

FAQ for the Auction of (3G) Spectrum in the 2 GHz and 450 MHz bands.

Important Notice

Interested parties are reminded that Bid Applicants must have transferred their Intention-to-Bid Deposit (IBD) so that it is received in cleared funds in the designated account. Failure to do so may result in their application to participate in the 2 GHz spectrum auction being unsuccessful. Ideally, these funds should have been transferred up to 72 hours before the deadline to avoid unnecessary problems in the process.

Questions relating to the 2 GHz Spectrum Auction Information Memorandum

NOTE:

A number of questions have been received by the Commission in relation to the 2 GHz Information Memorandum. Where appropriate, a number of these questions and their associated answers are provided below.

The following should, however, be noted:

- The numbering of the questions has no significance in terms of question source or date received
- In the interests of brevity and succinctness, the Commission has in a number of instances condensed, where it considered it appropriate, the question text
- There was significant overlap in some questions submitted by interested parties. In these cases, the Commission has consolidated questions where appropriate
- In a number of instances bidders submitted statements regarding the process, general licensing issues etc, that in the opinion of the Commission did not constitute clearly articulated questions. In these instances, the statements have been omitted from the list

1. How many Expressions of Interest were received by the NCC?

A total of 17 Expressions of Interest were received by the NCC.

2. Please confirm the names of companies from whom the NCC has received Expressions of Interest?

The Commission will not be announcing the names of organisations that have expressed interest in the spectrum auction. The Commission will only announce names of successful applicants.

3. Has the Commission received expressions of interest from companies forming consortia with foreign partners?

Please see the answer to the Question 2 above.

4. Are foreign companies excluded from taking part in the 2 GHz licensing process?

Applicants must be "qualifying licensed network operators" as set out in the Information Memorandum. Section 4.3 sets out: "A pre-qualification feature of this licensing process is that Bidders must be Licensed Network Operators in Nigeria."

5. Where can we get a copy of the Information Memorandum?

The Information Memorandum is available on the Commission's Website under 'Licensing / Auctions / Future/On-going auctions' and printed copies are available from the Commission's Headquarters at: Plot 423, Aguiyi Ironsi Street, Maitama, Abuja, Federal Capital Territory, Nigeria.

6. The Information Memorandum (page, 2-2) indicates that “spectrum is offered by the Commission on a technology neutral basis. The Commission intends to follow the International Telecommunication Union (ITU) recommendation setting aside spectrum in the 2 GHz band for these services”. Can the Commission please clarify?

Spectrum is offered on a technology neutral basis within the conditions of IMT-2000. For definition of IMT-2000 please refer to the International Telecommunication Union website.

7. The Information Memorandum is silent on the status of the DML. We would appreciate a confirmation of Condition 24.1 of the previous Unified Access Service Licence (UASL) to the effect that we are authorised to render services under the UASL in conjunction with services authorized under the Digital Mobile License (DML). Can the Commission please clarify?

DML Licences which have not expired or been surrendered to the Commission will continue to be in operation and services will continue to be rendered under the DML.

8. Will any renewal fees for the DML be subsumed under the 3G licence/UASL tenure extension fees?

DML renewal fees will NOT be subsumed under the 3G license/UASL tenure extension fees.

9. Will the Commission consider an exclusivity period for award of 2 GHz spectrum licenses?

There will be no exclusivity period associated with the award of 2 GHz Spectrum Licences.

10. Unlike the DML, the UASL and 3G licences do not impose roll-out obligations. Will the Commission impose commensurate roll-out obligations on any new entrant(s) into the mobile market?

No specific roll-out obligations will apply to the issue of a 2 GHz spectrum licence. However, the Commission has reserved the right to review commercial operations as defined in the Information Memorandum.

11. Will 2 GHz licences be eligible for further tenure extension upon expiry in 2022. If so, by what duration?

Yes. However, neither the extension tenure nor the exact fee are known at the present time.

12. Do the current arrangements between the Commission and some operators to liquidate numbering and other fees in installments serve as a waiver (or fulfillment) of the requirement to pay all administrative fees, such as numbering fees, as a pre-qualification criterion for participating in the auction?

Yes. Current arrangements to liquidate numbering and other fees in installments will serve as a waiver (or fulfillment) of this requirement.

13. Can the Commission please clarify that consortia can participate in the auction provided they enter into commercial arrangements with Licensed Network Operators in Nigeria, subject to the 10% eligibility test of their equity in two or more bidders?

Bidders must be qualifying licensed network operators as defined in the Information Memorandum. Applications from consortia will not be accepted. Applications must be in the name of a Nigerian licensed operator.

14. Can licence fees be paid in Naira?

The Intention-to-Bid-Deposit (IBD) must be paid in U.S. Dollars.

During the Auction, Bidders are required to bid in U.S. Dollars. They may, however, effect payment in Naira based on the CBN foreign exchange rate on the date of the provisional award of the licence. Bank account details to facilitate Naira payments will be made available to successful Bidders after the auction upon request.

15. Can the Commission please clarify what manner the Commission's confirmation of payment made by bidders will take?

The Commission will confirm payment of IBDs by contacting the bank. The Commission will only contact Applicants if there are issues relating to their IBD.

16. Can the Commission please clarify the process for the refund of the Intention-to-Bid Deposits (IBD) in the event of an unsuccessful application or bid?

Subject to penalty deductions as set out in the Information Memorandum, Intention-to-Bid deposits will be returned within 10 business days of Applicants being notified that they have not been granted Approved Bidder status, or Bidders being notified of not being successful in the Spectrum Auction.

17. Can the Commission play a more active role in relation to spectrum use and coordination than the Information Memorandum currently provides?

The Commission's view is that, in the first instance, industry participants are best placed to coordinate and minimize mutual interference. The Commission does, however, reserve the right to intervene where it is concerned that unreasonable positions are being adopted by industry participants and/or where the provision of services for the benefit of citizens or consumers is being compromised.

18. The provision of guard bands, especially inter-service guard bands to guard against interference into adjacent spectrum, is not addressed in the body of the Information Memorandum. Can the Commission provide a definitive statement in this regard?

In Section 5.3 of the Information memorandum, the Commission states that licensees are to mutually co-ordinate spectrum use, including the self-imposition of guard bands where appropriate, in order to avoid interference.

19. Can the Commission commit to a definitive programme with indicative time frames for the development of the National Frequency Plan in accordance with the provisions of the Nigerian Communications Act?

The Commission is working on the National Frequency Plan (NFP) and will involve the industry in the finalization of the NFP by the end of 2007.

20. Is the Commission considering a policy position on spectrum trading?

The Commission will make policy pronouncements on spectrum trading at a later date.

21. Will the Commission consider licence payments in installments?

The Commission has considered various licence payment schemes and it considers the most appropriate is for full payment to be made within 14 business days of the provisional award date.

22. Can the Commission provide an indicative timeframe for the licensing of 2G/3G Mobile Virtual Network Operators (MVNOs) in Nigeria?

There are no plans at present to licence MVNOs in Nigeria.

23. Will the Commission consider reserving 2 of the 4 Licences for the National Operators at the reserve price of US \$150 million?

The Commission will not be reserving any spectrum blocks in this auction for any group of licensees.

24. The Information Memorandum states that: "launch of commercial services shall be no later than twelve months after commencement of the Licence Award." However, the Unified Access Service Licence indicated that this should be within six months. Can you please clarify the correct period?

The launch of commercial services shall be no later than twelve months after commencement of the Licence Award. The UASL associated with the 2 GHZ Spectrum Licence award will be updated to reflect this.

25. Can you please confirm the point at which the provisional status of the licence becomes full?

Upon payment of all licence fees Provisional Licences will immediately become full Licences. The Commission will notify all licensees of full licence status in writing.

26. Will parties successful at auction that currently hold a UASL have the option of extending the tenure of that licence to match the tenure of the spectrum licence for a fee of USD\$1M, or is this mandatory?

The licence extension fee is mandatory where the tenure of the UASL is less than 15 years.

27. Can the Commission confirm that the acquisition of any additional numbers is optional for parties successful at auction that currently have numbers available for use?

Acquisition of numbers is optional where licensees already have appropriate numbers available for use and meet the requirements of the Nigerian National Numbering Plan.

28. Can the Commission clarify the following: (a) whether all four Bid Team Members must be named on the Bidder Compliance Certificate; (b) whether all four Bid Team Members must be Authorized Officers; and (c) if they do not, how then should Bid Team Members be designated?

- (a) Yes. All four members of the Bid Team must be named on the Compliance Certificate.*
- (b) All Bid Team Members must be Authorized Officers and indicated as such on the Bid Compliance Form*
- (c) No designation is required on the Compliance Certificate for Bid Team Members that are not Authorized Officers.*

29. Can the Commission please clarify whether it will actively assist and facilitate: (a) Applicants in obtaining a Certificate of Capital Importation for the payment of the IBD; and (b) Successful Bidders in obtaining a Certificate of Capital Importation for the payment of the licence fee and all related payments?

The procedure for obtaining the Certificate of Capital Importation is clearly spelt out by the Central Bank of Nigeria.

30. Why is a fee of US \$1 million being charged to extend the current UASL?

US \$2 million is the fee payable for the 10 year mobile component of the current UASL. US \$1 million is therefore the proportional fee for a five year extension.

31. Can the Commission provide an indicative timeframe for the commencement of the market review toward the introduction of Number Portability in the Nigerian market?

No date has yet been set by the Commission for the commencement of the Number Portability Study.

32. Can the Commission please confirm whether the operating charge of 2.5% per annum stated in the Information Memorandum is an additional charge to the 2.5% AOL that operators currently pay?

The 2.5% annual operating levy referred to in the Information Memorandum is the same 2.5% AOL charge that operators currently pay on each licence.

33. The Commission intends to review usage of this spectrum at 24 months. Can the Commission provide the parameters for this review? What targets are there in terms of 3G population and/or geographic coverage? What is the review process and the likely consequences of a licensee falling short of the Commission's "targets"?

The overriding interest of the Commission is to ensure that spectrum is actively exercised for the benefit of Nigerian citizens and consumers. In this context, if necessary, the Commission will carry out an independent benchmarking study to inform its actions. In any case, the Commission will always consult with licensed operators before commencing any process that could lead to the reasonable imposition of service provision targets or, ultimately, licence revocation.

34. Does the Commission have any plans for “band clearance” of other bands within the IMT-2000 allocation?

This will be subject to the completion of the National Frequency Plan review.

35. What enforcement measures are the Commission able to put in place to ensure that the bands under auction really are clear?

The Commission will ensure that the band is clear.

36. Does the Commission have any perspective or position on the provision of 3G type services by CDMA operators employing CDMA 2000?

The Commission pursues a policy of technology neutrality.

37. Will the Commission make a full disclosure to all parties involved in the auction process of the other parties that have expressed interest to participate in the auction to help Applicants determine their independence from each other?

Submission of an EoI does not guarantee pre-qualification. The Commission will not be announcing the names of organisations that have expressed interest in the spectrum auction. However the Commission will publish the names of Approved Bidders. Applicants are requested to make available all information relating to ownership structure and company holdings to allow the Commission to take appropriate steps.

38. Can the Commission please confirm whether the auction will allow a Bid Team to call at least one designated number to reach its principal?

No access to communication devices will be allowed at any time during the Auction Day within the Auction Rooms.

39. What is the minimum bidding increment percentage in the opening round?

Details of the Auction process will be made known during the Mock Auction. Attendance at the Mock Auction is mandatory for Approved Bidders.

40. What is the maximum bidding increase likely to be in any given Auction Day?

***Phase 1:** On Day 1 of the Auction, the minimum Bid Increment per Round will not exceed 10% and there will be eight or fewer bid rounds. For Day 2 and subsequent days, the minimum Bid Increments and maximum number of Rounds will be determined and communicated at the end of the preceding day.*

***Phase 2:** Bidders should note that Phase 2 will commence within one hour of the conclusion of Phase 1 and that this could occur at any point, including during the first day of the Auction.*

41. Will bidders be expected to bid for a particular block in Phase 1 of the auction?

No. The allocation of specific blocks will be determined in Phase 2 according to bids received.

42. Will the Commission publish prior to the Auction, the format of (1) Opening Bid Form (2) Bid Table and (3) Bid Form?

The Commission will not publish any documents prior to the Auction. Further procedural details of the Auction including bidding forms will be given at the Mock Auction.

43. In the event that there are multiple Tied Bids, there may be fewer than five bid totals to report. Please clarify how this will be reported to the Bid Teams on the Bid Table.

Details of the Auction Process will be made known during the Mock Auction. This will cover the eventuality of tied bids. Attendance at the Mock Auction is mandatory for Approved Bidders.

44. Can the Commission please clarify the Phase 2 Tied Bid Round procedures?

Details of the Auction Process will be made known during the Mock Auction. This will cover the eventuality of tied bids. Attendance at the Mock Auction is mandatory for Approved Bidders.

45. Condition 21.1(b)(i) of the UASL in Appendix D of the Information Memorandum requires “full” commencement of operations within six months of the Effective Date. Can the Commission please clarify what is meant by “full” commencement of operations?

Full commencement of operations is defined by the NCC to mean the roll-out of network services and their uptake by subscribers

46. Can the Commission clarify whether, in circumstances where any Successful Bidder may already hold a DML or UASL that contains a spectrum authorization in an Annexure to the licence, it will be necessary for such a Successful Bidder to take a separate 2GHz spectrum licence or will it instead be permissible for the spectrum Annexure of the Successful Bidder’s existing DML or UASL to be amended to include the 2GHz spectrum?

Every successful bidder in the 2GHz auction will be required to take up a 2GHz Spectrum Licence in the format attached to the IM.

General FAQ and Initial Questions

1. What are the NCC's objectives in releasing this additional spectrum?

The Government's overall aim is to secure the timely and economically advantageous development of digital telecommunications services in Nigeria, to the long-term benefit of subscribers and the national economy. Licence fees create a strong incentive for winning bidders to build out networks quickly, in order to start realizing a return on the licence fees. The auction process will promote effective competition. Both these are to the benefit of the Nigerian economy and subscribers.

2. Why is competition important?

The benefits of competition are clear from observing developments in communications in more mature telecoms markets overseas. Competition delivers more choice, better quality of service and lower prices. The Government believes that competition in the telecommunications market should bring substantial benefits to consumers through the faster roll-out of innovative services and lower prices.

3. What style of award process will be used to allocate spectrum?

It is planned that spectrum will be allocated by auction. The style of auction is as yet undecided.

4. Why allocate by auction?

The NCC anticipates that there will be significant demand for the frequencies in question. As such, it has decided that the auction method is the most suitable means of frequency allocation. Auctions are a fast, transparent, fair and efficient method of allocating the scarce resource of radio spectrum. Auctions offer some important benefits:

- **Efficiency.** *A well-designed auction with well-informed bidders ensures that licenses are awarded to the operators that value them most and can generate greatest economic benefit.*
- **Fairness.** *The selection criterion in an auction is the highest price, which is a transparent means of spectrum allocation.*

It is not the main objective of this auction to raise revenue for the government. The NCC's main objective is to ensure that this process is as fair and transparent and efficient as possible.

5. Won't licence costs just be passed on to subscribers?

In a competitive market, operators treat a licence fee as a sunk cost. They set tariffs in reference to the market and not in relation to the one-off expense of a licence fee. An auction allows the market to determine the commercial value of a digital telecommunications licence. While companies will always seek to maximize revenues and profits, competition will discourage overcharging as demand would fall. If anything, operators will be encouraged to bring innovative services to market quickly in order to realize returns on their investment.

6. How will the auction work?

Spectrum auctions have been used extensively around the world in such countries as the United States, the UK and Australia. There are a number of possible auction designs and methods. The NCC is working with a firm of international telecommunications consultants, PA Consulting Group, to achieve the most appropriate auction design for Nigeria. Decisions on the final auction design will be taken in light of the overall objectives for the process, the likely number of bidders and technical feasibility.

7. When will the licensing process start?

The NCC wishes to license operators at the earliest available opportunity. The process has already started. Consultation with existing Nigerian telecommunications operators on the auction process has been undertaken and a press release has recently been issued. Issue of the Public Notice is expected in January 2007 and of the Information Memoranda thereafter. The full time-frame for the licensing process is being developed and will be published early in early January.

8. What spectrum bands are available at auction?

Three spectrum bands will be available; 3G and 450 MHz bands.

9. Will each spectrum range be auctioned in separate events?

Yes, there will be a separate Information Memorandum and auction event for each of the two spectrum ranges.

10. Will there be a different auction mechanism for each spectrum range?

The NCC anticipates that the conditions for each spectrum range might require a tailoring of the auction process for each spectrum range.

11. In what order will spectrum bundles be auctioned?

The first auction will be for 3G frequency range and then the 450 MHz range.

12. What frequency lots and which range in each lot will be available in each auction event?

This information will be defined in the Information Memorandum for each licensing event.

13. Who can take part in the auction?

Details of those companies / parties that can take part in the auction will be made available in the Information Memorandum. The pre-selection process will be kept as simple as possible.

14. What are the conditions to participate in an auction?

The Information Memorandum will provide the full conditions required for participation in the auction process.

15. Will there be conditions attached to the licensing of spectrum package winners?

Winners of spectrum auctions will receive a licence to launch and operate communications services using that spectrum. There may be specific licensing conditions. These will be contained in the Information Memorandum. The NCC maintains a policy of technology and service neutrality and licensees are therefore free to choose their preferred technologies for deployment.