

Guidelines on Collocation and Infrastructure Sharing

Issued by the

Nigerian Communications Commission

Part I: Introduction

1. Background

- (1) The Commission has responsibility under the Act to
 - (a) Promote fair competition in the communications industry, and encourage and promote infrastructure sharing among its licensees.
 - (b) Develop guidelines for Collocation and Infrastructure Sharing (“C/IS”).
- (2) These Guidelines proceed from a premise that all Access Providers and Access Seekers have the liberty to negotiate C/IS arrangements in accordance with mutually agreed terms.
- (3) These Guidelines are designed and developed to encourage C/IS among telecommunications operators within a predetermined framework to remove uncertainty and create an environment for better co-operation.
- (4) Additionally, these Guidelines explain the Commission’s role in achieving the most efficient use of facilities amenable to sharing.

2. Status of the Guideline

These Guidelines are to be read subject to the Act, the Telecommunications Networks Interconnection Regulations and other relevant laws, and in conjunction with the License Conditions.

3. Objectives of the Guidelines

- (1) The Primary object of these Guidelines is to establish a framework within which operators can negotiate C/IF arrangements, and for that purpose, specifically to -
 - (a) Ensure that the incidence of unnecessary duplication of infrastructure is minimized or completely avoided;
 - (b) Protect the environment by reducing the proliferation of infrastructure and facilities installations;

- (c) Promote fair competition through equal access being granted to the installations and facilities of operators on mutually agreed terms;
- (d) Ensure that the economic advantages derivable from the sharing of facilities are harnessed for the overall benefit of all telecommunications stakeholders;
- (e) Minimize capital expenditure on supporting infrastructures and to free more funds for investment in core network equipment.
- (f) Encourage operators to pursue a cost-oriented policy with the added effect of a reduction in the tariffs chargeable to consumers.

Part II: Infrastructure Sharing

4. Types of Infrastructure Amenable to Sharing

- (1) Infrastructures amenable to sharing are those that can be shared without an attendant risk of lessening of competition.
- (2) The Commission shall encourage and promote the sharing of the following infrastructures:
 - (a) Rights of way.
 - (b) Masts.
 - (c) Poles.
 - (d) Antenna mast and tower structures.
 - (e) Ducts.
 - (f) Trenches.
 - (g) Space in buildings.
 - (h) Electric power (public or private source).
- (3) Where the sharing of an infrastructure such as Rights of Way and Electric power is precedent upon securing the necessary approval of a granting authority, such approval should be obtained before the sharing arrangement can be finalized.
- (4) The Commission may from time to time either on its own initiative or upon the request of any interested person add to the list of infrastructure that can be shared.

5. Types of Infrastructure Not Amenable to Sharing

- (1) The Commission will not encourage and promote sharing of the following infrastructures:
 - (a) Complete network structures.
 - (b) Switching centers.
 - (c) Radio network controllers.
 - (d) Base stations.
- (2) Specifically and for the avoidance of doubt, national roaming shall not form part of issues which may be negotiated and agreed upon by telecommunications operators under infrastructure sharing arrangements.

(3) The Commission may from time to time add to the list of infrastructure in respect of which sharing is discouraged.

(4) The Commission shall at all times reserve the right to examine incidence of infrastructure sharing to ensure consistency with the relevant License(s) and reduce the risk of a lessening of competition.

(5) Where the Commission

(a) Determines that an infrastructure sharing arrangement is inconsistent with the relevant License(s) and/or

(b) Identifies a risk of lessening of competition as a consequence of such infrastructure sharing,

It may require such an arrangement to be discontinued.

6. Procedure for Negotiating C/IS

(1) Any operator who owns or has control of a facility amenable to sharing may enter into negotiations with another operator who submits a request to share in the use of that facility.

(2) All negotiations for infrastructure sharing must be done with the utmost good faith. The owner of a facility must not;

(a) Obstruct or delay negotiations or resolution of disputes;

(b) Refuse to provide information relevant to an agreement including information necessary to identify the facility needed and cost data;

(c) Refuse to designate a representative to make binding commitments.

(3) A request for infrastructure sharing should be in writing. A party to whom such a request is made should within 30 days either accede to the request and grant access for sharing, or where access is denied, advance reasons in writing for the denial.

(4) Except in emergency situations, the replacement of a shared facility, or its modification, may only be undertaken upon due service of a 60 days notice on the other party.

(5) A party on whom notice is served may file a petition against the removal or modification of a facility within 15 days of receiving such notice, and the notifying party may file a reply thereto within 7 days.

7. Terms and Conditions for Infrastructure Sharing

- (1) An operator shall provide capacity on its infrastructure to other operators on a “first-come, first served” basis, determined in accordance with the order in which it receives requests for infrastructure sharing.
- (2) An operator shall reserve the right to refuse an application for infrastructure sharing on grounds of;
 - (a) Insufficient capacity
 - (b) Safety, reliability, incompatibility of facilities and
 - (c) General engineering considerations .
- (3) The decision to refuse an application for infrastructure sharing shall be communicated in writing to the requesting operator specifying the reasons for such refusal.
- (4) Every infrastructure sharing agreement, including any prior existing agreement, shall be in writing and shall specify the contractual terms and conditions agreed on by the parties. All such agreements shall be registered with the Commission.
- (5) The terms on which infrastructure sharing is offered should be in compliance with the principles of neutrality, transparency, non-discrimination and fair competition.
- (6) Prices for infrastructure sharing should be non-discriminatory, reasonable, and based on the actual costs incurred by the owner of the facility.
- (7) Determination of the costs underlying prices should be transparent and neutral.

Part III: Collocation

8. Collocation as an Element of Interconnection

- (1) Collocation is an element of the interconnection of networks hence it is essential that operators agree on terms of its implementation towards ensuring seamless interconnectivity. Collocation shall constitute part of the negotiations for interconnection and be governed by provisions of the Telecommunications Network Interconnection Regulations.
- (2) Every major operator, especially dominant operators as may be determined by the Commission should include in their Reference Interconnection Offer (RIO) an offer for the facilities available for collocation, including a price list for the different components of collocation.

(3) An operator desirous of interconnecting with another operator is at liberty to choose the type of collocation suitable for its operation.

(4) Where a request is made for physical collocation but such collocation is not deemed feasible, virtual collocation should be offered by the interconnection providing operator.

(5) Where virtual collocation is not feasible, remote collocation should be offered in its stead.

(6) A request for remote collocation shall not be rejected on any grounds.

(7) Specifically, remote collocation shall not be refused on grounds of insufficient capacity, safety considerations, reliability or other general engineering considerations.

(8) Save as may be specifically excluded, the terms and conditions of collocation are in general to be governed by the same rules as infrastructure sharing.

(9) The provisions of these Guidelines, particularly Part II Paragraph 7 and Part IV, apply to both collocation and infrastructure sharing.

Part IV: General Rules for Collocation/Infrastructure Sharing (C/IS)

9. Reference Offer and Standard Practice List

(1) The Commission recognizes the right of operators to negotiate and agree on terms and conditions of collocation and Infrastructure sharing (C/IS). The Commission however requires that such negotiation must be within the limits of an existing reference offer developed by each operator.

(2) Every operator shall ensure that its reference offer is readily available to other operators with a view to promoting fairness in the negotiation process.

(3) Operators should in the process of developing the reference offer be responsive and work in close association with other operators, that is, prospective access seekers.

(4) Notwithstanding the provisions of sub-paragraph (1) above, parties involved in any negotiation for C/IS arrangement are at liberty to negotiate outside the reference offer provided howsoever that such negotiations are voluntary and non-discriminatory.

(5) The reference offer should contain sufficient information on issues relevant to the access seeker for negotiation purposes as itemized in the First Schedule to these Guidelines.

(6) Parties may request for other information which may be required in the process of negotiating for C/IS. Such information should be treated as confidential by the requesting party at all times.

(7) The quality and nature of any information requested for will depend on what stage the negotiation process has reached. Response on any such request should be prompt to avoid delay.

(8) A party may request for a site inspection if it is deemed necessary for the purpose of aiding that party to reach an informed decision.

(9) Every operator should develop a standard price list which shall provide guidance for determining the price for all C/IS arrangements with other Access Seekers.

(10) Any standard price list developed should be reasonable, non-discriminatory and cost-oriented.

10. Allocation of Capacity

(1) There shall be no obligation on an operator to develop new infrastructure whenever its capacity has reached saturation level. However, operators are expected to reasonably take into consideration the demand for C/IS when expanding their facilities.

(2) Where there is no available capacity at the existing facilities to meet the needs of additional requests for capacity, the operator should consider re-development as a means of increasing capacity at existing facilities.

(3) The Commission will consider that capacity is available where the specific resource is not occupied nor reserved by the operator.

(4) In every situation where a collocation request is granted, the grantor should have the reserved right in the event of scarcity to demand that any allocated capacity be relinquished if such capacity has not been utilized within three (3) months of delivery of access. This right should be reserved with the intent to avoid the pre-emption of future capacity needs on the part of a requesting operator which would stifle the present needs of other operators.

(5) At the expiration of the period for which access was granted to a party, an application for a further extension of the period will be in accordance with the procedure used for the initial application. The application will be considered on the merit by the access provider.

(6) In every case, applications for collocation should be considered and granted by an operator on a "first come – first served" basis.

11. Refusal of Access to Collocate

(1) An operator reserves the right to refuse an application for access in any of the following circumstance

- (a) Where the operator does not have available capacity (i.e. either that all capacity is occupied or reserved
- (b) Where the grant of access is technically unfeasible
- (c) Where the request, if granted, will breach safety and reliability standards

In all cases, the operator should provide the requesting operator with reason for refusal in writing.

(2) An operator who is refused collocation may refer such refusal to the Commission and the Commission shall be at liberty to inquire into the decision refusing access.

(3) The Commission may upon due consideration;

- (a) Up hold a decision refusing access
- (b) Request that a decision refusing access should be reconsidered
- (c) Impose an infrastructure sharing arrangement on the parties.

(4) Infrastructure sharing arrangements imposed by the Commission may include rules for apportioning the costs of facility sharing

12. Reservation of Capacity

(1) The right of an operator to reserve capacity for which it has made long term investments will at all times be recognized but balanced against the need not to hamper the network roll-out or expansion plans of new market entrants or other operators.

(2) Where available capacity is limited, the right to reserve capacity should not be exercised by an operator in order to avoid discrimination and pre-emption.

(3) Where however an operator with significant investments exercises the option to reserve some rights in circumstances of limited capacity;

- (a) The reserve period shall not exceed two (2) years after which the right will cease from being operational.

(b) Not more than 50% of capacity shall be reserved.

(4) Information and documentary evidence of the reservation and extent thereof should be held by the operator and made available to other operators on reasonable demand.

13. Re-Development/Re-Location

(1) To ensure that capacity is increased and made available to others, operators are encouraged to constantly pursue a policy of re-development and re-location of facilities.

(2) Where for optimal utilization of facilities an operator undertakes re-development or re-location (i.e. reconfiguration of network as a result of technological or business reasons), the cost of the re-development or re-location may be jointly assessed by the parties and shared with access seekers at a percentage mutually agreed by parties.

(3) The re-development or re-location cost borne by a collocator shall form part of the price paid for the C/IS arrangement.

(4) A party to a C/IS arrangement should not undertake modifications with the sole aim of demanding the cost of such modification from collocators.

(5) As a condition precedent for an operator to commence any re-development or re-location at any facility, notice thereof should first be given to all operators sharing the facility with the operator. The notice period should be

(a) 6 months in the case of re-development

(b) 12 months in the case of re-location

14. Separation

(1) The Commission expects that parties involved in all C/IS arrangements, will make efficient use of scarce space.

(2) Parties negotiating for collocation will be at liberty to request for separation of equipment to increase internal and external security, reduce interference problems and limit damage to each others' equipment.

(3) The degree to which separation of equipment will be granted to an operator will be determined, among other things, by

(a) Prevailing local circumstance

(b) Available space

(c) Special requirements of access seekers

- (d) Level of standardization
- (e) Risk of damage

15. Standardization

(1) To facilitate improved co-ordination and compatibility of equipment, parties to a C/IS arrangement should endeavor to develop and employ standard procedures for provision and operations under the arrangement.

(2) The standard procedures to be developed by parties under the arrangement will be in the areas of:

- (a) Maintenance
- (b) Fault clearance
- (c) Access at the facility
- (d) Emergency
- (e) Cleaning
- (f) Safety
- (g) Security

(3) Parties are also to ensure that standardized equipment and unified techniques/technical interfaces are used for the C/IS.

(4) The liberty to use assigned space for its own purpose notwithstanding, parties should not install incompatible equipment which may cause interference to other parties' equipment or impede usage of space allocated to them.

Part V: The Role of the Commission

16. Dispute Resolution

(1) The Commission has the power to intervene to resolve dispute at the request of either party and to impose facility sharing or collocation arrangements between operators after consultation with the parties.

(2) The power of the Commission to intervene in disputes shall include the right to request for and receive all such necessary information as may be required to reach a decision.

(3) The decision of the Commission which shall be final, save for the right of appeal to a court of competent jurisdiction, will be notified to the parties and published.

(4) In resolving disputes, the Commission will rely on its Dispute Resolution Guidelines.

17. Supportive Action

(1) The Commission will from time to time arrange for the dissemination of pertinent information on the subject of infrastructure sharing and collocation.

(2) The Commission will use its mandate under Section 4 (1) of the Act to further the opportunities for collocation and infrastructure sharing, provided there is no risk of the lessening of competition. In particular, the Commission will take action to

- (a) Encourage redevelopment of existing facilities amenable to infrastructure sharing to increase their capacity.
- (b) Advise local and regional authorities on the adoption of schemes which would encourage the sharing of infrastructure.
- (c) Support the development of the capability among operators to deal with the issues of infrastructure sharing in a competent way.

18. Definitions

In these Guidelines -

- o **Act** – Means the Nigerian Communications Act, 2003;
- o **Collocation** – Means the placement of transmission equipment owned by the interconnection demanding operator in the premises of the interconnection providing operator for interconnection to that operator's network;
- o **Commission** – Means the Nigerian Communications Commission;
- o **Facility, Facilities** – Mean the same thing as, and are interchangeably used with the term "infrastructure";
- o **Infrastructure Sharing** - Means the joint use of network facilities by two or more operators subject to agreement specifying relevant technical and commercial conditions. The term "infrastructure sharing" is more general than the term "collocation" and unless explicitly stated otherwise, infrastructure sharing refers for the purposes of these Guidelines to the sharing of facilities that are not feasible for collocation;
- o **Operator** - Means an undertaking holding a license granted under the Act to operate a communications system or facility and to provide communications services;

- **Physical Collocation** – Means collocation where equipment is placed in a separate room within the premises of the interconnection providing operator and remains under the control of the interconnecting demanding operator;
- **Remote Collocation** – Means collocation where the equipment of the interconnection demanding operator is installed in a location near the premises of the interconnection providing operator and a transmission medium is used to realize the physical interconnection;
- **Lessening of Competition** – Means the same thing as may be assigned by the Commission pursuant to its powers under Section 91 of the Act;
- **Virtual Collocation** – Means collocation where equipment is placed in the equipment line-up of the interconnection providing operator and is maintained by that operator.

SCHEDULE

CONTENTS OF REFERENCE OFFER - ISSUES RELEVANT TO THE OPERATOR REQUESTING COLLOCATION FOR NEGOTIATION PURPOSES

(a) General Sharing Issues

- (i) Access and refusal
- (ii) Separation
- (iii) Standardization
- (iv) Re-development/Re-location
- (v) Study and preparatory work
- (vi) Requirements of requesting operator
- (vii) Commencement/duration/renewal
- (viii) Liability
- (ix) Insurance
- (x) Confidentiality
- (xi) Security
- (xii) Arbitration
- (xiii) Modification/Termination

(b) Provisioning

- (i) Time schedules

- (ii) Information requirements
- (iii) Constructional specifications
- (iv) Technical Specifications
- (v) Delivery of Access
- (vi) Testing

(c) Operation

- (i) Requirements on equipment
- (ii) Installation of equipment
- (iii) Maintenance
- (iv) Fault clearance
- (v) Access conditions of persons

(d) Pricing

- (i) Standard prices
- (ii) Price components
- (iii) Pricing of special requirements
- (iv) Sharing of common facilities
- (v) Penalties

(e) Technical

- (i) Spurious emissions
- (ii) Harmonics
- (iii) Electromagnetic compatibility
- (iv) Interference
- (v) Heat Dissipation and thermal considerations
- (vi) Wind loading