

ARTICLE 19

# Uganda: Draft TV White Space Guidelines for Uganda 2018

August 2018

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## Executive Summary

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In August 2018, ARTICLE 19 Eastern Africa analysed the **Draft TV White Space Guidelines for Uganda** proposed by the Uganda Communications Commission for its compliance with international, regional and constitutional freedom of expression standards.

The **Draft TV White Space Guidelines for Uganda** currently being considered by the Uganda Communications Commission is a welcome step towards establishing a framework for reducing the digital divide. It will make Uganda join South Africa as the second African country that has enacted TVWS guidelines whereas in a number of other countries there are various trials but with no clear regulatory guidelines.

ARTICLE 19 Eastern Africa are supportive the over-all approach, while finding that the Draft would benefit from small improvements to ensure its protections are in harmony with those of fundamental rights of freedom of expression and the right to information as recognized by the Constitution of Uganda and in international law.

**Question 1:****Should the use of TVWS be permitted in Uganda? Please explain your answer**

Yes, we note that use of TVWS technology would encourage:

- **Cheaper prices and more choices for consumers**- When TVWS technology is deployed in a very similar manner to other unlicensed wireless technologies such as WiFi, it will guarantee more competition as a result of the lower barriers to market entry. Furthermore, a licence-exempt approach to TVWS will allow users to explore a range of business models, lower costs for end users and enable innovative services to flourish.
- **Enhanced coverage and performance**- TVWS radios offer broadband speeds over several kilometres and the signal can travel through permanent obstacles such as buildings and trees, as well as around terrain. Moreover, TVWS should be free for anyone to use and build their own network; it is well suited for a range of uses, including providing broadband connectivity to rural communities and delivering wireless connectivity across communities.
- **Question 2:**

**What is your view of the scope and proposed requirements and procedures for authorization of service providers that wish to use TVWS as highlighted in sections 3 and 4?**

Sections 3 and 4 set the basic requirement for the use of TVWS in Uganda. They provide the Uganda Communications Commission with the task of overseeing that some basic parameters are respected by the different service providers.

We recommend the Uganda Communications Commission to limit administrative burdens on service providers in a first deployment phase. Authorization of individual service providers seems to defeat the purpose of having licensed database providers: it is the database provider who is the guarantor of non-interference, and additional authorizations for service providers may inhibit local investments or projects.

Similarly, the TVWS market structure envisaged by the Ugandan Communications Commission appears to preclude WSDs that are not compatible with the centralised TVWS database structure. Normally, it is at the point of importation of an electronic device that type requirements such as those listed in sections 5 should be enforced, not at the point of attempting to deploy them on the market.

**Question 3:****Do you have any concerns about the proposed technical requirements and standards specified for the use of TVWS in Uganda as highlighted in section 5? If yes, please explain.**

The restrictions on maximum antenna height might be ineffective. A better solution could be to establish a system of easy complaints mechanisms for users that detect interference. If interference turns out to be a particular problem which needs further addressing, the Communications Commission can then adjust their policies accordingly and based on the evidence. This approach appears to be conforming with ETSI and UK Ofcom policies already in place. More in general, and considering that the Ugandan economy is developing, we advocate for a larger degree of flexibility: flexible technical parameters, which make improvements easier, should be preferred to inflexible ones. In this regard, the Ugandan Communications Commission could consider adopting the policy of approving for the Ugandan market such WSDs as are ETSI EN 301 598 compliant, or that have been approved as FCC requirements compliant. While this would provide less opportunity for Ugandan authorities to autonomously type-approve devices destined for the local market, it may enhance the opportunities for local deployers of networks to

more quickly experiment with imported technologies and as such build a domestic expertise with such technologies.

**Question 4:**

**What is your view on the proposed arrangement for management of the TVWS database by a third party authorized and under the oversight of UCC as highlighted in section 6?**

We support this model, but we find the section vague and broad especially with regard to the collection of personal information from internet users. We call the Uganda Communications Commission to clearly spell out in the rules that privacy and security of users have to be guaranteed in adherence with international standards on protection of freedom of expression and privacy.

We recommend that unique device identifiers are not logged or stored by the TVWS database holder, and that any data collected, inadvertently or advertantly, regarding the location of any uniquely identified device, is only kept for the minimum amount of time required to allocate to that device the spectrum capacity required for the service. Further, we believe that such guidelines should be enshrined in Communications Commission public policy, rather than incorporated in the service agreements concluded between the Commission and database providers.

**Question 5:**

**Do you have concern(s) with any of the roles assigned to the different stakeholders in the TVWS ecosystem in Uganda as highlighted in section 8?**

We do not have any specific concerns with the roles assigned, as long as, as mentioned before:

- The administrative burden for authorisation is limited to the minimum necessary;
- The security and privacy concerning personal information is guaranteed;
- A sufficient degree of flexibility is allowed concerning the technical parameters;
- The registration process for end users does not potentially encourage prior restraint in the exercise of their freedom of expression.

**Question 6:**

**Do you have any additional roles that should be included for any of the stakeholders to ensure successful implementation of these guidelines or effective used of TVWS technology in Uganda?**

No comment.

**Question 7:**

**Do you have any general comments or remarks with respect to these guidelines?**

We call for an adequate protection of users' privacy and security all through the deployment and use of the spectrum. We also advocate for the use of regulatory sandboxes during the initial phase,, to encourage the adoption and deployment of TVWS. Nevertheless, we recall that the regulatory sandboxes shall be confined to limited time-frames and be allowed under clear objectives, which shall be precisely specified in the regulation.



## About ARTICLE 19

ARTICLE 19 was founded in 1987. We are registered and regulated in the UK (charity number 327421), Bangladesh, Brazil, Kenya, Mexico, Senegal, Tunisia and the USA.

ARTICLE 19 advocates for the development of progressive standards on freedom of expression and freedom of information at the international and regional levels, and their implementation in domestic legal systems. The Law Programme has produced a number of standard-setting publications which outline international and comparative law and best practice in areas such as defamation law, access to information and broadcast regulation.

On the basis of these publications and ARTICLE 19's overall legal expertise, the organisation publishes a number of legal analyses each year, comments on legislative proposals as well as existing laws that affect the right to freedom of expression. This analytical work, carried out since 1998 as a means of supporting positive law reform efforts worldwide, frequently leads to substantial improvements in proposed or existing domestic legislation. All of our analyses are available at <https://www.article19.org/law-and-policy/>

If you would like to discuss this analysis further, or if you have a matter you would like to bring to the attention of the ARTICLE 19 Law Programme, you can contact us by e-mail at [legal@article19.org](mailto:legal@article19.org).

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