



**RULES GOVERNING THE
ESTABLISHMENT AND
ADMINISTRATION OF THE UNIVERSAL
SERVICE FUND**

**Bhutan InfoComm and Media Authority
Royal Government of Bhutan
Thimphu: Bhutan**



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CHAPTER 1: PRELIMINARY

1.1 Legal Basis

These Rules on the *Establishment and Administration of the Universal Service Fund* is issued by the Bhutan InfoComm and Media Authority (the "Authority") in accordance with Sections 57 of the Bhutan Information, Communications and Media Act 2006 (the "Act") which requires the Authority to determine the conditions of establishment and administration of the Universal Service Fund.

1.2 Commencement

These Rules shall come into force from the..... Day of.....Month of the.....year corresponding to the.....Day of.....Month of theBhutanese Year.

1.3 Scope of Application

These Rules shall apply to any ICT facility provider or ICT service provider who is required to provide Universal Service by virtue of Section 56 of the Act. These Rules should be read in conjunction with all other existing codes of practice and regulations established by the relevant Government agencies to provide Universal Service.

1.4 Amendments

The Authority may revise or update these Rules, from time to time as required, to ensure relevance and concurrency. Amendments shall be made according to the needs and changes in national priorities, policies and industry trends. These Rules may be amended by the Authority after two third majority votes of the Members.

1.5 Interpretation

The power to interpret these Rules shall be vest with the Authority who may issue such instructions as may be necessary to give effect to and implement the provisions of these Rules.



1.6 Rules of Construction

In these Rules, unless the context indicates otherwise, the masculine gender shall include the feminine gender and the singular shall include the plural and vice versa.

1.7 Definitions

For the purpose of this set of rules, the terms used in this part shall have the following meanings:

Act refers to the Bhutan Information, Communications and Media Act 2006.

Authority means the Bhutan InfoComm and Media Authority as established under the provisions of the Act.

ICT Services means all those services as defined under the Act.

RGoB means the Royal Government of Bhutan.

Universal Access means those services striving at lowering basic telephone rates in rural areas where service is more expensive to provide, reducing rates for low-income consumers most at risk of falling off the ICT network, and providing schools and libraries at significant discounts (or free access) to help them connect and remain connected to basic and advanced facilities like the Internet.

Uneconomic area means a service area where the cost for provision of ICT service exceeds its revenue generated.

USF means the Universal Service Fund.



CHAPTER 2: SCOPE OF UNIVERSAL SERVICE

2.1 Scope of the fund

- i. Since the Authority is responsible for implementing government policies directed towards assuring the best quality and reliable services at the most affordable prices that meet the needs of Bhutanese consumers, universal service shall include the development of both ICT access infrastructure and services.
- ii. Universal Service includes advances in ICT services as well as the principles referred in section 2.2.
- iii. The scope of the Fund would also cover facilitating access to other ICT services (besides voice) such as Internet.

2.2 Principles of Universal Service

Universal Service aims to provide nationwide ICT services to both households and public places at an affordable rate. The preservation and advancement of universal service shall be based on the following general principles:

- i. *Quality and rates:* Quality services should be available at just, reasonable, and affordable rates.
- ii. *Access to advanced services:* Access to advanced ICT Services should be provided in all regions of Bhutan.
- iii. *Access in rural and high-cost areas:* Consumers in every region, including low-income consumers and those in rural areas, should have access to ICT Services at costs reasonably comparable to rates charged in urban areas.
- iv. *Equitable and non-discriminatory contributions by providers to the preservation and advancement of universal service:* All licensed ICT facility and ICT service providers should make contributions to the Universal Service Fund as determined by the Authority.



- v. *Specific and predictable support mechanisms:* There should be specific, predictable, and sufficient Governmental mechanisms to preserve and advance universal service.
- vi. *Access to advanced ICT Services for schools, health care facilities, and libraries:* Elementary and secondary schools, health care providers, and libraries should have access to advanced ICT Services.
- vii. *Competitive neutrality:* Universal service support mechanisms and Rules should be competitively neutral, meaning that such mechanisms and Rules should neither unfairly advantage nor disadvantage one provider over another, neither unfairly favour or disfavour one technology over another.

2.3 Criteria for determining universal services

In determining the categories of universal service that are required, the Authority considers the extent to which services:

- i. are essential to education, public health, or public safety;
- ii. have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers
- iii. are being deployed in public by ICT Services providers; and
- iv. are consistent with the public interest, convenience, and necessity.

2.4 Categories of universal services

The basic package of universal services includes:

- i. Access to public phone and public tele-info services through Community Information Centres (CICs).
- ii. Access to emergency services;
- iii. Access to operator services;
- iv. Access to inter-exchange services;
- v. equitable access to long distance providers; and
- vi. access to phone and internet in schools and hospitals.

The Authority may periodically review the categories of universal service.



CHAPTER 3: THE UNIVERSAL SERVICE FUND

3.1 Establishment of the Universal Service Fund

- i. As per Section 57 and 58 of the Act, the Universal Service Fund shall be established by the Authority to compensate any ICT facility provider or ICT service provider who is required to provide universal service or as specified under section 3.4 of this rule.
- ii. The Fund established will also be used to finance implementation of national ICT projects that are not covered by donor and/or RGoB funding.

3.2 Contribution towards the Fund

The Licence fees collected from the ICT facility provider or ICT service provider would primarily be used as the source of USF. However, if such funds are inadequate to carry out the Universal Service programme of the RGoB, then, Universal Service Levy set by the Authority shall be collected from all ICT Facility providers and ICT service providers.

3.3 Eligibility for Support from Universal Service Fund

In order to promote competition for the Universal Service Fund (USF) Compensation, any ICT facility provider or ICT service provider, regardless of the technology it uses, is eligible to receive universal service support if the following criteria are met:

- i. It must have contributed towards the USF. However, the compensation shall not exceed the amount of contribution made towards USF.
- ii. It must offer at least four of the universal services listed in Section 2.4 above.
- iii. It must offer the services using its own facilities, or a combination of their own facilities and the resale of services provided by another licensee.
- iv. It must advertise the availability of and charges for the services.



3.4 Fund Usage

The Fund shall be used for:

- i. Universal Service Programmes where there are no indications of donors and/or RGoB funding. However, co-financing possibilities can be explored particularly for building ICT facilities for the provision of services in uneconomical and rural areas.
- ii. Building scalable National ICT infrastructures that will accelerate the roll-out of high speed backbones to support all relevant sectors of our economy.
- iii. Meeting the Authority's programs if there are no other appropriations from any sources.

3.5 Establishment of the USF Administrator

In order to manage the affairs of the Fund, the Authority shall establish a separate unit to implement the USF programme, including the administration of USF. The function of the unit is set forth below:

- i. Determining the annual fund required for carrying out the USF programme
- ii. Assessment of the annual implementation plans for universal service;
- iii. Assessment of the subsidy applications for universal service;
- iv. Assessment of the revenue figures as reported by contributing parties;
- v. Auditing and calculating of the proportions and amounts of contributions to be made by the contributing parties towards universal service charges;
- vi. Auditing and assessment of the incoming and outgoing situations of the universal service fund;
- vii. Evaluating of the performance of universal service programme; and
- viii. Other matters concerning universal service.

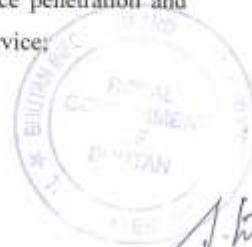


CHAPTER 4: IMPLEMENTATION OF UNIVERSAL SERVICE PROGRAMME

- 4.1 The Authority shall prepare the Universal Service programme as per the directions of the RGoB, based on the following criteria:
- i. *Sufficiency*: Whether the mechanism helps to ensure comparability of service and prices between urban and rural customers.
 - ii. *Affordability*: Whether the mechanism enables providers to offer the supported services in an affordable manner.
 - iii. *Competition*: Whether the mechanism minimizes distortions to competition and whether it encourages and facilitates competition by precisely targeting support to high cost customers.
 - iv. *Flexibility*: Whether the mechanism is able to evolve new technologies.
 - v. *Protection and advancement*: Whether the mechanism prevents degradation of the existing infrastructure and the current level of service. And whether the mechanism produces an investment incentive to upgrade facilities used to provide universal service.
 - vi. *Portability*: Whether the mechanism enables an operator to determine in advance the amount of support in a competitively neutral manner.
 - vii. *Predictability*: Whether the mechanism enables an operator to determine in advance the amount of support it will receive on behalf of a customer.
 - viii. *Practicability*: Whether the mechanism is economically and administratively viable.
 - ix. *Transparency*: Whether the mechanism is transparent and open to monitor and review.
 - x. *Cost-effectiveness*: Whether the mechanism enables objectives to be achieved at the least cost.



- 4.2 The Fund would be allocated on the basis of proposals made through open competitive tendering process or any other appropriate process determined by the Authority.
- 4.3 Any Licensed ICT facility or service provider would be asked to submit the Universal Service Annual Implementation Plan (hereafter called “implementation plan”) along with an application for subsidy and related information to the Authority. The universal service subsidy applications shall contain the following information:
- i. Statistics on the implementation results of universal service, including the effectiveness of improvements with respect to the penetration of universal service and service quality, and an analysis of the effects on society;
 - ii. Net costs of various universal service categories and the requested amount of subsidy;
 - iii. Audited (by certified accountants), detailed calculations regarding the net universal service costs for the implementation year.
- 4.4 The Authority may request for further supplementary information and explanation to be submitted by the Universal Service Providers during the universal service subsidy applications assessment process.
- 4.5 The Authority shall compare the net universal service costs, request subsidy amounts, the predicted improvements in service penetration and quality benchmarks in its assessments of the implementation plan. The Authority shall consider the actual operating abilities of the applicants and shall choose the best implementation plans for awarding the subsidy.
- 4.6 The implementation plans shall contain the following detail:
- i. Service penetration and service quality benchmark ;
 - ii. Predictions for the maintenance or improvement of service penetration and quality benchmark after the implementation of universal service;



- iii. Implementation solutions and tariffs for universal service for the implementation year;
 - iv. Estimate net universal service costs for the implementation year, and the expected amount of subsidies required; and
 - v. Detail calculations on the aforementioned net cost.
- 4.7 All universal service providers shall implement universal service in accordance with the aforementioned implementation plans during the implementation year. If events beyond their control results in necessary changes to the implementation plan, the universal service providers shall notify to the Authority for permission to make changes to the implementation plans. Once an approval has been given, these changes shall then be implemented.
- 4.8 A universal service provider may not unreasonably reject user applications for services within its universal service areas; apart from the approved charges, the providers may not collect extra charges from the users.
- 4.9 The net universal service costs for an uneconomic area shall be calculated as determined by the Authority.



CHAPTER 5: DISBURSEMENT OF THE USF FUND

- 5.1 The Authority shall implement the Universal Service programme as per policy directives of the RGoB.
- 5.2 The Fund for implementing the programme shall be released to the individual ICT facility or ICT service provider through the Department of Public Accounts, Ministry of Finance.
- 5.3 Compensation for Net Cost for providing universal service would be paid to the eligible licensee on the basis of efficient costing and technical qualifications.
- 5.4 The ICT Facility and ICT Service providers shall use the most cost effective, reliable and maintainable technology for installation of the universal service systems. No compensation should be provided for capital expenditure incurred prior to the date of implementation of the scheme.
- 5.5 The Fund will be used to only compensate the capital cost of implementing the universal service programmes. The Operation and Maintenance (O&M) cost will not be compensated.
- 5.6 The cost submitted by the ICT Facility or ICT Service providers shall be verified by the Authority, to ascertain that the service providers have used the most efficient and cost effective ICT system to provide these services.
- 5.7 Proposals from the ICT facility or ICT service providers for the use of the USF shall include the following:
 - i. Background of the ICT facility or ICT service provider;
 - ii. Scope of the programme;
 - iii. Objectives and strategies that will be used;
 - iv. Benefits and advantages of the proposed programme;



- v. Implementation plan;
- vi. Cost breakdown and payment terms; and
- vii. Any other additional information the Authority may call for.

5.8 Any or all such proposals shall be considered by the Authority in consultation with the appropriate agencies.

5.9 Award of the fund will depend on the ICT developmental activities that are reflected in the overall developmental plans of the RGoB.



CHAPTER 6: MONITORING AND AUDITING

- 6.1 The Authority shall monitor and assess the performance of the Fund in terms of achieving the specified policy objectives with the use of clearly articulated performance indicators.
- 6.2 A detailed project report shall be submitted to the Authority, after which required information including the performance outcomes would be made available to the public.
- 6.3 The status of the USF shall be reported to the Authority and relevant agencies in the government.
- 6.4 The Fund utilization procedure shall be as per the existing rules and norms of the RGoB and shall be subject to auditing by the Royal Audit Authority, from time to time.

