

NIGERIAN COMMUNICATIONS COMMISSION

The Successful Auctioning of 2.3GHz Spectrum to encourage Nigerian Content development and Implementation of the Open Access Model launch for deployment of Pervasive and Affordable Broadband Services and Determination of Dominance in Certain Market.

The Open Access Model

The Open Access Model is an initiative of the Nigerian Communications Commission (NCC) to evolve a new broadband deployment environment, in line with the National Broadband Plan. The objective of the plan is to bridge the digital divide and deliver fast and reliable broadband services and to complement the existing broadband ecosystem through the Open Access Model to deliver wholesale wireless access.

The objective of the open access model is *"to stimulate a new national broadband network that is not only more wide spread but also faster and more secure than what is available today, thereby stimulating other sectors of the economy and leading to higher economic spin offs for Nigeria. In addition, it will offer efficient connectivity as well as ultra high speed broadband services that are available, affordable and sustainable."* The open access model will potentially help to optimize the cost of broadband access across the country and ensure operators have equal access to the infrastructure. The Model will also deal with the issues of densely populated and haphazard towns, Right of Way (ROW) and Infrastructure sharing issues. The Commission's choice of the Open Access Model is predicated on the basis that the new National Broadband Network will have a pervasive Nationwide fibre penetration, Non-discriminatory and Carrier Neutral Backbone and Metro-politan fibre, Optimized Development Strategy and Co-operation of existing Operators.

The Commission has assured Industry stakeholders of the effectiveness and workability of this model and allayed the fears of industry stake holders. The model contains inherent safeguards such as Account separation that will ensure the success of this mode. The EVC, Dr Juwah, in a recent media report, explained that the account separation is a situation where operators on the whole-sale end of the market will find it difficult to play on the retail end of the market. He further stated that the new national broadband network may be segregated into Passive infrastructure layer (responsible for rollout of fibre, maintenance of ducts, handholes and manholes); Whole-sale layer (responsible

for terminal equipment, optic fibre electronics, routers, switches, data centres) and Retail service providers (RSP) (purchase of bandwidth connectivity from whole sale operators to provide services to end-users. However, to achieve the objective of the new national broadband network, the EVC stated that there will be the establishment of Infrastructure Companies (Infracos) that are geographically focused to support this initiative.

The Infrastructure Companies (Infracos)

The Commission has articulated the need to licence seven (7) Infrastructure Companies (infracos) to support the new national broadband network in Nigeria. The objective of the infracos is to deploy a broadband network infrastructure that is faster and more secure than what is available today. The Infracos shall be licensed one (1) per geopolitical zone of the country and one (1) to cater for Lagos State alone. This is because Lagos State occupies a special status due to the size of its market.

The activities of the Infracos shall be complimentary to the existing Integrated Operators that offer end-to-end services and long distance operators offering whole sale services. The Infracos shall specifically bridge market gaps in the metropolitan and regional fibre segment as well as provide end-to-end transmission services, to be available at point of access (PoAs), to access seekers. Stricly, the Infacos shall deal with Wholesale wireless last mile operators (eg Bitflux Ltd), Retail service Providers (RSP), Independent Operators/wholesale operators who require to lease transmission services and other access seekers such as Vertically integrated Operators

The NCC has also articulated a set of guiding principles to ensure the success of this initiative. These set of guiding principles include Government financial support, Infraco mandate, ownership structure, rollout targets, Interconnection obligation, pricing, deployment strategy and risk management. These commercial principles were deliberated upon by industry stakeholders in the Commission`s usual engagement where the stakeholders expressed their concerns on market monopoly and unfair competition. The EVC, Dr. Eugene Juwah, allayed the fears of the Industry and stated that the licensing of Infacos will complement efforts in broadband infrastructure rollout, and will not in any way create unfair competition or market monopoly.

In line with the Commission`s timelines issued to the Industry the NCC has commenced the licensing processes for the selection of Infracos for Lagos State and the North Central region.

The auction setting

The auction was held on February 19, 2014 at the prestigious Transcorp Hilton Hotel, Abuja. The auction was witnessed by journalists, representatives of Association Licensed Telecom Operators of Nigeria (ALTON), representatives of the Ministry of Communications Technology as well as the participants. The auction format adopted was the ascending clock option. The Director, Spectrum Administration, at the NCC, Engr. Austin Nwaulune, reeled out the rules guiding the process. He explained that at the end of the bid round, if the bidders tied, they would start again until a preferred bid is received even if it entails rolling a dice for a winner to emerge.

The bidders were kept in separate rooms to avoid interference and without any communication gadgets such as phones, i-pads or personal computers to avoid undue interference. The journalists and guest monitored the auction process from another room. The reserve price for the 2.3 GHz spectrum was fixed at Twenty Three million dollars (USD23, 000,000.00).

The Nigerian Communications Commission (NCC) concluded the sale of the 2.3GHz spectrum to an indigenous company Bitflux Limited at a bid price of Twenty Three Million Two Hundred and Fifty One Thousand US dollars (USD23, 251,000). The auction process and the auction, was adjudged to be free, fair, transparent and in line with the guiding principles of the Nigerian Communications Commission. The success of the auction is good news for the Commission and the Nigerian Government because the auction underscored the perception of NCC as Africa`s foremost telecom regulator and one of the model regulators in the global market.

The successful completion and conclusion of this auction is also the Commission`s initiative to support Nigerian Content development in order to encourage the delivery of broadband wireless access service at the wholesale level, provide ISP`s and other Retail Telecoms Service Providers with the requisite bandwidth to service their subscribers. The NCC understands that providing the enabling environment to support Nigerian Content makes good business sense and yields sustained benefits both for the Country and the Operator because it generates employment opportunities, opens a new vista of investments, encourages infrastructure build out, and provides opportunities for learning and development.

The auction outcome

A total of nineteen (19) companies expressed interest in the spectrum. Only two companies, Bitflux Limited and Globacom were pre-qualified after paying the initial deposit of USD2.3 million (10% of the bid reserve price). Both companies exhibited deep and rich Nigerian content. The Biddings lasted a total of thirty minutes (30mins) of fifteen minutes (15mins) per round. At the end of the first round both companies were unwilling to bid beyond the reserve price hence round 1 was a tie at the bid reserve price of USD23, 000,000.00. At the commencement of the second round, Bitflux Limited increased the reserve price by 1.09% to arrive at a bid price of USD23, 251,000 while Globacom increased the reserve price by 0.22% to arrive at USD23, 050,001. Bitflux Limited emerged winner of the 2.3 GHz spectrum with the highest bid. The Executive Vice Chairman (EVC) of the Commission, Dr. Eugene Juwah, congratulated Bitflux Limited and stated that Bitflux have a 14day deadline from the date of the auction to make full payment for the licence or lose it to Globacom. The EVC also lauded the auction process and explained that the Commission has maintained the virtues of Open Access Model from beginning to the end.

Socio Economic Impact of the Sale of 2.3 GHz Spectrum to Bitflux Limited.

Broadband is widely perceived as a development enabler. It transforms the society and generally brings about economic well-being. This much was alluded to in the Nigerian National Broadband Plan 2013-2018 that stated inter alia *" We live in a global village where ICT has a direct impact on a Nation's ability to improve the economic wellbeing of her people and compete globally. Broadband is an essential infrastructure of the 21st Century. It enables access to business and job opportunities, improves healthcare, education and government services, and facilitates social interactions."*

World Bank report also noted that *" the effect of broadband in accelerating economic growth was greater in less developed countries like those in sub-Saharan Africa than in more developed countries, and more than for fixed, mobile or Internet penetration"*. With about nine tetra byte of undersea cable capacity at the shores of Nigeria there is still not enough capacity inland to support faster and high speed broadband. This is because there is inadequate metropolitan fibre connection, haphazard infrastructure layout and a seeming evaporation of the last mile. However, with the triple initiatives of the NCC sale of the 2.3 GHz, the proposed licensing of Infracos and the implementation of Open Access Model, shall obliterate and reverse this infrastructural deficit with the following attendant impacts; Employment Generation, Positive increases on the Country's GDP, Highly knowledgeable society, Improved Access to and

effective Public sector businesses, High Return on Investment support and development of local content in Nigeria.

Assessment of Competition and Determination of Dominance in certain Market Segments

The Commission assessed the Level of Competition in the industry and defined the Telecommunications market according to segments of services provided in order to identify and checkmate any form of agreements, arrangements and practices among the Operators which might constitute anti-competitive conduct.

Subsequently, the market was divided into Mobile voice, Fixed voice, Mobile data, Fixed data, Upstream and Downstream market segments.

This led to the determination of dominance in these markets, where MTN was designated a dominant Operator in the Mobile voice market segment. While Glomobile and MTN were designated as joint dominant Operators in the Wholesale leased lines and transmission capacity sub-segment of the Upstream market segment.

In addition to the dominance determination, the Commission imposed the following obligations on Dominant operators in order to foster fair competition and market sustainability as listed below:

- a) Accounting Separation: The Commission will immediately enforce and implement Accounting Separation on the dominant operator
- b) Collapse of On-net and Off-net Retail Tariffs: The differential between the on-net and off net retail tariffs will be immediately collapsed. The tariff for on-net and off-net will be the same, and subject to periodic review.
- c) Submission of Required Details: The Commission may require the dominant operator to submit details on specific aspects of its operations from time to time as the need arises.

The Dominant Operators in the **Wholesale Leased Lines & Transmission Capacity market** are also required to adhere to the following obligations:

- a) Price Cap/Price Floor: The Commission will come up with a price cap for wholesale services and price floor for retail services, and subject to periodic review.
- b) Accounting Separation: The Commission will immediately enforce and implement Accounting Separation on the joint dominant operators.
- c) Submission of Required Details: The Commission may require any of the joint dominant operators to submit details on specific aspects of its operations from time to time as the need arises.