



## Public Consultation on Draft SIM Registration Regulation

TRBR Invite all stakeholders to participate and share their views on this propose Regulation

## INTRODUCTION

This Draft Regulation is made pursuant to the Regulator's powers and responsibilities under the Telecommunications, Radiocommunications and Broadcasting Regulator Act No 30 of 2009 as amended by Amendment No 22 of 2018 (the Act), Section 7.

This decision will introduce a requirement for Mobile Network Operator Licensees and holders of other types of Licenses that provide Mobile Services in Vanuatu to register verifiable subscriber data before activating Mobile SIM Cards.

The purpose of the requirement is to establish a database of users and subscribers which will assist the relevant bodies in Vanuatu with respect to supporting public safety and discouraging attempts to exploit ICT services for illicit purposes. A further purpose is to protect the details of subscribers from unwarranted exploitation by licensees.

TRBR has therefore prepared the draft Regulation at Annex A for that purpose. As required under section 7 of the Act, TRBR is engaging in a public consultation process before finalizing the proposed Regulation.

Section 8 of the Act provides powers to the Regulator to require the provision of information relevant to the exercise of its duties and functions:

“8. Information gathering

(1) If the Regulator believes that a person has information or documents relevant to the exercise of any of the Regulator's powers or functions, the Regulator may require the person to:

- a) produce such documents; and
- b) make copies of such documents for the Regulator; and
- c) require the service provider to furnish such information.”

## CONSULTATION FEEDBACK INFORMATION

TRBR invites and welcomes comments and feedback to this consultation document from all interested parties.

We would appreciate your provision of information to be clear by quoting the corresponding section or paragraphs of this document when providing your comments.

In the interests of transparency, TRBR may make public all or parts of any submissions made in response to this Consultation Document, unless there is a specific request to treat all or part of a response in confidence. Respondents are required to clearly mark any information included in their submission that they consider confidential and include reasons why that information should be treated as such.

TRBR will evaluate requests for confidentiality according to relevant legal principles, if a request for confidentiality appears to be without merit, and relates to information which is not confidential, or results in the substance of the submission being obscured, TRBR maintains its discretion to determine whether the information claimed to be confidential is to be treated as such. Where information claimed to be confidential is included in a submission, respondents are requested to provide both a confidential and a non-confidential version of their submission. TRBR however may consult with respondents in the event of uncertainty as to the confidentiality of the information provided.

TRBR will accept comments in English, French or Bislama.

If comments are submitted in printed format, they should be submitted on A4 paper accompanied, wherever possible, by a USB memory stick containing the comments, in electronic format.

Comments on this consultation document should be provided to TRBR via the following means:

- Via email to [consultation@trbr.vu](mailto:consultation@trbr.vu)
- Faxed to (678) 24470
- Posted or hand delivered to:

Telecommunications Radiocommunication and Broadcasting Regulator

P O Box 3547, Port Vila, Vanuatu

The deadline for public Comments is 4pm, 15 July 2020.

For any phone enquiries regarding this Consultation document, please call the following numbers:

- (678) 27621, (678) 27487 or 34621

For more information about TRBR's Consultation Guidelines, please visit the following website [www.trbr.vu](http://www.trbr.vu)

You are welcome to visit our website <http://www.trbr.vu> for more details on the latest developments in the telecommunication services industry and other related matters.

TELECOMMUNICATIONS, RADIOCOMMUNICATIONS AND BROADCASTING REGULATION ACT  
NO. 30 OF 2009, as amended by Amendment No. 22 of 2018

**Draft Telecommunications, Radiocommunications and Broadcasting  
(SIM Card Registration) Regulation Order No. \_\_\_\_ of 2020**

In exercise of the powers conferred on me by subsection 7(3) of the Telecommunications, Radiocommunications and Broadcasting Regulation Act No. 30 of 2009 and with the approval of the Prime Minister, I, BRIAN WINJI, Telecommunications, Radiocommunications and Broadcasting Regulator, make the following Regulation, being a Regulation for the registration of all SIM Card users, and for the control, administration and management of the subscriber information database.

## PART 1 PRELIMINARY

### 1. Definitions

In this Regulation, unless the contrary intention appears:

**Act** means the Telecommunications, Radiocommunications and Broadcasting Act No. 30 of 2009, as amended by Amendment No. 22 of 2018;

**Activate** means to allow full access to the electronic communications system of a licensed service provider who provides a cellular mobile telecommunications service, including the ability to make and receive calls and to send and receive short message services;

**Authorised personnel** means an officer authorised to perform specified duties associated with the subscriber information database;

**Biometric information** means the facial image of the subscriber

**Corporate body** means a sole corporation, a company or other body corporate (whether incorporated in the country or elsewhere), an unincorporated body of persons, a public body, and includes Government department, agency or authority;

**Deactivate** means to stop full access to the electronic communications system of a licensed service provider who provides a cellular mobile telecommunications service;

**Electronic communications** service means any service which provides to users the ability to send or receive electronic communications;

**Existing subscriber** means a subscriber on a licensee's electronic communications services system prior to the commencement of this Regulation;

**Foreign licensee** means a telecommunication or electronic communications service provider licensed by a telecommunications regulator other than TRBR, to provide electronic communications services in a country other than Vanuatu;

**Home country** means the country where a foreign licensee is operating and doing business from;

**Identification card** means any form of card including driver's licence or valid work ID card with personal information relating to aspects of a person's identity;

**Identification document** means any form of document including passports and valid birth registration documents which may be used to verify aspects of a person's identity;

**Limited access** means the limitation by a licensed service provider of services available to a SIM Card to the receipt of calls and short message services and the making of calls and short message services to emergency centre numbers and the licensee's call centre only;

**New subscriber** means a subscriber who acquires a SIM Card or subscribes to a service after the commencement of this Regulation;

**Person** includes a corporation;

**Personal information** means information obtained from identification cards or documents with full names, gender, date of birth, residential address, nationality, location of origin, occupation and such other personal information and contact details that the Regulator may require from time to time for the registration of SIM Card users;

**Proxy registration** means a registration performed with details of the registering person on behalf of a SIM Card owner;

**Registration grace period** means a period of 12 months from the commencement date of this Regulation or such other date which the Regulator may subsequently determine in writing, within which existing subscribers will be required to register SIM Card information in accordance with this Regulation;

**Regulation** means this SIM Card Registration Regulation:

**Reputable person** means a respectable person of standing in the community such as Commissioner of Oaths, Chief or a church pastor who is a registered SIM card holder

**Security agency** means Vanuatu law enforcement agencies;

**SIM Card** means a Subscriber Identity Module smart card containing the telephone number of a subscriber, encoded network identification details, the personal identification number and other user data;

**Subscriber** means –

- (a) Any person who subscribes to the services of an electronic communications service provider either as a result of the purchase of a SIM card or the conclusions of a contract to provide electronic communication service by a licensee; or
- (b) An employee of the licensee or any person who receives or received such service as gift, reward, favour, benefit or donation,

And includes both existing subscribers and new subscribers

**Subscriber information** means the biometric or other personal information of a subscriber recorded and stored by licensees; and

**Subscriber information database** means the central SIM cards database, containing the specific registration information of all SIM card-based subscribers.

All terms unless otherwise stated or clearly implied by the context in which they are used have the same meaning as in the Act.

## **PART 2            OBJECTIVE AND SCOPE**

### **2. Objective**

The objective of this Regulation is the provision of a regulatory framework for the registration of all SIM Card users, and for the control, administration, and management of the Subscriber Information Database.

### **3. Scope**

This Regulation applies to all licensees and to all persons who use a SIM Card in Vanuatu but shall not extend to users of SIM Cards issued by foreign licensees, notwithstanding that those users are roaming on the network of a licensed service provider licensed by the Regulator.

## **PART 3 COMMENCEMENT**

### **4. Commencement**

This Regulation commences when published in the National Gazette.

## **PART 4 THE SUBSCRIBER INFORMATION DATABASE**

### **5. Establishment and Maintenance of Database**

- (1) All licensees must establish a subscriber information database to record and store subscriber information in accordance with the requirements of this regulation and as specified in writing by the regulator from time to time.
- (2) The subscriber information database shall be segregated across electronic communications systems and housed in a central location, providing a platform for central processing of all subscriber information in such a manner as to ensure easy access to data by authorised personnel.
- (3) The ownership, care, control, and management of the subscriber information database will be vested in the individual licensee.
- (4) The subscriber information acquired by the licensee or its agents will, for the purposes of this Regulation, belong to the licensee.

### **6. Data Protection and Confidentiality**

- (1) Subscriber information contained in the subscriber information database shall be confidential and no person shall be allowed access except where provided for in this Regulation.
- (2) A subscriber whose personal information is stored in the subscriber information database shall be entitled to view the information and to request and receive updates and amendments of his personal information.
- (3) Licensees providing registration services shall not retain the personal data of any subscriber recorded on the prescribed registration form in Schedule 1 after transmitting the data to the subscriber information database.

- (4) Where a licensee has utilised the subscriber information in any business commercial or other transaction, the licensee shall be liable to a fine of 20,000,000vatu (twenty million vatu) per subscriber whose information has been so used and forfeiture of the commercial benefit derived from the unauthorised use of the subscriber information.

## **7. Operation of Subscriber Information Database**

- (1) Subscriber information received by a licensee shall be processed and stored in its subscriber information database.
- (2) No licensee shall duplicate, use, deal in or make copies of any subscriber information or store, in whatever form, any copies of the subscriber information for any purpose other than as stipulated in this Regulation or by an Act of Parliament.
- (3) Subject to Section 7, licensees shall utilise subscriber information solely for their operations and shall not release subscriber information to any third party without obtaining prior written consent of the relevant subscriber.
- (4) Where a SIM Card has been deactivated, the licensee shall keep the records of the relevant subscriber, whether a new subscriber or an existing subscriber, for a period of six months from the date of deactivation of the SIM Card.

## **8. Request for Subscriber Information**

- (1) Subscriber information on the subscriber information database may be provided to a security agency upon the receipt of a search warrant granted by the Magistrates Court.
- (2) Notwithstanding subsection (1), subscriber information shall not be released to a security agency or any other person where –
- (a) The release of subscriber information would constitute a breach of any other Act of Parliament; or
  - (b) The release of subscriber information would constitute a threat to national security.
- (3) A licensee who releases or allows the details of a subscriber to be given to an unauthorised third party commits an offence and shall be liable to a fine of up to 20,000,000vatu (twenty million vatu) for each SIM Card.

## **PART 5 SIM CARD REGISTRATION**

### **9. Licensee to register all subscribers**

- (1) A licensee operating in Vanuatu shall register all its subscribers in accordance with this Regulation.



- (2) The licensee shall, at its own cost, implement a process to obtain, record and transmit to its subscriber information database personal information of new subscribers and any biometric information in accordance with specifications prescribed in Schedule 1 to this Regulation.

#### **10. Registration of individual subscribers**

- (1) A licensee shall register, capture, and transmit to its subscriber information database within the registration grace period –
- (a) the identification number of any SIM Card that is to be activated by the licensee at the request of any individual subscriber; and
  - (b) biometric and other required personal information of the individual subscriber.
- (2) The collection of personal information shall be in the prescribed form, specified by the Regulator.
- (3) The individual subscriber shall not be registered unless –
- (a) the subscriber provides a valid identification card or document; and
  - (b) is physically present at the place of registration.
- (4) A licensee shall activate the SIM Card and grant full access to the subscriber upon registration.
- (5) Where a person does not have a valid identification card or document, he shall not be registered unless he is-
- (a) physically present at the place of registration; and
  - (b) accompanied by a reputable person; and
  - (c) the reputable person presents his own identification card or document, and identified the person requesting registration.
- (6) For the purposes of Subsection (5), a reputable person shall produce documents showing that he is a reputable person.
- (7) A licensee who activates a SIM Card without registering and transmitting the personal information specified in this section to the subscriber information database shall be liable to a fine of 20,000,000vatu (twenty million vatu) For each SIM Card.

#### **11. Registration of Corporate Persons**

In the case of a corporate body, the licensee shall register-

- (a) the biometric and other personal information from valid identification cards or documents of the authorised representative of the corporate body; and
- (b) the name and address of the corporate body; and
- (c) where applicable, the registration number of the corporate body.

## **12. Registration of New Subscribers**

A licensee shall register the subscriber information of a subscriber purchasing a new SIM Card in accordance with Sections 9 or 10, whichever is applicable.

## **13. Registration within Grace Period**

- (1) A licensee shall register its existing subscribers under Sections 9 and 10 within the registration grace period.
- (2) Where an existing subscriber has not been registered within the registration grace period, the licensee shall deactivate the SIM Card.
- (3) A licensee who fails to deactivate a SIM Card after the registration grace period has expired shall be liable to a fine of 20,000,000vatu (twenty million vatu) for each SIM Card.

## **14. Registration of Children**

- (1) A licensee shall only register a child above the age of 12.
- (2) A child who is aged 12 or below shall be registered by the parent or guardian of the child having a valid identification card or document and shall be registered under the parent's or guardian's name.

## **15. Registration of Non-Residents**

- (1) A non-resident shall register his SIM Card upon registration of his personal information, a valid passport or other travel document, and provide local residential address and contact detail of the natural person using the network service.
- (2) A licensee shall ensure that any international roaming agreements with a foreign service provider includes access to identification information of users that are roaming on the licensee's network and shall be made available from the home country.

## **16. No proxy registration**

There shall be no proxy registration.

## **17. Limit to Active SIM Cards**

A licensee shall ensure that individual subscribers, other than a corporate person, shall be permitted to own a maximum of 3 active SIM Cards concurrently, and that these SIM Cards shall be permitted to access the licensee's network services on the date of registration.

#### **18. Registration information to the Regulator**

- (1) The Regulator may require, by written request, a licensee to provide information and statistics drawn from its subscriber information database from time to time or periodically.
- (2) A licensee that fails to provide the required information under Subsection (1) shall be liable to a penalty of 20,000,000Vatu (twenty million vatu) after failure to comply with a written request and warning from the Regulator.

#### **19. Inspection**

The Regulator may ensure compliance with this Regulation by carrying out inspections of a licensee's records and subscriber information database.

## **SCHEDULE 1: PRESCRIBED REGISTRATION FORM**

(Subsections 6(3) and 9(2) refer.)

### **Information Required**

1. SIM Card number
2. Individual Subscriber Information
  - (a) Name of person
  - (b) Gender
  - (c) Age
  - (d) Nationality
  - (e) Photo of the person
  - (f) Passport Issuer, Number and Expiry (if applicable)
  - (g) Residential address
  - (h) Contact phone number
  - (i) Identification Card or Document type(s)
  - (j) Identification Card or Document number(s)
  - (k) Parent or Guardian (if applicable)
3. Corporate registration
  - (a) Corporate Name
  - (b) Corporate number (if applicable)
  - (c) Name of Authorised Person
  - (d) Position of Authorised Person
  - (e) Photo of the Authorized person
  - (f) Identification card or Document type of Authorised Person
  - (g) Identification card or Document number of Authorised Person
4. Date of Registration
5. Name and Position of Licensee Registration Officer

## SCHEDULE 2: FLOW CHART FOR SUBSCRIBER REGISTRATION PROCESS

