

## Frequency Spectrum Management Guidelines - Response to Stakeholder Comments

Organization	Section/Clause	Comments	CA Response	Stakeholders Validation Workshop Comments
1. Qualcomm	4	We also encourage the Authority to employ spectrum assignment procedures that minimize the administrative burden on both the Authority and licensees.	CA endeavours to employ spectrum assignment procedures that minimize the administrative burden on both the Authority and licensees.	Agree with CA response
	4.1.4, 4.1.5 and 4.2.9	Qualcomm further encourages the Authority to consider explicitly including support for innovative licensing approaches in the Guidelines	CA has incorporated this proposal in 4.2.9.	Agree with CA response
		Beyond the spectrum sharing approaches identified in items 4.1.4 and 4.1.5 and the temporary assignments indicated in item 4.2.9, we hope that the Authority will be receptive to considering licensing approaches that provide additional opportunities for the provision of advanced communications technologies to Kenyan consumers and businesses	The Authority shall endeavour to ensure that the frequency licensing approaches it employs are robust to accommodate advancement in technologies	Agree with CA response
2. Wananchi Group Limited Group	Payment of License fees	Operators should not be subjected to pay for licence free band/spectrum as it is also free in other countries. This band is currently in every home as the home users are currently using 2.4/5 GHZ wifi/wireless in their homes	CA will consider this during the next frequency spectrum fee review	The review of the frequency spectrum fee is scheduled for 2010/21 financial year subject to budget approval by Treasury.
	Frequency assignment and revocation	CA should provide for a grace period for payment before revoking frequency assignments assigned to licensees for failure to pay	This provision is made in line with Section 8 (1) (b) of the Kenya Information and Communications (Radiocommunication and Frequency Spectrum) Regulations, 2010, which states that "A licensee who has been assigned frequencies bands for use shall - keep license in force by regular payment of annual fees prescribed by the Authority from time to time.	Agree with CA response

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	Penalization of inefficient use of spectrum	How will CA determine what is efficient and what is in efficient? It should also be taken into consideration that technology in use also plays a critical part and should operators be penalized for this?	Efficiency and effectiveness will majorly be based on license conditions, technical requirements, roll-out obligations and as determined by the Authority through studies from time to time.	Agree with CA response
	Spectrum Recovery	It is not fair for CA to state that it will not be liable or responsible for compensation of the existing spectrum users in the event of re-planning to migrate to alternative frequency bands. There is a cost implication to this which may not have been budgeted for	Section 8 (2) and 8 (3) of the Kenya Information and Communications (Radiocommunication and Frequency Spectrum) Regulations, 2010 which states: 8 (2) The Authority may where it considers it necessary, require a licensee to migrate to a new frequency band. 8 (3) The Authority shall implement the migration through an arrangement that shall not impose unreasonable burden to the licensee involved. Moreover, transitional considerations will be given for migration including adequate grace period to migrate.	Agree with CA response
	Monitoring	This should be predefined at the type approval stage so as to safeguard issues of emissions.	Indeed, checks on emissions effects is done at type approval stage. However, monitoring checks are done to ensure that radio equipment operates under the prescribed technical and license parameters as per Section 13 (1) of the Kenya Information and Communications (Radiocommunication and Frequency Spectrum) Regulations, 2010	Agree with CA response
	Enforcement	Heavy penalties should be imposed on those who interfere with frequencies of other operators	Penalties for interference shall be imposed as per the provisions of the Act and Radiocommunications Regulations.	Agree with CA response

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3. Royal Media Services	Section 4.4 Spectrum Pricing	The pricing methodology should be revised to equalize public and private pricing for multi frequency operators	CA will consider this during the next frequency spectrum fee review	The review of the frequency spectrum fee is scheduled for 2020/21 financial year subject to budget approval by Treasury.
		The formula used for calculation is punitive to multi-frequency operators and discourages multi-frequency entrepreneurship	CA will consider this during the next frequency spectrum fee review	The review of the frequency spectrum fee is scheduled for 2020/21 financial year subject to budget approval by Treasury.
	4.8 International Co-operation	The establishment of National Preparatory Committee (NPC) is most welcome for broadcast stakeholders to compliment own interest and country representation	This is noted and the Authority will continue to invite all relevant stakeholders to the National Preparatory Committee	Stakeholders will be informed when the National Preparatory Committee is being constituted
	Universal Service Fund	The USF is a suitable and available option to encourage the broadcaster where real challenges exist, CA could develop secure costing infrastructure for multimedia transmission at strategic locations all over Zone B and open up sites to broadcast operators. Modalities of running sites can be mutually agreed	This is noted and will be considered under the USF Framework and Strategy	Agree with CA response
4. GOtv Kenya Limited	Clause 4.2 Assignment and Licensing of Frequencies	We suggest that the draft guidelines specify a process to be followed when frequency authorizations are amended. The guidelines should prescribe a process which the Authority will follow prior to amending frequency authorizations.	The process for amendment of frequency authorization is usually provided for in the respective frequency licences	It will be bulky to include the processes for all the licenses in the Authority in the guideline, a link will be provided in the response and the guideline.  <a href="https://ca.go.ke/wp-content/uploads/2018/03/Procedure-for-Licensing-use-of-Radio-Frequencies.pdf">https://ca.go.ke/wp-content/uploads/2018/03/Procedure-for-Licensing-use-of-Radio-Frequencies.pdf</a>
	Clause 4.3 Frequency Assignment Revocation and Surrender	Suggest that the draft guideline sets the process to be followed for revocation. The guidelines should include:		Agree with CA response

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	10.1	A mechanism that allows the licensee to inform the Authority where the licensee is unable to meet certain of the assigned requirements, including providing detailed reasons, in order to seek guidance and to address and resolve the matter before the Authority imposes sanctions.	This process is included in the license.	A link will be provided in the CA response and the guideline. <a href="https://ca.go.ke/wp-content/uploads/2018/03/Procedure-for-Licensing-use-of-Radio-Frequencies.pdf">https://ca.go.ke/wp-content/uploads/2018/03/Procedure-for-Licensing-use-of-Radio-Frequencies.pdf</a>
	10.2	A process which requires the Authority to provide detailed reasons for intended revocation, and affords the affected and interested parties, including the licensee, reasonable time to make written and/or oral representations regarding the proposed revocation, and also afford the affected licensee an opportunity to remedy the transgression that has given rise to the proposed revocation; and	This process is included in the license.	A link will be provided in the CA response and the guideline. <a href="https://ca.go.ke/wp-content/uploads/2018/03/Procedure-for-Licensing-use-of-Radio-Frequencies.pdf">https://ca.go.ke/wp-content/uploads/2018/03/Procedure-for-Licensing-use-of-Radio-Frequencies.pdf</a>
	10.3	A dispute resolution mechanism in the case where a licensee disputes the Authority's position on revocation of the licensee's frequency assignment.	This is already provided in KICA No. 2 of 1998 and the Kenya Information and Communications (Dispute Resolution) Regulation, 2010.	Agree with CA response

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	Spectrum Pricing - Clause 4.4.4	Highlights the importance of efficient use of spectrum and how inefficiency will be penalized through pricing methodologies. We agree that licensees should be penalized where they use assigned spectrum in an inefficient manner. However, as the Authority is aware, some technologies are by their nature spectrum inefficient, especially legacy analogue technologies. Therefore, we suggest that when applying pricing methodologies for penalizing inefficient use of spectrum, the Authority note legacy technologies that may still be used in certain assigned frequency bands without penalty.	In determining efficient use of spectrum, the Authority takes into account the limitations associated with the different technologies. Any penalties accruing thereof will have taken this into account.	Agree with CA comment  Implementation of strict adherence to license grace period since February 2020 especially in the broadcasting sector.
5. Safaricom PLC	4.1.5 Use of Spectrum on shared non-protected basis	The Authority should encourage use of interference agnostic technologies to eliminate cases of negative interference.	This is noted.	Agree with CA response
	4.1.6 Use of Spectrum by the National Government	Since this guideline is new, there is need to anchor it in the primary legislation and the attendant Regulations governing the sector. There is need for Industry consultation to elucidate to members on the potential spectrum requirements for the National Government and the unlikely negative effects on our operations.	This shall be considered in the next review of the regulations. The Authority will continue to carry out stakeholder consultations as required by the Constitution.	Agree with CA response
	4.1.7 Use of Spectrum by the Devolved Governments	Since this guideline is new, there is need to anchor it in the Regulations. There is need for Industry consultation to elucidate to members on the potential spectrum requirements for devolved units and any unlikely negative effects.	This shall be considered in the next review of the regulations. The Authority will continue to carry out stakeholder consultations as required by the Constitution.	Agree with CA response

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	4.2.4 Amendments to Authorizations	The Authority in consultation with stakeholders may amend the frequency authorization if it determines that such amendments is necessary to achieve the objectives of the KICA 1998 (As amended), Regulations, any relevant Policy or Regulatory instrument, or changes resulting from international, multilateral and bilateral agreements.	This is noted. The Authority shall continue to engage stakeholders in the process of spectrum management.	Agree with CA response
	4.2.6 Payment of License Fees	In the spirit of fair treatment, all licensees should be treated equally in so far as payment of license fees is concerned. The Authority should reinforce this guideline to seal off any loopholes relied upon in the past by some licensees to evade paying the fees.	This is noted and the Authority shall continue to ensure license fees are paid as per the legal and regulatory requirements.	Agree with CA response
	4.2.8 Frequencies for National and County Government Authorities	Since this guideline is new, there is need to anchor it in the primary legislation. There is also need for Industry consultation to elucidate to members on the potential spectrum requirements for National and devolved units and any unlikely negative effects on our Operations.	This shall be considered in the next review of the regulations. The Authority will continue to carry out stakeholder consultations as required by the Constitution.	Agree with CA response
	4.3.2	The Authority should implement mechanisms of auditing the spectrum usage with a view to eliminating hoarding and instituting discipline in usage of the same.	Kindly note that the Authority already has a mechanism in place.	CA to share the mechanisms in place
	4.4.1 Spectrum Pricing	The spectrum fees need to assist operators in striking a balance between efficient use of the resource and the cost of the service to the customers. The current spectrum charging methodology fails to strike this equilibrium as the cost of the TRX remains high hence impeding investments in the sector.	CA will consider this during the next frequency spectrum fee review	The review of the frequency spectrum fee is scheduled for 2020/21 financial year subject to budget approval by Treasury.
	4.4.2 Levying Fees on Spectrum Use	As in 4.4.1 above, the spectrum fees are punitive and do not encourage the rollout of infrastructure in the rural areas.	This is noted and CA will consider this during the next frequency spectrum fee review	The review of the frequency spectrum fee is scheduled for 2020/21 financial year subject to budget approval by Treasury.

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	4.4.3 Amount of Spectrum Fees Charged	Status quo maintained but added 4.4.3.1 below	Noted	Agree with CA response
	4.4.3.1 Frequency fee schedule	The Authority in consultation with industry stake holders shall review the frequency fee schedule once every three years	The Authority will continue to carry out stakeholder consultations as required by the Constitution.	Agree with CA response
	4.4.4 Penalization of inefficient use of Spectrum:	Reward and Penalization of inefficient use of Spectrum: The Authority will, through its spectrum pricing methodology, reward efficient use of spectrum and penalize inefficient use.	Section 4.4.4 of Guidelines amended to accommodate proposal.	Agree with CA response
	4.4.6.2	The Authority shall waive spectrum fees for USF projects to incentivize deployment of ICT services in these areas.	Waivers for spectrum fees for USF projects may be considered under the USF Framework and Strategy	Agree with CA response
	4.5.1 Spectrum Re-farming	The Authority shall encourage spectrum re-farming of already assigned frequencies as long as the operator conforms to the agreed deployment terms and conditions. This is in order to enhance spectrum utilization efficiency as required by the KICA 1998 (As amended).	Section 4.5.1 of Guidelines amended to accommodate this proposal.	Agree with CA response
	4.9.1 Repossession of Unused Frequency Spectrum:	The Authority should institute mechanisms aimed at punishing to discourage spectrum hoarding.	Kindly note that the Authority already has a mechanism in place.	CA to share the mechanisms in place
6. Airtel Networks Kenya Limited	4.2.1 Frequency Assignment	For the purpose of transparency and to ensure that spectrum holdings must be publicly known by all stakeholders, we propose to add: "As for the TOFA, a National Table of Frequency Assignment and the Spectrum holdings per Licensee will be posted on the Authority's website and be made available for free download".	This is noted and the Authority shall consider posting the spectrum holdings per licensee on the website.	The TOFA is undergoing an internal approval before it can be uploaded on the website.  The table showing the frequency assignments in various bands to be updated and re-uploaded on the website

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	4.2.7 Renewal of Frequency	<p>We need a clear guide on how spectrum renewals will be done given that existing Licensees may already have invested heavily on these spectrum renewals and therefore we propose that this clause be amended as follows:</p> <p>-</p> <p><i>Upon expiry of the terms of a frequency Licence, a licensee may request to renew the licence. The frequency licence renewal will be based primarily on a presumption of renewal approach while administrative re-assignment will be used only in circumstances where there is need to deal with competition issues related to spectrum holding by the licensee.</i></p>	<p>The Authority shall consider this in the next review of the licensing framework.</p>	<p>Agree with CA response</p> <p>There is an ongoing process that will feedback to the licensing framework</p>
	4.3.1 Frequency Assignment Revocation	<p>We propose that the word "will" be replaced with the word "may" to read</p> <p>4.3.1. The Authority may revoke frequency assignments</p> <p>....</p> <p>We also propose addition of the following statement at the end of this Clause 4.3.1.</p> <p><i>'The revocation of frequency assignment shall be done subject to the Authority giving adequate notice to the affected licensee especially where customers are already being served using this frequency assignment'.</i></p>	<p>Section 4.3.1. modified to accommodate this proposal.</p>	<p>Agree with CA response</p>

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	4.4.1 Spectrum Pricing	<p>The clause refers to efficient use of this scarce resource. We do not share the same view that spectrum fees can be set to enable efficient use of spectrum. The rationale for our argument is that Spectrum is a resource that is mandatory in meeting the government's National Broadband policy and therefore the pricing should be such that it enables fulfilment of this policy. We therefore advocate for derivation of initial spectrum cost/charges to be based administrative cost managing the spectrum resources including dealing with interference and monitoring issues. We also note that if the licensees are to increase the speed of rollout of broadband, it is important to minimise their burden of the initial spectrum fees by providing a mechanism to pay over a period of time instead of up front lamp sum. We therefore propose that this Clause, be amended to read:</p> <p><i>4.4.1. The Authority will primarily set the initial spectrum price and charges based on the recovery of cost of spectrum management and monitoring. Any other mechanism of pricing such as market based approach will be such that it fulfils the National Wireless Broadband Policy and the National ICT Policy</i></p>	<p>Spectrum is a national resource managed by CA on behalf of the people of Kenya. Pricing of Spectrum has to consider National policies on its use. The method of pricing will vary from time to time depending on National policies and the market at a given point in time. Therefore the guidelines cannot be too specific on the method of pricing <i>a priori</i>.</p>	<p>Will be considered in pricing review</p>

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	4.4.3 Amount of Spectrum Fees Charged	Excessive fees can impede policy goals of delivering broadband access to everyone and lead to valuable spectrum remaining unsold. There is a strong economic case to avoid the level of spectrum fees being determined on the basis of revenue-maxi missing objectives. Rather, spectrum fees can be used to help recover the administrative costs of licensing and managing spectrum. Spectrum fees should thus reflect the socio economic objective of ubiquitous broadband connectivity.	This is the current practice. Reviews are undertaken periodically as per regulations and take into account comments from stakeholders.	Agree with CA response
	4.4.4 Penalization of inefficient use of spectrum	We need the Authority to capture some of the parameters that will be used to determine what amounts to inefficient use and inefficient use for this clause to be applicable in a transparent and fair manner. We therefore propose that we add a second sentence in Clause 4.4.4 as follows: - <i>The Authority will within 12 months come up with specific and clear parameters which will be subjected to public consultation to be used to assess efficient and inefficient utilization of spectrum.</i>	Efficiency and effectiveness will majorly be based on license conditions, technical requirements, roll-out obligations and as determined by the Authority through studies from time to time.	CA to come up with parameters and discuss with stakeholders then include the proposal without a timeline

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	4.5.2 Spectrum Recovery	<p>We do not agree with this Clause because we expect the Authority to assign Spectrum in line with the National Spectrum Allocation Table. We do not envisage a scenario where after acquiring spectrum at a high initial cost unless this is specific to microwave link spectrum. We therefore propose that we amend this Clause by adding a qualification statement at the end as follows: -</p> <p>"4.5.2 Spectrum Recovery: The Authority may require licensees affected by change in spectrum allocation arising from spectrum re-planning to migrate to alternative frequency bands within a mutually agreed time frame. In this regard the Authority will not be liable or responsible for compensation of the existing spectrum users. This will not be applicable to spectrum assigned for Mobile Wireless Access Systems."</p>	<p>Section 8 (2) and 8 (3) of the Kenya Information and Communications (Radiocommunication and Frequency Spectrum) Regulations, 2010 which states: 8 (2) The Authority may where it considers it necessary, require a licensee to migrate to a new frequency band. 8 (3) The Authority shall implement the migration through an arrangement that shall not impose unreasonable burden to the licensee involved. This Regulatory provision applies to all categories of frequency users.</p>	<p>For recovery to take place, there is WRC process which involves stakeholders and all the interests are taken care of. The verification of the availability of the spectrum is also done.</p>
7. Kenya Wildlife Service	Pg.4	<p>Service provider as defined does not distinguish between those that provide the service for commercial use and those that provide the service for National service such as security. We feel there is need to distinguish between the two so that the Army, Police, and other uniformed forces are not listed as service providers but a special category for the same.</p>	<p>The definition provided in the guideline is general. Further categorization is done at the licensing stage.</p>	<p>Agree with CA response</p>
	Pg.4	<p>The document refers to the Kenya Information and Communications Act, 1998 (As amended). I believe this is not numbered correct, the document should make reference to the latest Act which is "Kenya Information and Communications Act 411A, Revised Edition 2015 (2012).</p>	<p>The correct reference to the law is Kenya Information and Communication Act No.2 of 1998. The Guidelines has been revised to reflect this.</p>	<p>Agree with CA response</p>

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	3.1(iv)	See comment 2 above	The correct reference to the law is Kenya Information and Communication Act No.2 of 1998. The Guidelines has been revised to reflect this.	Agree with CA response
	3.1(vii)	There is need to expound on the statement made with regard to "essential requirements of national security," it may help to quote a document. Policy, guideline or Act that can assist in knowing what the requirements are so as to ensure adherence to the same, the wording as it is seems a bit vague.	Section 3.1.vii of the Guidelines amended to reflect the proposal.	Agree with CA response

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	4.1.4	<p>The clause on spectrum sharing promotes use of radio frequency on a shared basis, we however proposed that this is considered for Government uniformed and disciplined outfits such as the Army, Police. and Kenya Wildlife Service among others to be exempted from this provision and have their frequencies reserved for the following considered reasons:</p> <p>a) The security apparatus above operate across the breadth of the whole of Kenya's land space and therefore require spectrum allocated to them to be exclusive to allow for their continued expansion that grows with increasing demand for security operations within the country.</p> <p>b) Kenya Wildlife Service (KWS) is a uniformed and disciplined unit of Government as stated in the Wildlife and Management Act 2013 Repealed Section 6 part 1 that reads "<i>A uniformed and Disciplined 3. (1) There is hereby established a uniformed and disciplined service to be known as the Kenya Wildlife Service.</i>"</p> <p>c) Reservation of spectrum would reduce possibilities of interference and eavesdropping into covert confidential communication from other networks possibly jeopardizing security operations in the process.</p>	<p>Indeed this is the case currently. Security agencies do not share spectrum with private and commercial users. As stated in this clause, this provision applies where it is technically feasible and is dependent on the category of service.</p>	<p>Agree with CA response</p>

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	4.1.6	This clause on use of spectrum for National Government talks about the Communications Authority (CA) making considerations for spectrum use by National Government, we propose that this clause is expanded to explicitly also mention uniformed and disciplined forces so as to cater for express exemptions for such forces. The CA could consider adding a clause to cater for security and disciplined forces to cater for this group of users whose mode of operations is different from National Government.	The Authority is cognizant of this and has provided for this in the licensing framework.	Agree with CA response
	4.2.1	Consider comment No 5	Considering your comments on Clause 4.1.4 on Frequency Sharing, the National TOFA has addressed the issues of sharing.	Agree with CA response

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	4.2.6	<p>The clause about payment of license fees. We propose that the clause mentions the security and disciplined forces as those already automatically exempted for as long as this has been stated in a gazette notice or other formal government communication. Currently, the Kenya Police, The army and other disciplined forces are exempted from making annual frequency fee payment due to their status as a disciplined force. This clause needs to be uniform across the board so as to cater for KWS exemption as a disciplined force so as not be seen to give un-equal treatment to players within the disciplined forces, of which KWS is one and is the only one being charged annual frequency license fees for undertaking security operations and inter-agency work with the other disciplined forces in undertaking wildlife security operations as well as other national security operations.</p>	<p>The Authority in consultation with the National Treasury from time to time determines entities that are exempt from paying license fees. This list may change from time to time, thus it may not be advisable to be included in the guidelines.</p>	<p>Agree with CA response</p>
	4.2.7	<p>The clause about renewal of frequency licenses needs to give guidance for those that are exempted from payment of license frequency fees, are they also required to renew the same?</p>	<p>Yes, all categories of licensees are supposed to renew their licences as per the license conditions.</p>	<p>Agree with CA response</p>
	4.4.4	<p>The clause on penalizing and reward of frequency seems a bit vague, there is need to consider sharing a bit more guidelines on the reward and penalty details so as to avoid ambiguity especially for commercial frequency users and thus reduce cases of litigation as a result of poor understanding of the expectation.</p>	<p>This is provided for in the frequency fee schedule.</p>	<p>Agree with CA response</p>

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	4.4.5	The version of KICA mentioned is 1998, consider amendment to the current one KICA 411A, Revised Edition 2015 (2012).	The correct reference to the law is Kenya Information and Communication Act No.2 of 1998. The Guidelines has been revised to reflect this.	Agree with CA response
	4.5.1	The version of KICA mentioned is 1998, consider amendment to the current one MCA 411A, Revised Edition 2015 (2012).	The correct reference to the law is Kenya Information and Communication Act No.2 of 1998. The Guidelines has been revised to reflect this.	Agree with CA response
8. Huawei	4.1.2	It may be clarified that the allocations will be updated within 1 month of any change, and specify not just the TOFA, but also the specific license holders of each spectrum.	Section 4.1.2 Availability of the National Table of Frequency Allocations revised to accommodate this proposal.	Agree with CA response
	4.1.7	It may be clarified that spectrum to be used by devolved governments must be managed in such a way as to reduce interference and in a way that still ensures efficient usage, rather than fragmented, inefficiency usage; and that if the spectrum is not so used then it can be reassigned.	The guidelines outline how all categories of spectrum holders will use the resource. The guidelines apply to all spectrum holders symmetrically.	Agree with CA response
	4.4	It may be emphasized that the Authority will seek to develop appropriate pricing mechanisms which will incentivize licensees to make the relevant investments to make use of the frequency, and thus may consider delaying payments, spreading payments out, or making pricing relative to revenues earned or investment committed or other criteria as necessary.	Spectrum is a national resource managed by CA on behalf of the people of Kenya. Pricing of Spectrum has to consider National policies on its use. The method of pricing will vary from time to time depending on National policies and the market at a given point in time. Therefore the guidelines cannot be too specific on the method of pricing a priori.	It will be very bulky to include all the pricing mechanisms of all the services offered. The frequency fee schedule is available on the website. <a href="https://ca.go.ke/wp-content/uploads/2018/02/Frequency-Fee-Schedule-Effective-1st-July-2018-.pdf">https://ca.go.ke/wp-content/uploads/2018/02/Frequency-Fee-Schedule-Effective-1st-July-2018-.pdf</a>

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	4.2.9	Clearer criteria for making temporary assignments will help define who can or cannot use such assignment and mitigate any spurious usage that is inefficiency.	The CA is reviewing the framework for issuing authorizations for carrying out trials. This will be contained in a separate document.	Agree with CA response
	4.2.13	The guidelines for transfer of frequencies should be made public/clarified in this document.	The CA is reviewing the framework for transfer of frequencies. This will be contained in a separate document	Agree with CA response
	4.5.1	Spectrum re-farming should be defined in the document as it is not clear what the Authority means by this.	Section on 2.2 of the Guidelines amended to accommodate this proposal.	Agree with CA response
	4.1.4	There are situations where spectrum sharing may be technically feasible but not advisable, because it may introduce a burden on users or lead to less efficient use of spectrum. Therefore, when considering sharing, it is advisable that the Authority looks not only at the technical feasibility.	Section 4.1.4 revised to accommodate this proposal	Agree with CA response
	4.3.1	It should be possible for the Authority to revoke licenses for spectrum management reasons. In the case a change of use is deemed more efficient by the Authority, the Authority should be able to revoke existing licenses — providing a reasonable notice period for the licensees to be able to adapt.	This is noted. However, the proposal is already covered in section 4.2.4.	Agree with CA response
9. Kengen	4.2 Assignment and Licensing of Frequencies	As much as the clause is clear, it would be more helpful if the terms and procedures for issuance of licenses are outlined as part of this document.	The terms of the license are provided for in the license. The procedures for issuance are available on the CA website on the following link. <a href="https://ca.go.ke/industry/frequency-spectrum/licensing-procedures/">https://ca.go.ke/industry/frequency-spectrum/licensing-procedures/</a>	Agree with CA response

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	4.5 Frequency Spectrum Re-Farming & Recovery	In Frequency Spectrum Re-Farming, the company realizes the need by the authority to undertake re-farming from time to time. However, while this must be done, adequate notice / time frame would be considered to cater for special circumstances.	Indeed this is the practice and the Authority shall continue to give licensees adequate notice.	Agree with CA response
	4.4.6 Exemptions and Subsidies on Payment of Frequency Fees	On aspects of pricing, could it be possible to consider special rate for Government and Government Agencies on case by case basis beside the conditions outlined in Clause 4.46 on Exemptions and Subsidies on Payment of Frequency Fees.	CA will consider this during the next frequency spectrum fee review	Agree with CA response
	4.8 International Cooperation	Kindly consider providing a framework / guideline for government organizations that would be having businesses / activities outside the country.	This is noted and may be considered on a need basis.	Agree with CA response
10. Liquid Telecom	National Table of Frequency Allocations (TOFA)	Publishing the Table of Frequency Allocations is of primary use to various stakeholder groups. It will enable operators to make technical assessments of their utilization and ensure minimum interference. It will also enable operators assess opportunities for spectrum sharing. It is our request that TOFA be updated on a regular basis to reflect all allocations and detail the spectrum available to stakeholders.	TOFA is updated regularly, especially after a World Radio Conference	Agree with CA response
	Spectrum Sharing	LTK welcomes this proposition being cognizant that Spectrum is a limited resource the use of which must be optimized. It is our submission therefore that in addition to promoting the use of spectrum on a shared basis, the guidelines should provide that the same be subject to a commercial agreement between the licensees. Accordingly, this obligation should only apply to an existing licensee of spectrum after a reasonable time to allow for the Licensee to assess and reorganize their spectrum plan as maybe necessary.	This is noted, however on consideration of modalities of sharing (commercial or otherwise), it will be dependent on the prevailing market conditions.	Agree with CA response

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	Use of Spectrum by Government and Review of TOFA	LTK acknowledges that it is necessary that spectrum be reserved for both National and County Governments and further that the TOFA will require periodic review. We recommend that the same be periodically published and reasonably notified to the various stakeholders.	This is noted. The CA has published the TOFA on its website and regularly updates it.	Agree with CA response
	Assignment and Licensing of Frequencies	LTK reiterates its commendation of the Authority's objective of ensuring transparency and stakeholder participation in the management of the Country's Frequency spectrum. The guidelines as more particularly relate to licensing, amendments, authorizations, renewal of frequency spectrum, fees, pricing-and-spectrum utilization and revocation to our day to day operations. We recommend that all the guidelines provide that for any action, decision or directive of the Authority ensures mutual agreement, enough notice, and reasonable consideration of the existing and future business strategy of a licensee.	This is noted and the CA continues to take into account these considerations while assigning frequencies. Overall, the main consideration is efficient use of the resource in order to achieve economic social welfare of Kenya.	Agree with CA response
	Frequency Spectrum Re-Farming & Recovery	LTK recommends that the Authority continues to engage operators on the subject matter considering already allocated spectrum versus evolving technology. In its consideration, we request that the referenced terms and conditions for Re-Farming Spectrum be reasonable and not prohibitive. The terms and conditions should be sensitive to the investments made over a period by a Licensee. This will encourage innovation in line with the National Broadband Strategy.	This is noted.	Agree with CA response

Organization	Section/Clause	Comments	CA Response	Stakeholders Validation Workshop Comments
11. EACO – Ms. Sara Kabahuma	4.1.1 Responsibility of allocation spectrum	<ul style="list-style-type: none"> <li>• don't you want to include a legal mandate that the authority has, such as the ACT or regulation in allocating spectrum</li> <li>• alternatively in the beginning of the document you could indicate the legal instruments (extract specific sections) that gives the Authority the mandate that it has in management of radio spectrum</li> </ul>	Proposal noted and Legal Mandate included in the Preamble	Agree with CA response
	4.1.2 Availability of the National Table of Frequency Allocation	Indicate the frequency of how often or triggers of having an updated TOFA	The Guidelines have been revised to accommodate this proposal.	Agree with CA response
	4.2.7 Renewal of Frequency Licenses.	Add legal action to the last sentence as follows: Continued use of spectrum without having a valid license is an offense under the Act and will attract penalties and legal action.	Proposal noted and section 4.2.7 modified by making reference to provisions of the Act.	Agree with CA response
	4.2.9 Temporary Assignment	You may want to specify the trial period limit. I have seen cases where Trials/ temporary assignments become permanent.	The CA provides for this in the trial authorization. The CA is reviewing the framework for issuing authorizations for carrying out trials. This will be contained in a separate document.	Agree with CA response
		You indicated that the time will be specified by the Authority, but from the onset let those interested know that temporary assignments are for short periods.	The CA provides for these timelines in the trial authorization	Agree with CA response
	4.5.1 Spectrum Refarming	This statement indicates that for a spectrum refarming to be successful, it is dependent on the operators agreeing and the Authority cannot do anything about it.	This Clause refers to spectrum already assigned to operators. The CA can only refarm in collaboration with the said licensees.	Agree with CA response
		.... As long as the operator conforms to the agreed deployment terms and conditions. Strengthen the statement to clearly state that in some cases the Authority will recommend a	This is noted. However, the proposal is already covered in section 4.2.4.	Agree with CA response

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		refarming under its mandate to manage spectrum		
	4.9.3 Re-Assignment of repossessed Frequency Spectrum	Change statement to read: The Authority may assign repossessed spectrum to other uses without further reference to the initial or previous licensee	The proposal has been adopted.	Agree with CA response
12. KBC/SIGNET	4.2.2 Frequency Licensing	Priorities for public broadcasting requested for all broadcasting services.	The CA endeavours to ensure equality of treatment while assigning spectrum. However, special considerations may be made on a need basis as necessary.	Agree with CA response
	4.2.6 Payment of License Fees	Public Broadcaster Waiver	The Authority in consultation with the National Treasury from time to time determines entities that are exempt from paying license fees.	Agree with CA response
	4.3 Frequency Assignment Revocation and Surrender	We wrote to the CA requesting to be furnished with information pertaining all the frequency allocated to avoid this violation	The CA will address this bilaterally with the Licensee.	Agree with CA response
	4.4.5 Annual Spectrum Fees	We request downward review of the fees for Public Broadcaster or exemption	CA will consider this during next frequency spectrum fee review. In consultation with the National Treasury. The Authority in consultation with the National Treasury from time to time determines entities that are exempt from paying license fees.	Agree with CA response
	4.4.6.1 Exemptions and Subsidies on Payment of Frequency Fees	Due to KBC funding model, we request an exemption of frequency fees for the Public Broadcaster. Both Signet and KBC	The Authority in consultation with the National Treasury from time to time determines entities that are exempt from paying license fees.	CA, Treasury, Ministry and KBC to handle bilaterally.

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	4.4.6.2	To serve our customers competitively, we request you to enact a commensurate incentive for marginalized areas.	This may be considered under the USF strategy and framework	Agree with CA response
	4.9.1 Repossession of Unused Frequency Spectrum	Due to the lengthy procurement process and funding model of public broadcasting, we request a special consideration for our frequency.	The CA will address this bilaterally with the Licensee.	Agree with CA response
13. Ceragon Networks (K) Limited	Spectrum Fees	<p>Spectrum Fee Formula [Objective 3.1.viii, 4.2.3]</p> <p>a) I would suggest a model similar to South Africa or Malawi is applied. See attached for MACRA.</p> <ul style="list-style-type: none"> <li>i. Both add minimum hop. This helps prevent operators from deploying low frequencies like 7GHz over short distances. [Item 3.1.vi]</li> <li>ii. Both add a re-use factor. This encourages operators to use an allocation as much as possible. This therefore aids with ensuring greater spectrum efficiency. [Item 3.1.iii/ix, 4.4.4)</li> <li>iii. MACRA adds a sharing factor. This means that operators can apply for the same frequency as long as they properly utilise it and avoid interfering with one another. [Item 4.1.4]</li> <li>iv. ICASA add a Security factor. National Security links, military, police are discounted. Also allows all parties to use the national spectrum formula as well as use existing frequency plans used by operators. E.g. Police using 23GHz.</li> <li>v. MACRA incorporates the</li> </ul>	CA will consider this during the next frequency spectrum fee review	Agree with CA response

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		<p>coordinates of an area with different parts of the country marked as Urban, Rural or Semi-Urban. ICASA has two: High Density (Gauteng Province, Cape Town and Durban Municipalities) and Low Density (All other parts of the country).</p> <ul style="list-style-type: none"> <li>vi. MACRA adds a Congestion factor which would encourage operators to use less congested frequency bands (e.g. 10GHz, 11GHz, 13GHz or even 42GHz).</li> <li>vii. Allow for wider channels: 56MHz, 112MHz, 224MHz</li> </ul> <p>This will aid in reducing the CAPEX of the equipment as well as ensure it can support significant capacities. See below.</p> <ul style="list-style-type: none"> <li>viii. Review of the unit cost of KES 574.10</li> <li>ix. To prepare our nation for 5G, wider bandwidths are needed to help transport high capacities. <ul style="list-style-type: none"> <li>➤ 28MHz = 250Mbps Throughput per transmitter</li> <li>➤ 56MHz = 500Mbps</li> <li>➤ 112MHz = 1Gbps</li> <li>➤ 224MHz = 2Gbps</li> </ul> </li> </ul> <p>This will help increase the number of fixed MW links being deployed. At the moment, it is cheaper in the long run to deploy fibre</p> <ul style="list-style-type: none"> <li>i. 1Gbps MW link for 50Km, Zone 1 = KES 4.5m fee per year</li> <li>ii. 1Gbps MW link covering 5-15Km, Zone 1 = KES 3.2m fee per year</li> <li>iii. 1Gbps MW link covering 2-5Km, Zone 1 = KES 2.3m fee per year</li> <li>iv. 1Gbps MW link covering 0-2Km,</li> </ul>		

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		<p>Zone 1 = KES 1.5m fee per year</p> <p>b) Frequency Allocation</p> <p>i. The following Frequency channels do not appear in your utilisation index, is it safe to assume that they are not being used?</p> <ul style="list-style-type: none"> <li>➤ 5GHz licensed, 5ghz-itu-rf_1099ann1_1-40mhz-300mhz.</li> <li>➤ 11GHz licensed, 11ghz-itu-rf_387-8ann2-cept10-06-40mhz-490mhz or 11ghz-itu-rf_387-8-mainbody-40mhz-530mhz</li> <li>➤ Other higher frequencies: 26GHz, 28GHz, 32GHz, 42GHz and 60GHz (V-Band)</li> </ul> <p>ii. The following are prohibited from use. Is it correct to say that they can be used for Government/County/National/Military/Police etc. [Item 4.16 and 4.17]</p> <ul style="list-style-type: none"> <li>➤ 4GHz licensed</li> <li>➤ 10GHz licensed</li> </ul> <p>iii. W-Band and D-Band. Are there plans to open up these like you have done for E-Band?</p> <p>c) Universal Service and Universal Broadband Backhaul</p> <p>i. Another factor in the spectrum fee formula could be added if links are primarily for universal service. This will make it affordable to maintain these links.</p> <p>ii. Also, common frequencies should be used as these require equipment that are relatively cheaper. For instance, 7GHz equipment is cheaper than 5GHz equipment.</p>		

*Note: The Authority hereby acknowledges with thanks and notes all the other comments made that were in agreement with the Spectrum Guidelines.*