

## QUESTIONS AND ANSWERS: 2.3 GHZ PUBLISHED IM AND WWASL LICENSES

S/N	Question	Answer
1	<p>We could not submit our expression of interest on the 2.3GHz spectrum purchase on the deadline date due to the fact that our technical partner could not land in Abuja for final consultation as a result of the plane that caught fire at the Nnamdi Azikiwe airport at that time.</p> <p>In view of this, our question is: If we fulfil the prequalification criteria on your recent published memorandum of information, are we still eligible to participate in the auction?</p>	<p>The Expression of Interest (EOI) is not a pre-qualification requirement therefore interested applicants who did not submit expression of Interest can still participate in the auction process.</p>
2	<p>Question</p> <p>Is it possible to have a Naira (=N=) denominated CBN account, where the IBD Naira equivalent payment could be made?</p> <p>Reason/comment</p> <p>We are a Company operating in Nigeria (Please, see name and address below). We believe the USD denominated account is for the ease of payment for interested International companies. We are a domestic company that has funds and source of finance in Naira. In view of this, there is a need to create a level playing field where domestic companies (like ours) would not be disadvantaged due to the CBN foreign exchange policies/processes.</p>	<p>Yes it is possible. Companies that wish to pay in Naira should pay the naira equivalent of the designated amount at the prevailing exchange rate for the date of payment.</p> <p>Payment should be made to the following account:</p> <p>Account name: Nigerian Communications Commission</p> <p>Account Number: 0023755382</p> <p>Sort Code: 058083228</p> <p>Bank: Guaranty Trust Bank PLC</p> <p>Branch: Plot 211, Adetokunboh Ademola Crescent, Wuse II, Abuja</p>
3	<p>Please we would like to find out if we could still submit</p>	<p>It is not mandatory to submit EOI to participate in the auction of the 2.3 GHz spectrum.</p>

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	expression of interest for the 2.3 GHz Spectrum Auction.	Prospective applicants may proceed with the application to participate in the auction in line with the timetable and the requirements of the IM
4	What are the chances of a subsequent license within the same frequency range being awarded within the stipulated time of the subject license?	This 30 MHz slot in the 2.3 GHz band is the only available bandwidth in the band. The rest of the band has been licensed.
5	Can the awardee through its affiliate company provide Internet Services at the retail level?	The Awardee (hereinafter referred to as Licensee) cannot offer service at the retail level. However an affiliate of the Licensee may subscribe for the wholesale services of the Licensee to provide retail services. This will be based on the condition that: <ol style="list-style-type: none"> <li>1. There is no discrimination in pricing and service provision in favour of the affiliate</li> <li>2. There must be accounting separation which will be enforced.</li> <li>3. The affiliate must have the requisite license from the Commission to provide services.</li> <li>4. The Commission will impose and monitor ownership and control restrictions to ensure that the WWASL Licensee does not have the ability (whether acquired through voting power or any agreement or arrangement) to cause the affiliate to take or prevent it from taking decision(s). or that may encourage anti competitive conduct.</li> </ol>
6	What regulatory over-sight will the NCC impose on the wholesaler?	The Commission will carry out the same regulatory oversight as applicable to other operators in the industry.
7	What is the current cost of a Unified Access Service License?	The current cost of a full Unified Access Service License (UASL) is three hundred and seventy four million, six hundred thousand naira only (N374.6 million).
8	How much time will the successful bidder have before paying all specified fees associated with receiving the license?	Please refer to Section 4.9.2 of the Information Memorandum (IM)
9	Does the Government (NCC) plan to be involved in interconnect agreements between wholesaler and retailers?	Please refer to Section 4.4 of the IM.
10	Has NCC developed the tariff rates for the wholesaler yet? If so, is access available to bidders?	The Commission only approves tariff developed and submitted by licensees
11	Is it true that a separate license must be applied for the backhauling of traffic?	Yes. The Commission administratively processes backhaul frequency licenses for licensees who require them for their operation. This is separate from the 2.3 GHz frequency on auction.

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12	How long would it take to refund the bidding money?	Refunds will be made not later than 30 days of notification of failure to qualify.
13	Is there a requirement for local participation?	In line with the terms of the IM, applicants must be registered with Corporate Affairs Commission (CAC) to participate.
14	How does NCC view partnership with Foreign entities?	NCC does not have any objection to partnering with Foreign entities.
15	What (if any) tax incentives and import waivers for Equipment will be available for the winner? We kindly request NCC share details at this time.	None
16	Is Submission of expression of interest necessary to submit an application by Feb 7 due date?	No
17	Is a business plan or any technical write up required for pre-qualification?	No
18	What criteria will NCC use to pre-approve?	Please refer to Section 2.5 of the IM
19	What license, if any, will be required to be a retail provider?	Any License issued by the Commission which has 'Scope' and ' Limitations' that permits it to render service at the retail level. It must be noted however that for licenses which permit the provision of services at both wholesale and retail levels, the Commission will strictly enforce accounting separation.
20	Clarification is required on whether a successful bidder who does not have a UASL may be permitted to partner with an existing operator who holds such UASL, as an alternative to paying the N155m stipulated in the IM	No. A successful bidder without a UASL license will be issued a WWASL license upon payment of the specified fees.
21	There are 3 other existing licensees in the 2.3GHz band. We seek the Commission's clarification on what the role and status of such existing licensees will be following the allocation of the remaining slots to a Wireless Wholesale Access Service Licensee (WWASL) Clarification is required particularly in view of the fact that the existing 2.3GHz licensees all currently offer high speed internet broadband services for retail purposes.	The 3 existing licensees in the band are like any other licensee and will continue to offer services in line with their existing license conditions
22	We seek clarification on the status of existing international submarine cable infrastructure and	The submarine cable infrastructure and landing station licensees will continue to provide their services based on their license conditions. The WWASL licensee may be a subscriber of

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	landing station licensees who already provide both wholesale and retail broadband services to the market. How will they be affected by the WWASL licensee?	the Submarine cable infrastructure and landing station licensees for bulk International bandwidth. They are playing in different segments of the market.
23	We seek clarification regarding the alignment of the proposed WWASL and existing UASL. We would appreciate the Commission's clarification on measures to be implemented to prevent existing UASL holders being unfairly prejudiced by the WWASL.	The Commission does not envisage any prejudice.
24	We seek the Commission's confirmation that the proposed 2.3GHz band for auction will be free and clear nationwide. We would appreciate clarification on NCC's strategy to ensure the availability of the proposed band nationwide.	The band is free and available nationwide. Please also see Section 5.6 of the IM
25	We seek the Commission's clarification whether the license fees paid will be refunded by the Commission in the event that 3rd party litigation in respect of the allocated 2.3GHz band renders the spectrum unusable for the successful bidder. We respectfully believe the Commission should give serious consideration to that eventuality.	Third party litigation is not envisaged. However in the unlikely event of a third party litigation that prevents the successful bidder from commencing service, the license fee will be refunded if the winner so desires
26	We seek the Commission's confirmation as to whether the Reasons why an applicant for the 2.3GHz license failed to Prequalify after the NCC's assessment will be provided.  Furthermore, in the event that the factors disqualifying an applicant are rectifiable; would the NCC allow additional time for the rectification/regularization of the deficiency?	Yes the reasons will be provided  For purposes of fairness and equity there is no provision for remedial actions.
27	Bearing in mind the regulatory restrictions around the	The Commission is not making provisions for local entities to source foreign exchange.

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	conduct of capital intensive transactions in foreign currency, we seeks the Commission's clarification on what provisions will be made for local entities to source for Foreign Exchange. To this end, we seek NCC's confirmation whether payment of the Naira equivalent of requisite fees will be considered; as was adopted for the 3G license payments in the past.	Please see answer to Question 2
28	Bearing in mind that some operators already have 3.5GHz with UASL which they use to deliver the same TDD service at retail level (Integrated Structure); we seek clarification on how the Commission proposes to separate this from the 2.3GHz wholesale-only model, especially since the same core and charging system may be used in both instances.	The 2.3 GHz and 3.5 GHz are separate licenses. Accounting separation between both licenses will be enforced.
29	We are concerned that the 2.3GHz WWASL auction may change the model already used for 3.5GHz. We thus seek the Commission's clarification on what will happen to the integrated service on 3.5GHz.	2.3 GHz and 3.5 GHz are different licenses that will run independently.
30	We seek clarification on which licensees will be allowed Ownership of customer premise equipment — the 2.3GHz wholesaler or the retailer?	This is dependent on the business model of the wholesaler.
31	We seek clarification on which licensees will be allowed ownership of requisite charging systems — the 2.3GHz wholesaler or the retailer?	Depending on business model, the requisite charging systems can either be owned by the Wholesaler or both can have separate charging systems.
32	We seek clarification on whether the Commission will consider revenue split between wholesaler and retailer following the WWASL. We would appreciate further information on how the revenue share will be determined, considering the investment required on	The Commission does not envisage that revenue sharing will be applicable in the relationship between the WWASL Licensee and the retail level service providers.

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	the wholesaler's side.	
33	We note that the proposed term for the WWASL is 10 years; we are concerned that this appears divergent from the 15-year term applied for previous licenses. We thus seek the Commission's confirmation whether an extension of the proposed term from 10 to 15 years will be considered.	The license tenure is not divergent from what applies to some other licenses of the Commission. This license is based on 10 years tenure which is renewable.
34	We seek the Commission's kind clarification whether the WWASL will be limited to wholesale wireless services or whether the scope will permit provision of other services. It is our respectful view that the WWASL should not encompass services provided under the UASL.	The scope and limitation of the WWASL are defined in the WWASL license document appended to the IM
35	We seek clarification on whether the WWASL licensee would be able to operate as or support a retail service provider; as nothing in the Information Memorandum appears to preclude such option.	The licensee cannot operate as a retailer. Please see answer to Question 5.
36	According to the IM, interested applicants are not required to submit technical and financial plans. Under the circumstance, we would like to confirm measures being put in place by the Commission to ensure that the successful bidder, particularly, if it is a new entrant, has the technical and financial capabilities to satisfy the roll out targets specified in the IM.	There is a rollout obligation which will be strictly enforced.
37	The IM indicates that an interested applicant could forfeit the Intention to Bid Deposit (IBD) and be disqualified from participating in the Auction. Considering the significance of this penalty on the applicant, the Commission is invited to specify acts that could lead to forfeiture of the IBD and disqualification of an applicant from the Auction, so as to guide all	All the applicable acts are as specified in various sections of the IM

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	stakeholders accordingly.	
38	The IM specifies that applicants are required to notify the Commission of any cross-investments with other Licensed Network Operators 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 provision, we request the Commission to define the categories of companies operating in the Communications Sector which would be classified as 'Licensed Network Operators'	This requirement applies to all licensed operators operating telecommunications networks in Nigeria.
39	There are some uncertainties in the IM as to the market segments to be served by the successful bidder/licensee. In particular, it is unclear if the successful bidder/licensee will provide wholesale services (i.e. services to other telecommunications companies) or will be allowed to provide services to end users. It is important that this be clearly specified at this stage to guide prospective investors.	The scope and limitation of the WWASL are defined in the WWASL license document appended to the IM
40	Given that there is only a slot available for Auction on the 2.3GHz Spectrum band, the Commission is respectfully required to confirm measures being taken to ensure that the Ascending Auction method to be applied in the exercise does not result in the winning bid becoming exceptionally high, in such a way as to be detrimental to the capacity of the successful bidder to meet the roll out targets.	The Commission does not expect any bidder to bid beyond its assessed bid value.

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41	<p>The IM specifically indicates that the successful bidder shall be encouraged to enter into roaming arrangement with other existing operators to offer ubiquitous and seamless communication services across the country.</p> <p>It is unclear if an operator that is licensed to provide wholesale services has need for national roaming, especially considering Condition 23 of the WWASL which states that the "licensee shall only render services to licensed operators..."</p> <p>Can it be taken that the successful conclusion of the 2.3GHz Spectrum Licence Auction will usher in a national roaming regime for all interested operators?</p>	<p>National roaming enables an operator to expand its reach. Therefore such operator who is licensed to develop the network may still require strategies to expand reach, in this case through roaming.</p> <p>Authorisation for national roaming already exists for applicable license categories</p>
42	<p>The IM states that sanction would be imposed on the successful bidder should it fail to roll out services after 12 months from the date of award of the 2.3GHz Spectrum Licence. We also observe that under Condition 20.1 of the WWVASL, one of the conditions fixed by the Commission for suspension or license revocation is where a Licensee does not fulfill the Network Roll Out Implementation as determined by the Commission. The Commission is invited to clarify which of the two proposed regulatory actions will apply in the circumstance.</p>	<p>Depending on the circumstances, the Commission reserves the right to apply any of the provisions as appropriate.</p>
43	<p>The IM indicates that the Commission could request for the replacement of a member of the Bid Team of an interested applicant but there was no mention of circumstances that could warrant this development. To assure transparency and fairness in the process, the</p>	<p>These include circumstances that could lead to conflict of interest and circumstances that the Commission considers may jeopardise the integrity of the auction process.</p>



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	Commission is respectfully requested to specify circumstances that would warrant such replacement.	
44	In Section 6.5.3 of the IM, the document referred to an Auction Team without defining same anywhere in the document. The Commission is invited to define in Appendix A 'Glossary of Terms' the composition of the Auction Team.	The meaning of Auction Team is the Commissions team reposed with the responsibility of managing the auction which includes the Auction Overseer, the Auction Manager, the Auction Administrator and other persons mandated by the Commission to be involved in the auction process.
45	The IM also indicates that financial penalty would be imposed on interested applicants whose representatives fail to abide by the rules of the 2.3GHz Spectrum Auction. It is considered proper that the financial penalties be specified.	The financial penalty to be imposed shall be at the discretion of the Commission, but cumulatively, this will not exceed the bid deposit.
46	<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:</p> <p>i. If significant or material compliance with the templates provided is acceptable;</p> <p>ii. Whether photocopies of the incorporation documents requested in Section 73.2 would suffice or the documents should be Certified True Copies?</p>	<p>To ensure fairness and equality in the treatment of all applicants, the Commission reiterates that it requires applicants to fully comply with the templates provided. This is particularly imperative as a determination of what constitutes 'significant' or 'material' compliance may be challenged as being subjective in the present circumstances.</p> <p>Considering the challenges that companies sometimes experience in the process of obtaining Certified True Copies (CTC) of incorporation documents, the Commission will accept photocopies of the documents listed in Section 7.3.2 of the IM. The Commission however reserves the right to conduct a due diligence on the applicants at the Corporate Affairs Commission (CAC).</p>
47	By virtue of Condition 23 of the WWASL, the successful bidder/licensee is authorized to construct, maintain, operate and use a network consisting of a mobile communications system, fixed wireless telecommunications systems, or a combination of any	For purposes of provision of services by the Wholesale Wireless Access Service Licensee, the stakeholders currently referred to as 'Retail Service Providers' are the Internet Service Providers (ISPs) and any other license category that the Commission may establish in the future.

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	of these systems comprising radio or satellite or their combination, in the designated licensed area, deployed for the purpose of providing point to point or switched/unswitched point to multipoint communications for the conveyance of voice, data, video or any kind of message. The licensee shall only render the services to licensed operators, including retail service providers. The Commission is invited to clearly define stakeholders classified as retail service providers.	
48	Condition 16.5 of WWASL further states that where the licensee fails, refuses or neglects to pay the assessed Annual Operating Levy (AOL) within a period of 90 days, after it becomes due, the assessed amount together with interest at the prevailing Minimum Rediscount Rate (MRR) shall become due and payable to the Commission. It is noted that this is a proposal in the Draft AOL Regulation which is yet to be finalized, as it is considered unfairly discriminatory if applied to this licensee and not others.	Contrary to the observation on Condition 16.5 of the Wholesale Wireless Access Service Licence (WWASL), the requirement that failure, refusal or neglect to pay duly assessed AOL within a period of 90 days shall attract interest at the prevailing Minimum Rediscount Rate (MRR) is not only contained in the draft AOL Regulations. This requirement is already operational in the industry as it is part and parcel of the Unified Access Service Licence (UASL).
49	What will be the relationship between the WWASL and the Infraco under the NCC Open Access Model	Based on the Open Access Model, it is envisaged by the NCC, that wherever the Infraco has services, the WWASL Licensee will give priority to taking capacity from the Infraco