



Unwanted Witness

Amplifying voices Changing lives

17th December 2015

Our Ref UW 001/15/12

The Executive Director
Uganda Communications Commission
Kampala



Dear Sir,

RE: REQUEST TO INVESTIGATE THE ALLEGED MISUSE AND SHARING OF SUBSCRIBERS' INFORMATION BY TELECOMS WITHOUT AUTHORIZATION

The Unwanted Witness is a civil society organization working towards enhancing the promotion, protection and respect of human rights through defending and building the right to privacy, data protection and safety and security online in Uganda for everyone to effectively exercise their constitutional rights and fundamental freedoms.

The Unwanted Witness has been working on the promotion and protection of the right to privacy in communication and specifically data protection in Uganda for the last 4 years. This has witnessed a number of interventions being made including the advocacy on enacting a Privacy and Data Protection Bill 2014 among others.

The Unwanted Witness wishes to bring to your attention recent concerns by a section of the public about the impropriety of some of the service providers under your docket. Specifically, many citizens and MTN Uganda subscribers have continued to complain about the continued sharing of their personal data and information with politicians including the National Resistance Movement (NRM).

Whereas the enabling law on SIM card registration, does not neither provide for the protection mechanisms of personal data collected during the SIM Card registration exercise, it still does not give the custodians of the said data blank cheques to use and share or trade the data with third parties. To the contrary, MTN Uganda has continued sharing or trading subscribers' information and data with politicians or political organizations or parties. The last two weeks have witnessed continued harassment by the NRM/O party of Ugandans by sending/spamming them with unsolicited messages and pre-recorded voice calls soliciting them to vote for their candidates. This is contrary to S.9(3) RICA 2010 that provides for the duties of the service provider to which includes; to ensure that proper records are kept of the information referred to in subsection (1) of Section 9 and any change in such information.

Whereas a service provider is mandated to record and verify mobile numbers and personal information of a subscriber by obtaining a photograph, name, date of birth, address and other bio-data or demographic information including valid identification documents, this information must not be shared, or traded with third parties. To do so, a service provider, in this case MTN Uganda would be acting contrary to the consumer rights as espoused by the commission under the Consumers' Rights¹ specifically **paragraph (h)** which upholds the consumers **right to Privacy**; and states;

Every consumer has a right to privacy.

UCC has placed a confidentiality requirement on service providers/operators to ensure and maintain confidentiality of the content of all communications, whether data or any information that the service provider/operator may obtain as a result of serving a customer. ***This cannot be disclosed to any third party without the Commission's written, consent or by order of competent court of law. (emphasis added)***

Notwithstanding that it's the mandate of the commission to ensure that all telecommunications consumers are registered as it has often noted that the reasons for registration are;

- a) Helping law enforcement agencies to identify the mobile phone SIM card owners
- b) Track criminals who use phones for illegal activities
- c) Curb other negative incidents like loss of phones through theft, nuisance/hate text messages, fraud, threats and inciting violence
- d) Help service providers (network operators) know their customers better.

The commission has failed to reign over service providers who continue to disregard subscriber's information and have used it contrary to the spirit of registration of SIM cards as noted above.

As you may further be aware, contrary to the Uganda communications Commission Act 2013, the NRM/O political party has established and manages without the commissions' approval or license; a contact, inquiry and communications center under the name code 'Tuongee 270'. Its purpose and aims are still might be of a political nature and do not serve the general public.

To that end, MTN Uganda has been in position to share, trade, and/or put to the disposal for use its customers data or information contrary to their right to privacy with the said Tuongee 270. This action by MTN Uganda has exposed the data or personal information of its alleged 10 million customers to by allowing or providing access to Tuongee 270 access to its mobile platform to make/ pace unsolicited calls and messages of a preferred political candidate.

¹UCC., Consumer Rights available at <http://ucc.co.ug/data/smenu/61/Consumer-Rights.html> accessed on 17/12/2015

The calls are being made using “0207” which is an inquiry & contact Centre number that provides information and also spreads the NRM ideology, and the Museveni recorded voice in the call saying;

“...Hello, greeting to the people of Uganda, this is the Old man in the hat ...”

The above come at the backdrop of recent media reports concerning the impropriety conduct of the security forces, particularly CMI and the Uganda Police Force in orchestrating a campaign of targeted surveillance against citizens and various. The report by Privacy International a UK based charity: “*For God and My President: State Surveillance In Uganda*”² has provided all Ugandans with insights about the covert activities of CMI and the Uganda Police that aimed at undertaking surveillance against citizens and various like the institution of parliament, and civil society organizations.

The action of MTN Uganda was and continues to be an abuse to the privacy rights of its customers to which we call upon the commission to investigate and take appropriate actions. The Unwanted Witness Uganda would wish to respectfully remind you of the duties, functions and powers of the commission in line with supervising and regulating the communications sector, receiving complaints and investigating queries among others. We especially call on the commission to re-emphasize the duty of the said service providers in upholding the Global Compact principles on Business and Human rights while doing business in Uganda.

We thus respectfully recommend the following;

- a. One of the global problems faced today is database management. This is as a result of the interconnectivity of computer systems and the development of sophisticated software to mine data from remote locations.
- b. Work with NITA and the MoICT to draft a law to regulate the collection, processing, keeping, use and disclosure of certain information relating to individuals processed automatically. This law should protect and secure personal information.
- c. Establish a working complaint handling method especially the errant telecommunications service providers at the commission charged with receiving complaints, proceedings and providing remedies expeditiously.
- d. We further implore you to discuss this matter with the management of MTN Uganda and provide us with the necessary feedback or action points agreed upon.

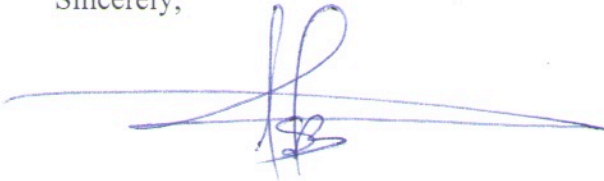
² For God and My President: **State Surveillance In Uganda** October 2015 accessed at <https://privacyinternational.org/node/659>

e. Investigate and make your findings of the investigations public.

The Unwanted Witness Uganda would like to have an opportunity with you in person to discuss further these recommendations above and other related issues affecting the sector at an opportune time.

We look forward to hearing back from you and we remain available to respond to any queries or comments you may have in light of the information we have shared with above.

Sincerely,



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