

# **GUIDELINES ON RADIO SPECTRUM HOARDING**

## **Executive Summary**

Radio spectrum is a finite public natural resource which must be properly managed and used efficiently in the public interest. In situations where there is a high demand for radio spectrum, the government regulatory institution should take deliberate measures ensure that this resource is used within certain defined licence conditions and time frames for the provision of communication services to the public.

In certain situations, the licensed operators may deliberately delay to use the radio spectrum in order to monopolise the telecommunications market and deny entry to new competitors. Such operator's behaviour translates into radio spectrum hoarding.

In a bid to discourage radio spectrum hoarding and ensure its use as stipulated in the Licence and frequency authorisation, Uganda Communications Commission has in line with its mandate put in place the following Guidelines on Radio Spectrum Hoarding that shall be applicable to both new entrants and the existing operators/users in the telecommunications market in Uganda.

## **New Operators in the Telecommunications Market**

New Operators in the telecommunications market are given a time frame of Two Hundred and Forty (240) days from the time of submitting the application for a Public Infrastructure Licence (PIP Licensee) to finalisation of the application requirements (this includes application review and processing, signing of the licence, submission of frequency network plans, securing Letter of Credit and payment of frequency fees) and also Eighteen months (18) months within which to complete installation of the infrastructure/utilisation of the assigned frequencies, operationalisation of the Licence and provision of services. The following regulatory Guidelines are geared towards discouraging Radio Spectrum Hoarding for New Operators/entrants:

- a) The PIP Licensee shall be required to pay a penalty of 1% of the advised frequency fees/bill for every month for a period of three months. After this period, if the frequency fees plus the penalty fee are not paid, the frequency assignment shall automatically revert to the Commission. By cancelling the assignment, the Commission provides an opportunity to other operators/applicants to access that radio spectrum.
- b) If the PIP Licensee does not finalise installation of the infrastructure /frequency utilisation, the conditions provided in the Letter of Credit Section 5 (ii) b of the PIP Licence shall automatically apply.
- c) Since the PIP Licence will still be valid, the Licensee can use any other resources such as optic fibre to install the infrastructure.

The Licensee will only access the withdrawn radio spectrum through fresh application where the Licensee will compete along with other applicants. Policy Guideline No.4 as in The Uganda Gazette of 20<sup>th</sup> February 2009 in Vol.CII No. 8 in General Notice No.51 of 2009 provides that accessing radio spectrum by the applicants is based on First-Come First-serve principle.

- d) Re - allocation of radio spectrum that will have reverted to the Commission either through cancellation of radio spectrum reservation and/or through cancellation of frequency assignments shall follow market based approaches. This will be in line with the Commission's radio Spectrum Policy Guideline No. 4 contained in Vol.CII No.8 in General Notice No.51 of 2009.

### **Existing Operators /Users of the Radio Spectrum**

All frequencies assigned to operators/users shall be brought into operation within a stipulated timeframe and shall be paid for annually. The authorisations shall be valid for a period of five years and reviewed thereafter to establish how effectively the radio spectrum is utilised by the Licensee.

In a situation where the existing operators/users request for additional radio spectrum, the Commission shall, among other conditions for use of that spectrum and based on the nature of service and rollout of the network, stipulate the timeframe within which that resource shall be utilised.

In case the Commission is not satisfied with the level of utilisation of the assigned radio spectrum or the operator/user does not bring the service within the time frame allowed, the Commission reserves the right to withdraw that radio spectrum. In such a case, the Commission shall give a notice of intention to withdraw the assigned radio spectrum to the concerned operator within a period of 30 days, after which the radio spectrum shall be withdrawn and revert to the Commission for use by other operators.