

2.6 GHz Spectrum Auction Information Memorandum



Nigerian Communications Commission
October 10 2014

EXECUTIVE SUMMARY

Background

The Nigerian Communications Commission (the Commission) since the year 2000 has implemented a number of initiatives and policies that have stimulated the whole of the Nigerian telecommunications sector. As a result there has been a significant increase in the provision of liberalised and competitive services leading to major increases in the number of mobile subscriber connections throughout the country. Given its position as one of the most progressive national regulatory authorities in Africa and its drive to deepen broadband penetration in the country, the Commission has decided to license the entire 2 X 70 MHz slot available in the 2.6 GHz band to support the delivery of broadband wireless services nationally.

Nigeria is the most populous nation in Africa with a population of about 173.6 million people as at 2013 according to the World Bank. The population has grown at a rate of 2.3% for each year from 2000 to 2013¹. Approximately 60% of the population is under the age of 20². In line with these demographic changes internet penetration has increased from less than 0.1% in 2001 to about 40% in 2013. The 2012 National ICT policy placed broadband internet penetration for both mobile and fixed broadband at about 6.1%.

Given key demographic and economic developments throughout the country, and in particular the subsequent potential scale and growth of internet penetration in Nigeria, the next phase of expansion in the telecommunications sector provides a number of major opportunities for telecommunications operators, subscribers and the economy in general.

This Information Memorandum (IM) defines the process that the Commission has decided to adopt for the licensing of 2 X 70 MHz paired Spectrum available in the 2.6 GHz band. It provides information on the Nigerian telecommunications market, details of the Spectrum to be made available, the pre-qualification process, the Auction process and indicative timetable.

Spectrum License Allocation

Since the year 2000, the Nigerian telecommunications market has witnessed major increase in competition driven by the Government's liberalisation policies. The development of competition has, in turn led to increased growth in the number of connections and improved services for subscribers as anticipated.

The proposed licensing of 2.6 GHz Spectrum has been influenced by the need to open up the space for the delivery of present and future generations of broadband services to subscribers in consonance with the Nigerian National Broadband Plan of 2013.

¹ Source: World Bank (WDI), 2013

² Source: Business Monitor International

The Commission has consulted with the relevant industry stakeholders to determine the demand and the best way to issue the Spectrum. Based on these and observations of developments in international licensing trends, the Commission has decided to license the available 2 X 70 MHz slot in slots of 5 MHz to be aggregated by applicants through the Spectrum auction process.

The Spectrum and Reserve Price

The Commission offers 14 Lots of 2 X 5 MHz FDD paired Spectrum in the 2.6 GHz band ranging from 2500 – 2570MHz and 2620 to 2690MHz (totalling 2 X 70 MHz) for auction. The Lots are shown in Table 1 below:

Table 1: Available 2.6 GHz Lots

Lots	Primary Frequency MHz	Paired Frequency MHz
1	2500 - 2505	2620 - 2625
2	2505 - 2510	2625 - 2630
3	2510 - 2515	2630 - 2635
4	2515 - 2520	2635 - 2640
5	2520 - 2525	2640 - 2645
6	2525 - 2530	2645 - 2650
7	2530 - 2535	2650 - 2655
8	2535 - 2340	2655 - 2660
9	2540 - 2545	2660 - 2665
10	2545 - 2550	2665 - 2670
11	2550 - 2555	2670 - 2675
12	2555 - 2560	2675 - 2680
13	2560 - 2565	2680 - 2685
14	2565 - 2570	2685 - 2690

The Spectrum is offered by the Commission on a technology neutral basis. However, for roll-out of services, the Commission intends to follow the International Telecommunication Union (ITU) recommendation setting aside Spectrum in the 2.6GHz band for the provision of Advanced wireless broadband services.

The Generic Reserve Price (GR) is the minimum price at which a Lot shall be sold, which is the Reserve Price for one Lot of 2 X 5MHz and has a value of: Sixteen Million United States Dollars only (US\$16,000,000.00)

Each lot of 2 X 5 MHz represents 1 eligibility point. An applicant that pays the IBD for 6 lots will have a total of 6 Eligibility Points.

The Reserve Price (R) for an applicant will be calculated as the GR multiplied by the number of lots (N) applied for by the applicant.

For Example, Reserve Price for an Applicant that applied for 6 Lots i.e. 6 Eligibility Points is: US\$16,000,000.00X 6 = US\$96,000,000.00

"On completion of the Auction process, the Commission will issue each winner a ten (10) year National Spectrum license on a State by State basis and the Federal Capital Territory. Each winner who does not currently hold a Unified Access Service License (UASL) which is the Operational License, will be issued

one at an additional fee of Three Hundred and Seventy Four Million, Six Hundred Thousand Naira only (N374,600,000.00)"

Prequalification Criteria

Applicants in this allocation process will not be required as a pre-qualification criterion to hold any telecommunications operational license in Nigeria. However, the applicants must fulfil the following pre-qualification criteria:

- Applicants must be a company registered in Nigeria with the Corporate Affairs Commission (CAC)
- Applicants must be independent (10% ownership interest test as defined in Section 6.6.2 of this IM) from all other Applicants under this allocation process
- Applicants must transfer an Intention-to-Bid Deposit (IBD) for the amount described in Table 2 into the designated account in cleared funds. This deposit will bind the Applicant to take up a License, should it be a Successful Bidder, at the Reserve Price or any higher bid value submitted during the process
- Licensed Operators participating in the process must fulfil all existing obligations to the Commission including payments of Annual Operating Levy, Spectrum and National Numbering Plan fees prior to prequalification.

The Assignment Process

The assignment process will comprise an Auction to be held in Abuja. It is planned that the Auction will take place during the week commencing December 01, 2014. The Auction will be an Ascending Clock Auction with exit bids described in more details in Section 6.

Media briefings will be provided at various stages during the process, leading to the public announcement of the final Auction result.

Next steps

The next step for Applicants, in accordance with the full instructions laid out within this Information Memorandum, is to submit a completed application, including appropriate template documentation and confirmation of transfer of the IBD, by 17.00 hours Nigerian Time (NT) on November 17, 2014.

All documentation relating to the process, including the Public Notice already published concerning the process will be made available through the Commission's website (www.ncc.gov.ng). Additional questions or requests for further information should be submitted by email to: spectrumbauction@ncc.gov.ng.

All questions relating to this Information Memorandum should be submitted as soon as possible and in any case before 15.00 hours NT on October 27, 2014. The Commission expects to publish all responses, where appropriate, by 17.00 hours NT November 03, 2014 on its website. This will ensure that information can be made available in an equitable fashion to all applicants. The responses to the questions will form part of the Information Memorandum.

The Timetable is subject to change. Interested parties are therefore advised to visit the Commission's website on a regular basis to ensure they have the latest information.

The attention of all applicants taking part in all or part of this process is drawn to the "Important Notice" included in this document.

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1. IMPORTANT NOTICE

This Information Memorandum has been prepared by the Nigerian Communications Commission (The "Commission").

This Information Memorandum is for information purposes only. It is made available on the express understanding that the recipient will only use it for the sole purpose of assisting the recipient in deciding whether it wishes to proceed with a further investigation of possible participation in the Auction. 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 Auction and should not be considered as a recommendation by the Commission to any recipient of the Information Memorandum to participate in the Auction. Each recipient must make its own independent assessment of the potential value of an allocation of the 2.6 GHz Spectrum after making such investigation as it may deem necessary in order to determine whether to participate in the Auction. Information in this Information Memorandum may be subject to update, modification and amendment.

The information contained in this Information Memorandum is believed to be accurate. Neither the Commission nor any of its directors, partners, officers or employees make any representation or warranty (express or implied) nor accept nor will accept any responsibility or liability as to, or in relation to, the accuracy or completeness of the information contained in the Information Memorandum or any other written or oral information made available to any interested party or its advisers. Any liability in respect of any such information or any inaccuracy in the Information Memorandum, or omission from the Information Memorandum, is expressly disclaimed.

The Information Memorandum does not constitute an offer or invitation to participate in the Auction, nor does it constitute the basis of any contract that may be concluded in relation to the Auction or in respect of any allocation of the 2.6 GHz Spectrum.

Recipients are not to construe the content of this Information Memorandum 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 Auction or any allocation of 2.6 GHz Spectrum. The Commission does not accept any liability whatsoever consequent upon the issuance of this Information Memorandum and in particular shall not be liable to any Bidder, 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 publication of and/or reliance of such person on this Information Memorandum or participation in the Auction.

This Information Memorandum is also available through the Commission's website (www.ncc.gov.ng). In the event of any discrepancy between the electronic and printed versions, the printed version is definitive. For the purposes of the above, recipients of the Information Memorandum include those interested parties who download the Information Memorandum from the website.

Important Note

Pursuant to the issuance of this Information Memorandum, the Nigerian Communication Commission reserves the right to make available additional relevant information through the publication of further documentation. Where questions appropriate to the licensing process and submitted through the correct channel have been received, the Commission reserves the right to reproduce such questions, in whole or in part, in addition to answers as part of a Question and Answer section on the official website www.ncc.gov.ng. The Commission is not compelled to publish all questions submitted. The identity of those submitting questions will not be made public without the express consent of the relevant party.

Copies of this and other documents relevant to this licensing process are available and can be downloaded from the Commission's website. Interested parties are encouraged to stay abreast of developments in this licensing process by referring to the Commission's website regularly.

2. INTRODUCTION

2.1 LICENSING OF 2.6 GHz SPECTRUM

This Information Memorandum (IM) defines the process for the licensing of paired Spectrum in the 2.6 GHz band by the Nigerian Communications Commission (the Commission).

The process for the licensing of the 2.6 GHz Spectrum is predicated on demands by operators for additional Spectrum to enable the provision of Advanced Wireless Broadband services in line with international trends. This is also in furtherance of the objectives of the Federal Government of Nigeria as set out in the Nigerian National ICT Policy 2012 and the Nigerian National Broadband Plan 2013.

As a necessary prelude to the licensing process, the Commission conducted stakeholder consultations to determine the demand level for the Spectrum, the approach to licensing and the potential interest of the consumers amongst other objectives. Based on the positive outcome of these consultations, and the direction of the National Broadband Plan, the Commission has decided to undertake an Auction to award Spectrum licenses to build and operate networks in this Spectrum band to provide Advanced Broadband Wireless Services to subscribers in Nigeria.

To qualify to bid in the Auction, the Applicants will not have to be Licensed Network Operators in Nigeria. However, any successful Bidder who does not have a Unified Access Service License (UASL) will be granted one upon payment of the specified fee. The tenure for the UASL will be Ten (10) years, subject to renewal.

2.2 THE NIGERIAN TELECOMMUNICATIONS MARKET

2.2.1 The Government

The Federal Government, through the Ministry of Communications Technology, sets the general policy guidelines for the sector.

2.2.2 The Regulator

The Nigerian Communications Commission is the independent National Regulatory Authority for the telecommunications industry in Nigeria. It is responsible for developing the telecommunications sector, encouraging competition and ensuring that telecommunications operators provide high quality and efficient services throughout the country. The Commission is regarded as one of the most progressive national regulatory authorities in Africa.

2.2.3 The Operators and Service Providers

There are currently five National Digital Mobile licensees in Nigeria; Airtel Networks Nigeria Limited (Airtel), Emerging Markets Telecommunications Services Limited (Etisalat), Glo Mobile Limited (Glo), Nigerian Mobile Telecommunications Limited (Mtel), and MTN Nigeria Limited (MTN). In addition to two licensed National Carriers, there are several service providers offering Wireless Broadband Services based on LTE and UMTS technologies. Furthermore, there are a couple of other Operators offering fixed telephony services, including Fixed Wireless Access (FWA) and CDMA-based fixed and mobile services.

The growth of the Nigerian Telecommunications sector, since liberalisation, makes this Auction a unique investment opportunity. Nigeria is the most populous nation in Africa with a population of over 168.8 million people and has grown at an average rate of approximately 2.3% each year from 2000¹. The country has a young demographic index, with 60% of the population under the age of 20².

Growth in the sector has been spectacular with mobile penetration up from less than 1% in 2001 to over 94% in June 2014³. In addition, Internet penetration grew from 3% in 2004 to about 32% in 2012 and broadband penetration stood at 6.1% in 2012⁴.

A key factor in this growth has been attributed to the liberalisation Policies of Government and competition initiatives of the Commission.

2.3 2.6 GHz SPECTRUM AVAILABILITY

The Commission offers 14 Lots of 2 X 5 MHz FDD paired Spectrum in the 2.6 GHz band ranging from 2500 – 2570MHz and 2620 to 2690 MHz (totalling 2 X 70 MHz) for auction. This will be awarded to winning Bidders in multiples of 2 X 5 MHz Lots aggregated in contiguous arrangements. The Lots of frequency is shown in Table 1 below;

Table 1: Available 2.6 GHz Lots

Lots	Primary Frequency MHz	Paired Frequency MHz
1	2500 - 2505	2620 - 2625
2	2505 - 2510	2625 - 2630
3	2510 - 2515	2630 - 2635
4	2515 - 2520	2635 - 2640
5	2520 - 2525	2640 - 2645
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11	2550 - 2555	2670 - 2675
12	2555 - 2560	2675 - 2680
13	2560 - 2565	2680 - 2685
14	2565 - 2570	2685 - 2690

The Spectrum is offered by the Commission on a technology neutral basis. However, for roll-out of services, the Commission intends to follow the International Telecommunication Union (ITU) recommendation setting aside Spectrum in the 2.6GHz band for the provision of Advanced wireless broadband services.

2.4 RESERVE PRICE

The Generic Reserve Price (GR) is the minimum price at which a Lot shall be sold, which is the Reserve Price for one Lot of 2 X 5MHz and has a value of: Sixteen Million United States Dollars only (US\$16,000,000.00)

¹ World Bank (WDI) 2013

² Business Monitor International, 2013

³ Nigerian Communications Commission, 2014

⁴ Nigerian National Broadband Plan, 2013

Each lot of 2 X 5 MHz represents 1 eligibility point. An applicant that pays the Intention-to-Bid Deposit (IBD) for 6 lots will have a total of 6 Eligibility Points.

The Reserve Price (R) for an applicant will be calculated as the GR multiplied by the number of lots (N) applied for by the applicant.

For Example, Reserve Price for an Applicant that applied for 6 Lots i.e. 6 Eligibility Points is: US\$16,000,000.00 X 6 = US\$96,000,000.00

Table 2: Lots & Prices for 2.6 GHz

S/N	NO OF LOTS APPLIED FOR	RESERVE PRICE (US\$)	INTENTION TO BID DEPOSIT (IBD) (US\$)	ELIGIBILITY POINTS
1	4	64,000,000.00	6,400,000.00	4
2	5	80,000,000.00	8,000,000.00	5
3	6	96,000,000.00	9,600,000.00	6
4	7	112,000,000.00	11,200,000.00	7
5	8	128,000,000.00	12,800,000.00	8

Note: Bidders are free to apply for any number of Lots from 4 to 8; that is not less than 4 and not more than 8.

2.5 THE AUCTION PROCESS

The Commission has determined that Auction is a fair, transparent and efficient means of assigning the Spectrum. The Auction of the available Lots in the entire 2 X 70 MHz block of the 2.6 GHz Spectrum band will take place in the city of Abuja in the Federal Republic of Nigeria at a location to be specified by the Commission.

The formal licensing process started with the issuance of Public Notice No. 1/2014 on the August 15, 2014 and continues with the release of this IM, inviting interested parties to participate. The release of this IM will be followed by a period for the submission of questions to the Commission relating directly to the licensing process defined in this IM. All additional information, including the answers to questions raised during the process will be made available through the Commission’s website and will form part of this IM. The identity of questioners will not be revealed. The auction will be an Ascending Clock Auction with Exit Bids as described in Section 6.

This Spectrum is considered to be a valuable national resource for which commercial opportunities exist. The Reserve Price for a ten (10) year license is dependent on the Generic Reserve Price and the Number of Lots (Eligibility Points) applied for by an applicant determined by the IBD paid.

The Generic Reserve Price (GR) is the minimum price at which a Lot shall be sold, which is the Reserve Price for one Lot of 2 X 5MHz and has a value of: Sixteen Million United States Dollars only (US\$16,000,000.00)

Each Lot represents 1 Eligibility Point. An applicant that applies for and pays the IBD for 6 lots will have a total of 6 Eligibility Points.

The Reserve Price (R) for an applicant will be calculated as the Generic Reserve Price (GR) multiplied by the number of lots (N) applied for by the applicant. This is represented in the formula below and summarized in Table 2:

$$R = GR * N \text{ -----Equation 1}$$

For Example, Reserve Price (R) for an Applicant that applied for 6 Lots i.e. 6 Eligibility Points is: US\$16,000,000.00* 6 = US\$96,000,000.00

The Opening Bid for each applicant will be determined by the Commission as the Generic Reserve Price (GR) per Lot plus the Bid Increment (BI) for the Opening Round multiplied by the Number of Lots applied for by the applicant (N). This is represented in the formula below:

$$\text{Opening Bid} = (\text{GR} + \text{BI}) * \text{N} \text{ ----- Equation 2}$$

This Opening Bid shall be the minimum acceptable bid for this license in the opening round of the auction.

On completion of the Auction, each Successful Bidder will be deemed to have been awarded a provisional license and will be required to pay the balance (Winning Bid Amount Less the IBD) of the Spectrum license fees due to the Commission on or before January 07, 2015.

2.6 THE PRE-QUALIFICATION PROCESS

To qualify to bid in the Auction, Applicants will not have to be Licensed Network Operators in Nigeria. However, Applicants will have to be companies registered in Nigeria with the Corporate Affairs Commission. Interested parties will be subject to a set of pre-qualification criteria and only parties that meet these criteria will be allowed to take part in the Auction. The criteria are:

- Applicants will not be required to submit financial and/or technical plans in the pre-qualification process, however, details must be provided in accordance with the compliance requirements laid out in Section 6.5.2.
- Applicants will be required to submit information using the templates provided in this Information Memorandum.
- Applicants must transfer an Intention-to-Bid Deposit (IBD) corresponding to the number of lots they wish to bid for (Please refer to Table 2) into the designated account in cleared funds not later than 17.00 hours Nigerian Time on November 17, 2014. A Bank Guarantee, or similar instruments, will not be acceptable. This deposit will bind the Applicant to take up a license, should it be a Successful Bidder, at the Reserve Price or any higher bid value submitted during the process.

For Example, an Applicant that applied for 6 Lot, i.e. having 6 Eligibility Points must transfer \$9,600,000.00 into the designated account in cleared funds.

- Bidders must not have a relationship with another Bidder. A relationship is defined as a situation where a Bidder has directly or indirectly an ownership stake of 10% or more in another Bidder.

Interested parties should note that information in this IM does not purport to be complete or totally accurate. The IM is provided to highlight a number of issues relating to the licensing process and Applicants are advised to undertake their own due diligence.

2.7 INDICATIVE TIMETABLE

Table 3: Auction Process Timetable

Date	Activity
	Invitation Stage
August 15, 2014	Publication of Meeting for Stakeholders Consultation/ Intention to Auction
October 10, 2014	Publication of Information Memorandum / Application Start Date
October 27, 2014	End date for comments and questions on IM
November 03, 2014	Publication of response to comments and questions on IM
November 17, 2014	End of submission of Application
	End Date for Payment of mandatory intention to bid deposit
	Pre-Qualification Stage
November 24, 2014	Notification of Qualified Bidders
	Notification of Mock Auction and Auction date
	Publication of [qualified bidders and] Mock Auction and Auction date
	Auction Stage
December 01, 2014	Mock Auction
December 02 – 05, 2014	Auction
	Grant Stage
December 05, 2014	Publication of Provisional winners
	Notification of provisional award of license
January 07, 2015	Payment for License
January 08, 2015	Publication of Final result

2.8 INFORMATION MEMORANDUM STRUCTURE

The remainder of this document is structured as follows:

Section 3 *The Nigerian Telecommunications market* – information on the development and current state of the Nigerian telecommunications industry and its key players

Section 4 *The Regulatory Environment* – overview of the Commission’s regulatory remit and selected regulatory frameworks governing the licensing and operation of telecommunications services in Nigeria

Section 5 *Spectrum offered* – specific description of the Spectrum block on offer and its relationship to the National Frequency Plan, in addition to information on various technical and operational topics

Section 6 *Auction process* – information on the specific style of the Auction procedure including information on pre-qualification criteria, Auction timing and Auction rules

Section 7 *Instructions to Applicants* – information and instructions for parties wishing to apply to

take part in the process. Instructions relate to template documentation, license applications forms and the IBD

Section 8 *Contact details and further information* – contact details relating to specific activities within this process and for the submission of questions

Appendices Template documentation examples, copies of the applicable licenses and an Auction process overview diagram.

3. THE NIGERIAN TELECOMMUNICATIONS MARKET

3.1 INTRODUCTION

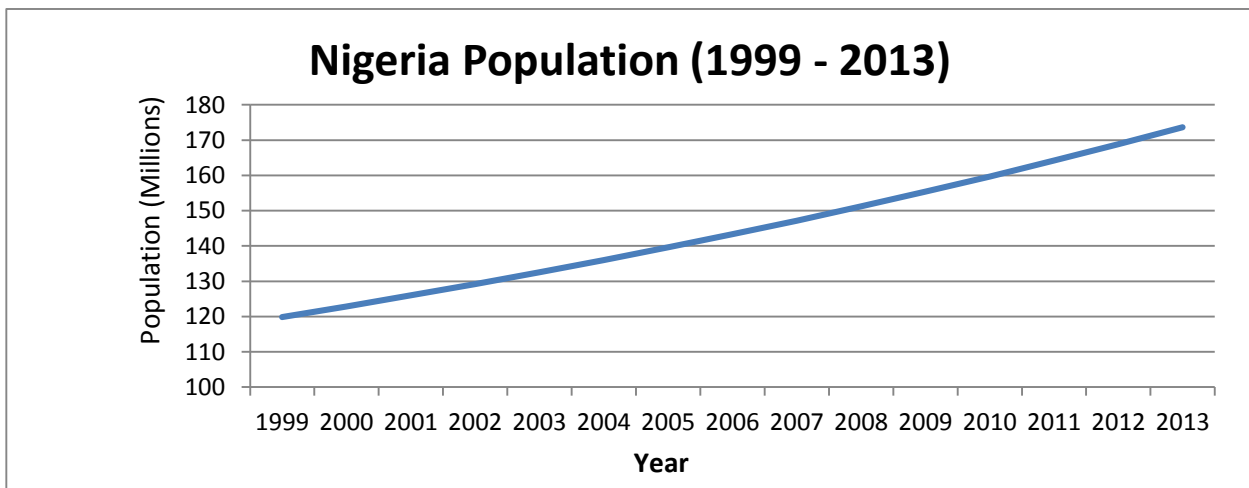
This section summarises selected demographic data for the Nigerian market and historical developments in the Nigerian telecommunications sector. It also provides a high-level overview of current mobile and fixed operators.

3.2 NIGERIAN POPULATION DEMOGRAPHICS

3.2.1 Nigerian Population Evolution

Nigeria's total population, at approximately 173.6 million is the largest in the Middle East / Africa region. It has grown, on average, at a rate of approximately 2.3% a year since 2000¹; see Figure 1. In addition, Nigeria has a young population with approximately 60% under the age of 20².

Figure 1: Nigerian Population Evolution (1999-2013)



3.2.2 Nigeria GDP Per Capita PPP

Nigeria GDP per capita Purchasing Power Parity (PPP) has been on an upward trend as shown (see Figure 2).

Figure 2: Nigeria GDP Per Capita PPP



¹ World Bank 2014

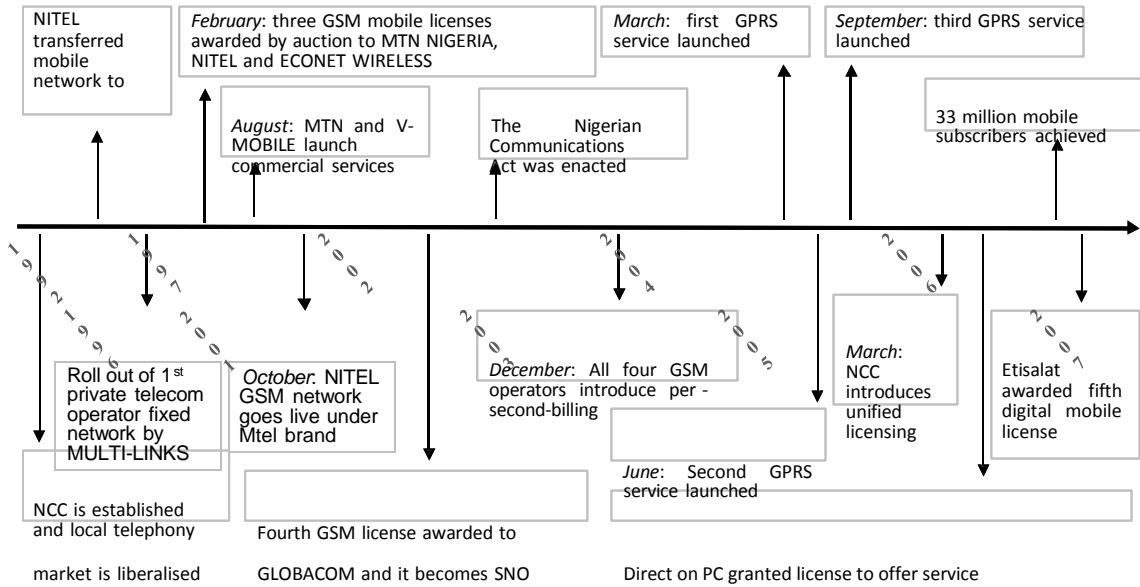
² National Population Commission 2014

3.3 DEVELOPMENT OF THE NIGERIAN TELECOMMUNICATIONS MARKET

The Commission was established in 1992 as the independent National Regulatory Authority for the Telecommunications Industry in Nigeria. The Commission is responsible for creating an enabling environment for competition among Operators in the Industry, as well as ensuring the provision of high quality and efficient telecommunications services throughout the country.

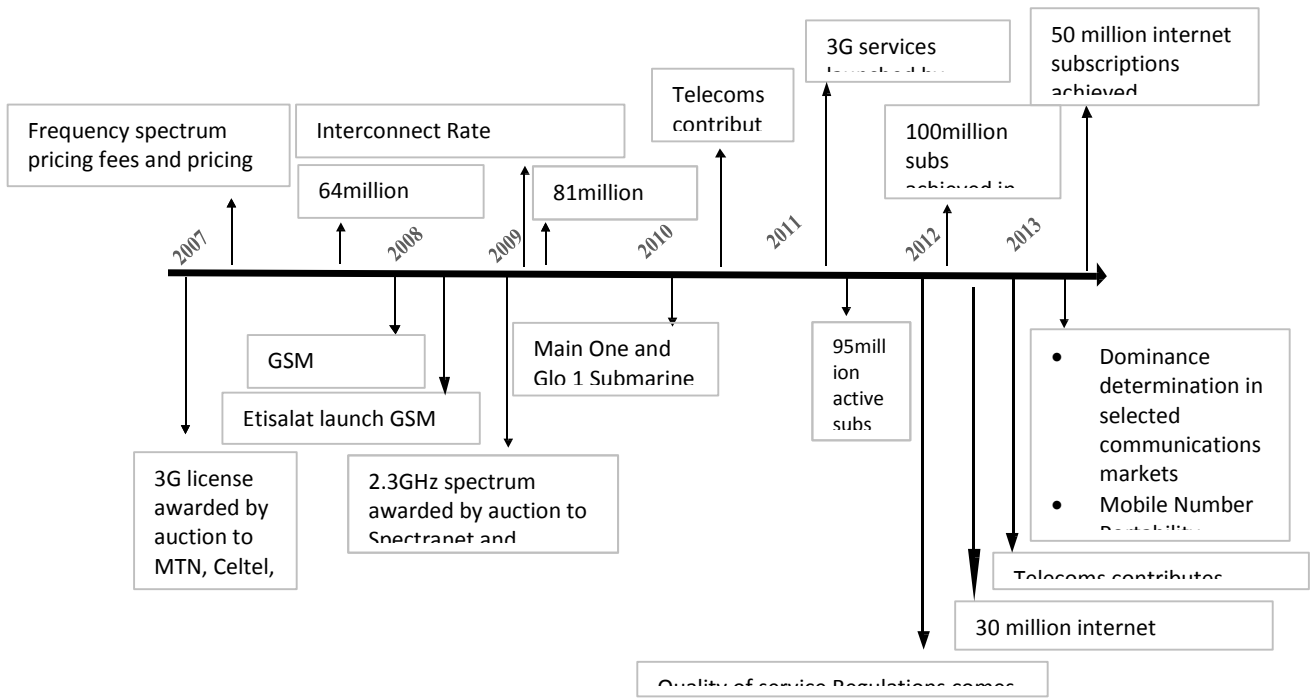
The Nigerian Telecommunications market was liberalized 23 years ago and has been highly active in the last ten years, as illustrated in Figures 3a, 3b and 3c.

Figure 3a: Selected Developments in the Nigerian Telecommunications Market



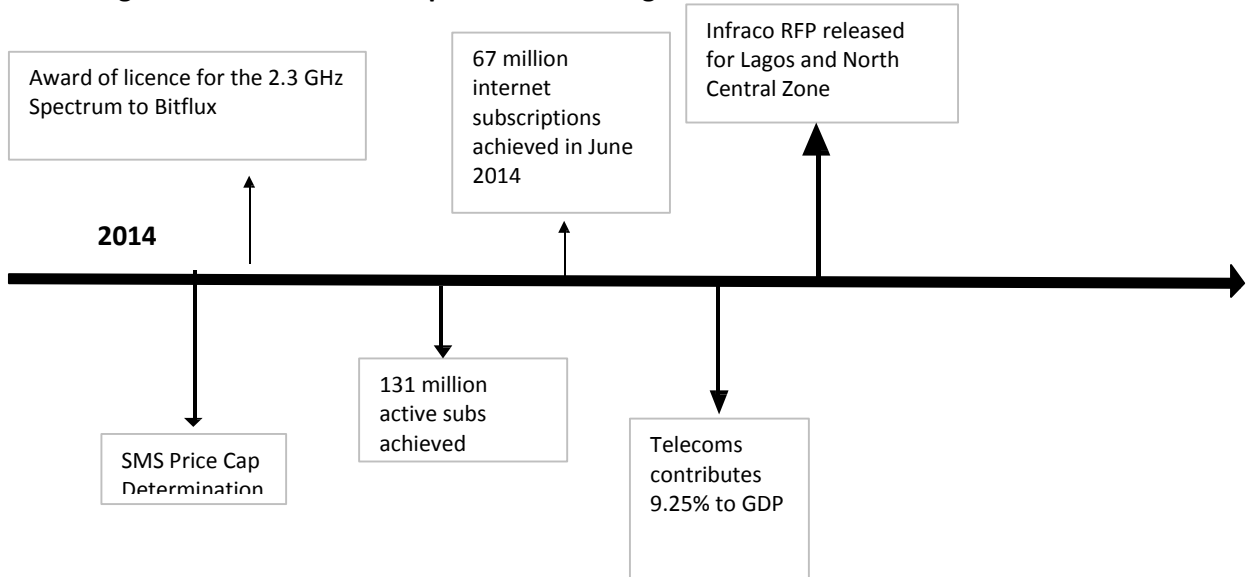
Source: NCC, 2014

Figure 3b: Selected Developments in the Nigerian Telecommunications Market



Source: NCC, 2014

Figure 3c: Selected Developments in the Nigerian Telecommunications Market



Source: NCC 2014
NBS 2014

The deregulation of the Telecommunications market was marked by the passing into law of the Nigerian Communications Commission Act 1992, which allowed private companies to participate and invest in the development of the country's Telecommunications infrastructure and services. With the inauguration of the industry Regulator, the monopoly of State owned incumbent NITEL came to an end and several private Telecommunications Operators were licensed in 1996 to compete in the market.

In 2001, the Commission licensed three Digital Mobile Operators through an Auction process

that was widely adjudged to have been highly successful and transparent. This was followed by the licensing of a Second National Carrier and the fourth Digital Mobile Operator in 2002.

The Nigerian Communications Act was signed into law in 2003 to strengthen the regulatory framework as well as to enhance the independence of the Regulator.

By the end of 2004, there were two National Carriers, four Digital Mobile Operators and 24 Fixed Telephony Providers (of which six were FWA Operators)

In 2006, the Commission introduced the Unified Access Service Licenses (UASL) regime, to enable Operators take advantage of convergence in services and technology in order to offer better services.

In 2007, the Commission awarded a further UASL and spectrum license to Emerging Markets Telecommunications Services (EMTS). This brought the number of parties with national mobile licenses to five.

In addition, in 2007, the Commission awarded licenses to the following companies in the stipulated bands

- Visafone in the 800MHz band
- Alheri Engineering Company Limited in the 1900 / 2100MHz band
- Celtel Nigeria Limited (Now Airtel Nigeria) in the 1900 / 2100MHz band
- Globacom Limited in the 1900 / 2100MHz band
- MTN Nigeria Communications Limited in the 1900 / 2100MHz band

In 2008, the Commission issued International Submarine Cable Infrastructure and Landing Stations services license to Main One Cable Company Limited

In 2009, the Commission awarded the 2.3GHz Spectrum to Spectranet Limited and Mobitel Nigeria Limited.

In 2010, the Commission issued International Submarine Cable Infrastructure and Landing Stations services license to MTN Nigeria Communications Limited

In 2012, the Commission also issued International Submarine Cable Infrastructure and Landing Stations services license to ETG Integrated Services Ltd. Also the National ICT Policy was approved in principle by the Federal Government.

In 2013, the Commission launched the Mobile Number Portability scheme in Nigeria, determined dominance in certain market segments of the Telecommunications Industry and Interconnection rates. In addition, the Federal Government approved the Nigeria National Broadband Plan.

In 2014, the Commission through an Auction process awarded a Frequency License in the 2.3 GHz band to Bitflux Communications Ltd. This was bundled with a Wholesale Wireless Access Service Licence

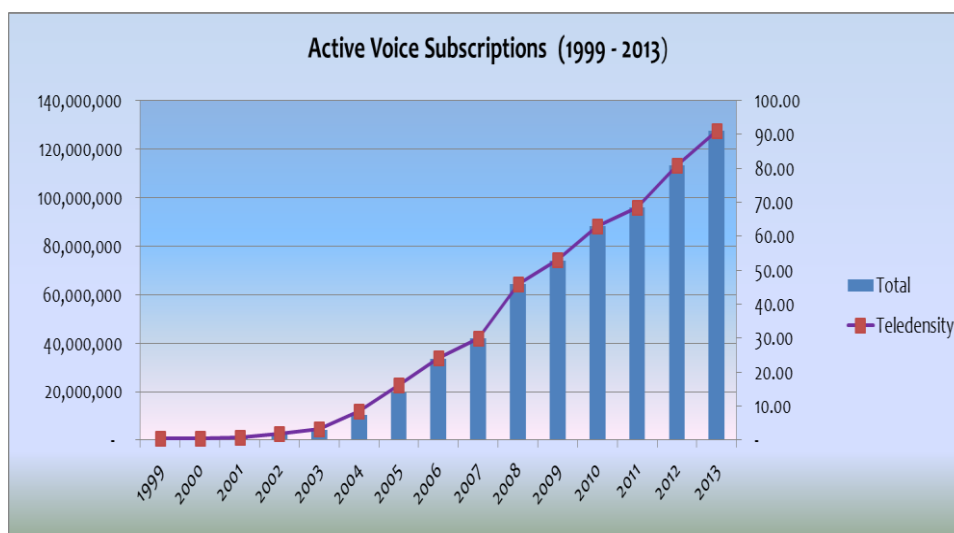
The Commission also in 2014, published the Determination for Off-Net SMS Price Cap and Price Floor for Data Services.

3.4 THE TELECOMMUNICATIONS MARKET

3.4.1 Market Growth

- The Nigerian Telecommunications market has experienced significant growth in recent years. By June 2014, the market had increased from about 400,000 in 2001 to about 131million active subscribers¹. Key features of this growth include:
 - Mobile penetration grew from less than 1% in 2001 to more than 93.41% in June 2014
 - Mobile take-up was driven by liberalisation and competition
 - Nigeria has significant potential, being a large nation with growing population and economy.
 - Nigeria has growing levels of PC penetration, Internet take-up and broadband adoption.

Figure 4: Subscriber Data- Active Voice Subscriptions & Teledensity (1999 - 2013)



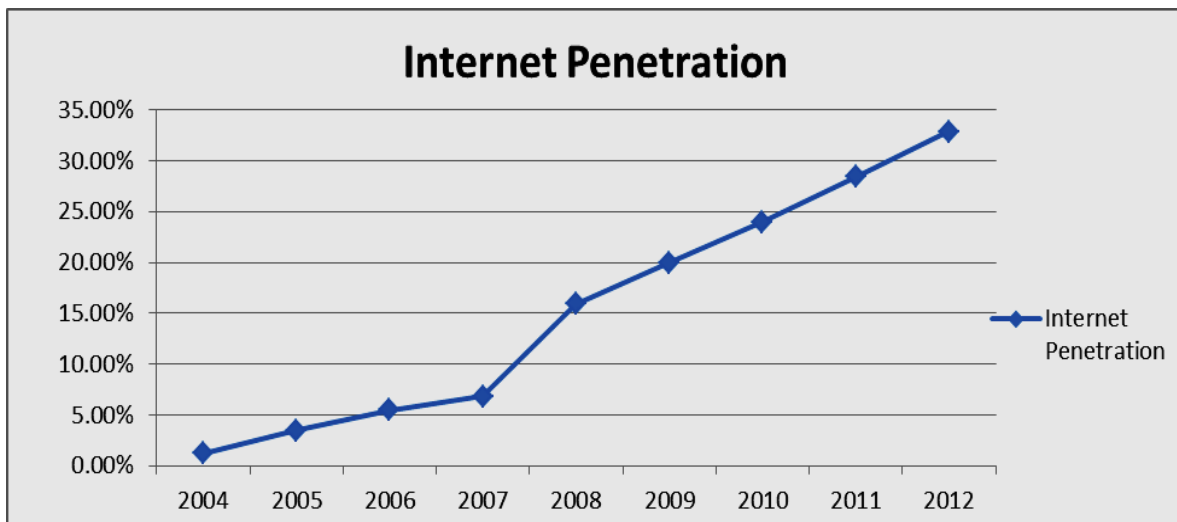
3.4.2 INTERNET PENETRATION

Nigeria currently has growing levels of Internet take-up, PC penetration and Broadband adoption. The trend of Internet use in Nigeria shows an increase with the overall number of users rising from 1.4% of population in 2004 to about 47.8% by 2014² with Broadband penetration at about 6.1% in 2013. Access to PC in Nigeria was estimated at 8.1 %² of the population in 2013.

¹ Nigerian Communications Commission, 2014

² National Bureau of Statistics, 2014

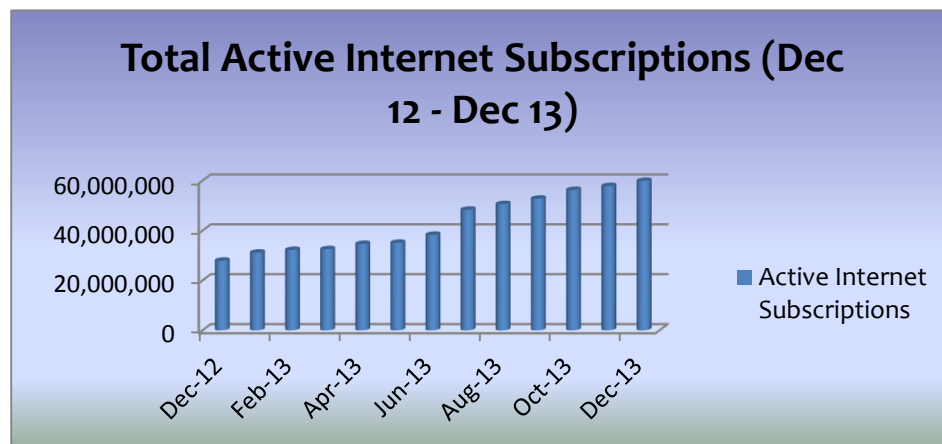
Figure 5: Internet Penetration in Nigeria (2004 – 2012)



Source: World Bank

As at December, 2013 the total active internet subscriptions for all market segments was 64,417,110. There was a steady growth in the number of active internet subscriptions from December, 2012 to December, 2013 and this growth was primarily driven by the growth in the Mobile GSM market segment. The Mobile GSM market segment accounted for 64,229,097 of the total active internet subscriptions.

Figure 6: Total Active Internet Subscriptions as at December, 2013

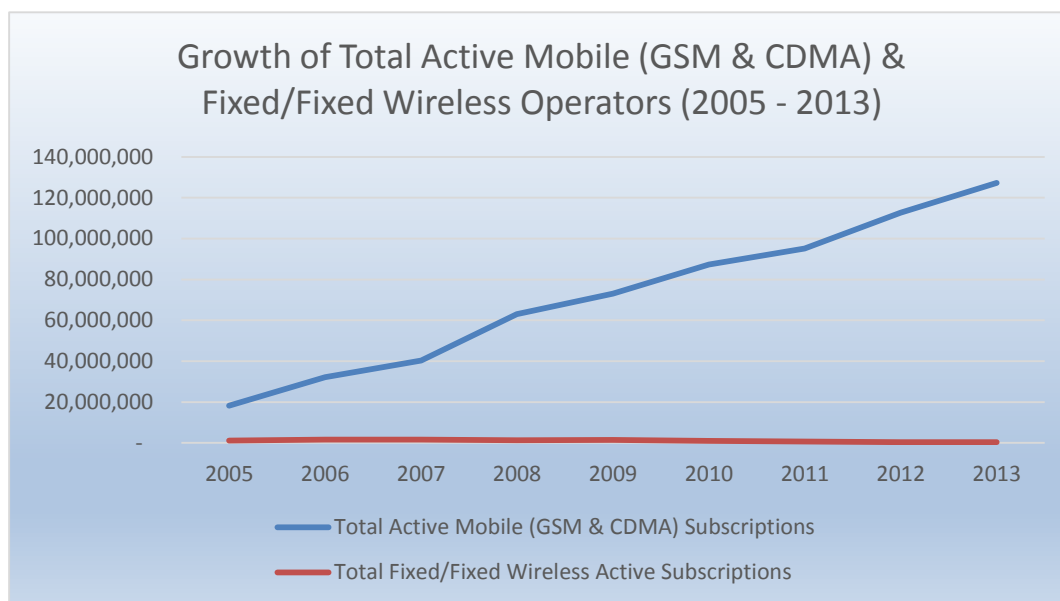


Source: NCC 2014

3.4.3 Mobile Penetration

Mobile penetration in Nigeria has been on the upward trend; however, the penetration of fixed services is still low.

Figure 7: Nigerian Fixed and Mobile Penetration, (2005-2013)



Source: NCC, 2013

3.4.4 Value Added Services

Value Added Services including those listed below are available in the Nigerian market.

- SMS
- Voicemail
- Call forwarding
- WAP
- Call waiting
- MMS
- Caller Ring-back tunes
- Games
- Mobile Payments and Banking

The above Value Added Services (VAS) does not represent the full range of VAS available. New value added services are constantly being introduced in the market.

3.5 PROFILE OF NETWORK OPERATORS

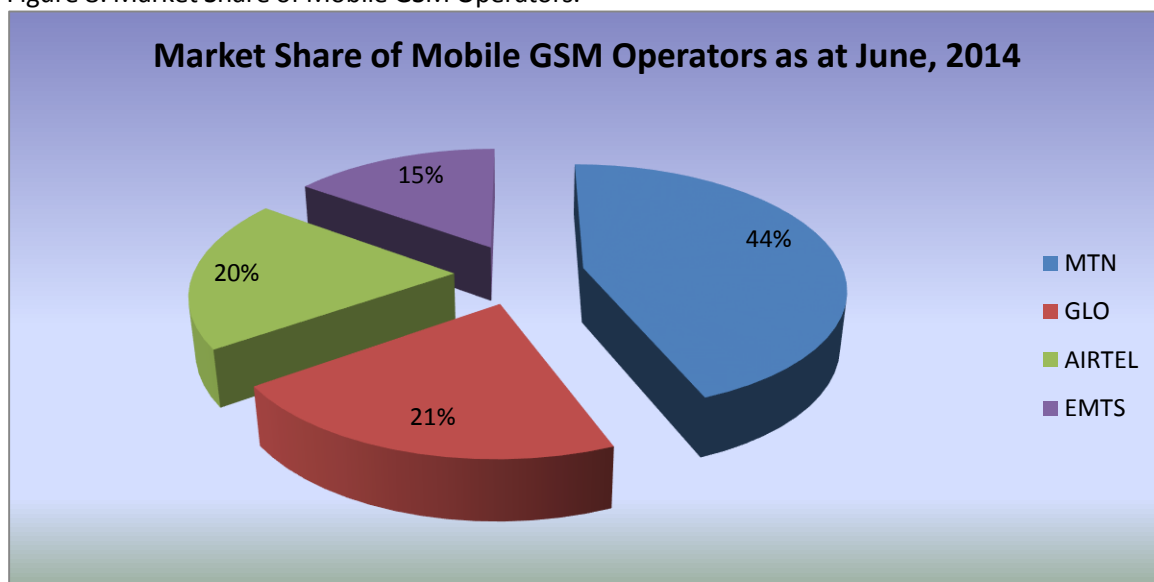
3.5.1 Network and Service Providers

Since the full liberalisation of the Nigerian Telecommunications Market in 2000, there has been considerable growth in the number of active network operators and service providers. Some are shown Table 4

Table 4: Network Operators

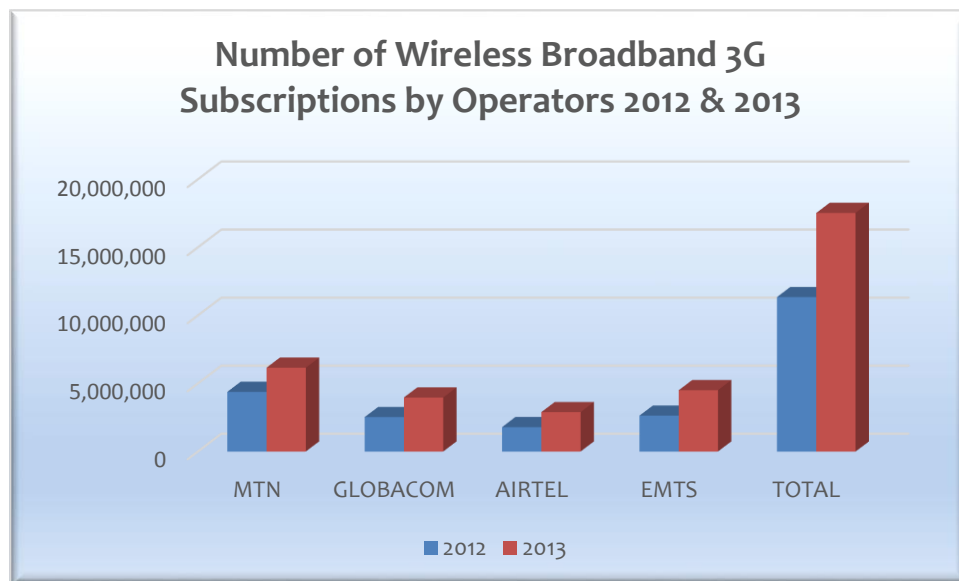
S/N	Company	Technology Deployed	Coverage Areas
1	Celtel (Airtel)	GSM/WCDMA/UMTS	Nationwide
2	Glomobile	GSM/ WCDMA/UMTS	Nationwide
3	M-Tel	ETAC/GSM	Nationwide
4	MTN	GSM/ WCDMA/UMTS	Nationwide
5	EMTS	GSM/ WCDMA/UMTS	Nationwide
6	Starcomms	CDMA	Nationwide
7	Multilinks	CDMA	Nationwide
8	Visafone	CDMA	Nationwide
9	Intercellular	CDMA	Nationwide
10	NITEL	Landline/CDMA	Nationwide
11	Spectranet	LTE (TDD)	Nationwide
12	Mobitel	LTE (TDD)	Nationwide
13	Swift Networks	LTE (TDD)	Abuja, Lagos, PHC
14	Smile Communications	LTE (FDD)	Nationwide

Figure 8: Market Share of Mobile GSM Operators.



Source: NCC, 2014

Figure 9: Number of Wireless Broadband 3G Subscriptions



Source: NCC, 2014

3.5.2 Demand for High Speed Internet

Fixed Internet access in Nigeria is limited while mobile internet services are more readily available.

There are a wide range of economic sectors which need higher speed Internet access, these include:

- **Government Services**

The Nigerian Broadband Plan 2013-18 lists a wide range of e-government services which need to be introduced as soon as possible. These include issuing National Identity Cards, driving licenses and registration of companies among many others. In order to introduce these services individual departments require high speed internet access, so from government quarters there is a large latent demand for broadband access service from providers.

- **Agriculture**

Nigeria is a large country with an area of over 900,000 km² having a huge and diverse agricultural sector. 44.6%¹ of the labour force is engaged in agriculture and agricultural businesses have a potential need for internet access in order to check market prices and find information about the latest farming practices.

- **Commerce**

There is a considerable market gap for reliable and affordable high-speed internet access for both large and small companies in Nigeria. Companies are very keen to make greater use of the internet because of the opportunities to improve efficiency and enable cost savings. The increased usage of Point of Sale (POS) Terminals and electronic payment systems has increased the addressable Internet access market.

- **Education**

Most educational institutions in Nigeria lack reliable and widespread internet access, so there is a large demand for high speed services. These would be used for teaching, learning and research as well as improving the efficiency of the organizations.

- **Entertainment**

¹ World Bank, 2005

There are several industries in the entertainment sector which will be able to develop their businesses if high speed internet access is more widely available. Video streaming services are constrained in Nigeria because of a lack of widespread broadband services. Being able to expand this area would greatly benefit the film and TV industry.

- **Public Safety**

Close Circuit Television (CCTV) services could expand greatly with access to high-speed internet services, as these make the remote monitoring of video footage much easier. The potential expansion here would cover government, business and residential users. Furthermore, in emergency situations coordination of rescue efforts becomes much easier with high-speed internet access.

3.5.3 Existing Competitors in the Internet Access Market

There are many companies providing Internet access of some form or the other in Nigeria. Most internet connections are through Smartphones, meaning that there is only a limited range of functionality. The Smartphone connections are provided by mobile operators. There is a need for higher speed connections for the more data-intensive services required by PCs and laptops, but also to serve the growing tablet market as well as other services and solutions.

Companies providing internet access include:

- GSM Operators providing 2G and 3G services, principally to Smartphones but also using dongles, MiFi etc
- Operators already using the 2.3 GHz band
- Other operators, including but not limited to, Fixed Wireless access operators

In conclusion, the availability of broadband internet access has the potential to contribute positively to the growth of the economy and enable investors take advantage of the inherent growth in internet usage in the country.

4. THE REGULATORY ENVIRONMENT

4.1 INTRODUCTION

This section summarises selected aspects of the regulatory environment governing telecommunications in Nigeria. It also highlights some regulatory policies relevant to interested parties. It is advised that interested parties conduct their own review of all relevant Nigerian legislation and regulations.

This section also includes information on setting the opening bid for the Auction and highlights a number of conditions of the applicable license.

4.2 REGULATORY ENVIRONMENT

4.2.1 The Nigerian Communications Commission

The Commission is the independent National Regulatory Authority for the Telecommunications Industry in Nigeria. The Commission is responsible for creating an enabling environment for competition among Operators in the industry. It is also responsible for ensuring the provision of high quality and efficient telecommunications services throughout the country as laid out in the Nigerian Communications Act 2003 and the National ICT Policy 2013.

Over the years, the Commission has earned a reputation as one of the foremost Telecommunications regulatory agencies in Africa. The Commission aims to exploit Information and Communications Technology to drive and assist different aspects of national development. The Commission has initiated several programs such as Digital Appreciation Program (DAP), State Accelerated Broadband Initiative (SABI), the Wire Nigeria Program (WiN) and several initiatives by Universal Service Provision Fund (USPF) to help stimulate demand and accelerate the uptake of communications technologies and services necessary for the establishment of a knowledge society in Nigeria.

Presently, the Commission is executing strategies for deploying Broadband to the entire metropolis in the Country on an Open Access basis. The Open Access model enables access to transmission resources on a fair and non-discriminatory basis.

To fulfil its mandate, the Commission has the necessary licensing and regulatory powers to manage and administer Frequency Spectrum for the Telecommunications Sector. Within the terms of its mandate, the Commission has the sole and exclusive power to grant licenses and regulate the use of Frequency Spectrum¹ for the sector.

4.2.2 The Regulatory Landscape

The Commission operates under the terms of the Regulatory Framework set out in the Nigerian Wireless Telegraphy Act of 1990, hereafter referred to as 'WTA', and the Nigerian Communications Act of 2003, hereafter referred to as 'the Act'.

Copies of the WTA and the Act are available on the Commission's Website (www.ncc.gov.ng).

The Commission has also published documentation detailing various additional aspects of regulation

¹ Nigerian Communications Act 2003, Section 121

and operational guidelines. Documents directly applicable to this licensing process include those listed below. Copies of these documents are also available through the Commission's website.

- Telecommunications Networks Interconnection Regulations 2007
- Competition Practices Regulations 2007
- Quality of Service Regulations 2012
- Universal Access and Universal Service Regulations 2007
- Consumer Code of Practice Regulations 2007
- Numbering Regulation 2008
- Guidelines on Collocation and Infrastructure Sharing 2005
- Guidelines on International Access and Voice over Internet Protocol 2005
- Guidelines for the Disconnection of Telecommunications Operators 2012
- Guidelines for the deployment of Wi-Fi 2004
- Frequency Spectrum Fees and Pricing Regulations 2007
- Dispute Resolution Guidelines 2006
- Nigerian Communications (Enforcement Processes etc) Regulations 2005
- Interconnection Rate Determination 2009
- Determination of Voice Interconnection Rate 2013.
- Type Approval Regulation 2008
- Guidelines for Deployment of Broadband Services in 5.2 to 5.9GHz 2008
- Annual Operating Levy Regulations 2014
- Mobile Number Portability Regulation 2014

Bidders should conduct their own review of all Legislations and Regulations pertinent to the Nigerian market.

4.3 APPLICABLE LICENSES

Bidders in this licensing process will not be required as a pre-qualification criterion to hold any operational license in Nigeria. However, Bidders will have to be companies registered in Nigeria with the Corporate Affairs Commission.

The Successful Bidders at the Auction will be issued ten (10) year National Spectrum Licenses on a State by State basis. This License will authorise the licensee to make use of the designated part of the Electromagnetic Spectrum for the purpose of operating Advanced Broadband Service Network according to the terms of the relevant operating Unified Access Service License (UASL).

A copy of the UASL template detailing full terms is referenced in Appendix E of this Information Memorandum.

- The successful Bidder will be granted a UASL and pay the specified fee before being issued the license. The tenure for the UASL will be 10 years.

4.4 INTERCONNECTION

Under provision of the Nigerian Communications Act, as applicable to existing Operators as well as prospective Licensees, the Act makes reference to interconnection in Sections 96 and 97 (1) & (2) as follows:

***Section 96.** If a network services or facilities provider receives a request for interconnection from another licensee, then the service or facilities provider shall have an obligation to interconnect its communication system with the other licensee's network at technically feasible locations, in accordance with the principles specified in Section 97 of this Act and pursuant to terms and conditions negotiated between the parties in good faith.*

***Section 97.**-(1) All interconnection agreements between licensees shall be in writing and shall comply with:*

- (a) this Act, the regulations and guidelines published from time to time by the Commission pursuant to this Act; and*
- (b) The principles of neutrality, transparency, non-discrimination, fair competition, universal coverage, access to information, equality of access and equal terms and conditions.*

(2) The terms and conditions of interconnection agreements shall primarily be agreed upon between parties thereto and the Commission may intervene and make binding rulings at its instance or at the instance of either or both parties to the agreement:

- (a) if the Commission determines that the agreement or any provision thereof is inconsistent with the provisions of this Act or its subsidiary legislation; or*
- (b) in the event of a failure of consensus between the parties on specific issues or a delay in reaching such consensus; or*
- (c) if the Commission considers it in the public interest for it to so intervene at its own instance and without any invitation from either or both parties to the agreement.*

Where an Operator has existing interconnection agreements in place under the terms of the Act that are directly applicable to the Licence, subject to Commission review, these may be deemed sufficient to meet additional interconnection requirements.

Where Licensees and/or Operators fail to agree on the right to interconnect or on the terms of interconnection, the parties are authorised to seek dispute resolution through a process of arbitration. The Commission is further authorised to set out the principles that shall apply, where one party is adjudged by the Commission to be acting unreasonably or contrary to the terms of the applicable licenses. These principles include but are not limited to the charges payable between Licensees, or between Licensees and the Carrier or other Operators for the following:

- Interconnection of facilities to networks of another party

- Interconnection and carriage of communications across networks of another party
- The supply of facilities and services for the purpose of interconnection and carriage
- All other matters relating to interconnection and carriage of communications more generally.

Additional terms under the Act apply and Bidders are advised to review the terms and other Commission publications in full.

4.5 ANTI-COMPETITIVE BEHAVIOUR

To fulfil its mandate to encourage competition under Sections 4 and 90 of the Act, the Commission has the authority to impose sanctions on any Licensee deemed to be engaging in anti-competitive activities.

Activities deemed to be anti-competitive include, but are not limited to, the following:

- Collusion – agreement between Licensees to fix the prices of access to services, supplies or equipment
- Exclusivity – entering into arrangements that unduly preclude or boycott competitors from similar access to services, supplies or equipment
- Cartel behaviour – agreement between Licensees to divide the available market between them in order to exclude further parties
- Cross-subsidy – improper subsidy of the business under License from another source. In circumstances where the Licensee is under specific obligation to provide communications services to an area of insufficient prospective demand, the Licensee may enter into special negotiation with the Commission
- Further unfair and undue preference.

4.6 NUMBER ALLOCATION

The Licensee will be free to apply for a number range as may be required. The Commission will assign such numbers as are available and required by the Licensee for the provision of services within the scope of the Operational License. Numbers shall be assigned by the Commission subject to the payment of prevailing fees.

4.7 NUMBER PORTABILITY

The Commission has implemented a mobile number portability scheme and Licensees are mandated to comply with the scheme where applicable in line with the Mobile Number Portability Regulation 2014.

4.8 DETERMINATION OF DOMINANCE

The Commission is empowered under the Act and the Competition Practices Regulation to determine Licensees who may be in a dominant position in any segment of the Nigeria Communication market.

In May 2013, the Commission declared Dominance in the mobile voice segment of the Nigerian Telecommunications Market. The dominant Operator is obligated to implement Accounting Separation, collapse On-Net and Off-Net Retail tariff, and submit details on some specific aspects of its operation.

4.9 OVERVIEW OF FREQUENCY LICENSING TERMS

4.9.1 License to be Awarded

The Commission offers 14 Lots of 2 X 5 MHz FDD paired Spectrum in the 2.6 GHz band ranging from 2500 – 2570MHz and 2620 to 2690MHz (Totalling 2 X 70 MHz) for auction. This will be awarded to winning Bidders in multiples of 2 X 5 MHz Lots aggregated in contiguous arrangements. The Lots are shown in the Table 5 below;

Table 5: Available 2.6 GHz Lots

Lots	Primary Frequency MHz	Paired Frequency MHz
1	2500 - 2505	2620 - 2625
2	2505 - 2510	2625 - 2630
3	2510 - 2515	2630 - 2635
4	2515 - 2520	2635 - 2640
5	2520 - 2525	2640 - 2645
6	2525 - 2530	2645 - 2650
7	2530 - 2535	2650 - 2655
8	2535 - 2540	2655 - 2660
9	2540 - 2545	2660 - 2665
10	2545 - 2550	2665 - 2670
11	2550 - 2555	2670 - 2675
12	2555 - 2560	2675 - 2680
13	2560 - 2565	2680 - 2685
14	2565 - 2570	2685 - 2690

The nature of Spectrum block is described further in Section 5.

4.9.2 Reserve Price, License Fees and Payment Arrangements

The Generic Reserve Price (GR) is the minimum price at which a Lot shall be sold, which is the Reserve Price for one Lot of 2 X 5MHz and has a value of: Sixteen Million United States Dollars only (US\$16,000,000.00)

Each lot of 2 X 5 MHz represents 1 eligibility point. An applicant that pays the IBD for 6 lots will have a total of 6 Eligibility Points.

The Reserve Price (R) for an applicant will be calculated as the GR multiplied by the number of lots (N) applied for by the applicant.

For Example, Reserve Price for an Applicant that applied for 6 Lots i.e. 6 Eligibility Points is: US\$16,000,000.00 X 6 = US\$96,000,000.00

The fee for the ten (10) year Spectrum License will be determined at Auction. As noted above, the Reserve Price will be US\$16,000,000.00 multiplied by the Number of Lots (N) applied for by the applicant (See Table 2). The Opening Bid will be one increment higher than the Reserve Price in the Opening Round of the Auction. The Spectrum License fee is not subject to Value Added Tax (VAT). In addition, no VAT will be applicable to the UASL fee.

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 as detailed below:

Table 6: Payment of Operational License Fees

Operator type	Explanatory Notes	UASL Fee (N374.6m)
Existing UASL holder	An existing UASL holder will not be required to obtain any additional License, but will use its UASL subject to the limitations contained in the 2.6GHz Spectrum License	No
New UASL Applicant	Will be issued a UASL for 10 year tenure subject to renewal	Yes
Existing WWASL holder	Will be issued a UASL for 10 year tenure subject to renewal	Yes*

*The WWASL holder will be required to pay N219,600,000.00 for the award of a full UASL to enable it provide services on the 2.6 GHz Spectrum, if it wins a lot at the 2.6GHz Spectrum Auction. This UASL fee is discounted as it takes into consideration the fee already paid for the WWASL. The WWASL holder will not be allowed to provide services under the UASL using the 2.3GHz spectrum. The conditions of the WWASL will continue to apply to the 2.3 GHz Spectrum License.

At Auction Closure, the each Successful Bidder will automatically be deemed to have been awarded a provisional license. The balance (Winning Bid Amount Less the IBD) of the Auction license fee shall be paid to the Commission on or before January 7, 2015. Failure to pay within this stipulated time or date, the award will automatically lapse and IBD forfeited.

The payment of the operational License fee shall be required to be made within 30 calendar days of the issuance of the Offer letter.

4.9.3 Annual Operating Levy

The conditions of the Operational License require an Annual Operating Levy to be paid to the Commission. This Levy is set at 2.5% of the Licensee's audited net revenues. This Levy shall be paid within three months of the end of the first year of the license and thereafter quarterly on the Licensee's assessed net revenues and within thirty calendar days of the end of each quarter. The sum paid shall be adjusted immediately on receipt of the audited, annual financial statements of the Licensee.

4.9.4 Summary of License Terms

A copy of the UASL template detailing full terms is referenced in Appendix E. A copy of the Spectrum License template detailing full terms is referenced in Appendix F.

Highlights of the Spectrum License are set out below.

➤ Commencement Date and Duration of Frequency License

The Spectrum License shall commence upon full payment of the License fee. The tenure of the License shall be 10 years.

➤ **License Assignment**

The License authorises the Licensee with regard to radio equipment operating within the frequency ranges specified for that License.

The License shall not be assigned, or reassigned, except with the prior and express authorisation of the Commission.

➤ **Access and Inspection**

The Licensee shall permit members of the Commission, or persons authorised by the Commission, to gain access to radio and associated equipment at any reasonable time, or when in the opinion of those persons an urgent situation has arisen, for the purpose of inspection and in order to ensure that equipment is being used in full compliance with the full terms and conditions of the license.

➤ **Roaming**

The Licensee shall be encouraged to enter into such roaming agreements with other existing Operators and any new operator as may be required in order to offer ubiquitous and seamless communications services across the country. Where this does not take place on a commercial basis, the Commission has the right to intervene to mandate roaming.

The terms of such agreements will be subject to prior approval by the Commission as well as subject to existing regulations governing interconnection and anti-competitive behaviour.

The Licensee may also provide international roaming services on request.

➤ **Commercial Launch Date**

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

➤ **Roll Out, Coverage and Service Obligations**

The winning licensee shall be required after the operational license award to roll out services at least as follows:

- i. Three State capitals and the FCT in year 1,
- ii. Four additional State capitals and Two other Cities in year 2,
- iii. Six additional State capitals and Two other Cities in year 3,
- iv. Eleven additional State capitals and Four other Cities in year 4
- v. Twelve additional State capitals and Five other Cities in year 5 and
- vi. 2/3 of all Local Government Headquarters in the remaining License period.
- vii. Within Six Months from the Award of License, the Licensee shall convey to the Commission the schedule of States and Cities that will be covered according to the numbers stated above.

In the event of the winning Licensee's inability to deploy services as specified herein, the Commission reserves the right to sanction the Licensee based on relevant sections of existing regulations except for areas where Force Majeure is established.

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 and local government area (LGA) as appropriate.

➤ **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.

➤ **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 on the Commission's website and are subject to update from time to time.

Further regulation appropriate to, inter alia, site clearance, site maintenance and equipment height shall be deemed to apply to both 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.

➤ **Further Operational and Technical Requirements**

The License 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 license
- Record-keeping, financial and otherwise.

5. SPECTRUM OFFERED

5.1 INTRODUCTION

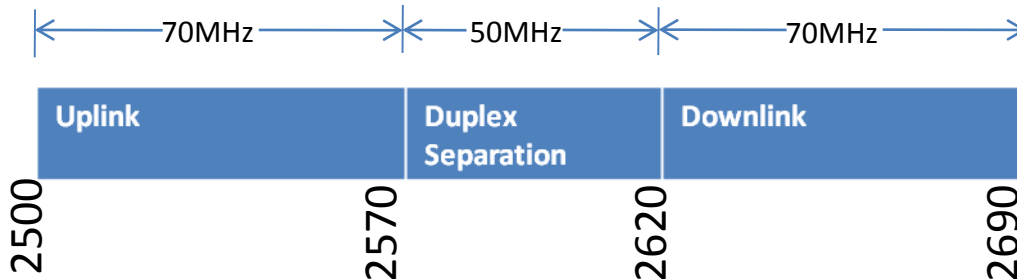
The following section outlines the packaging of the 2.6 GHz Spectrum being made available at Auction and addresses a number of related issues such as interference, cross-border co-ordination, band clearance and guard bands.

5.2 SPECTRUM PACKAGING

The use of radio Spectrum is planned both at National and International levels in order to co-ordinate the use of particular frequency bands for different uses.

The current frequency allocation map for 2.6 GHz band is shown in Figure 10.

Figure 10: Nigerian Communications Commission frequency allocation map



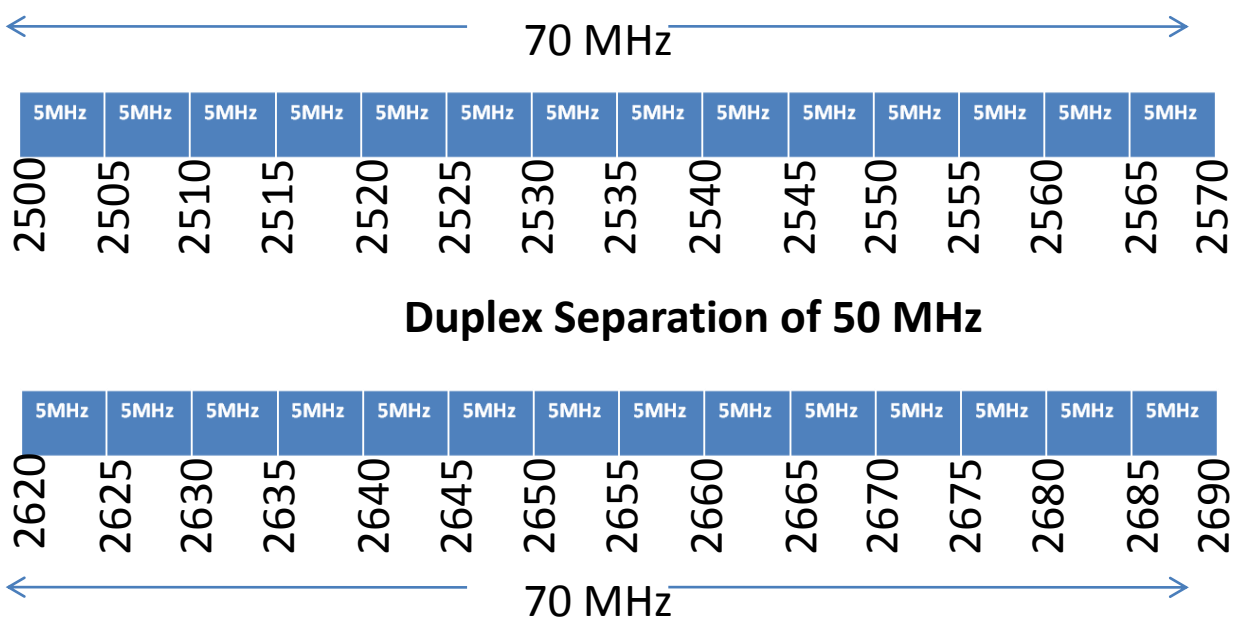
Source: NCC data, 2014

5.2.1 2.6 GHz Spectrum packaging

The Commission offers 14 Lots of 2 X 5 MHz FDD paired Spectrum in the 2.6 GHz band ranging from 2500 – 2570MHz and 2620 to 2690MHz (totalling 2 X 70 MHz) for Auction.

This is shown schematically in Figure 11.

Figure 11: Frequency allocation for Spectrum in the 2.6 GHz band



5.3 SPECTRUM CO-ORDINATION

The Licensee 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 co-ordinating Spectrum use.

5.4 INTERFERENCE

Any equipment installed, maintained and used by the Licensee shall, throughout the tenure of the License, 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.

5.5 CROSS BORDER CO-ORDINATION

The terms of the Nigerian Communications Act state that the Commission may vary the technical parameters of licenses 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 a MoU would seek to place restrictions on the native operator’s signal strength permissible at the neighbouring country’s borders. The Commission expects to reach 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 license includes a requirement for operators to comply with the conditions of future MoUs.

5.6 BAND CLEARANCE

The Commission has undertaken to ensure that the Spectrum being offered for Auction is available and clear of other users; mobile, fixed or other. 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.

In line with its Commercial Frequency Management policy, the Commission reaffirms its intention to systematically phase out ageing or obsolete technologies to free up Spectrum and make it available for allocation to emerging technologies and new services.

In such instances, the Commission will issue information through the National Frequency Plan and enter into appropriate consultation and negotiation with the market to determine Spectrum close-down dates.

5.7 SPECTRUM ALLOCATION FOR NETWORK BACKHAUL

This Auction is for 2.6 GHz Spectrum. Auction winner will be issued a license to use the Spectrum. The terms of the license authorise the use of the specified Spectrum for the provision of telecommunications services. Access to additional Spectrum for the purposes of, inter alia, transmission and backhaul falls under the terms of a separate licensing process.

The process and conditions for such additional licensing are published and available on the Commission’s website.

6. LICENSING PROCESS

6.1 INTRODUCTION

This section outlines the end-to-end licensing process from initial notification of the Spectrum allocation process, including the Auction process to determine the Successful Bidders and the granting of appropriate Licenses.

This section provides:

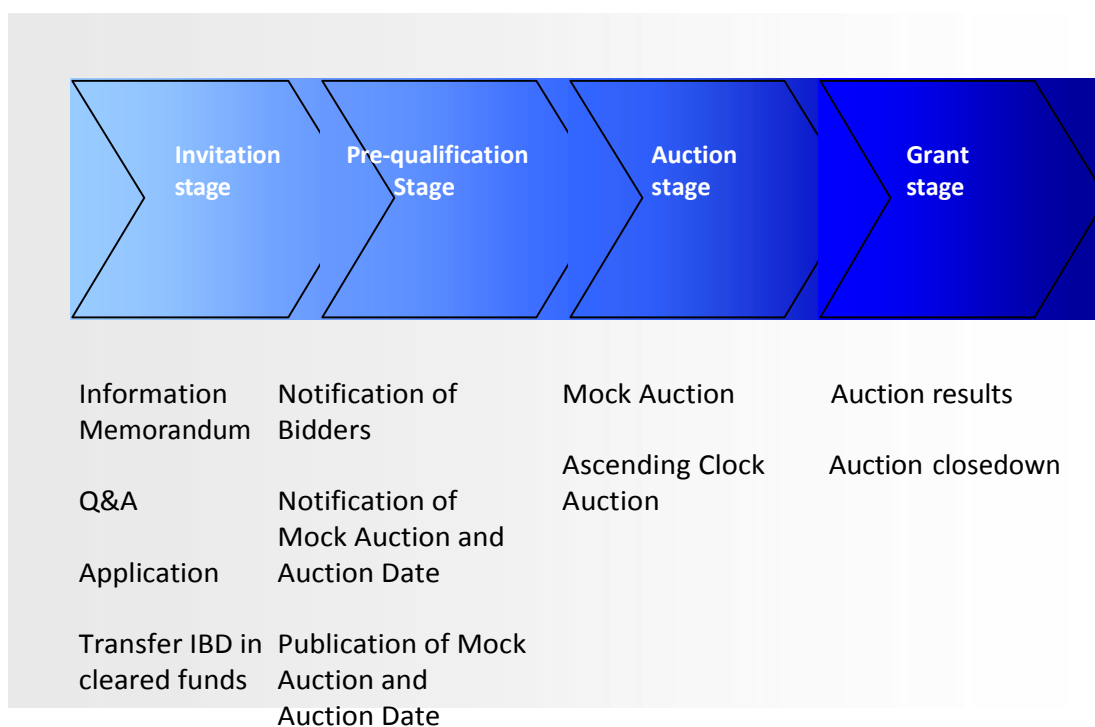
- An overview of the licensing process and the indicative timetable
- Definition of key Auction roles (see glossary for further definitions)
- Description of Auction logistics
- Description of the Auction process
- Definition of the Auction rules.

It is important to note that Applicants / Bidders will be responsible for all costs incurred by them in relation to this licensing process.

6.2 OVERVIEW OF LICENSING SCHEDULE AND TIMETABLE

The licensing process will consist of a four-stage procedure, as set out in Figure 12 below:

Figure 12: Four stage licensing process



The timetable for the licensing process, including the Auction stage, is set out in Table 7 below. The timetable is indicative and subject to amendment by the Commission

INDICATIVE TIMETABLE

Table 7: Auction Process Timetable

Date	Activity
	Invitation Stage
August 15, 2014	Publication of Meeting for Stakeholders Consultation/ Intention to Auction
October 10, 2014	Publication of Information Memorandum / Application Start Date
October 27, 2014	End date for comments and questions on IM
November 03, 2014	Publication of response to comments and questions on IM
November 17, 2014	End of submission of Application
	End Date for Payment of mandatory intention to bid deposit
	Pre-Qualification Stage
November, 24, 2014	Notification of Qualified Bidders
	Notification of Mock Auction and Auction date
	Publication of [qualified bidders and] Mock Auction and Auction date
	Auction Stage
December 01, 2014	Mock Auction
December 02 – 05, 2014	Auction
	Grant Stage
December 05, 2014	Publication of Provisional winners
	Notification of provisional award of license
January 07, 2015	Payment for License
January 08, 2015	Publication of Final result

6.3 KEY AUCTION ROLES

6.3.1 Auction Overseer

The Auction Overseer is responsible for the monitoring of the Auction process and providing assurance to Approved Bidders with respect to Auction results. The Auction Overseer is also responsible for resolving any Auction process complaints.

6.3.2 Auction Manager

The Auction Manager is responsible for the operation of the Auction process itself, in particular the determination of the bidding increments for each round.

6.3.3 Auction Administrator

The Auction Administrator is assigned to ensure the smooth running of the administration of the Auction process.

6.3.4 External Communication Manager

The External Communications Manager is responsible for the communication of the final Auction results and any appropriate interim results and / or information.

6.3.5 Applicant

An Applicant is an organisation that has submitted a completed bid application form, the prequalification criteria check-list, bid deposit payment form and the IBD but has not yet been qualified as an Approved Bidder by the Commission.

6.3.6 Approved Bidder

An Approved Bidder is an organisation that has met the criteria of Section 6.3.5 and received formal approval from the Commission to participate in the 2.6 GHz Spectrum Auction.

6.3.7 Bid Teams

The Bid Team will consist of a maximum of four Qualified Representatives for each Approved Bidder who will participate in the Auction process and fulfil the terms of the Bidder Compliance Certificate. A list of Bid Team members must be submitted to the Commission at least five working days before the Auction Date.

6.3.8 Bid Team Member

A Bid Team Member is a Qualified Representative authorised to act on behalf of the Approved Bidder.

6.3.9 Commission Observer

Commission Observers will be in attendance in Auction Rooms as observers to ensure compliance with the Auction Rules.

6.4 AUCTION LOGISTICS

6.4.1 Auction Day

The Auction Day of the Auction process will commence at 09.00 hours (NT) and finish at approximately 18.00 hours (NT). Lunch will be brought to the individual Auction Rooms.

6.4.2 Auction Location

The Auction Location is the venue that will be used to host the Auction process in Abuja.

6.4.3 Auction Room

The Auction Room is an allocated room within the Auction Location where the Approved Bidder Bid Team will be situated each Auction Day with a Commission Observer.

6.4.4 Notification and changes to bid team members

The Commission reserves the right to request the nomination of an alternative Bid Team member.

Requests for changes to Bid Team members must be made twenty-four hours in advance, and are subject to the Commission's agreement. Any deviation due to exceptional circumstances will be at the sole discretion of the Commission.

6.5 LICENSING PROCESS

6.5.1 Stage 1: Invitation Stage

Public Notice has been issued highlighting the Spectrum that are available at Auction.

This IM is made available to all interested parties through the Commission's website (www.ncc.gov.ng) from October 10, 2014.

6.5.2 Stage 2: Pre-Qualification Stage

The pre-qualification stage outlines the steps to be carried out and the requirements to be met by any organisation seeking approval to participate in the 2.6GHz Spectrum Auction.

Interested parties must submit any questions concerning the IM by 15.00 hours (NT) on or before October 27, 2014.

Answers to these questions will be published, where appropriate, on the Commission's website by 17.00 hours (NT) on November 03, 2014.

Applications from all interested parties to enter the Auction stage must be submitted to the Commission by 17.00 hours (NT) on or before November 17, 2014.

All Applicants are required to confirm that they meet the qualification criteria detailed in Appendix B.5, as outlined in their application:

- i) Approved Bidders are required to be independent of one another (as defined in Section 6.6.2 Bidder Relationships section under Auction Rules). Applicants must highlight to the Commission any direct or indirect cross-ownership of 5% or more with any other Licensed Network Operators in Nigeria in order for the Commission to be confident of the independence of Approved Bidders
- ii) Applicants must provide a confirmation, using the prequalification templates, that the IBD has been deposited in the designated account using the bid deposit payment template.

The IBD is a commitment from the Applicant to pay at least the Opening Bid for the license, as specified in this IM, and to participate in the Auction process. Failure to meet these obligations shall result in the forfeiture of the IBD.

The Commission reserves the right to request additional information and / or clarification based on an Applicant's submission. Applicants are required to comply with all such reasonable requests.

Applicants will be informed in writing by 17.00 hours (NT) on November 24, 2014 if they have been successful in their application to compete in the Auction stage of the licensing process by meeting these prequalification criteria. These Applicants will be awarded the status of Approved Bidders.

Any Applicants unsuccessful in their prequalification bidding application will be informed and their IBD will be returned to them as detailed in Section 6.6.5.

6.5.3 Stage 3: Auction Stage

The Auction stage of the licensing process details the controls and procedures in place to manage the competitive bidding between Approved Bidders for the award of the Spectrum licenses.

Note that if the aggregate demand from the Approved Bidders is less than or equal to the number of Lots on offer, then the Commission will provisionally award the License(s) to those party / parties at the Reserve Price.

It is not envisaged that Auction Days will occur on weekends or national public holidays.

The Commission reserves the right to make necessary and reasonable adjustments to the process in the overall interests of achieving a fair and transparent outcome.

The following sub-sections set out the approach to be adopted for the Auction.

SAFEGUARDS AGAINST ANTI-COMPETITIVE BEHAVIOUR

- i) Each Bid Team will consist of no more than four Bid Team Members as detailed on the bidding application form. The Commission will review the proposed Bid Team members and reserves the right to request alternative nominations. The Commission must be provided with at least 24 hours notice of any proposed changes to personnel.
- ii) Each Bid Team will be allocated an individual Auction Room within the Auction Location. A Commission Observer will accompany the Bid Team at all times during the bidding process.
- iii) The Auction Room will be equipped with a computer connected through a secure Internet link to the Auction Software that will be used by the Bidders to remotely participate in the Auction
- iv) The Auction will be run in a series of Rounds and the Bidding Schedule will be provided to the Bid Teams.
- v) The Bid Teams will access the Auction Software using secured passwords to place their Bids electronically in each Bidding Round until the end of the Auction.
- vi) Bid Teams are forbidden from using any type of communication method or device, electronic or otherwise, to communicate with parties outside their allocated Auction Room. This includes, but is not limited to, the use of any personal electronic device/s such as laptop computers, PDAs and mobile phones. All bidding materials will be in the format defined and provided by the Auction Manager.
- vii) If a Bid Team is found to be communicating with person / persons outside their Auction Room, that Bidder shall be excluded from further participation in the Auction and the Bidder's IBD shall be forfeited.

ASCENDING CLOCK AUCTION

GENERAL AUCTION RULES

Bidding will commence at 9:00 hours on the first day of the Auction. If this start time is delayed, the Commission will notify the Bidders. The Auction will proceed as follows:

- i) In the Opening Round of the auction a bidder is not permitted to bid less or more than the number of lots they applied for representing their Eligibility Points (EP) awarded to them through the payment of their IBD
- ii) In the Opening Round of bidding, all Approved Bidders will be requested to indicate their acceptance of the Opening Bid at the indicated Round Price by entering the Number of Lots applied for in the bid box.
- iii) The Lot price in the Opening Round will be the Generic Reserve Price GR plus the Bid Increment BI. (i.e. GR + BI). The BI for the Opening Round will range from 1% to 2.5% of the GR.
- iv) If there is excess demand in subsequent rounds the Round Price will increase by the BI for that round of the Auction
- v) Bidders must bid in every round of the Auction. Failure to bid in any round will automatically make such bidder/s not eligible to bid in subsequent rounds of the Auction.
- vi) As the Auction progresses, the Auction Manager, in consultation with members of the Auction Team will, at his/her discretion vary the increment within the following range: 0.001% to 5% if they feel that this will promote competition and promote an efficient outcome of the Auction. The percentage bid increment may also be reduced at the discretion of the auction team.
- vii) In every round where demand exceeds 14 Lots, the auction continues.
- viii) At any round where demand is equal to 14, the auction ends and all the winning Bidders will be awarded the lots bid for and the Auction will proceed to the Assignment Stage.
- ix) At any round where demand is less than 14 Lots, the winning Bidders will be entitled to their bid lots and the remaining lots will be given to the Bidders who have made exit bids, otherwise the process goes to the Unsold Lot Round
- x) Each bidder will be required to place a bid within the time allotted for each round in order to be entitled to continue in the Auction process except in a situation where the Auction ends at that round and there remains some unsold lots. Failure to place a bid will be treated as a zero bid

- xi) A bidder is not permitted in any round to bid greater than its eligibility points in that round. In the event that a Bidder reduces its eligibility points by placing a bid less than its current eligibility points, it cannot later increase the eligibility points all through the process of the auction
- xii) Bidders are permitted in rounds, except the Opening Round, to reduce their eligibility points by bidding for smaller number of Lots.
- xiii) The minimum eligibility points at any round of the auction that a Bidder must have to qualify to continue to bid is 4.
- xiv) A Bidder is entitled but not obligated to place an exit bid when reducing its bids from 4 to zero.
- xv) All bids placed at each round are binding commitments on the bidder
- xvi) If the tied bidders offer the same amount in the Tiebreaker Round then the winner will be chosen by Throw of Dice.
- xvii) At the end of the auction when the won lots have been assigned, all non winning bids including exit bids placed during the auction will cease to be legally binding commitment to pay.

EXIT BIDS

Exit Bid refers to the bid amount placed when a Bidder exits the auction by reducing eligibility from 4 to zero.

- i) Exit Bids in the round will be considered in descending order with unsold Lots going first to the Bidder who made the highest Exit Bids, then to the Bidder who made the second highest Exit Bid and continuing in that fashion until all Lots are allocated.
- ii) A Bidder is not allowed to place an exit bid when reducing its demand to a number greater than or equal to 4 eligibility points.
- iii) A Bidder is only permitted to place an exit bid in an auction round when its eligibility point is 4 and it wishes to exit the auction by placing a zero bid.
- iv) Placing Exit Bids is a commitment on the bidder to accept and pay for the lots won which can either be the number of lots it made exit bids for or less.
- v) Without prejudice to the preceding paragraph, in the event that a Bidder did not win any lot in the clock auction round, the minimum lots to be won in the exit bid round, or tiebreaker round is 2 Lots.

- vi) In the event that a Bidder that placed an exit bid refuses to pay for the lots won, it shall forfeit its IBD.
- vii) The Price offered in the exit bid must be more than the round price of the previous round, but less than the Round price in the current Round.
- viii) All the Exit Bids made in a particular Round must be identical. For example if a Bidder had a demand of 4 in the previous Round price of \$100 but does not wish to pay the current Round price of \$110. If they wish to make Exit Bid, they will input the same amount in all the Bid boxes. So Exit Bid of \$105 in all the 4 Bid boxes will be allowed. Input of say, \$105, \$104, \$106, \$103 into the Bid boxes will not be allowed.
- ix) If at the final round of the auction there remains some unsold lots, the demand of the bidders that made exit bids will be satisfied first before considering the bidders who did not place any exit bid(s). If there remain unsold Lots after this process, then Bidders who did not make Exit bids have the opportunity to make further Bids in the Unsold Lots Round.

THE UNSOLD LOTS ROUND

Unsold Lots are remaining Lots after all the exit bids have been considered in the final round of the Clock Auction Rounds. Every Bidder who had Excess Eligibility in the round before the final clock round will be eligible to take part in the unsold lots round. The specific rules applicable to this Round are as described below:

- i) Bids made in the unsold lots round must be greater than the round price in the penultimate round but there is no upper limit.
- ii) Placing bids in Unsold lots round is a commitment on the bidder to accept and pay for the lots won which can either be the number of lots it made bids for or less. E.g. A bidder making 4 unsold lots bids could win 1,2,3 or 4 lots.
- iii) Without prejudice to the preceding paragraph, in the event that a Bidder did not win any lot in the clock auction round, the minimum lots to be won in the unsold lots bid round is 2 lots.
- iv) In the event that a bidder that placed an unsold lots bid refuses to pay for the lots won, the Bidder shall forfeit its IBD.
- v) In the event that winning bids within the unsold lots round are tied then this tie will be resolved via the Tiebreaker rules.
- vi) If the Unsold Lots Round/s closes with demand still less than supply then the unsold lots will be retained by the Commission.

TIEBREAKER RULES

A tie occurs when two or more winning bidders at the exit bid or Unsold Lots Round place the same bid amount.

- i) The Bid at the tie breaker round shall be at an amount greater than the amount at which the tie occurred.

- ii) The winner in case of a tie will be determined by the highest bidding amount.
- iii) If bids are still tied after the Tiebreaker Round, then the winner shall be chosen by Throw of Dice. The Bidder who throws the highest number will be declared the winner. This process will be repeated if the same number is thrown by two or more parties until the winner emerges.

ASSIGNMENT STAGE:

- i) All winners will be assigned contiguous lots.
- ii) Any Bidder who is not interested in participating in the Assignment stage will be offered the available Lots after those that participated in the Round have been assigned
- iii) If a winner has a preference for a particular Frequency Lot, they can express it by taking part in the Assignment stage.
- iv) The assignment stage is a single round with no upper or lower limit for each selection.
- v) The right of first choice of a range of frequency lots shall be given to the Bidder that offers the highest amount in the Assignment stage.
- vi) There will be further similar rounds, allowing for second and third and further choices. The maximum number of assignment rounds shall be the number of winning Bidders interested in participating in the Assignment Rounds minus one.
- vii) The Commission reserves the right to determine the band plans from which bidders may choose available Frequency Lots.

The Successful Bidders and their final Bids will be made public via a press statement. This will mark the end of the Auction process.

To guard against the unlikely situation in which the Auction Management Software (AMS) cannot be used or somehow fails during the Auction, the Commission will establish an alternative system of bidding using “runners” to deliver bids from Approved Bidders to the Auction Manager and Auction Overseer in the Auction Room.

Under this system, each Approved Bidder will be given a secure 10 digit “key” which it will affix to each bid that they send by runner to the Auction Room. Each bid will also be signed by two members of the Bidding Team.

If the AMS fails, a runner for each Approved Bidder will be dispatched from the Auction Room with a bidding form for each bidder and an envelope for them to use to seal their bid.

To enter its bid, an Approved Bidder will fill out the bid form by indicating either its acceptance of the bid or an exit bid and affixing its key and two signatures to the bid form and sealing the form in the envelope.

Runners will take these sealed bids back to the Auction Manager and Auction Overseer who will have a matching “key” for each Approved Bidder. They will use these “keys” to authenticate the bids brought by runner and record these bids in an Excel spreadsheet. This system will be employed until a Provisional Licence Winners are determined.

6.5.4 GRANT

The Auction Closure will occur when the Public Announcement is made by the Auction Manager / Overseer, revealing the successful Organisations to be awarded the Licences under this process. At this point each successful Bidder will automatically be deemed to have been awarded a Provisional License. The balance (Winning Bid Amount Less the IBD) of the Auction fee shall be paid to the Commission on or before January 07, 2015.

6.6 AUCTION RULES

The Auction rules are based on the following principles:

- The Licensing Process will be conducted in a fair, open and transparent manner. All parties participating in the Auction will be expected to behave in the same fashion.
- The Commission reserves the right to exclude any parties that have been deemed not to have conducted themselves in this way. In addition, the IBD can be forfeited under such circumstances.

All Bidders must abide by the Auction Rules or face disqualification.

6.6.1 Financial penalties

By entering into this licensing process, Applicants / Bidders are making a commitment to abide by the requirements and rules in relation to this Spectrum licensing process as communicated by the Commission. The Commission reserves the right to impose financial penalties on Applicants / Bidders in the event of infringement of these requirements and rules. Financial penalties will be deducted from the Intention-to-Bid deposits provided by Applicants / Bidders and the Commission's decision in these matters will be final.

6.6.2 Behaviour and Relationships

➤ Bidder Relationships

It is forbidden for Bidders to have a relationship with another Bidder during the licensing period of the Spectrum License Auction. For the purposes of this licensing process, this period starts with the issue of the Information Memorandum and stops at the granting of the Licenses. A relationship is defined as where a Bidder owns directly or indirectly an ownership stake of 10% or more in another Bidder.

In the interest of avoiding a Bidder relationship conflict, 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 that could give rise to such a Bidder relationship issue.

Where it is shown that such a relationship exist, or has existed during the licensing phase, the Commission reserves the right to exclude Bidders from the process and withhold the IBD.

The Commission reserves the right to impose financial penalties (see Section 6.6.1) and/or exclude any Bidder where it has been demonstrated that the Bidder has worked in an anti-competitive relationship against the spirit of the Auction Rules. The Commission also reserves the right to exclude these organisations from future licensing events.

➤ **Anti-Competitive Behaviour**

Bidders must not enter into any arrangement with organisations that would restrict the ability of other Bidders to plan, build or operate their networks under the Spectrum License.

Bidders are not permitted to agree any type of restriction on the costs of software or equipment with suppliers that would influence the ability of other Bidders to plan, build or operate their networks under the Spectrum License.

Applicants are not permitted to receive advice on 2.6 GHz Spectrum Auction matters from any persons retained as an advisor by another Bidder in the Spectrum licensing process.

6.6.3 Confidentiality

➤ **Confidentiality**

Any confidential information that is submitted to the Commission by Bidders will not be disclosed to other parties unless it is deemed essential to the fair running of the licensing process or required by law. Under these circumstances, full consultation will take place with the affected party.

Confidential information will include items such as business cases, bidding details and bidding strategies.

All information issued by the Commission in relation to this 2.6 GHz Spectrum licensing process should be regarded as non-confidential unless explicitly stated.

Notwithstanding the above, Bidders must not make any public statements concerning the Auction during its progress.

6.6.4 Process

➤ **Question and Answer Period**

The period between the publication of the Information Memorandum (IM) and the application closure date allows all interested parties to raise clarifications on the Information Memorandum and request additional information.

All questions and corresponding Commission responses will be published on the Commission's website. All responses will be available on the Commission's website from 17.00 hours (NT) on November 03, 2014 and will form part of the IM.

No individual correspondence will be entered into concerning questions or clarifications raised by Bidders.

All clarifications and questions raised should be addressed during the specified communication period to either:

spectrumauction@ncc.gov.ng, or

The Executive Vice Chairman of the Nigerian Communications Commission.

In both instances, all communication should be clearly titled '2.6 GHz Spectrum Auction'.

➤ **Complaints, Grievances and Their Resolution**

All complaints and grievances should be submitted in writing to the Commission clearly outlining the details of the issue. No other method of submission is permissible.

Complaints and grievances will be accepted during and up to one day after the Auction

Resolution will be in the form of a formal documented reply from the Commission with clearly defined resolution actions where appropriate. The Commission's decision is final.

➤ **Communications**

All communication between Bidders relating to the 2.6 GHz Spectrum licensing process is forbidden. This includes but not limited to: bid strategy, valuations and budgets. If a Bidder knowingly and purposely communicates with another Bidder during the licensing process, the Commission has the right to impose financial penalties, at the Commission's discretion as defined in Section 6.6.1. It also reserves the right to exclude the party from further participation in the Auction.

Should a Bid Team require to communicate with the Auction Manager on an Auction Day, it should submit a sealed written communication document to the Observer present in the Auction Room. This communication will then be passed to the Auction Manager.

➤ **Disqualification From The Process**

In the event of a Bidder being disqualified from the process, the Commission reserves the right to impose a penalty. The maximum penalty may result in forfeiture of the full IBD submitted.

RESTART OF THE AUCTION

The Commission reserves the right to exclude one or more Bidders from the Auction where it has been shown due reason to do so. An example warranting exclusion could be contravention of the communications rule.

Under such circumstances, it is at the Commission's discretion as to whether the Auction will continue or be restarted. Mitigating circumstances for an Auction restart would include instances where the bidding process has been influenced or where bids have been excluded or distorted in the Auction process.

Opening Bid: The opening bid shall be a minimum value of the Reserve Price plus the Bid Increment

➤ **Late Bid Team Arrival**

Only where it can be shown that exceptional circumstances have prevented the Bid Team arriving on time for an Auction Day will the Auction be paused. Approved Bidders may be required to get in touch with the Auction Manager before arrival and provide official proof for any lateness on arrival.

It is at the sole discretion of the Commission to determine if the circumstances stated are acceptable.

➤ **Late Bid Circumstances**

The Auction Software will reject late bid submissions on the Auction Day/s. If a Bidder fails to enter a bid in any round, their eligibility to continue will automatically lapse.

➤ **Changes In Applicants' Circumstances**

Any changes to a Bidder's circumstances during the licensing process that would affect the process should be reported in writing to the Commission at the earliest opportunity.

➤ **Application Withdrawal Policy**

An application to participate in the licensing process cannot be withdrawn.

➤ **Auction Process Briefing**

Approved Bidders will be required to participate in a Mock Auction that will replicate the actual Auction process. This Mock Auction will take place on or around December 01, 2014. It is mandatory for Approved Bidders to attend the Mock Auction. Details of this event will be published on the Commission's website.

➤ **Language**

All communication shall be in English.

➤ **Governing Law**

National Law – This Information Memorandum and any license issued shall be exclusively subjected to, and interpreted in accordance with, the laws of Nigeria.

Dispute Resolution – Any dispute over the licensing process and distribution shall be settled by the Commission under the terms of the Information Memorandum and the laws of Nigeria.

➤ **Taxes**

The sale of the Spectrum License will not incur Value Added Tax (VAT). In addition, no VAT will be applicable to the UASL license fee.

➤ **Currency**

All currency amounts stated throughout this document are in US Dollars (US\$) except where it is specified otherwise. All currency amounts used in all bidding stages must also be in US Dollars (US \$).

6.6.5 Financial

INTENTION-TO-BID DEPOSIT (IBD)

Applicants must transfer an Intention-to-Bid Deposit (IBD) equal to Intention-to-Bid Deposit (IBD) for a Lot which is US\$1,600,000.00 multiplied by its Eligibility Points (Number of Lots applied for) into the designated account in cleared funds. This deposit will bind the Applicant to take up a License, should it be a Successful Bidder, at the Reserve Price or any higher bid value submitted during the process

The IBD is the deposit payment required to be made by all Applicants as part of the Pre-qualification process. This payment must be settled before the application submission date (as defined in the licensing process timetable).

The IBD is a commitment from the Applicant to pay at least the Opening Bid for the license, as specified in this IM, and to participate in the Auction process. Failure to meet these obligations shall result in the forfeiture of the IBD.

In the event that any Approved Bidder is successful in the Auction process, the full IBD will be offset against payment for the actual license, subject to no penalty having been incurred during the Auction.

Approved Bidders who have been unsuccessful in the Auction process will have their IBD returned to them in full, subject to no penalty having been incurred during the Auction.

By 17.00 hours (NT) on November 17, 2014, Applicants must have transferred the IBD so that it is received in cleared funds in the designated account. This is part of the pre-qualification process.

The accounts to which Applicants must send the funds are as follows:

United States Dollar Accounts:

Account Name: Nigerian Communications Commission
Account Number: 0001113620
Sort Code: 044080099
Bank: Access Bank PLC, Plot 1195, Aminu Kano Crescent,
(Opposite Amal Court), Wuse II, Abuja

FOR APPLICANTS / BIDDERS THAT INTEND TO PAY IN NAIRA

Note: Companies that wish to pay in Naira should pay the naira equivalent of the designated amounts at the prevailing Exchange Rate for the date of payment

➤ **Access Bank Naira Current Account:**

Account Name: Nigerian Communications Commission
Account Number: 0000 969 703
Sort Code: 044080099
Bank: Access Bank PLC, Plot 1195, Aminu Kano Crescent,
(Opposite Amal Court), Wuse II, Abuja.

➤ **UBA PLC Naira Current Account:**

Account Name: Nigerian Communications Commission
Account Number: 1000 915635
Sort Code: 033081148
Bank: UBA PLC, Area 3, Garki, Abuja

Any penalty will be deducted on the day that it is incurred. Bidders will be informed in writing of any such penalties.

7. APPLICATION INSTRUCTIONS AND APPLICATION CONTENTS

INTRODUCTION

This section provides a summary of the actions required to be taken by Applicants to submit an application to participate in the 2.6 GHz Spectrum Auction.

In the event of a discrepancy between the application instructions contained in this section and the licensing process descriptions provided above, the licensing process descriptions shall prevail.

7.1 APPLICATION INSTRUCTIONS

- Interested Applicants under this auction process are not allowed to apply for less than 4 Lots (2x20MHz), and not more than 8 Lots (2x40MHz)
- Each Lot (2x5MHz) corresponds to 1 Eligibility Point
- The minimum eligibility points required to qualify to participate in the auction is 4 points
- The maximum eligibility points permitted to qualify to participate in the auction is 8 points

7.1.1 Application Format, Address and Delivery

All application must be submitted using the standard templates that are included in this Information Memorandum. These are detailed on the Compliance Checklist.

Applications should be submitted in a sealed envelope, marked as follows:

"2.6 GHz Spectrum Auction"
Should be addressed to:

Executive Vice Chairman/CEO
Nigerian Communications Commission
Plot 423 Aguiyi Ironsi Street
Maitama, Abuja,
Federal Capital Territory Nigeria

Applications need to reach the above address latest by the Application Deadline (see Table 3):

It is strongly advised that Applicants deliver their Application in a secure manner and that legal representatives accompany the delivery of the Application Form.

7.1.2 Application Deposit

By 17.00 hours (NT) on November 17, 2014 Applicants must have transferred the IBD so that it is received as cleared funds in the designated account; see Section 6.6.5. This forms part of the pre-qualification criteria.

APPLICATION DOCUMENTATION

Part 1 – Cover Letter

A duly completed Cover Letter, as contained in Appendix B.2, should be signed and dated by an Authorised Signatory of the Applicant. This Authorised Signatory should be included as a member of the Bid Team, as detailed in the Bidder Compliance Certificate template, found in Appendix B.7.

7.1.3 Part 2 – Pre-Qualification Criteria Table

A duly completed pre-qualification criteria table, as contained in Appendix B.5, should be signed and dated by an Authorised Signatory of the Applicant. This Authorised Signatory should be included as a member of the Bid Team, as detailed in the Bidder Compliance Certificate template in Appendix B.7.

The pre-qualification criteria table requires the Applicant to self-certify against the following criteria:

- Accredited as a Nigerian registered company (attach Certificate of Incorporation, particulars of Directors, Statement of Authorised Share Capital and Memorandum / Articles of Association)
- Independence from other Applicants
- Notification of Advisors
- Transfer of Intention-to-Bid Deposit
- Fulfilment of regulatory obligations.

7.1.4 Part 3 – Intention-to-Bid Deposit

The IBD submitted by Applicants shall:

- Be for an amount equal to US\$1,600,000.00 multiplied by its Eligibility Points (Number of Lots applied for)
- Be deposited and have cleared in the designated account before the Application closure date.
- Form part of the legal commitment of the Applicant to participate in the Auction process if they are awarded Approved Bidder status. This includes the commitment to take up a License if the Applicant becomes one of the Successful Bidders.

7.1.5 Bid deposit payment form

A duly completed Bid Deposit Payment Form as contained in Appendix B.6 should be completed, signed and dated by an Authorised Signatory of the Applicant.

7.1.6 Binding Nature of Application

By submitting an application the Applicant will be bound by the information provided and the commitments outlined in this Information Memorandum and any subsequent notices and communications by the Commission relating to the 2.6 GHz Spectrum Auction as appropriate and as contained in the Applicant's application.

7.1.7 Completeness of Applications

Incomplete applications will not be considered by the Commission. If there is any doubt surrounding the completion of applications, this should be addressed in writing to the Executive Vice Chairman, clearly marked 2.6 GHz Spectrum Auction, at least two business days before the application deadline. A scanned copy of such request for clarification should also be sent to spectrumbauction@ncc.gov.ng within the same timeline.

8. CONTACTS, COMMUNICATIONS AND INDICATIVE TIMETABLE

8.1 CONTACTS FOR ENQUIRIES

Enquiries relating to the Information Memorandum should be addressed during the specified communication period to either:

- spectrumauction@ncc.gov.ng, or
- The Executive Vice Chairman of the Nigerian Communications Commission.

In both instances, all communication should be clearly marked '2.6 GHz Spectrum Auction'.

8.2 COMMUNICATION PROCESS

Following the issue of this Information Memorandum, the Commission may publish further information as well as any questions received and any answers provided. The Commission, however, reserves the right not to respond to a particular question, in whole or in part.

The identity of Applicants submitting questions will not be attributed without the questioner's permission. The Commission will publish all additional information via its website (www.ncc.gov.ng). Further copies of this Information Memorandum may be downloaded from this site.

A Seventeen (17) Day window for questions will commence immediately following the release of this Information Memorandum. Questions will only be entertained through the official communication channels outlined above. Communication outside this period will not receive a reply.

8.3 INDICATIVE AUCTION TIMETABLE

Table 8: Indicative Timetable

Date	Activity
	Invitation Stage
August 15, 2014	Publication of Meeting for Stakeholders Consultation/ Intention to Auction
October 10, 2014	Publication of Information Memorandum / Application Start Date
October 27, 2014	End date for comments and questions on IM
November 03, 2014	Publication of response to comments and questions on IM
November 17, 2014	End of submission of Application
	End Date for Payment of mandatory intention to bid deposit
	Pre-Qualification Stage
November, 24, 2014	Notification of Qualified Bidders
	Notification of Mock Auction and Auction date
	Publication of [qualified bidders and] Mock Auction and Auction date
	Auction Stage
December 01, 2014	Mock Auction
December 02 – 05, 2014	Auction
	Grant Stage
December 05, 2014	Publication of Provisional winners
	Notification of provisional award of license
January 07, 2015	Payment for License
January 08, 2015	Publication of Final result

APPENDIX A: A Glossary Of Terms...

2.6 GHz Spectrum Auction	The end-to-end Spectrum licensing process addressed by this Information Memorandum
Active Bid	Any submitted Bid value featuring in the bidding round
Active Bidder	A Bid Team that has not withdrawn from Auction proceedings
Applicant	A party that has submitted an application and associated Intention-to-Bid Deposit in order to be considered for Approved Bidder status
Approved Bidder	An organisation that has met the pre-qualification criteria and received formal approval from the Commission to participate in the 2.6 GHz Spectrum Auction and has committed itself to compete in the Auction
Ascending Clock Auction	An auction design where the Auction Manager receives Bids and implements Bid Increment in every Round where demand for the item being auctioned exceeds the supply until demand
Auction	The stage of the licensing process where competitive bidding is undertaken to purchase a Spectrum license.
Auction Administrator	Person assigned to ensure the smooth running of the administrative functions during the Auction phase of the 2.6 GHz Spectrum licensing process
Auction Closure	The public announcement of the conclusion of the licensing process following the completion of the Auction.
Auction Location	Venue that will be used to host the Auction stage of the licensing process
Auction Management Software	The secure, Internet-based software that Bidders will use to enter their Bids in each Round of the Auction
Auction Manager	Person responsible for the Auction process
Auction Overseer	Person responsible for monitoring the Auction process, providing assurance to Approved Bidders with respect to the final Auction result and resolution of any Auction process issues
Auction Rooms	Secure, individual rooms provided for and used by each Bid Team for the duration of the Auction process
Auction Round	The period of time during which each of the Active Bidders must carry out an action, the end of which is signified by the Auction Manager publishing the number of active bids and bid values
Authorised Officer	A person authorised by an Applicant to act on its behalf, as defined in the Bidder Compliance Certificate
Authorised Signatory	A person authorised to contract on behalf of the Applicant / Bidder

Bid	The value that an Approved Bidder has declared to be willing to pay for a Spectrum license in any Auction round
Bidding Action	The process by which a Bid Team indicates willingness or otherwise to pay the current price for a Spectrum block in the 2.6 GHz band Auction. There are three types of Bidding Action: bid, non-bid, exit bid
Bidder	A Bidder is a corporate body that has been prequalified to participate in the Auction process for award of a Spectrum license
Bid Increment	The amount by which a bid is increased between Auction rounds. The increment will vary within the following range: 0.001% to 5%.
Bid Form	The paper form on which an Approved Bidder makes an action known in each round
Bid Team	A group of people authorised by an Applicant to participate in the Auction process, comprising no more than four people, one of whom should be the Authorised Officer (as defined in the Bidder Compliance Certificate template).
Bid Team Member	A Member of the Bid Team authorised to act on behalf of the Bidder
Commission	The Nigerian Communications Commission
Commission Observer	A person on behalf of the Commission who will be in attendance in Auction Rooms to ensure compliance with the Auction Rules
Generic Reserve Price (GR)	The minimum price for one Lot of 2 X 5 MHz
Increase	The act of raising the bid value that an Approved Bidder is willing to pay for a license, by at least the minimum bid increment as defined by the Auction Manager
Intention-to-Bid Deposit (IBD)	A sum deposited by an Applicant with the Commission to demonstrate intention to participate in the Auction and willingness to take up a license for at least the Reserve Price
License Award	Notification of award of a Spectrum license
Lot	One paired Spectrum bandwidth of 5 MHz in the 2.6 GHz band
Mock Auction	A preparatory run-through of the Auction process to familiarise Approved Bidders with the Auction procedures
NBS	National Bureau of Statistics

NT	Nigerian Time
Opening Bid	The minimum acceptable Bid for the item(s) on offer in the Opening Round. Often set as one Increment above the Reserve Price.
Opening Round	The first round of an auction during which the item(s) being auctioned are offered to Bidders at the Opening Bid
Previous Round	The Auction round preceding the current round
Reserve Price	The price announced as the minimum at which a license will be awarded in the licensing process.
Successful Bidder	A Successful Bidder is a Bidder to whom a Provisional Spectrum license is awarded
The Act	Nigerian Communications Act, 2003
Throw of Dice	The process used to determine the provisional winner when two or more Bidders are tied at the end of the Auction. One dice will be used in this process with the Bidder whose company name starts with the letter nearest to the start of the alphabet throwing first.
Tied bid	Submitted bids of the same value in the final round of the auction.

APPENDIX B APPLICATION FORMS

INTRODUCTION

This section contains all appropriate forms for interested parties wishing to be considered for inclusion in the Auction process.

Templates:

- Cover Letter Template
- Applied "Lots Confirmation" Form
- Compliance Statement
- Pre-qualification Criteria Check-list
- Bid Deposit Payment Form
- Bidder Compliance Certificate.

All templates and forms must be submitted on the Applicant's letter headed paper.

COVER LETTER TEMPLAT E

Executive Vice Chairman,
Nigerian Communications Commission
Plot 423, Aguiyi Ironsi Street
Maitama,
Federal Capital Territory Abuja Nigeria

<Applicant's details, including mailing address, contact telephone number and email address>

<insert date>

Dear Sir

We the undersigned, having dutifully read the Information Memorandum pertaining to the Auction for Spectrum in the 2.6 GHz band, including the disclaimer and all appropriate adjuncts, we herewith submit an application to take part in the auction for the award of license to operate wholesale access commercial services in that band.

Should our application be successful in the Auction, we hereby undertake to pay all fees relating to the acquisition of, and operation under, the license, as well as abide by all appropriate terms and conditions as set out in the Information Memorandum, including the referenced licenses.

By submitting this letter, we certify that we have lodged an Intention-to-Bid Deposit of US\$ ____ (____ United States Dollars with the Commission's bankers to qualify us to bid for ---- Lots of 2 X 5 MHz Spectrum.

By submitting this application and deposit we understand that we have entered the licensing process to purchase a Spectrum License for each of the States of the Federation and the FCT and will perform all obligations as stipulated in the Information Memorandum.

We also understand that by entering into this licensing process we are making a commitment to abide by the requirements and rules in relation to this 2.6 GHz Spectrum licensing process as communicated by the Commission and that the Commission reserves the right to impose financial penalties in the event of infringement of these requirements and rules. Any such financial penalties will be deducted from our Intention- to-Bid deposit.

We have completed and enclosed the following:

- a) Applied "Lots Confirmation" Form
- b) Compliance Statement
- c) Pre-qualification Criteria Check-list
- d) Bid Deposit Payment Form
- e) Bidder Compliance Certificate (containing details of Bid Team members).

We confirm that all the information provided in our application and associated documents are accurate and true to the best of our knowledge.

We acknowledge that this letter and all associated documentation relating to this process and our participation in it are governed by Nigerian law.

Yours sincerely

<insert signature of authorised signatory>

<insert name of signatory>

<insert name of Applicant>

<insert date of signature>

B. 3. APPLIED "LOTS CONFIRMATION" FORM

The undersigned confirm that we are applying for ___ Lots and that we have made an Intention to Bid Deposit of US\$ ____ (____ United States Dollars) corresponding to the requirement for ___ Lots.

<insert signature of authorised signatory>

<insert name of signatory>

<insert name of Applicant>

<insert date of signature>

B.4 COMPLIANCE STATEMENT

Executive Vice Chairman
 Nigerian Communications Commission
 Plot 423, Aguiyi Ironsi Street
 Maitama
 Federal Capital Territory Abuja Nigeria

Date

Name of Applicant.....

Request for Applications for the Licensing of 2.6 GHz Spectrum in the Federal Republic of Nigeria

Category	Criteria	Proof
Template	Application to take part at Auction in the licensing process for 2.6 GHz Spectrum	Cover Letter
Template	Confirmation that the Applicant meets all defined pre-qualification criteria	Pre-qualification Criteria Check-list
Template	Confirmation that the Applicant understands the nature of the Intention- to-Bid Deposit	Bid Deposit Payment Form
Template	Confirmation of the Number of Lots applied for.	Applied "Lots Confirmation" Form
Template	Applicant's nomination of the bid team authorised to take part at Auction	Bidder Compliance Certificate

<insert signature of authorised signatory>
<insert name of signatory>
<insert name of Applicant>
<insert date of signature>

B. 5 PRE-QUALIFICATION CRITERIA CHECK-LIST

[Note to applicants: Please complete and return this form as part of the bidding application]

Characteristic	Criteria	Compliance (Yes/No)
Eligibility	<p>Applicant must be a registered company in Nigeria, as defined in Section 7.3.</p> <p>Applicant must confirm all participating entities and their relationships in the context of this Application. [To be provided as an attachment to the Cover Letter]</p>	
Independence	<p>Confirmation of independence from all other Licensed Network Operators participating in the 2.6 GHz Spectrum Auction.</p> <p>Indication of cross-ownerships and/or other issues which could affect Bidder Relationships (as defined in Bidder Relationships section under Auction rules). [To be provided as an attachment to the Cover Letter]</p>	
Advisors	<p>Identification of professional advisors supporting the Applicant's submission. [To be provided as an attachment to the Cover Letter]</p>	
Financial (deposit)	<p>US\$_____ (_____ United States Dollars) Intention-to-Bid Deposit has been transferred and cleared in the designated account to qualify Applicant to compete for ___ Lots.</p>	
Fulfilment of regulatory obligations	<p>Applicant must confirm that it is up to date with all administration, license and operating fees due to the Commission</p>	

<insert signature of authorised signatory>

<insert name of signatory>

<insert name of Applicant>

<insert date of signature>

B. 6 BID DEPOSIT PAYMENT FORM

The Applicant certifies, agrees and undertakes that:

- i. It has paid a deposit of US\$ ____ (____ United States Dollars) to the Commission as required by the Information Memorandum issued for the 2.6 GHz Spectrum licensing process.
- ii. Where the Commission makes an offer to allocate Spectrum to a Successful Bidder and the Successful Bidder accepts the offer and pays for the Spectrum within the period as specified by the Commission, then the deposit US\$ ____ (____ United States Dollars), will form part of the payment for the price of the Spectrum that will be allocated to the Successful Bidder.
- iii. Where the Commission makes an offer to the Successful Bidder and the Successful Bidder fails to make full payment in accordance with the conditions of the Auction and the Information Memorandum, the deposit will be forfeited to the Commission.
- iv. Where the Commission makes the offer to a Successful Bidder and the Successful Bidder fails to accept the offer within the time specified by the Commission for the acceptance of the offer, the Successful Bidder will forfeit the US\$ ____ (____ United States Dollars) deposit.
- v. Where no offer is made to the Bidder by the Commission but the Bidder has contravened any of the Auction rules as set out by the Commission, the Bidder accepts to forfeit the IBD.
- vi. Where no offer is made to the Bidder by the Commission, and the Bidder has not contravened any of the Auction rules as set out by the Commission, the deposit of US\$ ____ (____ United States Dollars) will be refunded to the Bidder.

Please refer to Table 2 for guide in completing the monetary figures.

The common seal of the Bidder is hereby attached in presence of

DIRECTOR

SECRETARY

B. 7 BIDDER COMPLIANCE CERTIFICATE

The Bidder certifies and undertakes that:

- i. The Authorized Officers of the Bidder have read and understood the relevant legislation and the Information Memorandum.
- ii. The Bidder is legally capable of bidding in the Auction and has in place all necessary consents, permissions and board approval for this purpose, save those which, by virtue of legal or regulatory process, are not obtainable until after the results of the Auction are known and the Bidder further understands that it will bear the risk of failure to obtain such consents, permissions and approvals that are not obtainable until after the results of the Auction are known.
- iii. The Bidder understands and will be legally capable of satisfying its obligations under the terms and conditions of the License granted pursuant to the Auction and the terms of any License granted as a consequence of winning a Spectrum License in the Auction.
- iv. The actual information provided in, or in support of, the Application is, to the best of the Bidder's knowledge and belief, true, accurate and complete in all material respects and that any opinion expressed is honestly held.
- v. The Bidder in the Application is not the subject, and none of its Directors, officers or representatives are the subject, of criminal investigation or proceedings in Nigeria or abroad which might reasonably be expected to affect adversely their business or materially affect the Bidder's ability to bid in the Auction or to satisfy the terms of any License awarded pursuant to the Auction, and that there is no reason to believe that such investigations or proceedings might occur during the Auction.
- vi. The following Officers representing the Bidder in the Auction have been duly and properly delegated by the Bidder to do so and they have the authority and power to bind the Bidder in the transaction.

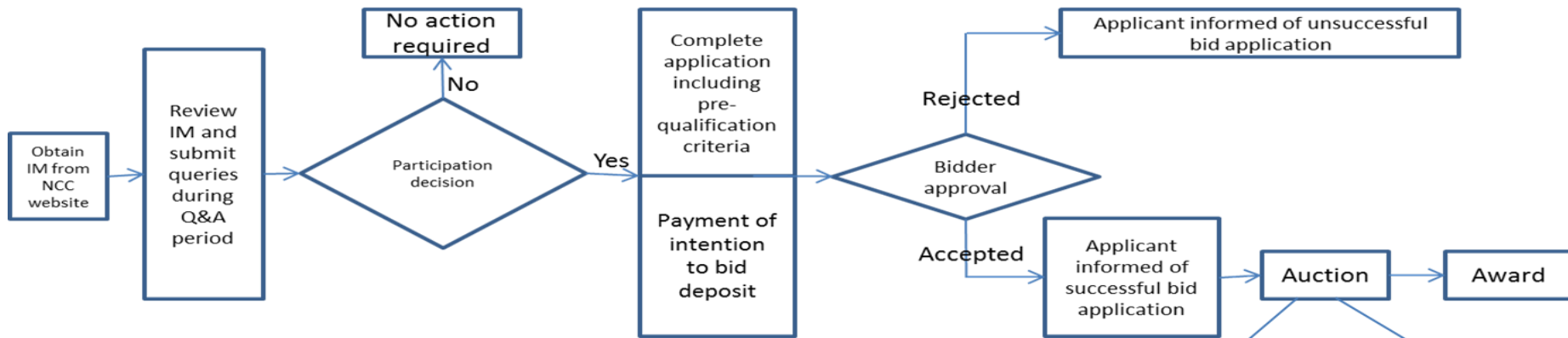
Number	Name	Designation
1		
2		
3		
4		

The Common seal of the Bidder is hereby attached in presence of:

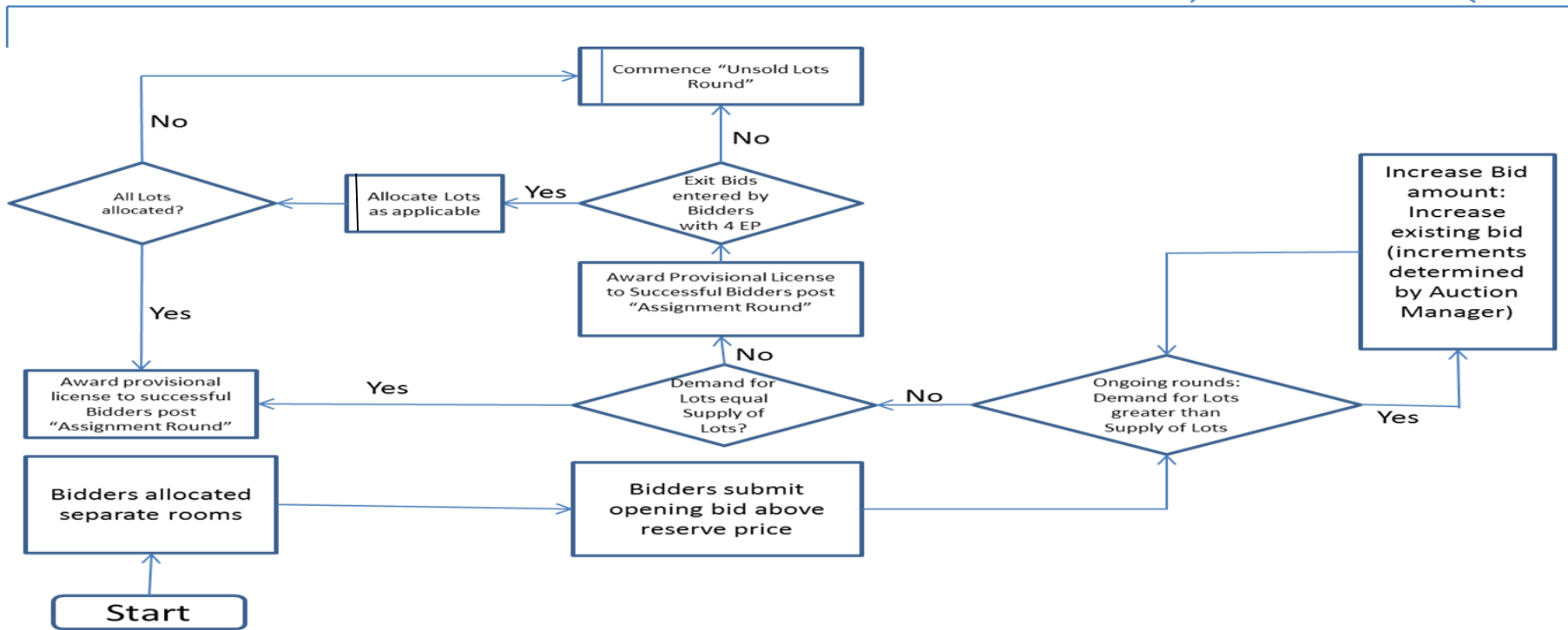
DIRECTOR

SECRETARY

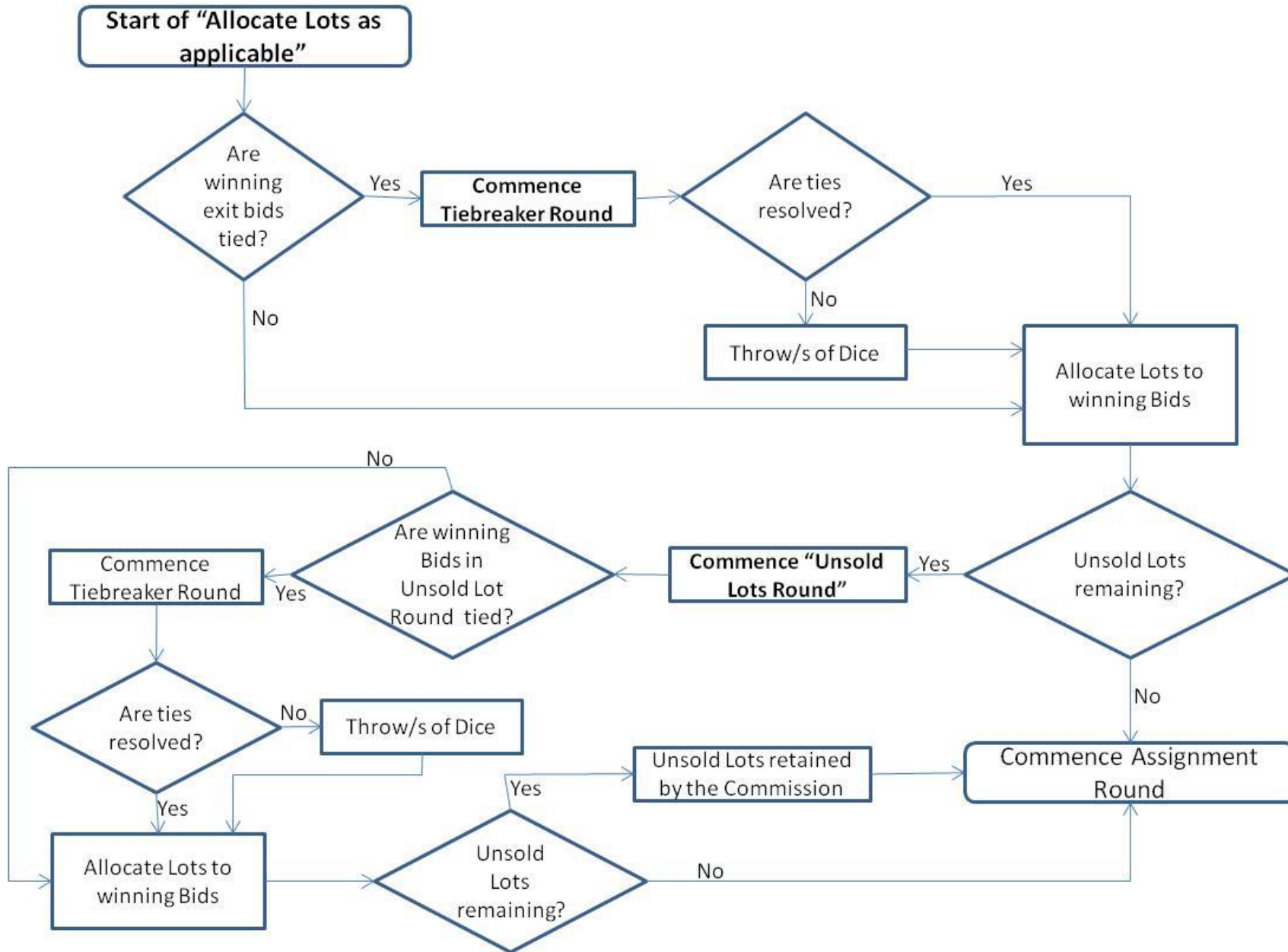
APPENDIX C LICENSING PROCESS DIAGRAM OVERVIEW



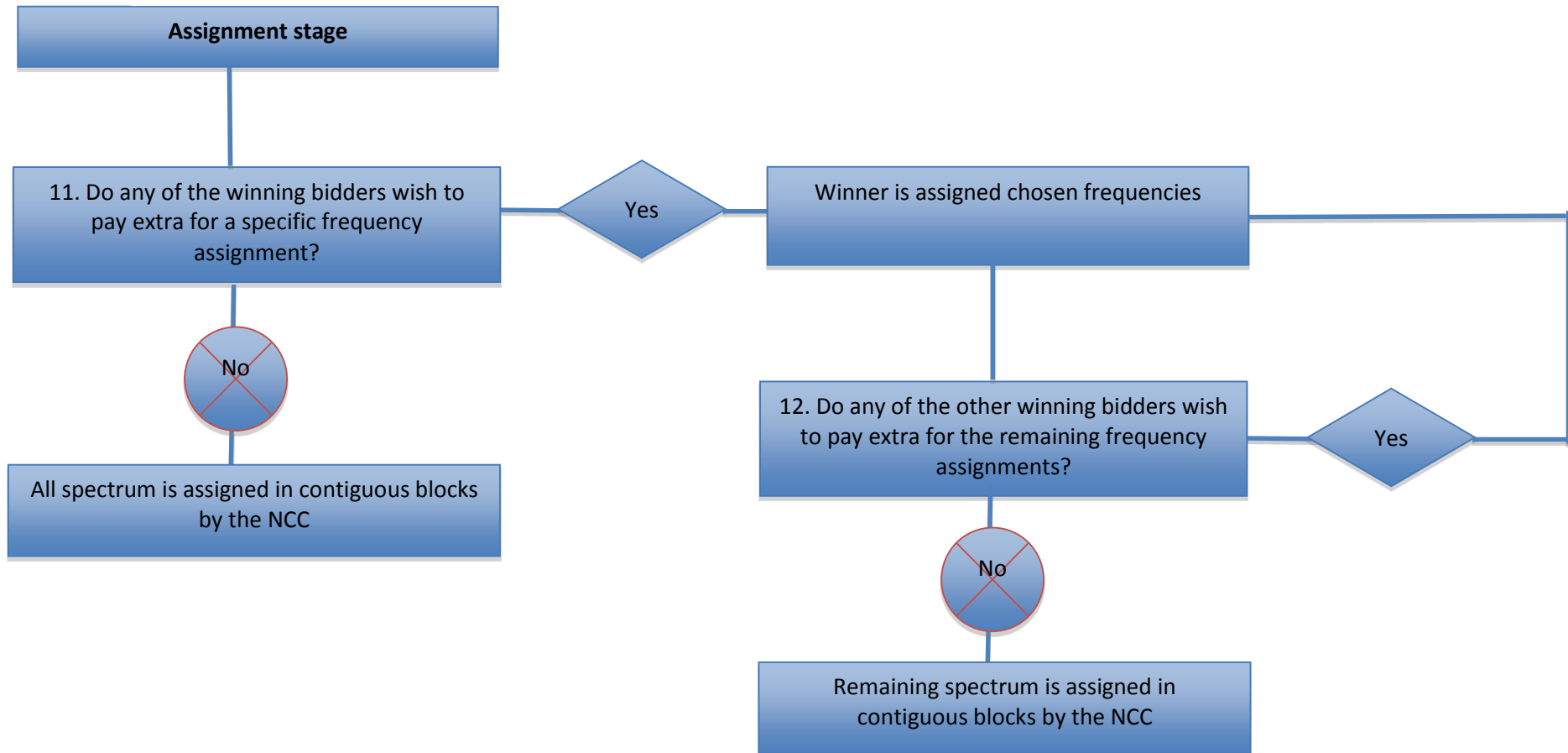
C.1 ASCENDING CLOCK AUCTION WITH EXIT BID



C.2 TIEBREAKER ROUND AND UNSOLD LOTS ROUND



C.3 ASSIGNMENT ROUND



APPENDIX D: BIDDER REGISTRATION, AUTHENTICATION AND BIDDING FORMS

D.1 Bidder Registration and Authentication Form

Purpose and Instructions:

The purpose of this form is to register and authenticate you for the auction of Spectrum in the 2.6 GHz Frequency band. The form contains information on the name, signature and initials of Designated Bidders to fulfil the function of delivering the round-by-round bids to the Auction Manager and Auction Overseer.

All Bidders, Runners, the Auction Manager and Auction Overseer must sign and initial this witnessed form.

Authorized Individuals:	Date:
Name: Signature:	Initials:
Name: Signature:	Initials:
Runner: Name: Signature:	Initials:
Auction Manager: Name: Signature:	Initials:
Auction Overseer: Name: Signature:	Initials:

D.2 Round-by-round Bidding Form for the 2.6 GHz Band

Round by Round Bidding for the 2.6 GHz Frequency Band	
Bidder Name:	Bid Number:
ACCEPT BID (ENTER 1 IF YES, OTHERWISE GO TO "ENTER EXIT BID")	
ENTER EXIT BID (ENTER VALUE BETWEEN LAST BID AND CURRENT BID)	
Authorized Individual's Name:	Authorized Individual's Signature:
Auction Manager's Name:	Auction Manager's Signature:
Auction Overseer:	Auction Overseers' Signature:

APPENDIX E: UNIFIED ACCESS SERVICE LICENSE (UASL) OPERATIONAL LICENSE

Refer to “Unified Access Service License (UASL) Operational License” document

APPENDIX F: 2.6 GHz FREQUENCY LICENSE

Refer to “2.6 GHz Frequency License” document