
PUBLIC CONSULTATION ON
AUTHORISATION OF ELECTRONIC
COMMUNICATIONS (SUBMARINE
CARRIER) SERVICE AUTHORISATION

OCTOBER 2024

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PART ONE: INVITATION FOR COMMENTS

1. The National Communications Authority (NCA) is developing a Regulatory Framework for the operation of **Submarine Carrier Services** in Ghana.
2. Submarine Carrier Service covers the operation of consortium members of submarine cables landing in Ghana which intend to sell capacity directly to users rather than through the licensed entity landing the cable.
3. The authorisation shall be called **Electronic Communications (Submarine Carrier) Service Authorisation**.
4. Further to its mandate under Section 27 of the Electronic Communications Act, 2008 (Act 775) and Section 4.1 of the National Telecommunications Policy 2005 (NTP'05), the Authority invites Licensed Service Providers, Consumers of Information and Communication Technology services and the General Public to submit views and comments on the Electronic Communications (Submarine Carrier) Service Authorisation.
5. The public consultation runs from **1st November, 2024 until 30th November, 2024**.
6. The draft framework is accessible on the Authority's website at www.nca.org.gh.
7. All responses, views, and comments, in the format outlined on page 4, could be transmitted electronically as e-mail attachments in Microsoft Word format to info@nca.org.gh.
8. All respondents are requested to complete the Response Cover sheet on Page 3.

Confidentiality

9. In furtherance of transparency and openness, the Authority shall consider all responses as non-confidential; accordingly, all submissions shall be published on our website at www.nca.org.gh.
10. Please note that all copyright and other intellectual property in submissions made shall vest in the NCA for public interest and regulatory use.

Next Step

11. The Authority shall publish a consolidated report on the results of this exercise.

Thank you.

Issued by the Director General

PART TWO: COVER SHEET FOR RESPONSE TO CONSULTATION

**COVER SHEET FOR RESPONSE TO NCA PUBLIC CONSULTATION ON THE
ELECTRONIC COMMUNICATIONS (SUBMARINE CARRIER) SERVICE
AUTHORISATION**

<p>BASIC DETAILS</p> <p>Name of respondent:</p> <p>Representing (self or organization(s)):</p> <p>Address:</p>
<p>DECLARATION</p> <p>I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on NCA's website, and I authorise NCA to make use of the information in this response to meet its legal requirements. If I have sent my response by email, NCA can disregard any standard e-mail text about not disclosing email contents and attachments.</p> <p>Name :</p> <p>Signature:</p>

PART THREE: FORMAT FOR PRESENTATION OF COMMENTS TO CONSULTATION

S.N	Article Number	Heading	Comments	Suggestion/Proposed Amendment

PART FOUR: SUBMARINE CARRIER REGULATORY FRAMEWORK

1.0. INTRODUCTION

- 1.1. Within the telecommunication value chain in Ghana, entities have been licensed by the National Communications Authority to interconnect the country by carrying traffic to various parts of the world via submarine fiber optic cable.

Under the scope of the licence issued to these submarine cable operators, it is required that service should be provided or sold by the licensed landing party only.

- 1.2. However, there is currently a phenomenon where consortium members of these submarine cables landing in Ghana are selling capacity directly to entities in Ghana.
- 1.3. The National Communications Authority (NCA) in line with its oversight responsibilities has developed a framework to regularise the operation of consortium members who intend to sell capacity directly to its clients rather than through the licensed entity landing the cable.

2.0. LICENSING FRAMEWORK

- 2.1. The National Communications Authority has developed the Electronic Communications (Submarine Carrier) Service Authorisation for the sale of submarine capacity by entities other than the landing party.
- 2.2. The Authorisation shall be issued for 5 years and renewable for the same period upon expiry.
- 2.3. The Authorisation has been classified into two (2), namely Class A and Class B.

2.4. Class A

The scope of **Class A authorization** is to allow entities who are members of submarine cable consortiums to sell submarine cable capacity to licensed electronic communications service providers directly without going through the landing party.

2.4.1. Eligibility Criteria for Class A Applicant

The Applicant must:

- i. **Registered Entity:** Either be a company incorporated in Ghana or registered on the Register of External Companies with the Registrar of Companies.

- ii. **Operational Capability:** Demonstrate ability to undertake the business in Ghana.
- iii. **Financial Capacity:** Show Proof of financial stability, including audited financial statements for the past three years and a detailed business plan for the intended operations in Ghana.
- iv. **Technical Expertise:** Demonstrate Evidence of technical expertise in telecommunications service operations, including details of experienced personnel and existing technical infrastructure.
- v. **Compliance History:** Have a clean record of compliance with telecommunications regulations both locally and internationally, where applicable.
- vi. **Local Partnership/Representative:** Establish and maintain a registered local office or authorized local representative in Ghana (if registered as an External Company) and demonstrate engagement with local stakeholders, including telecom operators and infrastructure providers.

2.5. Class B

The scope of **Class B authorisation** is to allow entities to sell submarine cable capacity on behalf of consortium members of submarine cable systems. Holders of this class of authorization may represent more than one consortium member of Submarine Cable Systems. This authorisation is specific to a new entrant or licensed entities who are not paying the equivalent of 1% of their revenue as an annual regulatory fees to the NCA.

2.5.1. Eligibility Criteria for Class B Applicant

The Applicant must:

- i. **Registered Entity:** Be a body corporate incorporated in Ghana
- ii. **Resale Agreements:** Have an agreement with a consortium member of a Submarine Cable System which has an Indefeasible Right of Use (IRU) in a specific submarine cable system landed in Ghana.
- iii. **Financial and Technical Capability:** Demonstrate financial and technical capability to support the resale operations. This includes financial statements, technical infrastructure details, and profiles of key personnel.
- iv. **Compliance and Reporting:** Have a history of regulatory compliance and a commitment to comply with all local regulations, including regular reporting to the NCA on capacity sales and revenue.

2.6. **Exemption:** A consortium member may opt to partner with a licensed

telecommunications service provider which pays the equivalent of 1% of its revenue as an annual regulatory fees to the NCA. Such licensed telecommunications service provider may not have to apply for this authorization.

2.7. Notwithstanding this exemption, such partnership shall conform to the “Requirements for Partnership with a Local Entity” and “Partnership Agreement with a Local Entity

2.8. **Requirements of Partnership with a Local Entity**

A Consortium member who wishes to partner with a local entity to sell capacity on its behalf either through class B of the ECSCSA or through the “exemption” in 2.6 above shall ensure that;

2.8.1. the consortium member of the submarine cable systems notifies the NCA of its choice of a local partner and submits evidence of the Partnership Agreement executed in this regard.

2.8.2. the Local Entity holds a valid licence/authorisation from the NCA and fulfils its obligation of paying the equivalent of 1% of its revenue as annual regulatory fees to the NCA.

2.8.3. the Local Entity must be in good standing with the NCA.

2.9. **Partnership Agreement with a Local Entity**

The Consortium member of the submarine cable system and its local partner shall submit a Partnership Agreement to the NCA before the commencement of operations.

The Partnership Agreement shall, among others,

2.9.1. Contain a provision on recognizing the sale of submarine capacity in the Audited Annual Financial Statements of the local entity.

2.9.2. Ensure strict separation of accounts with clear line items indicating revenue generated from the sale of submarine capacity.

2.9.3. An obligation on the local entity to report all capacity sold and payment of the required regulatory fees on the sale to the NCA.

2.10. Applicable Fees

An Applicant shall be required to pay the following fees:

Authorisation Category	Application Fee (USD)	Authorisation Fee (USD)	Regulatory Fee
Class A	1000.00	20,000.00	The equivalent of 1% of annual revenue
Class B	500.00	10,000.00	The equivalent of 1% of annual revenue

PART FIVE: DRAFT AUTHORISATION

ELECTRONIC COMMUNICATIONS (SUBMARINE CARRIER) SERVICE AUTHORISATION

See attached