



### Questions and Answers on 2.6 GHz Information Memorandum

S/N	Questions	Response
1	What are the RF exposure guidelines for 2.6 GHz?	No specific guideline has been developed for the 2.6 GHz band at the moment. However, any guideline developed may not significantly deviate from International Commission on Non Ionizing Radiations Protection (ICNIRP) Guidelines
2	Are the winning bidders required to negotiate their own interference agreements with adjacent users particularly at collocation?	Yes. This is clearly stated in section 5 of the IM
3	Has the NCC defined any rules for interference management?	Operators are required to coordinate interference among themselves. Rules are specified in "Commercial Frequency Management Policy, Administrative Procedures and Technical Guidelines" published on the Commission's website
4	What is the permissible transmission power that can be deployed?	The Power limits are as specified for Region 1 of ITU in the Radio Regulation and Recommendations.
5	Has a TIA/EIA been done on the Maximum Permissible Exposure (MPE) for this 2.6 GHz spectrum?	No specific TIA/EIA was done for the band. The operators will be required to conduct Environmental Impact Analysis as may be required.
6	How will the NCC and State Urban Development Authorities discussions impact bid winners?	Not Applicable (N/A)

7	Will NCC allow operation of both FDD and TDD network as decided by the operator now and/or in the future?	The Plan is specifically for FDD (see Section 5 of the IM ). However if in the future there is need for a change based on technology trends, the Commission may consider giving written approvals as appropriate
8	Will NCC allow spectrum aggregation between providers now and/or in the future to achieve increase capacity?	NCC does not currently have policy allowing aggregation between Operators. However, if there is need to do that in the future the Commission may consider it as appropriate.
9	What factors were considered in determining:  (a) The separation band between pair spectrum in a lot.  (b) Protecting existing radio astronomy above 2690MHz?	a) The Duplex Separation adopted Is based on ITU plan.  b) The coexistence between services in adjacent bands are as specified in the ITU Radio Regulation for Region 1.
10	How is the NCC coordinating the use of frequency with neighboring countries?	The Commission complies with ITU Coordination Procedures specified in the Radio Regulation..
11	Is the size of the spectrum blocks restricted?	An applicant can apply for a minimum of 20MHz and maximum of 40MHz. (please see section 7.1 of the IM)
12	Is the NCC adopting a Flexible, Semi-Flexible Band Plan?	For the auction a fixed band plan is adopted.

13	<p>Are there other spectrum auctions underway or being considered that could (a) increase competition and</p> <p>(b) Help quench the insatiable thirst of service providers for more spectrum?</p>	<p>The Commission only plans Auctions when Frequencies are available and allocated to it. At the moment the Commission has only initiated the process of 2.6GHz Spectrum Auction.</p>
14	<p>What is NCC plan if not enough application is received to cover the reverse auction and justify a healthy bid?</p>	<p>The auction design adopted for this process is Ascending Clock Auction with Exit Bid and not Reverse Auction</p>
15	<p>Will "losers" in the process be able to stall the process from going forward through legal challenges and other means?</p>	<p>No. We have adopted a transparent Auction process and therefore don't envisage that bidders will be aggrieved.</p>
16	<p>Will successful bidder be allowed to provide all and any telecommunication service under the UASL License that will compete directly with current GSM provider?</p>	<p>Yes. For Full UASL holders.</p>
17	<p>How would NCC resolve possible conflict of interest with back-haul transmission providers and interconnecting partners?</p>	<p>Please see section 4.4 and 4.5 of the IM</p>
18	<p>Section 7.3 is not in the Information Memorandum as referenced in the pre-qualification criteria checklist. Kindly elaborate.</p>	<p>Reference to section 7.3 is a typographical error. The correct reference is 7.1.3</p>
19	<p>What is the acceptable documentation to support claim of independence from all other Licensed Network Operators?</p>	<p>The onus lies with the applicant to produce evidence required to meet the expectation of independence of other applicants.</p>

20	What is the acceptable documentation to support a new entrant with no prior regulatory obligation to The Commission?	The onus to establish that a new entrance does not have any prior obligation with the Commission lies with the applicants.
21	The Commission is hereby requested to confirm that each spectrum lot and the corresponding reserve price refers to a nationwide allocation covering all the states of the Federation and not the geographical limitation of one state.	The Commission confirms that each Spectrum lot and the corresponding Reserve Price refers to a Nationwide Assignment covering all the States of the Federation and the FCT. However, for the purpose of enforcing the “used it - or - lost it” clause, a license will be issued for each of the States of the Federation as well as for the FCT to each winning bidder.
22	<p>The Commission is hereby invited to clarify:</p> <p>a. if the determination on off-net SMS price cap referred to on page 12 is the same one issued in January 2013</p> <p>b. if indeed it has published a determination on price floor for data services in 2014 (or indeed any other year)</p> <p>c. whether the Commission will be considering any of these issues in the near future and whether there will be due industry engagement as prescribed by the rulemaking process as contained in Section 71 of the Nigerian Communications Act (2003) and the Guidelines on Consultations</p>	<p>a. Yes, the off-net SMS price cap referred to in the IM is the same as that of 2013.</p> <p>b. At the moment, the Commission has set a retail price floor for data services which is the basis for assessing data tariff applications for approval from the Operators.</p> <p>c. The Commission shall consider industry engagement if there is a departure from the current pattern of data tariff applications from the Operators.</p>

<p>23</p>	<p>Page 3 of the IM states that successful bidders who do not hold a Unified Access Service License (UASL) will be granted one upon payment of a stated fee. The said UASL shall be valid for a period of ten (10) years, subject to renewal. However, page 20 simply states that successful bidders will be issued a ten (10) year spectrum license (with no indication as to renewal).</p> <p>The Commission is hereby requested to clarify:</p> <p>a. what factors were considered in arriving at the stated ten(10) year license term</p> <p>b. whether the ten (10) year spectrum license is/will be subject to renewal and, if so, for how long</p> <p>c. whether the Commission is prepared to review the stated tenure to one that encourages a sustainable commitment to the advancement of the Nigerian Telecoms industry</p> <p>d. in the event that the Commission is positively-disposed towards a duration review per (c) above, will this impact on the reserve bid price.</p>	<p>a) The factors considered are:</p> <ol style="list-style-type: none"> <li>1. Need for the alignment of the Operational License tenure with the Frequency License tenure especially for new entrants.</li> <li>2. Balancing the positions of the different stakeholders arising from submissions at the Stakeholders forum</li> <li>3. The fact that the license is renewable after the expiration of the first 10 year tenure</li> </ol> <p>b. Yes, it will be subject to renewal. See appendix F of the IM (condition 4, specifically make provision for the renewal of the spectrum license. The exact period for license renewal shall be determined by the Commission as appropriate.</p> <p>c. No, in view of the factors considered in arriving at the decision</p> <p>d. The Reserve Price is based on a 10 year License Tenure</p>
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24	<p>Considering principles of regulatory certainty (in view of the considerable investment that is likely to go into payment for the licenses), we request that the Commission provide a sample 2.6GHz licence and/or further clarity as to how existing UASL holders shall determine/identify areas of conflict between their UASL and the 2.6GHz spectrum licenses.</p>	<p>A template of the 2.6GHz license had already been published on the Commission website under licensing (License auctions). A copy has been moved to the Commission's Website Homepage</p>
25	<p>a. Does the Commission intend to impose any sanction/penalty (use-it-or-lose-it obligations) on licensees who fail to meet the stipulated roll-out/coverage obligations?</p> <p>b. Given the aggressive nature of the targets and the investment &amp; infrastructure required to meet them, what measures does the Commission intend to deploy so as to deter prospective bidders without requisite capacity from abusing/jeopardizing the auction?</p>	<p>a. Yes, the Commission intend to strictly enforce the use it-or-lose it obligation. (see appendix F of the IM.)</p> <p>b. The Commission is not restricting any intending bidder. However, it will strictly enforce the use it - or - lose it obligation.</p>
26	<p>Risks:</p> <ul style="list-style-type: none"> <li>• One DML not being successful</li> <li>• Maliciously Driving Auction price Upward</li> <li>• Negative impact of high Bid Price on Rollout Capacity</li> </ul> <p>Has the Commission considered these issues and possible hurdles to an effective auction? If so, what strategies, if any, have been included that are designed to guarantee an economically efficient outcome?</p>	<p>The Commission expects every bidder to develop a business Plan to guide its bid. Bidders are expected also to bid based on the assessment of their Business Plans.</p>

27	<p>2.6 GHz Spectrum Availability - Section 2.4</p> <p>In order to give room for more companies to emerge as winners, so as to deepen competition in the telecommunications market, we recommend that the Commission should reduce the minimum of lots a bidder can apply for to two (2) lots (i.e. 2 x 10MHz).</p>	<p>The decision for the minimum and maximum lot size to be applied for by each applicant is based on the need for capacity of winners to deliver good quality Broadband services consistent with the Nigerian National Broadband Plan.</p>
28	<p>Pre - qualification Criteria - Section 2.6</p> <p>The IM does not require applicants to submit technical and financial plans to affirm competence and preparedness to operate and manage a network. It is our view that the position adopted by the Commission opens up the auction process to all categories of stakeholders and interested parties (even companies without the requisite experience of running a network).</p>	<p>The process the Commission has adopted for the 2.6 GHz Spectrum License is an Auction and not a Beauty contest. Technical and Financial plans are therefore not necessary. Moreover, the Commission has stipulated roll out obligations which it will be strictly enforced.</p>

29	<p>Reservation of Spectrum Lot.</p> <p>Should the Commission insist on not limiting its pre-qualification criteria to companies with proven record of having an operational network in Nigeria or elsewhere in the world as recommended in item B above, we recommend that the Commission should consider reserving a portion of the spectrum (up to 4 slots) for new entrants in order to ensure a level playing field and healthy competition, while the residue is left for established Licensed Network Operators in Nigeria. Following up with this recommendation will lead to the creation of two blocks (Block A - reserve spectrum for New entrants only and Block B - residue for Licensed Network Operators only)</p>	<p>The Commission does not have any plans to reserve Spectrum for any group. Reservation is considered as not being fair and not making the playing field level. The Commission's plan as captured in the IM aims to provide equal opportunity for both incumbent and new entrants.</p>
30	<p>Spectrum Guard Band.</p> <p>We note the IM does not provide for guard bands to address interference from adjacent services/bands. We therefore request the Commission to make provision for guard bands to minimize incidence of interference.</p>	<p>Adjacent operators are required to coordinate Spectrum usage to avoid interference. See appendix F and Answers to Questions 3 and 9b</p>

31	<p>Reserve Price, License Fees and Payment Arrangements. Section 4.9.2.</p> <p>The IM provides that the successful bidder at Auction will be expected to pay a sum equal to the amount of their winning bid minus the IBD as well as additional administrative fees for an operational license. The IM does not however define what it refers to as the 'administrative fees', what such fees will cover and the amount of such fees. We therefore request that the Commission kindly clarifies what it refers to as administrative fees and how same will be assessed.</p>	<p>The administrative fees referred to is License fee to be paid for a UASL Operational License.</p>
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32	<p>Summary of License Terms – Commencement Date and Duration of Frequency License. Section 4.9.4</p> <p>The IM provides that the Spectrum License shall commence upon full payment of the license fee and the tenure of the License shall be 10 years. The IM does not however specify the date the spectrum will be handed over to the successful bidder even though the deadline for the payment of the Winning Bid Amount is specified as January 7<sup>th</sup> 2015. We request that the Commission kindly confirms the date that the Spectrum will be made available to the successful bidders.</p>	<p>Effective date of the license shall be July 01, 2015. This is the date from which Rollout will be referenced. The winning bidders will although be at liberty to commence rollout modalities and preparation from the date of License award following payment.</p>
33	<p>Imposition of financial Penalty – Section 6.6.1</p> <p>The IM states that the Commission reserves the right to impose financial penalties for infringement of the bid rules and requirements. It also states that penalties will be deducted from the Intention-to-Bid deposit provided by applicant/bidders. Considering the significance of the penalty on the application, the Commission is invited to state acts that are deemed to be in breach of its rules and requirements as well as the applicable penalty so as to guide all stakeholders accordingly</p>	<p>All the circumstances under which financial penalties apply are clearly specified in various sections of the IM.</p>

34	<p><b>Bidder Relationship – Section 6.6.2</b></p> <p>The IM specifies that applicants are required to notify the Commission of any cross-investments with other Licensed Network Operations in Nigeria of 5% or more and of any other information of which they are aware could give rise to Bidder relationship issues. In order to avoid any ambiguity in the interpretation of this section, we request the Commission to define the categories of companies operating in the Communications Sector which be classified as “License Network Operators”. For instance, would License Infrastructure Sharing Service Providers be classified as Licensed Network Operators?</p>	<p>A Licensed Network Operator is any Operator licensed by the Commission to own and / or operate a Telecommunications Networks in Nigeria.</p> <p>Relationship in the sense defined in the IM is strictly Ownership relationship and not Contractual relationships</p>
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35	<p>Process: Currency: Section 6.6.4</p> <p>The IM provides that all currency throughout the document must be in US Dollars (US\$) except where it is specified otherwise and all currency amounts used in all bidding stages must be in US Dollars (US \$). In <b>section 6.6.5 (For Applications/Bidders that intend to pay in Naira)</b> the IM states that Companies that wish to pay Naira should pay the naira equivalent of the designated amounts at the prevailing exchange rate for the date of payment.</p> <p>From the foregoing It is our assumption that the payment for both the IBD and the Spectrum License can be made in local currency at the above exchange rate, however we shall be grateful for the Commissions clarification in this regard.</p>	<p>The Commission confirms that both the IBD and the Spectrum License fees can be paid for in Naira at the prevailing exchange rate.</p>
36	<p>Intention to Bid Deposit (IBD): Section 6.6.5</p> <p>The IM provides that unsuccessful bidders will get their refund of the IBD in full subject to no penalty having been incurred during the Auction; however the Commission does not specify the date the refund will be made. We hereby request that the Commission clearly includes in the IM the date the IBD will be refunded to unsuccessful bidders</p>	<p>The IBD will be refunded to unsuccessful bidders within 30 days from the close of the Auction.</p>

37	<p>Summary of License Terms – 4.4.9 (Roll Out Obligations, Coverage and Service Obligations)</p> <p>In order to avoid ambiguity in interpretation, we seek clarification from the NCC on the criteria to be adopted by the Commission in identifying a covered population of an area.</p>	<p>The Commission will use standard methodologies for conducting coverage assessments.</p> <p>The population will be based on the latest figures of the National Population Commission.</p>
38	<p>Bid Templates</p> <p>The IM provides templates and forms to be utilized by applicants to file their application to partake in the Spectrum Auction. We would like to confirm if significant or material compliance with the templates provided is acceptable</p>	<p>The Commission expects applicants to provide complete information as required in the templates.</p>
39	<ul style="list-style-type: none"> <li>• Can operators deploy or combine deployment of LTE CA (Carrier Aggregation) technology on existing frequencies such as deploying 5MHz from existing 1800 band and 20MHz from the new 2600band? Is there any limitation?</li> <li>• We would also like to know if voice over LTE (VOLTE) is allowed.</li> </ul>	<ul style="list-style-type: none"> <li>• The Commission may not have any restriction imposed in terms of carrier aggregation. However, the conditions of the other Frequency Licenses shall be taken into account.</li> <li>• The Commission does not have restriction on VOLTE</li> </ul>
40	<p>Need to review coverage obligation to take into account the propagation characteristics of the 2.6 GHz Spectrum.</p>	<p>Commercial factors were actually considered in arriving at the specified Rollout obligations. Applicants are at liberty to do further financial reviews and define their own rollout strategies based on the limits specified in the IM. The Commission also considered the demands of the National Broadband plan.</p>
41	<p>Bid lots</p> <p>Proposal to have 2 nos 2 X 20 MHz and 2 nos 2 X 15 MHz Lots i the 2.6 GHz band</p>	<p>Please see answer to question 27</p>

42	Plan and timeline associated with the availability of the digital dividend spectrum which is suited to providing ubiquitous coverage on a cost effective basis.	The Commission will come up with plans and timelines on the digital dividend as soon as the spectrum is available.
43	We propose that the <u>minimum number of Lots</u> that can be bid for should be 2 Lots (2 x 10 MHz) and the maximum number of lots can be retained at 8 Lots.	Please see to answer to question 27
44	Are Licensed Network Operators Eligible to Bid for the 2.6 GHz Spectrum.	Yes
45	Define Licensed Network Operators	See answer of question 34