

Access (Accessnow.org) Comments on  
Code of Practice for Mobile Customer Registration

Dear Mr. Than Htun Aung,

Access commends the Ministry of Communications and Information Technology for publishing the draft Code of Practice for public consultation, and we are grateful for the opportunity to comment. Access (accessnow.org) is an international organization that defends and extends the digital rights of users at risk. We hope that MCIT continues to consult all stakeholders in the promulgation of future telecommunications policies.

**I. SIM registration should not be mandatory**

While there are some benefits arising from the voluntary registration of SIM cards, we believe that Service Providers should not be required to collect identifying information as a prerequisite for the sale of pre- and postpaid SIM cards. The potential negative impacts of mandatory registration outweigh the anticipated positive results.

There are many benefits to *voluntary* SIM registration, such as: easier access to e-Governance services; access to mobile banking services; and keeping the same mobile number when switching between operators. The government, the Service Provider, and user may all benefit from SIM registration without any parties being required to do so.

For this reason, and the risks discussed below, many countries have decided against imposing mandatory SIM registration policies, or have revoked such policies already in place.

**a. Mandatory SIM registration raises user privacy concerns**

If registration is mandatory, the amount of user information collected will likely exceed what companies need for ordinary business purposes. With greater volume of data, there is greater risk of data breach and misuse of information.

The type and quantity of user information collected should be the minimum required to achieve the stated objectives of the Code of Practice. Further, once collected, user information should be handled and stored securely, for as short a period of time as necessary for business purposes. Neither of these imperatives are properly provided for under the draft Code of Practice.

The draft Code of Practice lacks detailed standards for safe handling of information, and perhaps most concerning, does not provide a framework for lawful government requests for user information.

Key principle 7(h) says only that “Service providers will be required to provide customer registration records to the Regulator or other entities, upon lawful request.” This requirement is vague and raises many questions about the laws requiring the transfer of records:

- Which laws require service providers to hand over the data?
- On what basis can these laws be challenged?
- How will such requests will be transmitted to the Service Providers, and how soon will be required to respond?
- Can providers notify users that their data has been requested? Are users then legally able to challenge the requests?

The Code of Practice should answer these questions, and make reference to specific legal provisions that enable government requests for user information. These laws should comply with the International Principles on the Application of Human Rights to Communications Surveillance,<sup>1</sup> which only allow handover of user data where necessary to achieving a legitimate aim, and where the benefit of the handover is proportionate to the harm caused to individual rights, among other safeguards. The Code of Practice should also specify what types of information can be requested, which government officials can request the information, under which underlying law, and which legal procedures or process the requesting agency must use to obtain user information from the company.

#### **b. Mandatory SIM registration may inhibit adoption of mobile technology**

Key principle 4(a) sets out the minimum information requirements for individuals. Access believes that the many details required in the draft Code of Practice are not necessary for business purposes. In fact, the requirements for personally identifiable information are onerous, difficult to verify, and may deter individuals from registering.

For example, 4(a) requires an individual’s place of birth. The registrant’s place of birth is not necessary for the company to provide that person with telecommunications services. Further, it is not easily verified, and may be used to discriminate against the individual. For these reasons, Place of Birth should not be required.

Likewise, visa and passport details are not necessary for telecommunications business purposes and service provision. Requiring this data will likely deter customers - especially foreign nationals - from registering, and should not be mandated.

Key principle 6 requires verification of 25% of customer records within one week of SIM use. The draft Code does not say how this verification should take place. Evidence from other countries shows that verification is difficult to implement accurately, and that incorrect determinations can lead to many legitimate users being denied service.<sup>2</sup> In addition, a wide range of SIM vendors will

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<sup>1</sup> <https://en.necessaryandproportionate.org/text>

<sup>2</sup> <http://m.allafrica.com/stories/201308020113.html>

need to verify data, including such sensitive information as a customer's address and identification number, based on state records. This creates a risk of abuse or unlawful transfer of the data by all those involved in the verification process.

**c. Mandatory registration does not stop crime, and creates opportunities for fraud**

There is no evidence that SIM registration has led to a reduction in crime in the countries that require it.<sup>3</sup> For example, both Ghana<sup>4</sup> and Cambodia<sup>5</sup> have found that mandating SIM registration nationwide did not end SIM box fraud, due to the difficulty enforcing limits on SIM registration and in verifying data.

Rather, mandatory registration gives rise to an unregulated market for the personal information of ordinary users. If crimes are committed via SIM cards that were registered fraudulently, these ordinary users may be wrongfully suspected of those crimes.

**II. Point of sale registration will negatively affect equitable access to mobile technology**

Key principle 3(a) requires that registration must take place at point of sale. While most users will be able to access vendors in person, the most vulnerable would-be users may not be able to, because of geography, physical ability, or other reasons.

As a result, those populations unable to access Point of Sale registration (who would otherwise gain access to technology via third-party or informal SIM sales) will remain unconnected. The Code of Practice should explicitly allow Service Providers to institute other means of SIM distribution and registration information collection.

**III. Public consultations should be more transparent and inclusive**

We applaud MCIT's efforts to make the telecommunications rulemaking process more inclusive, but more can be done to reach all affected stakeholders.

The public consultation process was announced on May 5, 2014, and ended just 14 days later, on May 19, 2014. Given this small period of time, it is likely that many interested groups and individuals were not given adequate notice of the consultation, and were therefore unable to provide valuable input.

While the previous public consultation for the Proposed Rules for the Telecommunications Sector Relating to Licensing, Access and Interconnection, Spectrum, Numbering, and Competition enjoyed higher visibility (via its dedicated website and longer response period of four

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<sup>3</sup> <http://www.gsma.com/aboutus/white-paper-mandatory-registration-of-prepaid-sim-card-users>

<sup>4</sup> <http://www.modernghana.com/news/363696/1/sim-registration-fails-to-stop-sim-box-fraud.html>

<sup>5</sup> <http://www.phnompenhpost.com/business/telcos-lose-money-sim-fraud>



weeks), it still only elicited response from two civil society organizations. The vast majority of responses were from telecommunications companies.

In order for the laws, rules, and codes of practice to represent the best interests of all stakeholders, the public consultations process must be transparent and inclusive, meaningfully incorporating the viewpoints of those most affected by the laws and policies.

In conclusion, we appreciate this opportunity to comment and look forward to the next draft of the Code of Practice reflecting our concerns, and the points raised by other civil society organizations.

Sincerely,

Peter Micek  
Access

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***For More Information:***

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