

## Draft

# RATIONALE AND MODALITIES FOR THE AWARD OF COMMUNICATION INFRASTRUCTURE LICENCE (COMMUNICATION TOWER)

## 1.0 Preamble

In furtherance of the National Telecommunications Policy 2005 (NTP'05), the Electronic Communications Act, 2008, Act 769 and the new Guidelines for the Deployment of Communications Towers, the National Communications Authority (NCA) intends to issue licences to independent Communication Tower Providers. This licence, as per NTP'05, shall include related obligations such as facility sharing, competitive neutrality, and transparent terms and conditions for access to and use of the communication tower.

Presently, the principal enactments governing the communications industry in Ghana are the following:

- The National Telecommunications Policy (NTP), 2005
- The National Communications Authority Act, 2008, Act 769
- The Electronic Communications Act, 2008, Act 775
- The Electronic Communications (Amendment) Act 2009, Act 786
- The National Communications Regulations, 2003, L.I. 1719
- The Ghana ICT for Accelerated Development (ICT4AD) Policy, 2003

This document, along with the terms and conditions of the License, should be read in conjunction with the above-mentioned enactments and other applicable statutory laws including rules, regulations, decrees, orders, decisions, guidelines, directives and documents of general application issued by the Government of Ghana or the Authority.

## 2.0 Rationale

The rationale for the issuance of this licence is as follows:

i. To conform to stated Government and Public Policy Mandates:

- a) The present arrangement where communications services operators build masts haphazardly around the country and sometimes concentrate these in an area is causing environmental and public concern. This is an aberration of the NTP'05, which needs to be corrected by harmonising the growth of this activity and as such instituting environmental sanity.
- b) The NTP'05 and the Guidelines for the Deployment of Communications Tower required that in order to ensure fair competition, minimise cost and public inconvenience, and to protect the environment, access to public rights-of-way, towers , telephone poles, and other physical support structures will be shared among operators to the greatest extent possible.
- c) Prevailing market conditions, where Broadcasters, ISPs and Mobile Operators are competing with each other for space and better terrain to build communication tower, makes it appropriate at this time to licence and liberalise the infrastructure sector of the industry for entities to build communication towers at suitable terrains to enhance co-location by service providers.

ii. To promote effective competition

- a) The existence of infrastructure suppliers competing to satisfy industry demands will facilitate the performance of the licensed service providers and create incentives to encourage behaviour that will sustain a vibrant competitive environment and prevent any abuses of dominance.
  
- b) Competition in the infrastructure sector of Ghana's communications industry will enhance choice for Communications Service Providers, with resultant long term lower operating cost.
  
- c) Competitive Pricing & Associated Value for Money.  
The introduction of competition has the potential to reduce the cost of internet access and subsequently increase the penetration of Internet Service in Ghana.
  
- d) Enhanced Reliability and Availability  
This will eventually enhance quality of service for service providers, for they will have enough time to concentrate on service provision than building infrastructure. This will also enhance businesses that depend on network facilities (e.g. Banks, BPOs, etc).
  
- e) Reduce Operating Cost  
The above mentioned interventions will reduce operating cost for all actors through shared use of facilities as against each service provider wasting precious time and resources to build and manage its own towers.

iii. To accelerate attainment of Universal Service/Access

- a) Increased investment in this sector will ensure that backbone infrastructure is pervasive for the deployment of enhanced services (e-government, e-commerce, etc) in all districts of the country, and provide the requisite redundancy for a robust backbone infrastructure system.
- b) This will accelerate the bridging of the urban-rural Digital Divide and enhance socio-economic balance.

iv. To facilitate the NCA's mandate

- a) Accelerate the attainment of Universal Service/Access for Telephony and Internet
- b) Meet Government mandates per National Telecommunications Policy 2005 (NTP '05)
- c) Facilitate the bridging of urban – rural digital divide.

### **3.0 Scope of the Licence**

The Licence will authorize the Licensee to establish and maintain the under listed Communications Infrastructure Facilities for lease, rental or sale to Communications Operators Licensed/authorised by the Authority in strict compliance with the Licence

- a) Communication Towers;
- b) Such other Communications Infrastructure services as the Authority may authorize from time to time;

To facilitate the performance of the Licensed Network, the Licensee will be authorized to build, erect, construct or otherwise acquire and own Communication Towers that are open to sharing by Licensed Network Service Providers.

The consideration for the Licence shall be as follows:

- a) There shall be a non-refundable application processing fee of Twenty Five Thousand United States Dollars (\$25,000.00).
- b) Upon favourable consideration of an application, an applicant will pay a onetime charge of Two Hundred Thousand United States Dollars (\$200,000.00).
- c) The Licensee shall be subject to the payment of a Regulatory Fee of 1% Net Revenue. {**Net Revenue** = Gross Revenue – (Value Added Tax + National Health Insurance Levy + Communication Service Tax where applicable)}. Or Twenty Thousand United States Dollars, whichever is higher.
- d) The Licensee shall pay other statutory fees or charges.

## 4.0 ELIGIBILITY

- 4.1. All applicants shall be incorporated and registered under the laws of Ghana, and duly certified to operate in Ghana, prior to applying for this license.

## 5.0 CONTENT OF THE APPLICATION

The application for a Communication Tower Licence shall contain the following:

5.1.0 Receipt. Evidence of payment of the application Fee of Twenty five Thousand United States (\$25,000.00) Dollars.

5.1.1 Application Letter. An application letter which sets forth the applicant's intention to apply for this licence.

5.1.2 Certificates. Certificates issued by the relevant governmental authorities in Ghana.

5.1.3 The above notwithstanding, all applicants shall submit certified true copies of their Certificate of Incorporation, Certificate to Commence Business and Company Regulations obtained from the Registrar General of the Republic of Ghana.

5.1.4 Sworn Declaration. A Sworn Declaration of the Applicant signed by its duly authorized representative, with the following information:

- (i) Identification of all the shareholders of the Applicants that control more than 5% of its capital and of the entities that directly or indirectly are the beneficial shareholders thereof. The beneficial shareholders of the Applicant shall mean those who directly or indirectly own the majority of the shares or the voting rights or who otherwise control such Applicant;
- (ii) Statement that all the information and documentation submitted in connection with the application is true, accurate and complete;

## 6.0 STANDARDIZED APPLICATION GUIDELINES

### General Information

#### 1. Applicant

- a. Name
- b. Title
- c. Citizenship
- d. Address
- e. Contact numbers

#### 2. Management

- a. Name
- b. Title
- c. Citizenship
- d. Address
- e. Contact numbers

#### 3. Directors

- a. Name
- b. Address
- c. Contact numbers
- d. Citizenship
- e. Shareholding %
- f. Other Telecommunication Interests
  - i. Name of Company
  - ii. Address
  - iii. Contact Numbers
  - iv. Shareholding %
  - v. Licence/Authorization Status
  - vi. Credit/Default Status

#### 4. Shareholders (with at least 5% holding)

- a. Name
- b. Address
- c. Contact numbers
- d. Shareholding %
- e. Other Telecommunication Interests
  - i. Name of Company
  - ii. Address
  - iii. Contact Numbers
  - iv. Shareholding %
  - v. Licence/Authorization Status
  - vi. Credit/Default Status

## **5. Applying Entity Information**

- a. Name of Entity/ Company/Partnership /Trust etc, please define
  - b. Certificate of Incorporation in Ghana (Company Registration Number & Date of Registration)
  - c. Certificate to Commence Business in Ghana; Number & Date
6. Applicants must exhibit evidence of parties with which they have entered into any agreements, arrangements or understandings which relate in any way to the licence being allocated.

## **7. Defaults & Delinquencies**

Information required of all applicants regarding defaults and delinquencies. Each applicant must submit information on whether the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests are in default of any NCA licenses and/or are delinquent on any non-tax debt owed to any National agency.

## **8. Miscellaneous Information**

Applicants wishing to submit a statement of verifiable reasons sufficient to justify, and or enhance their chances may do so if they so wish.

# 7.0 GUIDELINES FOR SUBMISSION OF FEASIBILITY REPORT

## FOR

## TELECOMMUNICATIONS PROJECTS

### 1. COMPANY PROFILE

- (a) Evidence of Incorporation (in Ghana)
- (b) Certificate to Commence Business (in Ghana)
- (c) Shareholders/Company Regulations
- (d) Relevant Experience/Evidence of ability to perform including agreements drawn up with any principals.
- (e) Evidence of Tax payment

### 2. PROJECT STUDY

- a) Engineering design system, or
- b) Technical Implementation Plan

### 3. MARKET PLAN

- a) Business idea and choice of Technology
- b) Market analysis
- c) Roll-out Plan and Coverage Criteria
- d) Market: This is to include Market Goals, Target Groups etc.

### 4. BUSINESS PLAN

- a) Organisational Structure
- b) Mission Statement
- c) Capital Investment: This should include -
  - i. Equipment Categories
  - ii. Equipment Prices
  - iii. Equipment Suppliers and
  - iv. Capital Investment Summary
- d) Revenue Forecast

- e) Operating Expenses
- f) Financial Plan including:
  - i. Equity
  - ii. Suppliers Credit (if any)
  - iii. Bank Loan (if any)
  
- g) Forecasted Financial Statements and/or Bank Statements for the previous three years:  
These should include:
  - i. Income Statement
  - ii. Balance Sheet
  - iii. Cash flow Statement
  - iv. Evidence of sustained funding
  
- h) Any other information that is relevant to demonstrate the viability of the project.

**LETTER OF COMMITMENT**

All applicants are also to submit a signed letter of commitment stipulating that they shall abide by all existing ITU Regulations and Communications laws of the country as well as other rules and regulations that may be issued.

**Note: All Applications shall be accompanied by a copy of the Receipt of Payment of the applicable non-refundable processing fee.**