



Tech Tuesdays

With Musa.

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THE ROLE OF KNOW YOUR CUSTOMER (KYC) REGULATIONS IN BOTSWANA'S TELECOMMUNIC ATIONS SECTOR.

Introduction

In today's digital age, the telecommunications sector plays a pivotal role in facilitating communication and connectivity. However, with the increasing prevalence of fraud, identity theft, and other illicit activities, there is a growing need for robust security measures to protect both customers and service providers. One such measure is the implementation of Know Your Customer (KYC) regulations, which aims to verify

the identity of customers and mitigate associated risks. This week, we examine the importance of KYC regulations for cellphone providers in Botswana.

Regulatory Framework for KYC in Botswana.

In Botswana, KYC practices in the telecommunications sector are governed by the Communications Regulatory Act and the Botswana Communications Regulatory Authority (BOCRA) guidelines.

Part II of the Act provides for the continuation of the BOCRA, which was established under section 3 of the Telecommunications Act (now repealed / no longer in use). In terms of the Act, the Authority has the responsibility to ensure that there are safe, reliable, efficient and affordable services in the regulated sectors throughout Botswana¹. It also has the power and duty to make industry regulations for the better carrying out of its responsibilities². It is in terms of these powers and responsibilities that BOCRA mandated that all service providers carry out a KYC exercise and submit same to the authority. It was also within the BOCRA's powers or discretion to extend the Registration Deadline to 30th June 2024³.

Consequences for Non-Compliance with KYC Regulations.

Section 50(3) of the Act mandates anyone, be it an individual or corporation who provides a telecommunications service, to maintain a register of its

1. Section 6(1) Communications Regulatory Act

2. Section 6(2)(r)

3. See BOCRA public notice issued 31st March 2024

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customers or subscribers in such manner as the Minister may prescribe and provide information to the Authority or such other person as the Authority may designate. Section 50(4) sets out the penalty for non-compliance with KYC as follows:

“Any customer, subscriber or person who fails to furnish the supplier, service provider or licensee in the regulated sectors with any information as may be prescribed by the Minister in terms of subsection (3) commits an offence and is liable to -a fine not exceeding P10 000 or to imprisonment for a period not exceeding 12 months, or to both; and where a body corporate contravenes subsection (3) the Authority may impose a civil penalty which shall not exceed 10 per cent of the net turnover of the business in the previous financial year and where such corporation was not trading in the previous year, the current net turn over”

Due to the harshness of the penalty for non-compliance with KYC Regulations, service providers opted to disconnect all customers who would have not complied with the regulations by the deadline set by BOCRA. This action aims to shield both the service providers and their customers from potential liability, as stipulated in Section 50(4).

Takeaways

KYC practices in the telecommunications sector are governed by the Communications Regulatory Act and the Botswana Communications Regulatory Authority (BOCRA) guidelines.

All telecommunications service providers are required to maintain a register of their customers or subscribers.

Failure to provide the prescribed information is an offence for which an individual would be liable to a fine not exceeding P10 000 or to imprisonment for a period not exceeding 12 months, or to both.

A corporation which fails to collect KYC information on its customers is liable to a civil penalty not exceeding 10 per cent of the net turnover of the business in the previous financial year and where such corporation was not trading in the previous year, the current net turnover.

If you have interest in an in-depth discussion on this subject matter, feel free to contact us at info@gobhozalegalpractice.co.bw Tel: 3116371

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