



**UGANDA
COMMUNICATIONS
COMMISSION**

**THE UGANDA
COMMUNICATIONS
COMMISSION GUIDELINES ON
INFRASTRUCTURE
DEPLOYMENT AND SHARING**

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1.0 INTRODUCTION

Uganda Communications Act of 2013 (the Act) seeks to among others develop a modern and vibrant Communications sector, which includes telecommunications, data, radio and postal communications and broadcasting.

In order to achieve the aspirations of the Act, a number of strategies have to be employed including but not limited to expanding the existing variety of communications services available in Uganda to include modern and innovative communications services. To this end, the Act mandates the Uganda Communications Commission (the Commission) to, among others, implement the objectives of the Act.

Section 22 of the Act further requires that a person shall not, establish a telecommunications station, provide communications services or construct, maintain or operate communications apparatus without a licence issued by the Commission.

The Commission recognises that the construction, operation and/or maintenance of communications infrastructure is typically very costly, and the leasing of communication network infrastructure currently accounts for a significant portion of the overhead costs of a typical service provider in the communications sector.

The National Broadband Policy of 2018 (the Policy) noted that there is underutilisation of the optic fibre capacity on all the networks in Uganda due to telecom operators opting to utilize their own infrastructure.

The Policy further notes that the duplication of optic fibre deployments translates into high total cost of ownership for all communications infrastructure Operators, which is reflected in the high cost of bandwidth and ICT services generally. The Policy thus concluded that there is need to have a comprehensive framework to facilitate coordination all Government interventions in the development of broadband infrastructure; and to regulate the private sector to ensure sharing and complementarity of their broadband networks to avoid duplication in deployment of the infrastructure.

Accordingly, the Policy identifies as one of its strategies towards the objective of connectivity for all; to regulate, coordinate and harmonize the development, deployment and sharing of all broadband Infrastructure (both private and public) among all stakeholders.

Based on the above, the Commission now seeks to establish a framework that shall guide and foster the deployment and sharing of communications infrastructure in Uganda.

2.0 AMENDMENT

These guidelines shall be subjected to periodic reviews to enable inclusion of any changes as result of evolution in the radio communications industry, changes in policy or regulatory direction as well as emerging regional and international best practices.

3.0 CITATION

These Guidelines may be cited as the Uganda Communications Commission Guidelines on Communications Infrastructure Deployment and Sharing.

4.0 OBJECTIVES

The objective of these guidelines is to foster the efficient provision and utilisation of communications infrastructure by: -

- i)* Encouraging a strategic, forward-looking approach to the deployment and provision of communications facilities with the aim of realising the benefits of forward planning.
- ii)* Facilitating coordination and collaboration among the different stakeholders for joint construction, co-location, sharing, and access to existing networks and roll-out of new ICT infrastructure,
- iii)* Minimizing the amount and cost of civil works and associated social costs such as visual impacts, public nuisance, traffic congestion, and impacts on roads; and
- iv)* Promoting technical and market efficiency in the provision of communications infrastructure and services.

5.0 INTERPRETATION

The terms in these Guidelines shall carry the interpretation used in the Uganda Communications Act 2013 (The Act) and respective Regulations thereto, unless otherwise defined below:

- a) “**Access**” means to obtain the right to use or make use of communications infrastructure belonging to another party for the purpose of installing communications equipment;
- b) “**Access Provider**” means the Operator to whose infrastructure access is sought or has been granted;
- c) “**Access Request**” means a written request made by an Operator for Access or co-location to communications Infrastructure;

- d) “**Access Seeker**” means the Operator that is seeking or sought access to infrastructure from another Operator;
- e) “**Active infrastructure**” is the electronic Infrastructure of the network including radio access network (*e.g. antennas/transceivers, base station, backhaul networks and controllers*), and core network (*servers and core network functionalities*);
- f) “**Co-location**” is where an operator accommodates another Operator’s communications equipment in or on same passive infrastructure as its own;
- g) “**Commission**” means the Uganda Communications Commission;
- h) “**Duly Authorised Operator**” means an Operator licensed in accordance with section 22 of the Uganda Communications Act to construct, maintain and/or operate communications infrastructure in the respective geographical area of Uganda;
- i) “**Infrastructure**” means the tangible facilities used in connection with a public network and the intangibles facilitating the utilization of a public network. Infrastructure includes the underlying physical components associated with the provision of communication services and any other civil engineering works structure, which carry or route any communication;
- j) “**Infrastructure sharing**” means an arrangement in which two or more operators share or allow use by the other party of various parts of network infrastructure for the purpose of providing services. This includes co-location arrangements.
- k) “**Passive infrastructure**” refers to the non-electronic Infrastructure such as physical space, buildings, towers and masts, tunnels, ducts, holes, pits, poles, conduits, cable tray, or part thereof, where other parts of the network are to be located without itself becoming an active part of the network.

6.0 APPLICABLE LEGISLATION

The implementation of this guideline is subject to the provisions of:

- a) The Uganda Communications Act 2013;
- b) The Uganda Communications (Licensing) Regulations, 2019;
- c) The Uganda Communications (Competition) Regulations, 2019;
- d) The Telecommunications (Interconnection and Access) Regulations, 2019;
- e) The Telecommunications (Pricing and Accounting) Regulations, 2019;

- f) The Telecommunications (Consumer Protection) Regulations, 2019; and
- g) Principles for Commercial and Competition matters in Passive Infrastructure Markets, 2019.

7.0 SCOPE

These guidelines outline rules, practices, and procedures for coordination of deployment and sharing of communication infrastructure in Uganda for the provision of communications services.

8.0 APPLICABILITY AND EXEMPTIONS

- a) These Guidelines shall only apply to persons who own, wish to access and make use of communications infrastructure for the utilization of networks of operators in Uganda.
- b) These Guidelines shall not apply to radio frequency spectrum sharing and national roaming arrangements.
- c) The Commission may prohibit the application of these guidelines to a particular infrastructure related project or a particular type of infrastructure where it is of the view that there is a risk of impacting competition or other public interest as a consequence of the sharing or deployment of the subject infrastructure.

9.0 INFRASTRUCTURE DEPLOYMENT REQUIREMENTS

- (1) Every operator shall coordinate and/or share infrastructure with other duly authorised operators to facilitate the deployment of elements of and realisation of high-speed, secure communications networks in Uganda.
- (2) In respect of 9(1), every operator shall provide capacity on its infrastructure for other operators on fair, reasonable and non-discriminatory terms.
- (3) Every operator shall develop and submit to the Commission for approval, an annual infrastructure roll-out plan by the 1st day of December of the year preceding the roll out.
- (4) Where an operator proposes or wishes to update the approved infrastructure roll-out plan, it shall submit for approval to the Commission, the intended variations, at least 60 (sixty) calendar days prior to the deployment of infrastructure.
- (5) In considering an annual roll out submitted for approval, the Commission shall take into account the following:

- a) The licence obligations and the need for the proposed network considering increased coverage (quality and continuity of service), increased public access to the communications network, economic benefit and any other beneficial impacts;
 - b) Lack of feasible alternatives considering network configuration type, height and siting of each facility and number of facilities proposed. Where co-location or other infrastructure sharing is indicated as not possible. This will require a demonstration of the strategic, physical or technical limitations;
 - c) Demonstration that the proposed network is an efficient option considering:
 - i. Capacity of the network to deal with emerging telecommunications technologies;
 - ii. Capacity of the network to expand to serve future infill and Greenfield development in both urban and rural areas;
 - iii. Estimated time the network is planned to be operational; and
 - iv. Timing of a review of the network.
- (6) Every operator shall ensure that electronic copies of all its passive infrastructure components/details and maps are submitted to the Commission within one (1) month of completion of deployment of the respective component(s).
- (7) The information in 9(6) above shall include:
- a) Location and route (*as applicable*) with geo-referencing
 - b) Type (*e.g. duct, manhole/handhole, termination/access points, cables, fibres, etc*) and amount/quantities/capacity of infrastructure.
 - c) Type and amount of reserve capacity.
 - d) Contact Person(s).

10.0 JOINT CONSTRUCTION

- (1) Every operator shall in a timely manner, accept a request from another duly licensed operator for co-construction of physical infrastructure or a communications network on fair and reasonable terms.
- (2) The request in 10(1) must be made in writing and on an individual operator basis.
- (3) An operator shall be excused from grant of a request in 10(2) where the co-construction:

- a) Increases the costs for Operators compared to separate construction;
 - b) Endangers network security or the use of the network for its intended purpose;
 - c) Is not backed by availability of requisite financing and or other resources by the prospective partner;
 - or
 - d) Is deemed contrary to overarching sector goals by the Commission
- (4) Operator to Operator requests for co-construction must be made at least two (2) months before the project is submitted in application to the respective authorities for necessary approvals and/or clearances.
- (5) Unless otherwise agreed, the costs of co-construction shall be shared among the parties in proportion to the estimated cost of self-construction.
- (6) If the operator to whom the request is made refuses to comply with the request for co-construction from another operator without justification, or if the conditions for co-construction are not obtained within two (2) months after receipt of the request for co-construction, the requesting operator may refer the matter to the Commission.

11.0 INFRASTRUCTURE ACCESS AND CO-LOCATION

- (1) Every operator shall provide for access to or co-location with its infrastructure on fair, reasonable and non-discriminatory terms to another duly licensed operator in response to an access request.
- (2) The access seeker shall specify in the access request, at a minimum:
- a) the infrastructure to which access is required;
 - b) parts of network in which access is sought and other details of the access required;
 - c) the date by which access is required;
 - d) the period for which access is required;
 - e) details of any equipment to be installed, together with details of the security, safety, environmental, loading and spatial requirements of such equipment;
 - f) the extent to which access is required by the access seeker's personnel to the infrastructure to install, maintain or use the equipment to be installed; and
 - g) contact details for the access seeker;
- (3) If the access request is not sufficiently completed, the access provider to whom the access request is made shall, in not more than ten (10) calendar days, request the access seeker to complete the access

request. This shall include a request of any further information that the access provider may reasonably require in order to process the access request.

- (4) The access provider shall respond in writing to the request within one (1) month of receipt of the access request:
 - a) Stating its minimum requirements for entering a sharing arrangement; or
 - b) declining the request with justification for its refusal.
- (5) The minimum requirements referred to 11(4)(a) shall include:-
 - a) availability of sharing capacity;
 - b) applicable charges;
 - c) installation and processing charges; and
 - d) such other necessary requirements to effect the co-location, access or infrastructure sharing.
- (6) An operator may only refuse access to its infrastructure on the basis of any of the following:
 - a) Technical incompatibility of the infrastructure;
 - b) Endangering public or national security;
 - c) Impairment of the security or reliability of the infrastructure or the Operator's (or third party's) network;
 - d) Detriment to other services provided on the same infrastructure;
 - e) Unavailability of space to host the Access Seeker, which can be based on the Access Provider's own use and a reasonable future need for space (this must be sufficiently demonstrated);
- (7) If an access provider refuses to grant access to its infrastructure, fails to respond to the access request within the timeframe in 11(4) above, or if the terms of access are not agreed upon within thirty (30) calendar days of receipt of an access request, the access seeker may refer the matter to the Commission for determination.
- (8) Where an operator refuses to provide access to its infrastructure on grounds listed in 11(6) above, such claims may be subject to independent verification by the Commission on a case-by-case basis including inspection of the relevant facilities to determine the reasonableness of the refusal of access.

12.0 CHARGES FOR INFRASTRUCTURE SHARING

An operator shall set rates for access to its infrastructure by duly authorized Operators in accordance with the following principles:

- a) The determination of the charges for access to infrastructure shall be cost-based with a reasonable rate of return on capital appropriately

employed. Details as to how these charges have been determined, shall be disclosed to the Commission on request.

- b) Charges for the provision of access to infrastructure shall be structured in manner that distinguishes:
 - i) The effecting and commissioning of the access to infrastructure,
 - ii) Rental charges for use of the infrastructure and
 - iii) Variable charges for ancillary and supplementary services.
- c) The access seeker should only be subjected to charges that correspond to the specific infrastructure elements required.
- d) The Commission may issue further guidance on pricing of infrastructure services that may include the setting of maximum rates for various infrastructure services.

13.0 INFRASTRUCTURE SHARING OR LEASING AGREEMENTS

- (1) A formal agreement shall be entered into for every infrastructure sharing arrangement and shall specify the contractual terms and conditions agreed on by the parties.
- (2) All such agreements shall be concluded in not more than 45 (forty-five) calendar days from the date that a complete access request has been received/submitted in accordance with 11(2).
- (3) All such agreements and any future modifications shall be submitted to the Commission within seven (7) calendar days of execution or amendment by the parties for review and approval before they take effect. The Commission shall provide a written opinion and or approval of the proposed agreements within thirty (30) calendar days from the date of filing.
- (4) All infrastructure sharing agreements shall, *inter alia*, include:
 - i) Objective of the agreement
 - ii) The scope and specification of the infrastructure to which access is to be provided;
 - iii) All ancillary and supplementary services or access and use of facilities (e.g. buildings, land) to be provided in order to support the provision of the infrastructure access;
 - iv) The provision of collocation for facilities and the terms and conditions in accordance with which such collocation is to be provided;
 - v) Service levels and the maintenance of infrastructure;
 - vi) Charges for the infrastructure

- vii)* Billing and settlement procedures
 - viii)* Technical specifications, standards and interoperability tests
 - ix)* Information handling and confidentiality;
 - x)* Approvals received or to be received from all relevant authorities
 - xi)* Effective date and duration of agreement, and modification, renewal and review procedures;
 - xii)* Grounds for termination and the termination procedures
 - xiii)* Dispute resolution procedures
- (5) The Commission shall not approve an infrastructure sharing agreement that:-
- i)* is not consistent with the law, scope, terms and conditions of license(s) held, regulations, regulatory decisions, standards, directives or requirements and other guidelines as prescribed by the Commission from time to time,
 - ii)* is anti-competitive;
 - iii)* may endanger life and safety;
 - iv)* may cause irreparable damage to property or affect interoperability;
 - v)* is against public interest or national security; or
 - vi)* presents an arrangement for which it is not technically feasible to share such infrastructure.
- (6) The Commission may issue reference or model agreements to the industry to guide the infrastructure market conduct.

14.0 REPLACEMENT AND RE-DEVELOPMENT/RE-LOCATION

- (1) Except in emergency situations, the replacement or modification of a shared infrastructure by the Access Provider, may only be undertaken upon notice to the Access Seeker sixty (60) calendar days prior and after notifying the Commission.
- (2) An Access Seeker to whom the notice in 14(1) is served may lodge a petition with the Access Provider against the planned act within fifteen (15) calendar days of receiving such notice, and the Access Provider shall reply thereto within seven (7) calendar days. A copy of such petition and associated reply shall be made to the Commission.
- (3) In the case of a re-development or re-location of any infrastructure, the Access Provider shall provide a notice to all the respective Access Seekers of no less than:
- i. Six (6) months for re-development;
 - ii. Twelve (12) months for re-location.
- (4) Where the access provider undertakes the redevelopment or re-location for optimal utilization of facilities, the cost of such re-development or re-location may be shared with the Access Seekers at a percentage mutually agreed by parties.

15.0 CONFIDENTIALITY

- (1) All information provided by one operator to another in relation to infrastructure sharing must:
 - a) Be kept confidential and only used in relation to the infrastructure sharing except where the disclosure is authorized in writing by the other Operator or required by law; and
 - b) Only be disclosed to employees, agents or advisers who need to know that information for the purpose of the infrastructure sharing or advising thereon.
- (2) Information of an Operator received by the another operator in relation to the sharing of infrastructure including information generated as a result of infrastructure sharing must not be disclosed to any person involved in the development of retail services of the other operator, its partners or its affiliates.
- (3) The information obtained from the repository under guideline 10 shall only be used for the purpose for which it was requested and shall not be unnecessarily disclosed to 3rd parties.

16.0 DISPUTE RESOLUTION

- 1) Either operator (seeker and provider) may refer a dispute resulting from any section of these guidelines, including the determination of fair and non-discriminatory terms, conditions and charges to the Commission for determination and resolution.
- 2) The Commission shall consider all appeals received, taking into account; the principle of proportionality and fairness, and resolve the dispute within the shortest possible time frame, and in any case within thirty (30) calendar days from the date of receipt of the complete appeal/reference, except in exceptional circumstances.
- 3) Where the Commission intervenes in an infrastructure sharing disputes, the Commission is entitled to request and receive all such necessary information as may be required to reach a decision.
- 4) The decision of the Commission shall be binding on all parties involved in the dispute.
- 5) A party aggrieved by the decision of the Commission following the determination of a dispute resulting from these Guidelines may appeal to the Tribunal or in accordance with the law.

- 6) In considering an infrastructure sharing dispute, the Commission shall take into account relevant matters including, but not limited to the following:
- i)* the existence of technical or other alternatives;
 - ii)* whether the infrastructure is critical to the supply of services by the Operators;
 - iii)* whether the infrastructure meets the technical requirements of the Access Seeker's network;
 - iv)* the availability of space to host the Access Seeker, including the Access Provider's demonstrated future needs for space;
 - v)* safety and public health concerns;
 - vi)* the impact on the operational integrity of the Access Provider's network or any existing equipment at the collocation or sharing site that are under the control of Access Provider or any other third party;
 - vii)* any risk of interference of the planned communications services with the provision of other services over the same physical infrastructure;
 - viii)* the Access Seeker and Access Provider's record of infrastructure sharing; and
 - ix)* the reasonableness and fairness of the demands or terms and conditions set forth by the access provider.

17.0 COORDINATION WITH OTHER GOVERNMENT AGENCIES

- (1) The Commission shall collaborate and coordinate with the relevant authorities to establish and implement procedures for the grant or denial of applications for civil works within the scope of these guidelines, and within a reasonable period of time from the date of the receipt of a complete application and, on the basis of objective, transparent, non-discriminatory and proportionate criteria. Any denial of an application should be communicated in writing indicating the reasons for such denial.
- (2) Where it is necessary for the use of land, buildings, and infrastructure owned by the Government, local government, and public institutions to establish a common communications network or for the joint installation of communications equipment and facilities, and the access request fails to result into an agreement on the use of such properties, etc., the participating operators may request the assistance of the Commission in obtaining access for the use of the relevant land, buildings, etc.
- (3) Where the Commission receives a request for assistance under 17(2), the Commission may engage the respective Government ministry, department or agency, local government, or the head of a public institution, to respond to the access request. In such cases, the respective Government entities shall respond to the access request by:

- a) Accepting the request and stating its minimum requirements for access; or
- b) declining the request with justification of its refusal.

18.0 KEY STAKEHOLDER RESPONSIBILITIES

18.1. The Commission

- (1) The Commission shall maintain an up to date repository of infrastructure deployments for the coordination of prospective communication infrastructure share and lease arrangements.
- (2) The Commission shall develop standards for infrastructure deployment and sharing and enforce compliance.
- (3) The Commission shall evaluate rollout plans within 30 calendar days of receipt.

18.2. Operators

- (1) During its engineering, planning and network design processes, every operator shall undertake due diligence of the infrastructure available in the respective geographical area and only seek to deploy infrastructure where there is no infrastructure available or where it is justifiable not to utilise the existing infrastructure,
- (2) All negotiations for sharing agreements shall be conducted by all parties in good faith,
- (3) Prior to deployment and roll-out of any new infrastructure, an operator shall seek approval from relevant authorities and notify the Commission. Granting of a communications license is NOT an authorization to build unless all reviews and authorisations requirements under the laws of Uganda have been met.
- (4) The Commission may from time to time undertake inspection of deployed infrastructure to evaluate safety, capacity and compliance with any other regulatory requirements.
- (5) In every infrastructure sharing arrangement, all parties (operators) shall ensure compliance to their respective license obligations and compliance to all applicable laws.

19.0 INFORMATION REPOSITORY

- (1) The Commission shall host and maintain an easy-to-use, secure, centralised infrastructure repository to provide information in digital form to operators without undue delay to facilitate the implementation of this Guidelines.
- (2) The information contained in the repository in 19(1) shall include:
 - a) the communication infrastructure of the communications networks available in the different areas and their location;
 - b) planned communications infrastructure construction works;
 - c) all relevant information concerning the conditions and procedures applicable for grant of permits and/or authorisations for civil infrastructure works by the different authorities under the laws of Uganda, including any information concerning exemptions applicable to elements of such infrastructure.
- (3) The provision of information subsection 19(1) shall be to an extent that such disclosure does not jeopardize:
 - i. network security and their integrity;
 - ii. public safety or national security;
 - iii. confidentiality or operating and business/trade secrets.
- (4) The provision of or access to information in 19(1) shall be subject to payment of administrative fees as shall be published by the Commission.

20.0 ENFORCEMENT AND REMEDIAL MEASURES

- (1) An operator who fails to comply with the requirements and obligations contained in these guidelines or fails to submit information as required shall be held to be non-compliant and shall be subjected to enforcement and remedial measures under the Act.
- (2) The enforcement and remedial measures to be taken by the Commission in respect of non-compliance with these guidelines shall, not limited to, include:
 - (i) issuance of a written warning with a deadline for compliance by the respective operator;
 - (ii) imposition of a fine in accordance with the Act,
 - (iii) suspension or revocation of the operator's license,
 - (iv) take any other measure that the Commission deems reasonable in the circumstances in accordance with the Act.