipment by MACRA.

2. CONSULTATION PROCESSES

The consultations were done through a process of inviting stakeholders and the general public to submit written comments on draft Regulations published by

MACRA. Stakeholders submitted numerous comments which were given due consideration by MACRA and some provisions of the Regulations were accordingly revised.

MACRA also conducted stakeholder workshops on the Regulations which were held at Sunbird Mount Soche Hotel in Blantyre on 7th December 2020, Sunbird Capital Hotel in Lilongwe on 9th December 2020 and on 9th December 2020 at Mzuzu Hotel in Mzuzu.

The stakeholder comments and MACRA's responses to the comments are in **Annex 1** of this report.

3. SUMMARY OF THE RESULTS OF THE CONSULTATIONS

A final version of the Regulations has been developed by MACRA and been submitted to the Minister of Information for promulgation under section 200 of the Communications Act. The final version is in **Annex 2** of this report. The final Type Approval Fees are attached as **Annex 3**.

The following are some of the areas covered by the Regulations:

- Type approval processes: The regulations prescribe documents to be submitted on applications for type approval. The Regulations further prescribe a period of forty five days for MACRA to process a type approval application.
- The setting of Type Approval Fees and publication of those fees.
- Registration of importers, distributors, and suppliers of electronic equipment in Malawi.
- Restrictions on importation of electronic equipment unless such equipment is type approved by MACRA

The Regulations, once promulgated by the Minister, shall become effective upon their publication in the Government Gazette.

Dated this the 10th Day of September 2021

HENRY SILIKA
ACTING DIRECTOR GENREAL

Annex 1 – Comments on Communications (Type Approval) Regulations and MACRA’s responses

No	Commenter		Comments	Proposed Changes	MACRA COMMENTS
1	TNM		MACRA should publish for each type of equipment the technical and performance standards or conditions that MACRA would like the vendors to comply with as it is important for applicants to be clear on what they are required to meet.		The standards shall be published by MACRA.
2	AIRTEL	Regulation 5 (1)	A person who seeks type approval of an electronic equipment shall apply to the Authority by submitting...	We suggest that “may” be replaced with “Shall”	Proposal accepted
		Regulation 5 (4)	A person who has an interest in an application for type approval of an electronic equipment stipulated in sub regulation (3) may submit to the Authority comments on the application with copy to the applicant within seven (7) days of publication of the notice and the applicant may file a reply to the comments within seven (7) days of the filing of the comments.	We propose a removal of this whole Regulation as it will cause unnecessary delays in getting Type approvals	Regulation 5(4) should be read together with regulation 5(3). They relate to applications for and grants of type approval of special interest to the public. It is therefore important that the general public be given an opportunity to submit comments.
		Regulation 5 (5)	Where an applicant submits a sample of an electronic equipment for purposes of type approval, he shall ensure that the sample	We suggest that Submission of samples for electronic equipment to only apply to end customer equipment	The regulation has been revised to give the Authority discretion to exempt

					submission of a sample where necessary.
		Regulation 5 (7)	“The Authority shall retain the samples of the electronic equipment and associated documents submitted by the applicant.”	We hope this only applies to small cheap devices. The expensive ones may need to be returned to the supplier if not compliant to recover the money.	The regulation has been revised where “shall” has been replaced with “may”.
		Regulation 5 (8)	The Authority shall communicate its decision on an application within 7 days from the date of receipt of the application.	45 days is too long, we propose that the period should be “within 7 days”	MACRA opted for 45 days considering that there are many areas involved in the process including Banks. We have no control of these external processes. However, 45 days is maximum and we may process the application within less number of days.
		Regulation 5 (9)	...In the event that the Authority feels it will not be able to complete the type approval within the period of 7 days prescribed in sub-regulation (8) above, the applicant shall be notified before the expire date 7 days and reasons for the delay and a possible new due date not exceeding 7 days to “new due date”	...we suggest that the Regulations to include the following statement ...not exceeding 15 days to “new due date”	It may not be possible to resolve some delays within the proposed 15 days. A new due date can only be determined upon consideration of the circumstances of the application.
		Regulation 6 (5)(c)	The type approval granted by the Authority shall remain valid until...	Article 6, point 5, C: add “only if the modification change the technical	The Authority would not know whether a modification has

			...the modification has changed the technical specifications of the equipment that has been type approved”	specifications of the equipment that has been type approved”	changed the technical specifications or not. Therefore, any modification should undergo type approval process.
2		Regulation 10	The Authority shall , from time to time, issue and publish - (a) an up-to-date list of approved electronic equipment with their technical specifications;	We suggest that MACRA to replace “may” with “shall” and all “list” with “up-to-date list”	Proposal accepted, “may” will be replaced with “shall”. The Authority will always publish an updated list. We do not need to specify this in the Regulations.
		Regulation 20 (2)	...Where the Authority may revoke any provisional or final type approval certificate, where it is satisfied that	We suggest that the first “where” be removed	Proposal accepted.
		Regulation 20 (2) C	...the holder of the provisional or final type approval certificate has committed a serious breach/breach of these Regulations.	We have replaced the word “bleach” with “breach”	Proposal accepted
		Second schedule – Type approval Fees	We noted that MACRA has categorized the fees for equipment as; Type Approval per model; Type Approval Acceptance per model and Modification per model in US\$	We are of the opinion that Type Approval equipment fees should be moderately low to encourage the level of investments required.	We cannot have a single fee for all kinds of equipment. The current fees have been in force for over

				<p>In the immediate past, the fees have been US\$300 per equipment.</p> <p>We suggest that all the fees be reduced by at least 20% to make the Type Approval process more affordable or maintain the previous US\$300</p>	<p>15 years and were due for revision. The proposed fees were arrived at following a bench marking process and on cost recovery</p>
		<p>Regulation 23 and Offence Penalty</p>	<p>A licensee who fails to comply with any provision of these Regulations commits an offence and shall upon conviction be liable to a maximum fine of MK5,000,000 and or imprisonment for five (5) years.</p>	<p>We propose that for any contravention , the person should be either fined a maximum of MK5,000,000 or....and not a fine and imprisoned</p>	<p>The standard practice is to combine both imprisonment and fine to deter would be offenders.</p>
	APPLE	<p>Regulation 2</p>	<p>we suggest full definition of Communications Act, including the version that is applied to be added.</p>		<p>The Regulations are being made under the Communications Act, so we do not need to define the Act itself. Additionally under the General Interpretation Act reference to a written law refers to any amended version thereof.</p>
			<p>We propose addition of the word simplify to the objective 3(e) of these regulations and amend a sentence to read as follows: "to specify and simplify</p>		<p>The fee structure proposed by MACRA takes into account the category of equipment to be</p>

			fee structure with respect to equipment type approval".		approved. Over simplification of the schedule would bring uncertainty to the manufacturer with regards to which standards to comply with.
		Regulation 5(1) (b)	Authority to change section 5(b) of these regulations and adopt a flexible approach which would permit applicant to have an option to submit either physical copies or electronic copies of the requisite type approval documents.		This is accepted the applicant can submit either soft or hard copy.
		Regulation 5 (8)	these regulations illustrate that a new type approval process would conclude within 45 days from the date of receipt of the application package. This is rather too long and will cause negative impact to launch of products destined for Malawi, especially when the current type approval process takes approximately 15 days to issue type approval certificates.		MACRA opted for 45 days considering that there are many areas involved in the process including Banks. We have no control of these external processes. However, 45 days is maximum and we may process the application within less number of days.
		Regulation 5(9)	Propose deletion of clause 5(9) of these regulations as it may appear to be very subjective rather than being objective.		The Regulation will be maintained we want to ensure accountability and certainty.

		Regulation 6(3)	The fees relating to equipment type approval are generally stable as per equipment category or process to be used and we therefore suggest an approach which would allow applicant to make payment based on the prescribed fees prior submission of type approval package. If the fee structure relating to type approval is simplified and made more clearer, the applicant would be in a position to make payment upfront and ensure type approval package is accompanied with proof of payment. No need to wait for granting of type approval and ask for payment thereafter.		MACRA has revised the regulation to make payment of type approval fees upfront before the grant of the type approval.
		Regulation 6(3)	we suggest that the Authority separate the fees relating to identification mark from type approval.		The administrative cost for the identification mark has been embedded in the type approval fee because the mark is issued upon grant of type approval.
		Regulation 6 (1)(d)	A mark with a declaration of conformity may not be affixed to the equipment before receiving in-country type approval certificates and as such we propose deletion of section 6(d) of these regulations as part of type approval requirements.		MACRA has deleted the regulation to indicate the minimum requirements for grant of type approval. Sub regulation 6(1)d was not necessary.
		Regulation 7 (1)	We recommend to the Authority to permits use of physical identification mark to be put either on the product itself or product's packaging and/or user manual. We are saying this because labels are significant for consumer to know that equipment,		The minimum requirement is that the identification mark be permanently affixed to the

			they are purchasing is indeed approved by MACRA, so physical identification mark on one of the locations mentioned above would be sufficient.		electronic equipment. The grantee of the type approval may at his discretion put the mark on the packaging or user manual.
		Regulation 7 (1)	We suggest section 7(1) of these regulations to be amended and to read as follows: "A grantee of the type approval shall cause the identification mark issued under regulation 6 to be affixed to the product or packaaing and/or in the user manual in manner that is readily visible".		MACRA has have added a new regulation allowing the mark to be affixed on the packing and user manual.
		Regulation 7 (3)	Apple strongly advice MACRA to create a generic regulatory mark and apply it to all electronic equipment requiring MACRA type approval		The mark that MACRA will develop will be one that is designed to prevent abuse and fraud.
		Regulation 9	We would propose a shorter processing time for equipment under type acceptance regime — it may generally be done within 5 days since it is based on equipment certificates already issued by internationally recognized certification bodies.		The 45 days is the maximum period that the regulations allow for processing an application. MACRA may make a decision before the expiry of that period.
		Regulation 10	We propose that the Authority consider exempting the following devices when finalizing these regulations: Bluetooth (BT) device only, Wi-Fi and/or BT		The regulations allow MACRA to exempt certain electronic equipment from type approval on case by

			<p>Device. Inductive device only. including medical implants and passive Near Field Communications (NFC) device only.</p>		<p>case as the technology evolves</p>
		Regulation 10 (2)	<p>In section 10 (2) of these regulations, please change the sentence by replacing the word office with the word offence.</p>		<p>This has been changed</p>
		Regulation 11	<p>Apple encourages MACRA to develop and review these guidelines, preferably every two years to align with the current market practices.</p>		<p>This is noted</p>
		Schedule 1	<p>We request that Schedule I be revised to remove Technical Specifications as one of the documents to be submitted for type approval applications. The technical standards that have been applied to conduct relevant tests in ISO/IEC 17025 accredited laboratory would be included in Declaration of Conformity as such we request deletion of (d) under schedule 1 of these regulations.</p>		<p>MACRA still feels that the technical specifications are an important component of the type approval assessment process and therefore should remain in the schedule.</p>
		Schedule 1	<p>We request (b) under schedule of these regulations to amended and read as "FCC or ETSI Documents" because Federal Communications Commission (FCC) technical standards may be applicable for Malawi in some instances due to different arrangement of frequency spectrum.</p>		<p>MACRA accepts the proposal and amended accordingly</p>
	Robert Bosch GmbH	Regulation 7	<p>We would like to ask if this is compulsory in all cases? We have a very small device with not a lot of space for markings, and also no possibility of an e-id (no screen).</p> <p>Would it also be possible, with MACRA permission, to be able to add the marking to the device user</p>		<p>The regulation has been amended to include accommodate such small devices refer reg. 8 (2)</p>

			<p>manual in some cases? If so, would it be possible to document this information within the type approval regulation?</p>	
		Schedule 2	<p>Within schedule 2, under Vehicle Telematics / Road Transport and Traffic Telematics the following ETSI standards are listed:</p> <p>EN 300 674 - Dedicated Short Range Communication (DSRC) transmission equipment (500 kbit/s / 250 kbit/s) operating in the 5 795 MHz to 5 815 MHz frequency band</p> <p>EN 200 674 - Dedicated Short Range Communications (DSRC); Part 1: Technical characteristics and test methods for High Data Rate (HDR) data transmission equipment operating in the 5,8 GHz Industrial, Scientific and Medical (ISM) band</p> <p>EN 301 091 - Short Range Devices; Transport and Traffic Telematics - Radar equipment operating in the 76 GHz to 77 GHz range</p> <p>Are the EN300674 and EN200674 correct in the vehicle Telematics section?</p>	Yes
		Schedule 2	<p>EN 301 091-1 is the standard for Short Range Devices; Transport and Traffic Telematics - Radar equipment operating in the 76GHz to 77GHz range</p>	Noted and have been included in the schedule
		Schedule 2	<p>EN 302 264 is the standard for Short Range Devices; Transport and Traffic Telematics - Radar equipment operating in the 77GHz to 81GHz range</p>	MACRA will not include this standard as it does not fall under our frequency band plan

	Approval Team Nigeria	General	Is Local company (I mean company based in MALAWI) going to be mandatory for type approval instead of International applicant contact directly MACRA? And is mandatory for an international applicant to have a local agent in Malawi for type approval process?		MACRA allows both Local and International applicants for Type approval process, It is not mandatory for an international applicant to have a local agent in Malawi.
		General	Are you going to have special price for those companies?		No because the prices are uniform
		Regulation 5(5)	Do you have precision for devices that will need to provide sample for?		The regulation has been revised to give the Authority discretion to exempt submission of a sample where necessary
	MTL	Regulation 2	A telecommunications facility includes infrastructure such as towers, equipment racks and buildings used to facilitate the provision of communication services. The Authority should clarify if these are included in the type approval regulations.		The regulation has been revised where 2(b) has been removed
		Regulation 4 (4)	The process of applying for and getting approval for the equipment is not very clear. Can the Authority provide a clear process clarifying how this will work?		Reg 5 has stipulated how the type approval application processes shall be done

			Also include a draft of the application form, which might help to clarify the process.		
		Regulation 5(7)	The Authority should provide reasons for retaining the equipment, because some of this equipment is very expensive and it is not viable for licensees to spend extra money on equipment that will just be kept by the Authority.		This is a worldwide best practice. The equipment is retained in case there may be need for retesting the equipment
		Regulation 5(9)	What happens if the Authority does not complete the process and fails to respond to the applicant? MTL proposes that there should be a cut-off point beyond which, if the Authority has not responded, the equipment is assumed to have been approved.		The regulations have provided for this. There shall be no default approval
		Regulation 8(3)(a)	What happens after the 6 months, if, due to circumstances beyond the operator's control, the equipment testing has not been completed? MTL proposes that there should be room to negotiate an extension to the period with the Authority.		MACRA can issue another provisional approval upon application
	PCS	Regulation 4(5)	PCS welcomes and supports the notion to recognize accredited testing entities. We propose that this list includes all entities that are ISO/IEC 17025 accredited and affiliated to ILAC systems.		MACRA agrees and will include the suggested entities
		Regulation 4(7)(b)	<p>PCS proposes that MACRA clarify the criteria whereby a sample would and would not be required, and propose that a paperwork only process (Type Acceptance) may be followed where either of the below are provided:</p> <ul style="list-style-type: none"> ➤ a duly signed CoC from a recognized NRA or CAB 		MACRA will establish MRAs and equipment that does not go through these MRAs for type approval will require submission of a

			<p>➤ full EU test reports from a test laboratory with ISO/IEC 17025 accreditation and affiliated to ILAC systems</p> <p>In the case of Type Approval and whereby sample testing may be required, PCS note that MACRA require a sample configured for conformance testing. PCS encourages MACRA to elaborate on the exact test parameters which must be met and clarify the availability and accreditation of local test laboratories to be able to perform the required tests.</p>		<p>sample for type approval process.</p> <p>The manufacturers should be aware the requirements as it is a common practice.</p> <p>In our case the Authority shall be the one conducting the tests.</p>
		Regulation 5(1)(b)	<p>PCS welcomes and encourages the notion that technical documentation and test reports be verified as legitimate documents. We suggest, however, that MACRA accept “certified” to mean electronic copies of manufacturer stamped and signed documents, and that test reports be duly signed, stamped and to show the applicable accreditation stamp.</p>		<p>MACRA accepts electronic certified documents.</p>
		Regulation 5(8)	<p>PCS propose, for further clarity, that the lead time for Type Approval and Type Acceptance be differentiated and whereby a reduced lead time can be experienced for products submitted under the Type Acceptance process.</p> <p>In line with other countries within the region and current observed MACRA lead-times, we recommend a maximum review lead time under the Type Acceptance process of twenty-one (21) days from the receipt of application.</p>		<p>The 45 days is the maximum period that the regulations allow for processing an application. MACRA may make a decision before the expiry of that period.</p>

			<p>For Type Approval and taking into account that sample inspection may be needed, we agree with the proposed lead time of forty-five (45) days from the date of receipt of the application and to account for the possibly of sample testing.</p>		
		Regulation 6(5)(d)	<p>Per current procedures, PCS encourages MACRA to maintain the stance of indefinite validities for products which are Approved via Type Acceptance or deemed “low risk”, such as Bluetooth-only devices and other low power short range devices.</p> <p>Where a validity period is to be set, PCS encourages MACRA to publish proposals of the validity period vs product category for further review and feedback</p>		<p>The current MACRA position is that the type approval validity is indefinite. In the event that MACRA intends to set the validity of the type approved equipment, is shall consult the stakeholders.</p>
		Regulation 7	<p>PCS welcomes and encourages the introduction of an Identification Mark for Approved devices, either physical or electronic.</p> <p>We recommend, however, that concession be granted in the case where it is not possible to affix a physical label to the product nor does the product have an electronic display to apply the label digitally. In these cases, we recommend that MACRA allow manufacturers to affix the label to the product packaging and/or user manual.</p>		<p>The regulation has been amended to include accommodate such devices refer reg. 8 (2)</p>
		Regulation 9(2)(a)	<p>We recommend that this clause be removed in full, given that Type Acceptance implies that the product has already been tested by an ISO/IEC 17025 accredited laboratory and which is affiliated to ILAC systems.</p>		<p>The provision has got a qualifier and a sample will only be require where</p>

					MACRA deems it necessary
	MULTICHOICE	General	Proposal to change Title of Regulations to Type Approval and Type Acceptance		Type acceptance is subset of Type Approval
		Regulation 2	We propose that the regulations use the same definitions as those used in the Act unless the context otherwise requires. We therefore propose that any terms that are defined in the Act should not be repeated in these regulations		For ease of cross reference some definitions in the ACT have been replicated in the regulations.
		Definition “accredited entity”	An accredited entity would not type approve equipment. Accredited bodies provide certificates of conformity confirming that equipment complies with specified standards. Type approval is conducted by communications regulatory bodies similar to MACRA	accredited entity” means an institution accredited by a national or international accreditation body or another body and recognized by the Authority in terms of the International Organization for Standardization / International Electrotechnical Commission (ISO/IEC)	The definition has been revised to specify the role of the accredited entity to conduct tests for type approval
		General	Proposed to define the “ACT”		The Regulations are being made under the Communications Act, so we do not need to define the Act itself.
		Regulation Definitions 2	Proposed to define ”applicant”	“applicant” means a person who applies to the Authority for type approval of electronic communications equipment or customer equipment;	The proposal has been accepted with modifications to align the definition with the regulations

		Regulations Definitions	2	Proposed definition of "electronic equipment"	<p>"electronic equipment" means-</p> <p>(a) any equipment, appliance or device that forms part of the electronic communications network;</p> <p>(b) customer equipment; any facility constructed or adapted for use as part of, or for the purpose of, an electronic communications service;</p> <p>(c) any equipment, appliance or device as the Authority may prescribe from time to time.</p>	Proposal accepted
		Resolution Definitions	2	We suggest linking this to the end users to distinguish it from network equipment	<p>"customer equipment" means any terminal equipment or associated device located at a subscriber's premises that is connected to an electronic communications service by end users ;</p>	Proposal accepted
		Resolution Definitions	2	To the extent that the manufacturer is not involved in bringing the equipment to the market, the applicant for type approval or the supplier of the equipment ought to be allowed to provide such declaration	<p>"declaration of conformity" means a written declaration made by a manufacturer, applicant or supplier of an electronic equipment that the equipment conforms to the requirements of the technical and performance standards recognized, established and published by the Authority in accordance with section 95 of the Act;</p>	Not accepted, declaration of conformity is always done by the manufacturer of the equipment.
		Resolution Definitions	2	This term is already defined in s3 of the Act	<p>Proposed to delete all</p> <p><i>"electronic communications" means transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by radio,</i></p>	Definition maintained For ease of cross reference some definitions in

				<i>electro-magnetic, photo-electronic or photo-optical system;</i>	the ACT have been replicated in the regulations.	
		Resolution Definitions	2	This term is already defined in s3 of the Act	Proposed to delete all “ electronic communications network ” means transmission systems used for electronic communications;	Definition maintained for ease of reference. Some definitions in the Act have been replicated in the Regulations.
		Resolution Definitions	2	We propose that the duration of provisional type approval not be included in the definition and that it be dealt with in the relevant provision, particularly given that such approval may be renewed for additional periods	“provisional type approval” means type approval granted by the Authority for a period of not more than six (6) months in accordance with Regulation 87 of these Regulations for electronic communications equipment to be used for trial, research and demonstration on a non-commercial basis;	Proposal accepted
		Resolution Definitions	2	In other countries, type approval is issued only by national regulatory authorities similar to MACRA and would not be issued by any other entity	“type acceptance” means a procedure whereby which the Authority certifies the acceptability of electronic communications equipment that has been recognizes and accepts electronic equipment based on type approval issued by a recognized foreign national regulatory authority with a view to ensure conformity of the equipment or product to the minimum regulatory technical and safety requirements before the equipment or product is used accredited entities in accordance with these Regulations electronic equipment	Accepted with modifications

		Regulation 3	Add or change wording (see those in red)	<p>The objectives of these Regulations are-</p> <p>(a) to streamline the type approval and type acceptance framework in accordance with the Act;</p> <p>(d) to avoid harmful interference with other communication (–systems) networks; and</p> <p>(e) to specify the fee structure with respect to equipment type approval and type acceptance.</p>	<p>(a) Rejected, Type acceptance is a component of type Approval</p> <p>(d) Not accepted because systems is more wider than network</p> <p>(e) same as (a)</p>
		Regulation 4 Heading	Add or change wording	Type approval and type acceptance of electronic equipment	Rejected, Type acceptance is a component of type Approval
		Regulation 4(4)	<p>The manner of applying for type approval and applicable fees is already dealt with in these regulations.</p> <p>Electronic communications equipment that requires type approval will be that which falls within the definition in these regulations. It is not clear why a list of such equipment would be required.</p>	<p>type approval or type acceptance.</p> <p>(4) The Authority shall, from time to time, publish type approval procedures which shall include-</p> <p>the manner of making an application;</p> <p>list of electronic equipment to be type approved;</p> <p>applicable fees; and</p> <p>any other information deemed necessary by the Authority.</p>	<p>To be maintained, these are administrative procedures to compliment the regulation</p>
		Regulation 4(6)	The procedure for type approval is prescribed in these regulations	(6) The Authority shall conduct type approval in accordance with the	Maintained as we have also maintained 4(4)

				procedures published under subregulation (4).	
		Regulation 4(7)	Delete and Replace	(7) In applying the type approval procedure When considering whether to type approve electronic equipment, the Authority shall-	To be maintained as 4(4) has been maintained
		Regulation 4(7)(b)	Testing of equipment ought to be limited to those instances where conformance with the relevant standards has not already been tested Wording added	(b) where no declaration of conformity has been provided, carry out necessary tests, on its own or through accredited entities, in order to ensure compliance with relevant national and international standards.	Maintained as this procedure can be carried out even where there is a declaration of conformity
		Regulation 4(8)	 Wording added	(8) A person shall use an electronic equipment that complies with applicable technical and performance standards recognized, established and published by the Authority in accordance with section 95 of the Act.	Modification accepted
		Regulation 5	Delete wording Wording added	(1) An applicant person who seeks type approval of an electronic equipment may apply to the Authority for type approval by submitting-	Modification accepted

		Regulation 5 (3)	Type approval is a highly technical assessment of equipment against the standards prescribed in Malawi. The general public would not have the expertise or technical knowhow to comment on an application for type approval. The general public would also not have access to the test results and other relevant documentations, some of which are confidential and proprietary, to comment on an application for type approval	The Authority may publish notices of applications for and grants of type approval or type acceptance on its website and shall issue public notices of applications for and grants of type approval that it considers to be of special interest to the public in a daily newspaper of general circulation in Malawi.	Wrong assumption as the general public consist of wide range of expertise
		Regulation 5(4)		(4) A person who has an interest in an application for type approval of an electronic equipment stipulated in subregulation (3) may submit to the Authority comments on the application with copy to the applicant within seven (7) days of publication of the notice and the applicant may file a reply to the comments within seven (7) days of the filing of the comments.	And additionally the Authority will publish sufficient information to enable the public competent to make comments and at the same time mindful of its obligations to maintain confidentiality of the information.
		Regulation 5(5)	Delete the whole 5(4) Wording added	(5) Where no declaration of conformity has been provided and the Authority intends to carry out necessary tests, the Authority shall request that an applicant submits a sample of an electronic equipment for purposes of type approval, and the applicant he shall ensure that the sample is –	Rejected; submission of a sample can be requested even where there is a declaration of conformity.

					Additionally a clause has been added where submission of a sample can be exempted
		Regulation 5(6)	The list of documents required is already listed in Schedule 1, in terms of Regulation 5(1)	(6) — The applicant shall submit an electronic equipment for type approval together with test reports from accredited entities.	Proposal accepted
		Regulation 5(8)	Suggested changes in RED	The Authority shall communicate its decision on an application within forty five thirty (45) days, where testing of equipment is required, or fourteen (14) days, where no testing of equipment is required, from the date of receipt of the application.	MACRA opted for 45 days considering that there are many areas involved in the process including Banks. We have no control of these external processes. However, 45 days is maximum and we may process the application within less number of days
		Regulation 5(9)	Added in RED and removed crossed wording	In the event that the Authority feels it will not be able to complete the type approval within the period prescribed in sub-regulation (8) above, the Authority may extend this period by notifying the applicant shall be notified before the expiry date and reasons for the delay and a possible new due date, provided that the Authority shall not extend the period for more than 30 days.	It may not be possible to resolve some delays within the proposed 15days. A new due date can only be determined upon consideration of the circumstances of the application.

		Regulation 5(10)	Changed the whole wording	(10) If the Authority does not reject the application for type approval within the period prescribed in sub-regulation (8) or notify the applicant of a new due date in terms of sub-regulation (9), the Authority shall be deemed to have approved the application.	Not accepted because there will be no default type approval to avoid use of uncertified equipment in the country
		Regulation 6	Change wording in the	Grant of approval or acceptance	Type acceptance falls within Type Approval
		Regulation 6(1)	Drafting proposal	The Authority shall only grant type approval or type acceptance of an electronic equipment where the applicant and –	The provision has been revised
		Regulation 6(1)(d)	A declaration of conformity ought to be sufficient without having to affix a mark, in addition to the identification mark, on to the equipment		We have deleted the regulation to indicate the minimum requirements for grant of type approval. Sub regulation 6(1)d was not necessary.
		Regulation 6(1)(e)		(f)(c) a declaration of conformity is drawn up in respect of the manufacturer, applicant or supplier of the electronic equipment or any other person responsible for the electronic equipment.	Maintained as this procedure can be carried out even where there is a declaration of conformity
		Regulation 6(2)		The Authority shall reject an application for a grant of type approval or type acceptance where the application fails to meet any of the requirements stipulated	Not accepted as Type acceptance is part of type approval

				in subregulation (1) and shall furnish the reasons for the rejection	
		Regulation 6(3)	The identification mark fees ought to only be payable if the applicant is not going to produce their own marks in accordance with the Authority's specifications	Upon granting a type approval or type acceptance, the grantee shall pay type approval or type acceptance fees and, where applicable, identification mark fees prescribed in the Second Schedule.	The clause has been revised , the type approval includes the fees for the identification mark
		Regulation 6(5)(c)	Where the model is modified, equipment on the market that is already type approved ought to retain their type approval as they will continue to be used by end users.	Suggested to delete the clause	Rejected, any modification to a model of an equipment ought to undergo a new type approval process and a new type approval certificate with a new reference number will be issued to certify such model
		Regulation 6(5)(d)		(d)(c) the date of termination, where the Authority has specified the such termination date.	Proposal accepted
		Regulation 6(7)	Any conditions on type approval ought to be limited to those that are absolutely necessary to ensure conformance with the applicable minimum regulatory technical and safety requirements	(7) The grant of type approval or type acceptance of any electronic equipment shall specify the conditions to be complied with which may be imposed on the person to whom the approval is granted, which conditions shall be limited to those that are necessary to ensure conformance with applicable minimum regulatory technical and safety requirements .	Rejected, the qualifier is not necessary as all conditions that the Authority may impose have to related to type approval

		Regulation 6(9)		(9) A person granted type approval or type acceptance certificate shall guarantee and give a warranty to the Authority that each unit of electronic equipment marketed under the grant and bearing the identification specified in the grant shall conform to the unit that was tested type approved or type accepted.	Proposal accepted with modifications
		Regulation 7(1)	Proposed addition wording	1) A grantee of the type approval or type acceptance of customer equipment shall cause the identification mark issued under regulation 6 or conforming to the Authority's specifications to be permanently affixed to the electronic equipment in a manner that the mark is readily visible.	Reject; The authority will be the only entity issuing the identification mark
		Regulation 7(4)	Proposed adding wording	(4) The Authority may, at the request of a grantee of a type approval or type acceptance issue or allow the grantee to use an e-identification mark instead of a printed identification mark.	The printed and e-identification mark will be issued by the Authority upon certifying the electronic equipment
		Regulation 8(1)(a)	Suggested adding "Trial	(a) for research, trial or demonstration on non commercial basis;	Proposal accepted
		Regulation 8(3)(a)	Proposed adding wording	(a) for a period not exceeding six (6) months, which period may be renewed for further periods of six (6) months on application to the Authority;	Proposal accepted

		Regulation 8(6)	Proposal to add wording	(6) The grantee of provisional type approval shall apply for final type approval before the expiry date of the provisional type approval. Where final type approval is not granted, the holder of the provisional type approval shall within thirty (30) days from the expiry of the provisional type approval ensure that all electronic equipment deployed are withdrawn at his own cost.	Proposal accepted with modifications
		Regulation 8(7)	To the extent that final type approval is required, this will follow the type approval or type acceptance process which requires submission of relevant documents	(7) A holder of a provisional type approval shall provide the Authority with a report of the test or demonstration in respect of which the provisional type approval was granted at the lapse of the provisional type approval period.	Clause to be maintained because it needs to be prominent that a report needs to be submitted at the end expiry period of the provisional license
		Regulation 9(1)	Proposed to adding wording	The Authority may type accept electronic equipment where it is satisfied that the electronic equipment has been tested and type approved by a recognized foreign national regulatory authorityan accredited entity.	Proposal accepted
		Regulations 9(2)(a)	Proposed to adding wording	(a) a sample of the equipment, upon request by the Authority where necessary;	Not accepted, the qualifier is not necessary
		Regulation 9(4)	Proposal to add clause (4)	(4) The Authority shall communicate its decision on an application for type acceptance within fourteen (14) days from the date of receipt of the application.	This has already been included

		Regulation 9(5)	Proposal to add clause (5)	(5) If the Authority does not reject the application for type acceptance within the period prescribed in sub-regulation (4), the Authority shall be deemed to have approved the application.	Not accepted because there will be no default Type approval
		Regulation 12(1)	Proposal to add wording	(1) Any person, other than a licensee , who imports, distributes or supplies electronic equipment shall register with the Authority.	Not accepted because the Authority is going to constitute a register of all imports, distributes or supplies of electronic equipment in the country
		Regulation 12(4)	Importers would not always be Malawian registered entities. In some instances, foreign entities may be responsible for importing equipment in the country, which is then distributed to local entities	Registration shall only be available to Malawian registered entities.	The provision has been revised. Only persons domiciled in Malawi shall be required register.
		Regulation 13(1)	Proposal to delete wording	— An authorized representative or distributor applicant or supplier shall ensure that any — — electronic equipment distributed by them in	The proposal has been rejected as the provision focusses on the person distributing the electronic equipment.
		Regulation 13(1)	A declaration of conformity ought to be sufficient	(a) — has a declaration of conformity drawn up by the manufacturer, applicant or supplier's certification of conformity with technical standards in accordance with these Regulations; and	The proposal has been accepted with modification.

				_____ has a mark with a declaration of conformity affixed to the electronic equipment.	
		Regulation 13(2)	Proposal to delete clause	(2) — An authorized representative or distributor of any electronic equipment shall maintain technical documentation from the manufacturer relating to an electronic equipment for at least five years for the purpose of periodic inspections by the Authority to ensure conformity with a type approval.	Proposal rejected because as a representative of the manufacturer the distributor should retain technical copies of the equipment for reference in case of any queries from any person
		Regulation 13(3)		An authorized representative or distributor/grantee of type approval or type acceptance, or supplier of any electronic equipment shall ensure that the technical documentation relating to the electronic equipment-	The clause has been dealt with
		Regulation 13(3)(a)	Design information is not relevant to conformity of equipment with applicable technical standards, particularly where test results have been submitted to the authority	(a) — enables the assessment of the conformity of the product with the essential requirements and covers the design , manufacture and operation of the electronic equipment; and	Accepted. The provision has been modified
			Design information, drawings and schemes of components, sub-assemblies and circuit diagrams are not relevant to the conformity of equipment with the applicable technical standards where test reports and photographs are available for consideration		The provisions have been deleted.

				A person shall not import electronic equipment unless a type approval or type acceptance has been granted by the Authority in respect to such equipment, unless the equipment is required for testing or for purposes of applying for type approval or type acceptance	Proposal accepted with modification of the provision.
			<p>Some aspects of compliance with these regulations may be implemented within the country. For example, affixing identification marks.</p> <p>Furthermore, there may be many administrative considerations at the point of entry. Confiscation, particularly without the opportunity to address any deficiencies would not be appropriate.</p>		The proposal has been rejected. No equipment can be imported and distributed without being type approved. So the issues raised cannot apply.
		Regulation 17(1) and 17(2)	This is a repetition of regulation 4(1)		The proposal not accepted because the obligations are specific to a licensee to allow the connection to its network of type approved equipment.
		Regulation 17(8)	Any action for compensation for damages ought to be directed to the relevant courts		The proposal has not been accepted because Section 173(2)(c) Communications Act gives MACRA the power to order compensation in certain cases. Any person who is not satisfied with the

					order made by MACRA may appeal to the High Court.
		Regulation 18(1)	We propose that complaints be initially filed with licensees (to the extent that the licensee is the supplier of the equipment) and then escalated to the Authority if the customer is not satisfied with the outcome of the licensee's complaints handling procedures		The proposal has been rejected because the provision is of general application and not specific to licensees.
		Regulation 18(3)	Before resolving the complaint, the Authority shall forward a copy of the complaint to the applicant or holder of a type approval or type acceptance against whom the complaint was made for its representation.		The proposal has been accepted with modification.
		Regulation 19(1) and 19(2)	The Authority's power to investigate non compliance with the requirements of the law is already prescribed in the Act		For the sake of completeness, the regulation will be maintained.
		Regulation 19(2) & (3)	The Authority's power to enter and search premises is prescribed in s86 of the Act. It is not permissible for the Authority to seek to expand on these powers in regulations. s86 also clearly stipulates that a warrant is required prior to entry into premises, which has been omitted from this requirement		Sub-regulation 2 has been deleted. We have maintained Sub-regulation 3 to enable the Authority carry out its investigation function under Sub-regulation 1.

Annex 2 – Communications (Type Approval) Regulations 2021

COMMUNICATIONS ACT

(CAP. 68:01)

COMMUNICATIONS (TYPE APPROVAL) REGULATIONS, 2021

IN EXERCISE of the powers conferred by section 200 of the Communications Act, I,
Minister of Information, Civic Education and Communications Technology, on recommendation
from the Malawi Communications Regulatory Authority, make the following Regulations-

PART I

PRELIMINARY

- Citation 1. These Regulations may be cited as the Communications (Type Approval) Regulations, 2020.
- Interpretation 2. In these Regulations, unless the context otherwise requires-
- “accredited entity” means an institution accredited by a national or international accrediting body and recognized by the Authority to test an electronic equipment for purposes of type approval;
- “applicant” means any person who applies to the Authority for type approval of electronic equipment;
- “electronic equipment” means-
- (a) any equipment, appliance or device that forms part of the electronic communications network;
 - (b) customer equipment;
 - (c) any equipment, appliance or device as the Authority may prescribe from time to time.
- “customer equipment” means any terminal equipment or associated device located at a subscriber’s premises that is connected to an electronic communications service by end user;
- “declaration of conformity” means a declaration made by a manufacturer of an electronic equipment that the equipment conforms to the requirements of the technical and performance standards recognized, established and published by the Authority in accordance with section 95 of the Act;

“electronic communications” means transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by radio, electro-magnetic, photo electronic or photo optical system;

“electronic communications network” means transmission systems used for electronic communications;

“provisional type approval” means type approval granted by the Authority in accordance with Regulation 9 of these Regulations for electronic communications equipment to be used for trial, research and demonstration on a non-commercial basis;

“type acceptance” means a procedure where by the Authority certifies the acceptability of electronic equipment that has been type approved by a recognized foreign national regulatory authority;

“type approval” means a procedure where the Authority certifies the acceptability of an electronic equipment or product based on conformity of the equipment or the product to minimum regulatory technical and safety requirement before the equipment or the product is used;

Objectives of these Regulations

3. The objectives of these Regulations are-
 - (a) to streamline the type approval framework in accordance with the Act;
 - (b) to protect the integrity of public networks;
 - (c) to protect the interests of consumers and suppliers of electronic communications services;
 - (d) to avoid harmful interference with other communication systems; and
 - (e) to specify the fee structure with respect to equipment type approval.

PART II

APPROVAL AND CERTIFICATION

Type approval of electronic equipment

4.
 - (1) A person shall not use any electronic equipment or any modified version thereof or connect to an electronic communication network without prior type approval or type acceptance by the Authority.
 - (2) The Authority shall type approve each model of equipment once, and subsequent users of the same model of electronic equipment shall not apply to the Authority for approval.

(3) Notwithstanding sub regulation (2), where there is a change of model, design or specification of an electronic equipment which had been type approved by the Authority, the electronic equipment shall be resubmitted for type approval.

(4) The Authority shall, from time to time, publish type approval procedures which shall include-

- (a) the manner of making an application;
- (b) list of electronic equipment to be type approved;
- (c) applicable fees; and
- (d) any other information deemed necessary by the Authority.

(5) The Authority shall maintain and publish in the Gazette and its website a list of accredited testing entities that are regarded by the Authority as suitable for performing tests demonstrating compliance of electronic equipment with relevant standards recognized by the Authority.

(6) The Authority shall conduct type approval in accordance with the procedures published under sub regulation (4).

(7) In applying the type approval procedure, the Authority shall-

- (a) examine the technical documentation of an electronic equipment to verify that it was manufactured in conformity with the relevant national and international standards;
- (b) carry out necessary tests, on its own or through accredited entities, in order to ensure compliance with relevant national and international standards.

(8) A person shall use an electronic equipment that complies with applicable technical and performance standards recognized, established and published by the Authority in accordance with section 95 of the Act.

(9) The Authority shall ensure that technical and performance standards specified in sub regulation (8) ensure-

- (a) compatibility and interoperability;
- (b) that no harm is caused to the networks of electronic communication licensees; and

- (c) safety to personnel during the connection to a network and during maintenance of the electronic equipment.

Application
for type
approval

5. (1) An applicant for type approval of an electronic equipment shall apply to the Authority by-
 - (a) submitting an Application Form prescribed by the Authority; and
 - (b) submitting certified copies of documents specified in Schedule 1.
- (2) Upon receipt of the application for type approval, the Authority shall issue an invoice to the applicant to pay type approval fees set by the Authority under regulation 6.
- (3) Where an electronic equipment which is the subject of an application pursuant to sub regulation (1) is designed to operate in conjunction with another electronic equipment, the applicant shall ensure that both electronic equipment are type approved by the Authority.
- (4) The Authority may publish notices of applications for and grants of type approval on its website and shall issue public notices of applications for and grants of type approval that it considers to be of special interest to the public in a daily newspaper of general circulation in Malawi.
- (5) A person who has an interest in an application for type approval of an electronic equipment stipulated in sub regulation (3) may submit to the Authority comments on the application with copy to the applicant within seven (7) days of publication of the notice and the applicant may file a reply to the comments within seven (7) days of the filing of the comments.
- (6) The applicant shall, unless exempted by the Authority, submit a sample of an electronic equipment for type approval together with test reports from accredited entities.
- (7) Where an applicant submits a sample of an electronic equipment for purposes of type approval, he shall ensure that the sample is –
 - (a) in a good working condition;
 - (b) properly configured for testing and complete with the necessary test adapters; and
 - (c) clearly marked with the name of the manufacturer, trade name, model and serial number.

(8) The Authority may retain the samples of the electronic equipment and associated documents submitted by the applicant.

(9) The Authority shall communicate its decision on an application within forty-five (45) days from the date of receipt of the application.

(10) In the event that the Authority feels it will not be able to complete the type approval within the period prescribed in sub-regulation (8) above, the applicant shall be notified before the expiry date and reasons for the delay and a possible new due date.

Type
approval
fees

6. (1) The Authority shall set type approval fees which shall be published in the gazette.

(2) The Authority may from time to time revise the fees set under sub regulation (1) provided that the Authority shall conduct a public consultation before revising the fees.

Grant of
approval

7. (1) The Authority shall only grant type approval of an electronic equipment where –

(a) the electronic equipment satisfies the requirements stipulated in these Regulations;

(b) the information on the electronic equipment is provided in accordance with these Regulations;

(c) the appropriate conformity assessment procedure in respect of the electronic equipment is carried out; and

(d) a declaration of conformity is drawn up in respect of the manufacturer of the electronic equipment or a person responsible for the electronic equipment.

(2) The Authority shall reject an application for a grant of type approval where the application fails to meet any of the requirements stipulated in sub regulation (1) and shall furnish the reasons for the rejection: Provided that the applicant may resubmit the application after rectifying the default.

(3) Upon granting a type approval, the Authority shall issue the grantee with-

(a) a type approval certificate;

(b) an identification mark which the grantee shall use in accordance with regulation 8.

- (4) The type approval granted by the Authority shall remain valid until-
 - (a) it is revoked, withdrawn, rescinded by the Authority;
 - (b) it is surrendered by the grantee of the type approval;
 - (c) the model of the electronic equipment has been modified by the manufacturer; or
 - (d) the date of termination, where the Authority has specified such termination date.
- (5) A grantee of a type approval shall not use the approval in respect of an electronic equipment model other than the model which the Authority has approved.
- (6) The grant of type approval of any electronic equipment shall specify the conditions to be complied with which may be imposed on the person to whom the approval is granted.
- (7) A type approval granted under this regulation shall not be construed as a guarantee by the Authority of the proper functioning, performance or quality of that electronic equipment.
- (8) A person granted type approval certificate shall guarantee and give a warranty to the Authority that each unit of electronic equipment marketed under the grant and bearing the identification specified in the grant shall conform to the unit that was type approved.
- (9) The Authority shall not be liable for any harmful interference caused to any other electronic equipment or for injury, loss of life or damage to property as a direct or indirect result of the use of any type approved electronic equipment.
- (10) Where there is doubt relating to the interpretation of a type approval specification, the method of carrying out the test or the validity of the statements made by the manufacturers of the equipment, the interpretation of the Authority shall prevail.

Use of
identification
mark

8. (1) A grantee of the type approval shall cause the identification mark issued under regulation 7 to be permanently affixed to the electronic equipment in a manner that an identification mark is readily visible.
- (2) Where it is not possible to affix an identification mark on the electronic equipment due to the physical characteristics of such equipment, a grantee of type

approval shall cause the identification mark to be affixed on the packaging of the electronic equipment or its user manual

(3) In addition to affixing an identification mark on the electronic equipment pursuant to sub regulation 1, a grantee of type approval may cause the identification mark to be affixed on the packaging of the electronic equipment or its user manual.

(4) The identification mark shall be affixed onto any electronic equipment which is of the same model as the tested sample and subsequently marketed by the grantee of the type approval.

(5) The identification mark shall contain -

- (a) the logo of the Authority;
- (b) the model of the equipment;
- (c) the alphanumeric identifications of the equipment; and
- (d) any information as determined by the Authority.

(6) The Authority may, at the request of a grantee of a type approval issue an e-identification mark instead of a printed identification mark.

(7) A grantee of a type approval may, upon approval by the Authority, use an e-identification mark in place of a physical identification mark in which case he shall indicate in his request how the e-identification mark will be displayed on the electronic equipment.

(8) A grantee of a type approval shall ensure that the identification mark issued under these Regulations is not altered.

(9) A grantee of a type approval shall display the e-identification mark using at least one of the following methods-

- (a) during the equipment's power up sequence;
- (b) under the equipment's system information page; or
- (c) under the help menu on the equipment.

Provisional
type approval

9. (1) The Authority may grant provisional type approval for electronic equipment to be used –

- (a) for trial, research or demonstration on non-commercial basis;
- (b) as test electronic equipment in Malawi; or

(c) for any purpose as the Authority may determine on case-by-case basis.

(2) The applicant for provisional type approval shall disclose details of the nature and purposes of the electronic equipment for which provisional type approval is required.

(3) A provisional type approval granted by the Authority shall be -

(a) for a period not exceeding six (6) months which period may be renewed for further periods of six (6) months on application to the Authority;

(b) granted exclusively to the holder thereof; and

(c) on such terms and conditions that the Authority may determine.

(4) Upon granting a provisional type approval, the Authority shall issue a provisional type approval certificate to the successful applicant.

(5) When granting provisional type approval, the Authority may, where it considers necessary, limit the number of units of electronic equipment that an applicant is allowed to use until final type approval is granted.

(6) The grantee of provisional type approval shall apply for final type approval before the expiry date of the provisional type approval.

(7) Where final type approval is not granted, the holder of the provisional type approval shall within thirty (30) days from the expiry of the provisional type approval ensure that all electronic equipment deployed are withdrawn at his own cost.

(8) A holder of a provisional type approval shall provide the Authority with a report of the test or demonstration in respect of which the provisional type approval was granted at the lapse of the provisional type approval period.

Type acceptance 10. (1) The Authority may type accept electronic equipment where it is satisfied that the electronic equipment has been type approved by a recognized foreign national regulatory authority.

(2) An application by any person for type acceptance shall include-

(a) a sample of the equipment, where necessary;

(b) copies of test results;

(c) type approval certificates from that country or jurisdiction.

- (d) a technical report containing –
 - (i) the full name and mailing address of the manufacturer of an electronic equipment and the applicant;
 - (ii) a copy of installation and operating instructions to be furnished to a user; and
 - (iii) detailed technical or operational documentation.

(3) The Authority may, on its own or upon an application by any person, conduct inquiries to determine whether technical standards from other countries or jurisdictions should be recognized in Malawi for purposes of exempting any equipment from type approval or testing requirements.

(4) The type acceptance under sub regulation (1) shall have the same effect as a grant of type approval made by the Authority under regulation 7(1)

(4) The Authority shall communicate its decision on an application within forty-five (45) days from the date of receipt of the application.

List of
electronic
equipment

11. (1) The Authority shall, from time to time, issue and publish -
- (a) a list of approved electronic equipment with their technical specifications;
 - (b) a list of exempted electronic equipment; and
 - (c) a list of prohibited electronic equipment.

(2) Any person who supplies, imports or distributes for use any electronic equipment prohibited by the Authority commits an offence under these Regulations.

Technical
standard for
electronic
equipment

12. (1) The Authority may make or adopt the following types of standards-
- (a) technical standards for all electronic equipment including customer equipment;
 - (b) standards relating to the features of electronic equipment that are designed to cater for the special needs of persons with disabilities; and
 - (c) technical standards for the interconnection of networks or network elements.

(2) The technical standards adopted by the Authority shall consist of requirements which are necessary or convenient for –

- (a) protecting the integrity of an electronic communications network or network elements;
- (b) protecting the health or safety of persons who operate, work on, use services supplied by means of, or are likely to be affected by the operation of an electronic communications network or network elements;
- (c) ensuring that customer equipment is capable of accessing emergency services;
- (d) ensuring the interoperability of customer equipment with an electronic communications network; and
- (e) giving effect to any matters prescribed by these Regulations or any other law.

(3) The Authority shall, before adopting technical standards, ensure that-

- (a) interested persons are given adequate opportunity to make representations about the proposed standards; and
- (b) the proposals received under paragraph (a) are taken into consideration.

Registration
of importers,
distributors
and suppliers

13. (1) Any person who imports, distributes or supplies electronic equipment for re-sale in Malawi shall register with the Authority.

(2) On registration under sub regulation (1), a person shall provide the following information to the Authority:

- (a) full name;
- (b) in the case of an individual, a certified copy of his national identity card;
- (c) in the case of an entity a certified copy of its registration certificate; and
- (d) residential and business or physical address

(3) Upon registration, the Authority shall issue the person with dealership license.

(4) The registration under sub regulation (1) shall be a once off activity and without imposing a cost on the applicant.

(5) Registration shall only be available to a person domiciled in Malawi.

(6) Where the details provided when registering an importer, distributor or supplier change the onus shall be on the applicant to supply to the Authority with latest updated information within thirty (30) days of the occurrence of the change

14. (1) An authorized representative or distributor shall ensure that any electronic equipment distributed by them in Malawi has a declaration of conformity drawn up by the manufacturer, in accordance with these Regulations.

(2) An authorized representative or distributor of any electronic equipment shall maintain technical documentation from the manufacturer relating to an electronic equipment for at least five years for the purpose of periodic inspections by the Authority to ensure conformity with a type approval.

(3) An authorized representative or distributor of any electronic equipment shall ensure that the technical documentation relating to the electronic equipment-

(a) enables the assessment of the conformity of the product with the essential requirements and covers the manufacture and operation of the electronic equipment; and

(b) includes-

(i) a general description of the electronic equipment;

(ii) summary of technical specifications of the electronic equipment;

(iii) user manual of the electronic equipment; and

(iv) the test reports.

(4) An authorized representative or distributor of any electronic equipment shall keep a copy of the declaration of the conformity with the technical documentation.

(5) An authorized representative or distributor of any electronic equipment shall ensure that the electronic equipment is compliant with the technical documentation and these regulations.

(6) Where a manufacturer of an electronic equipment, is established within Malawi, he shall be responsible for the undertakings stipulated in this regulation.

Conformity of electronic equipment

(7) The Authority may, at any time, request a dealer or his representative to submit an electronic equipment to the Authority for the purpose of assessing its continuous compliance with the technical and performance standards published by the Authority under these Regulations.

(8) A dealer or his representative required to submit an electronic equipment under sub regulation (7) shall prepare and submit information demonstrating compliance using a measurement procedure approved by the Authority.

(9) The information submitted pursuant to sub regulation (8) shall indicate the specific standards or measurement procedure used as envisaged under sub regulation (8).

(10) Where a test of electronic equipment that is subject to type approval is being conducted pursuant to sub regulation (7), the Authority or any accredited entity involved in the testing of the electronic equipment, shall comply with the following parameters that were used at the time when the type approval was granted-

- (a) the location of the test site;
- (b) the physical description of the test site, accompanied by the photographs;
- (c) a drawing showing the dimensions of the test site, physical layout of all supporting structures.;
- (d) a description of the structures used to support an electronic equipment under test;
- (e) a list of testing equipment used;
- (f) information concerning the calibration of the testing equipment, including the frequency and the last date the equipment was calibrated; and
- (g) any information deemed necessary by the Authority.

Responsibility
for equipment
compliance

15. (1) Liability for any electronic equipment granted type approval by the Authority shall be borne by the following-

- (a) the person who has been granted type approval;

- (b) the person who modifies the electronic equipment without the knowledge of the person who was granted an approval;
- (c) the manufacturer or the assembler where the equipment is assembled at component level and the resulting system is subject to type approval;
- (d) the importer where the electronic equipment is imported.

Marketing of
electronic

16.

(1). A person may advertise or display an electronic equipment that has not been type approved by the Authority at a trade show or exhibition provided that the electronic equipment shall contain a conspicuous notice stating that-

- (a) the electronic equipment is not type approved by the Authority; and
- (b) that it shall not be offered for sale or lease until type approval is granted by the Authority.

(2) Where a person displays a prototype of an electronic equipment that has been granted type approval by the Authority but bears significant modifications from the type approved electronic equipment, it shall contain a notice with a disclaimer and state that the prototype is not for sale until type approval has been granted by the Authority

(3) A person shall not affix a type approval identification mark to the electronic equipment before grant of type approval certificate by the Authority, however an electronic equipment may be operated without the identification mark for the following purposes -

- (a) compliance testing;
- (b) demonstration at a trade show or exhibition;
- (c) evaluation of product performance and the determination of customer acceptability at a manufacturer's facility during the developmental, design or pre-production stages; or
- (d) evaluation of product performance and the determination of customer acceptability, where customer acceptability of the electronic equipment cannot be determined at a manufacturer's facility because of size or the unique capability of the electronic equipment.

Provided that the electronic equipment shall contain a conspicuous notice stating that-

- (i) the electronic equipment is not type approved by the Authority; and
- (ii) that it shall not be offered for sale or lease until type approval is granted by the Authority.

Import and
Sale
Restrictions

17. (1) A person shall not import electronic equipment unless a type approval has been granted by the Authority in respect to such equipment, unless the equipment is required for testing or for purposes of applying for type approval.
- (2) On importation of electronic equipment, an authorized representative or importer of electronic equipment shall present to a Government Agency responsible for customs clearance a type approval certificate issued by the Authority in respect to the electronic equipment being imported.
- (3) For purposes of this regulation, an importer of electronic equipment shall mean any person that imports electronic equipment for resale or commercial use.
- (4) The Authority may, in enforcing these Regulations, conduct inspection at the ports of entry.
- (5) The Authority may confiscate any electronic equipment -
- (a) found to be non-compliant with these Regulations
 - (b) imported by a person who does not have a dealership license issued under regulation (13).
- (6) The Authority shall, in respect to electronic equipment confiscated under sub regulation (5) -
- (a) charge storage fees on electronic equipment kept by the Authority for a period exceeding ten (10) days
 - (b) destroy the electronic equipment after ninety (90) days from the date of confiscation, if it does not comply with technical standards set by the Authority; or
 - (c) dispose the equipment by auction or otherwise after ninety (90) days from the date of confiscation if the equipment is compliant with technical standards set by the Authority.

Right to
connect
approved
electronic
equipment to
network or
system

18. (1) A licensee of an electronic communication network shall ensure that any electronic equipment, connected to its network is type approved by the Authority.

(2) Sub regulation (1) shall not apply to electronic communication terminal equipment that is not supplied or distributed by a licensee of an electronic communication network.

(3) A licensee shall not refuse or object to the connection of any electronic equipment that has been type approved by the Authority to its network or system.

(4) Notwithstanding sub-regulation (3) above, a licensee may refuse or restrict the connection of an approved electronic equipment to its network or system on the following grounds-

- (a) security of network operation;
- (b) maintenance of network integrity;
- (c) interoperability;
- (d) data protection; or
- (e) prevention of any threats to the life and health or safety of users.

(5) A licensee may refuse or restrict connection of an electronic equipment pursuant to sub regulation (4)(d), only on the basis of protection of personal data or confidentiality of information transmitted or stored on its network.

(6) Where the licensee refuses or restricts connection of an approved electronic equipment pursuant to sub-regulation (4), it shall, within 48 hours from the date of the refusal or restriction, notify the Authority, and give reasons for its decision.

(7) Where a licensee refuses or restricts connection of an approved electronic equipment and the Authority determines that there is no reasonable grounds for the refusal or restriction, it may, by written notice to the licensee, direct the licensee to connect the electronic equipment without any restrictions or on such conditions the Authority may determine.

(8) Where the Authority determines that a licensee had no reasonable grounds to refuse or restrict connection of an approved electronic equipment under sub-regulation (3) and that as a result of the disconnection a person has suffered loss or damage, that person may apply to the Authority for the recovery from the licensee, of the amount of loss or damage suffered pursuant to Section 173(2)(c) of the Act.

(9) The Authority may, by written notice to a licensee, declare that the operation, supply or possession of specified customer electronic equipment is prohibited for reasons that it shall specify in the notice.

- (10) A notice issued by the Authority under sub regulation (9) shall relate to-
- (a) the protection of the integrity of an electronic communications network or electronic equipment; or
 - (b) the protection of the health or safety of a person who operates, works on or uses services supplied by means of the electronic communications network or facility, or who is likely to be affected by the operation of the electronic communications network or facility.
- (11) The Authority shall publish a copy of the notice referred to under sub-regulation (9).

Complaint
against harmful
electronic
equipment

19. (1). Any person may complain to the Authority against use of any type approved electronic equipment.
- (2) A complaint made pursuant to sub regulation (1) above, shall include:
- (a) the name and address of the complainant;
 - (b) the name and address, if known, of the person against whom the complaint is made;
 - (c) the facts and supporting information, where available, showing that the electronic equipment does not conform to the requirements of these Regulations.; and
 - (d) any other information deemed necessary by the Authority.
- (3) Before resolving the complaint, the Authority shall forward a copy of the complaint to the applicant or holder of a type approval against whom the complaint was made for its representation.
- (4) The Authority shall, in making a determination on a complaint made under this regulation consider any representations made by applicant or holder of a type approval against whom the complaint was made.

Power to
investigate and
inspect

20. (1) Where the Authority has reasonable grounds to believe that a person is contravening or has contravened any of the provisions of the Act or these Regulations, the Authority shall conduct an investigation for the purpose of securing compliance.
- (2) In carrying out its functions under sub-regulation (1), the Authority may:

Revocation of
Type Approval

- (a) require the licensed dealer to submit any electronic equipment to the Authority for testing to ensure compliance with the applicable technical standards
 - (b) examine the electronic equipment, its labels, packaging and certificates.
21. (1) The Authority may subject to sub regulation (2), revoke any provisional or final type approval certificate granted under these Regulations.
- (2) The Authority may revoke any provisional or final type approval certificate, where it is satisfied that -
- (a) the holder of a final or provisional type approval certificate has violated its conditions;
 - (b) the electronic equipment is causing or is likely to cause harmful interference to communications network or is a risk to human health or the environment; or
 - (c) the holder of the provisional or final type approval certificate has committed a serious breach of these Regulations.
- (3) Before making a determination to revoke any type approval certificate under this regulation, the Authority shall notify and consider any representations made by the holder of the relevant type approval certificate.

Disposal of
Electronic
equipment

22. (1) The Authority may destroy any electronic equipment that is subject of type approval for any of the following reasons -
- (a) where destruction of the electronic equipment is an element of the testing process;
 - (b) where the Authority deems that the electronic equipment may not be suitable for return to the applicant or the holder of the type approval certificate; or
 - (c) where the electronic equipment is confiscated for non-compliance with these Regulations.
- (2) The Authority may destroy any electronic equipment pursuant to sub-regulation (1) above, after giving thirty (30) days' notice to the applicant or the holder of a type approval certificate.

PART III

GENERAL PROVISIONS

Compliance
Notice

23. (1) The Authority may, where it has reasonable grounds to suspect that an identification mark has been affixed to an electronic equipment without compliance to these Regulations, serve a compliance notice in writing on –
- (a) the local manufacturer of the electronic equipment or the importer of such equipment; or
 - (b) the person responsible for the placing the electronic equipment on the market in Malawi.
- (2) A notice served under sub-regulation (1) shall –
- (a) state that the Authority reasonably suspects that the identification mark was not correctly affixed to the electronic equipment;
 - (b) specify the circumstances which gave rise to the Authority’s suspicion of the anomaly and give particulars of the circumstances;
 - (c) require a person to whom the notice is given –
 - (i) to ensure that any electronic equipment to which the notice relates conforms to the correct affixation of the authorized identification mark within such period as may be specified in the notice; or
 - (ii) to provide evidence within specified period to the satisfaction of the Authority, that an identification mark is correctly affixed; and
 - (d) give a warning that if the non-conformity continues, or if satisfactory evidence is not provided within the period specified in the notice, further action may be taken under these Regulations in respect of the electronic equipment or electronic equipment of similar type placed on the market by the person to whom the notice is given.

Offence and
Penalty

24. A licensee who fails to comply with any provision of these Regulations commits an offence and shall upon conviction be liable to a fine of MK5, 000, 000 and imprisonment for five (5) years.

Regulatory
Sanctions

25. Notwithstanding the criminal sanctions provided for in these Regulations, the Authority reserves the right to impose any of the following regulatory sanctions for any breach of these Regulations:
- (a) refuse to grant type approval certificate;
 - (b) impose administrative fines;

- (c) issue warnings;
- (d) issue a compliance order;
- (e) issue a cease-and-desist order;
- (f) revoke type approval certificate;
- (g) make any other order deemed necessary.

Factors in
applying
enforcement
measures

26. In imposing any regulatory sanctions under regulation 25, the Authority may take into account any of the following factors:

- (a) duration of the breach;
- (b) the nature, gravity and frequency of the breach;
- (c) any service credits or rebates that have been provided by the licensee to consumers who may have been inconvenienced or otherwise affected by the committed contraventions;
- (d) any failures to fulfill obligations that arise partly or wholly from the failures of another person; or
- (e) any other relevant consideration deemed necessary by the Authority.

SCHEDULE 1: LIST OF DOCUMENTS

Reg. 5(1)

- (a) Formal application covering letter as stated in 1 above
- (b) FCC or ETSI Documents
- (c) Test Reports from accredited Labs
- (d) Technical Specifications
- (e) Authorization Letter (Power of Attorney)
- (f) Declaration of Conformity
- (g) Any Copies of Approval from ITU Region 1
- (h) Any other necessary Documents which will help in analyzing the Model. If the documents are too big then you can upload them using any convenient file sharing method.

Made the day of 2021

Minister of Information

Annex 3 – Type Approval Fees

Type Approval Fees

Regulation 6(1)

Equipment Category	Reference Standards of Conformity	Type Approval per model (USD)	Type Approval Acceptance per model (USD)	Modification per model (USD)
Base Stations (BTSs, NodeBs, eNodeBs), Repeaters and Ancillary Equipment	EN 301 489-8 EN 301 502 EN 301 908-3 EN 301 908-7 EN 301 908-11 EN 301 489-23	600	300	100
Handsets, terminals & ancillary equipment	EN 301 489-7 EN 301 511 EN 301 908-5 EN 301 908-2 EN 301 908-6 EN 301 489-24	400	200	100
Amateur radio and ancillary Equipment	EN 301 489-15 EN 301 783-2	100	50	50
Land Mobile Radio	EN 300 113 -1 EN 300 390-1 EN 301 783 2 EN 301 908-5	100	50	50
Radar for Radio Navigation	EN 302 248 EN 302 194 EN 301 4891	600	300	100
Maritime Radio	EN 300 698 EN 301 025 EN 301 178	100	50	50
RLAN, Wi-Fi (WLAN), Bluetooth	EN 301 489-17 EN 301 893 EN 300 328	400	200	100
Microwave Radio Point to Point Radio, Fixed Link Equipment and Antenna	EN 301 489-4 EN 302 217-2-2 EN 302 217-3 EN 302 217-4-2	600	400	100

SRD Radar Systems	EN 300 440 EN 302 288 EN 302 372 EN 301 4891	400	200	100
Radio determination application				
Vehicle Telematics	EN 300 674 EN 200 674 EN 301 091	400	200	100
Road transport and traffic telematics				
Car immobilizers, Alarm systems, data transfer to handheld devices etc.	EN 302 291 EN 300 330 FCC part 15 EN 300 220	400	200	100
Inductive applications				
Article identification, asset tracking, alarms	EN 302 291 EN 300 440	400	200	100
Radio Frequency identification applications				
Sound broadcasting equipment	EN 301 489-11 EN 302 018-1 EN 302 018-2	600	400	100
FM Radio				
TV Broadcast	EN 301 489-14 EN 302 297 EN 302755v1.3.1	600	400	100
Vision broadcasting equipment				

Satellite TV and Other VSAT	EN 301 4891 EN 301 489-20 EN 301 489-12 EN 301 681 EN 301 428 EN 301 443 EN 301 360 EN 301 459	600	400	100
Broadcasting Terminals (Decoders & Receivers)	EN 302 755 V.1.3.1 EN 300 468 V1.13.1 EN 300 472 V1.3.1 EN 300 743 V1.4.1	400	200	100