

Our Ref: LA/440

25th May 2020

The Chairman,
Internet Service Providers Association of Uganda
KAMPALA

Dear Sir,

**IMPLEMENTATION OF THE NEW LICENSING FRAMEWORK FOR THE
TELECOMMUNICATION SECTOR**

We refer to your letter dated 18th May 2020 regarding the above subject matter. Reference is also made to the earlier letters dated 10th December 2019, 17th October 2019 and the meeting of 29th October 2019 wherein Uganda Communications Commission (the Commission) presented and engaged all existing and prospective operators about the new licensing framework.

We wish to applaud the Internet Service Providers Association of Uganda (ISPAU) and its membership for the in depth consideration of this matter.

In the above mentioned engagements and communications, the Commission explained that the review of the licensing framework was occasioned by the passing of the National Broadband Policy 2018, and that the changes that have been introduced in the new licensing framework are intended to promote parity, efficiency and equal treatment of all operators in the sector as mandated by section 52 of the Uganda Communications Act 2013.

Through the letter of 10th December 2019, all operators were duly informed that the new licensing framework would come into force on 1st July 2020 and all existing operators were required to submit their respective expressions of interest for the license(s) they wish to be considered for under the new licensing framework.

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In order to minimise the inconvenience that the transition to the new licensing framework might cause to existing operators, the Commission exempted all existing operators from some licensing requirements such as payment of license application fees and initial entry fees. However, license fees will be due as applicable – in advance for National Telecom Operator (NTO) or annually for the rest of the license categories.

The Commission wishes to re-iterate that where it is proven that transition by any operator to the new licensing framework is being hampered by onerous terms and conditions in any existing agreement with another operator in Uganda, the Commission shall, in accordance with its mandate and part IX of the Uganda Communications Act 2013, intervene and/or provide the requisite regulatory guidance to the concerned parties in order to engender seamless transition to the new framework.

In addition, the Commission considered the representations that were made by operators regarding the licence fees that had previously been gazetted under the Uganda Communication (Fees and Fines) Regulations 2019, and indeed, the Commission, with guidance from the Ministry of ICT & National Guidance, has significantly reduced the applicable fees vide the Uganda Communications (Fees and Fines) (Amendment) Regulations 2020.

All existing operators with running licenses are advised that their respective licenses shall, in accordance with section 40 of the Uganda Communications Act 2013, be modified in order to achieve the objectives of the Act and Government policies. The modification shall be done through the transition to the new framework effective 1st July 2020.

Regarding the specific questions that were raised, we wish to clarify as follows:

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1. Whether holding National Public Service Provider (NPSP) and National Public Infrastructure Provider (NPIP) will automatically make one NTO

As previously highlighted in the various engagements, no operator - new or existing, shall be allowed to hold two National licenses. Accordingly, it shall not be permissible for a single operator to hold both a National Public Infrastructure Provider (NPIP) License and a National Public Service Provider (NPSP) License. Any operator who desires to have operations that require the two national licenses is advised to applying for an NTO License.

2. Charging fees for Regional licenses.

We wish to restate our position on this matter as follows:

- (a) No operator shall hold more than two Regional PSPs or two Regional PIPs.
- (b) Where an operator holds two (2) licences in the same licence category, e.g. a RPSP in a region A and another in region B, the licence fee applicable will be the total of the licence values of the two licences, which will be the total of the minimum license value of the licence in each of the regions A and B or 0.89% of the licensee's annual gross revenue, whichever is higher.
- (c) Where two (2) licences are granted to an operator in different licensing categories but within the same region e.g. RPSP and RPIP both in region A, the licence fees due for the total of the two licences shall be the minimum value for one licence or 0.89% of total gross revenue, whichever is higher.

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- (d) Where two (2) regional licences are granted to an operator in different licensing categories in different regions e.g. a RPSP in region A and a RPIP in another region B, the licence fee applicable will be the total of the licence values of the two (2) licences, that is, the total of the minimum licence value applicable to the RPSP in region A and that of RPIP in region B or 0.89% of the licensee's annual gross revenue, whichever is higher.

3. How should operators deal with infrastructure deployed in regions where they may no longer hold licenses

In deciding which license(s) each operator should apply for under the new framework, the Commission invites operators to take into account their current operational set up, infrastructure footprint, business/market experience and prospects in the communications sector in Uganda.

The operators shall be permitted to sell and/or transfer infrastructure in case of scaling back.

4. Application process

On 15th May 2020, the Commission did share the license application requirements for licences to operate under the new licensing regime.

As has been the process to date, an interested party shall submit to the Commission an application comprising of a cover letter addressed to the Executive Director which shall be accompanied by the respective application requirements applicable to the specific licence. There is no application form.

Existing operators were earlier asked to submit an expression of interest. This was to inform the conclusion of the development of the licensing regime. The

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existing operators are now expected to each make a submission of an application that serves to justify choice of licence and provide insight of what is planned to be done under the new licence(s).

5. Will existing operators be charged license application fees?

No, the Commission waived the requirements for application fees and initial entry fees for existing operators in migrating to the new licensing framework.

6. When are the fees payable

The Commission shall, after evaluating the applications and on being satisfied with the operator's eligibility for the respective license(s) applied for, issue an invoice to the existing operator for payment of associated licence fees.

The terms and conditions for payment of these fees shall be as agreed between the Commission and the respective operator based on the operator's unique circumstances or status.

7. Submission of all requirements

Operators are required to provide the information outline as application requirements to facilitate the confirmation by the Commission of appropriateness of licence applied for and inform the global sectoral plans with insights gained from these submissions.

8. Is 25th May 2020 the deadline?

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25th May 2020 is the date on which the review of applications received under the licensing framework shall commence. All existing operators must have a licence under the new framework by 1st July 2020.

9. Distinction between PSP licenses.

Under the new framework, a PSP License holder can either render **Voice and Data services** and **Capacity Resale Services**. These can be provided either on a national level or regional basis.

The distinction between Voice and Data service and Capacity Resale services is follows;

- **Voice and Data services:** A holder of this license shall lease infrastructure from a licensed NTO or any other licensed PIP in the designated service area to provide public Voice and Data services to end users or third parties. This includes Cellular, fixed telephony, Internet access, and inter branch communication.
- **Capacity Resale** services authorises the licensee to resell the telecommunication services of a licensed NTO, a PSP (voice and data) or capacity of a PIP.

10. License fees

The fees applicable to the different licenses were revised under the Uganda Communications (Fees & Fines) (Amendment) Regulations 2020. A summary of these is applicable fees is what has been indicated in the application requirements shared on 15th May 2020.

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11. Date for coming into force of the new regime

The effective date of the new licensing framework has been communicated through various engagements as being 1st July 2020. The challenges faced by the telecommunications sub sector due to the COVID19 lockdown are noted and are the basis of the considerations made regarding fees that existing operators are subjected to and payment terms of the same. These challenges, though, are expected to reduce with the upcoming easing in the restrictions.

Thank you for your cooperation.

Yours faithfully,

Irene Kaggwa Sewankambo
Ag. EXECUTIVE DIRECTOR

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