

## **INFORMATION MEMORANDUM FOR LICENSING OF FREQUENCY SLOTS IN THE 2.3 GHz BAND**

### **1.0 Introduction**

Pursuant to its principal objective of facilitating entry and competition in the Nigerian telecommunications market, the Nigerian Communications Commission is empowered to allocate slots in the electromagnetic frequency spectrum to Licensees to operate telecommunications networks and/or provide telecommunications services.

However, in ensuring optimum level of competition, especially in the market segment that utilizes wireless technology, the most critical consideration has been the scarcity of the applicable frequencies and how to assign the resource in a fair and transparent manner. In the light of this, the Commission has often resorted to competitive means of allocating the resource.

It is important to note that, in addition to Licensees who may require additional spectrum to expand their scope of operation and service delivery, the Commission has in recent times issued Unified Licences to a number of Companies, amongst who are new entrants that require relevant spectrum to roll out their services.

Based on its understanding of the demand for spectrum, relative to availability, the Commission has decided to award 4 spectrum slots of 20 MHz each in the 2.3 GHz band, nationally, to further advance the development of broadband telecommunications service delivery in the country.

This Information Memorandum defines the process that the Commission has adopted to license the 4 spectrum slots. It provides information on the details of the available spectrum, the fixed price, and the award process

## **2.0 Important Notice**

This Information Memorandum is for information purposes only. It is made available on the express understanding that the recipient will use it for the sole purpose of assisting the recipient in deciding whether to proceed with and participate in the licensing process. The Information Memorandum is not intended to form any part of the basis of any investment decision or other evaluation or any decision to participate in the process and should not be considered as a recommendation by the Commission to any recipient to participate in the process. Each recipient must make its own independent assessment of the potential value of an assignment of the spectrum on offer after making such investigation as it may deem necessary in order to determine whether or not to participate in the process.

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This Information Memorandum does not constitute an offer, but an invitation to participate in the process. It does not constitute the basis of any contract that may be concluded in relation to the licensing process or in respect of any assignment of the spectrum under consideration.

Recipients are not to construe the content of this document or any other communication by or on behalf of the Commission as financial, legal, technical or other advice. Accordingly, each Recipient should consult its own professional advisers as to financial, legal, technical and other matters concerning any potential participation in the process or any assignment of the spectrum on offer. In other words, Applicants are advised to undertake their own due diligence.

The Commission does not accept any liability whatsoever consequent upon the issuance of this document and in particular shall not be liable to any Applicant or any person whomsoever for any pecuniary loss, consequential or contingent

damages including but not limited to loss of goodwill, downtime, revenue etc, consequent upon the issuance of and/or reliance of such person on these Guidelines or participation in the licensing process.

### **3.0 REASONS FOR THE SPECTRUM LICENSING**

Since the year 2000, the Nigerian communications sector has experienced a major increase in competition driven by the Government's liberalisation policies. This has led to major growth in the number of networks and connections as well as improved services for subscribers. At the moment, there are about ten national digital mobile operating companies (based on GSM and CDMA technologies) in the country, two national carriers, several Unified Licence holders and a range of competitive local access and internet service providers.

Whereas a good number of network operators have acquired requisite spectrum to facilitate network and service roll out, there are others who do not possess the requisite spectrum to commence operations. Consequently, the proposed allocation of the 4 slots of 20 MHz each in the 2.3 GHz band has been influenced by requests by interested applicants that require the spectrum to meet planned roll out of services, especially for Broadband services delivery. However, considering the number of companies that have indicated interest, the Commission has decided to adopt a process that is geared to ensure that only those companies that have easy access to necessary funds to roll out services are successful.

### **4.0 OVERVIEW OF LICENSING TERMS**

#### *4.1 SPECTRUM ON OFFER*

The Commission has put on offer, a 20 MHz slot in 2.3 GHz Band, based on **Time Division Duplex (TDD)** frequency plan, nationally, to each of 4 Operators for commercial service deployment. The spectrum on offer is as specified below:

#### **4.2 Duplexing Technique: Time Division Duplex (TDD)**

### 4.3 FREQUENCY SLOTS

Slot 1:	2300-2320 MHz
Slot 2:	2340-2360 MHz
Slot 3:	2360-2380 MHz
Slot 4:	2380-2400 MHz

The spectrum is offered on a technology neutral basis. However, the International Telecommunication Union (ITU) recommendations for the provision of telecommunications services in the 2.3 GHz band has been adopted.

### 4.4 FIXED PRICE (Fixed Spectrum Fee)

The Fixed Price for the spectrum on offer is **₱1, 368,000,000 (One Billion, three hundred and sixty eight Million Naira only)** and is not subject to Value Added Tax (VAT).

### 4.5 THE LICENSE

The license shall be a frequency license; however for Successful applicants that does not already hold an operational license should obtain the appropriate license for operation.

A copy of the full terms of the UASL is referenced in Appendix A as well as through the Commission's website. A copy of the full terms of the spectrum license is referenced in Appendix B. Highlights of the UASL and the spectrum license are set out below:

### 4.6 COMMENCEMENT DATE AND DURATION OF LICENCE

The spectrum license shall commence upon full payment of the license fee by the successful applicants, and issuance of a license document specifying terms to each of the successful applicants by the Commission. The tenure of the license shall be Five (5) years.

#### *4.7 LICENCE ASSIGNMENT*

The license authorizes the licensee with regard to radio equipment operating within the frequency ranges specified for that licence and spectrum block. The license shall not be assigned, or reassigned, except with the prior and express authorization of the Commission.

#### *4.8 COMMERCIAL LAUNCH DATE*

The launch of commercial services shall be no later than 12 months after commencement of the Licence Award.

#### *4.9 ROLL OUT, COVERAGE AND SERVICE OBLIGATIONS*

The winning licensees shall be required to roll out services in at least two-thirds (2/3) of all States of the federation within the life of the initial assignment (i.e. five years). In the event of the winning licensee's inability to deploy services as specified herein, the spectrum shall be renewed for only the states where the roll out obligation is met.

For the purpose of this licensing process, roll out shall be understood to mean that a service signal is available to at least one-third (1/3) of the population of each state.

The Licence shall be subject to renewal for another term of five years. The applicable renewal fees shall be the prevailing spectrum fees specified in the Frequency Spectrum Fees and Pricing Regulations at the time of renewal.

#### *4.10 TARIFFS*

The Commission requires initial tariff and tariff changes to be submitted for approval. Tariffs must be submitted in a format approved by the Commission no later than one calendar month before the launch of commercial services or the publication of details thereof. The Commission will advise of approval or otherwise in writing within 45 days. For the avoidance of doubt, it is not the

intention of the Commission to regulate retail tariff levels. However, the Commission has consistently adopted a price cap policy since 2002.

#### *4.11 SITE / NETWORK SHARING*

The sharing of network, transmission and associated infrastructure and facilities with other licensed parties is subject to the provisions of the Commission's Collocation / Infrastructure Sharing Guidelines. These are available through the Commission's website and are subject to update from time to time.

Key features of the Commission's approach to network sharing are as follows:

- The sharing of infrastructure and facilities with other similarly licensed parties, and the terms and conditions thereof, shall be subject to the prior approval of the Commission
- The Commission encourages infrastructure sharing where this can be carried out without an attendant risk of lessening competition. Appropriate infrastructure for sharing may include: ducts, optical fibre, trenches, building space, towers and electric power supply.
- The Commission will not encourage the sharing of infrastructure when this has an attendant risk of the lessening of competition. Further regulation appropriate to, inter alia, site clearance, site maintenance and equipment height shall be deemed to apply to the registered site owner and / or site tenant and the subcontracting party. For the avoidance of doubt, national roaming arrangements shall not be negotiated between operators as part of infrastructure sharing agreements.

#### *4.12 FURTHER OPERATIONAL AND TECHNICAL REQUIREMENTS*

The licence will set out further conditions for licensees in respect of operational and technical requirements including the following, inter alia:

- Site clearance
- Technical equipment specifications
- Co-location of equipment

- Amendment to the terms of the licence
- Record-keeping, financial and otherwise.

#### 4.12 SPECTRUM CO-ORDINATION

Licensees will be required to co-ordinate spectrum use and the avoidance of interference with operators and other parties making use of adjacent frequencies. The Commission will resolve any disputes where parties are unable to reach agreement on coordinating spectrum use.

#### 4.13 INTERFERENCE

The UASL states that any equipment installed, maintained and used by the Licensee shall, throughout the tenure of the Licence, conform to such specifications and standards and ITU recommendations as prescribed by the Commission. The Commission will define spectral masks for each technology. Spectral masks shall be taken from the appropriate standards documents. The Commission shall also define a “default” mask that shall be used for technologies not covered by technology-specific masks. Bidders must perform their own analysis of potential interference scenarios. Where equipment is co-located, or located close to other equipment, the Licensee should enter into its own negotiations with third parties.

#### 4.14 *CROSS BORDER CO-ORDINATION*

The terms of the Nigerian Communications Act state that the Commission may vary the technical parameters of licences subject to on-going co-ordination activities with neighbouring countries. The variance of such parameters will usually take the form of a Memorandum of Understanding (MoU) with foreign regulators and further parties. Such MoU would seek to place restrictions on the native operator’s signal strength permissible at the neighbouring country’s borders. The Commission expects to strike such agreements with neighbouring countries to implement reciprocal restrictions on native operators. Nigerian licensees will be required to comply with the terms of those agreements. The licence includes a requirement for operators to comply with the conditions of future MoUs.

#### *4.15 BAND CLEARANCE*

The Commission has undertaken to ensure that the spectrum being offered for licensing is available and clear of other users. The Commission will continue to enforce policy and thereby ensure that all licensed operators neither cause, nor are affected by, interference to / from other spectrum users.

#### *4.16 SPECTRUM ASSIGNMENT FOR NETWORK BACKHAUL*

This Licensing process is for 2.3 GHz spectrum. Winners will be issued the licences to use the allocated spectrum. The terms of these licences authorise the use of specified spectrum for the provision of telecommunications services. Access to additional spectrum for the purposes of, inter alia, transmission and backhaul will be by way of a separate licensing process. The process and conditions for such additional licensing are published and available from the Commission's website.

Successful Applicant shall be granted a frequency license. Those that do not already hold appropriate operational license should obtain the appropriate license for operation.

### **5.0 THE PROCESS**

The Commission's prime objective for licensing these spectrum slots is to facilitate the delivery of services speedily to the teeming population of subscribers yearning for such services. It is therefore important that companies that are granted operating licences are able to fulfil their license obligations with respect to service roll-out. It is also an established fact that the ability of a licensee to speedily roll out a network and be successful depends primarily on the capacity of the company to access the requisite funds. This is considered the most veritable instrument to guarantee speedy and pervasive service roll out. To this end therefore, the process is designed to give an indication of the financial capability of the applicant..

The Commission's decision for this process instead of a full auction is to ensure that the resultant spectrum fee is such that will facilitate quick service



provisioning and guaranty affordability of services. The process will be based on First-to-Pay, First-Served basis. The Commission has already received 40 applications / request for spectrum in this band. This licensing process is open to these applicants.

The Applicants will be evaluated on First-to-Pay-First-Served basis with respect to the payment of the fixed spectrum fee

## **6.0 PAYMENT**

Payment shall be deemed to have been made when the Commission is credited with the full value of the license fee in cleared funds to a designated account of the Nigerian Communications Commission. Payment shall only be valid when the funds are confirmed cleared in the designated account by the Bank. The time of payment shall therefore be the time at which the paid funds have been confirmed cleared by the Bank.

Payment is open until May 8, 2009, however only the first four (4) companies to pay will be qualified.

## **7. DESIGNATED ACCOUNT'S DETAILS**

**Account Name:** Nigerian Communications Commission

**Account No:** 0090010015698

**Bank Name:** Access Bank

**8.** Please be advised that this frequency licensing process is not for speculators. Therefore applicants are to note that the spectrum will be granted on a USE-IT OR LOOSE-IT basis and any company that is assigned spectrum and does not use it to deploy network within the specified time frame will loose the license and forfeit the fees paid.