NEPAL TELECOMMUNICATIONS AUTHORITY

REQUEST FOR APPLICATIONS

FOR A

LICENCE TO PROVIDE

TELECOMMUNICATIONS INFRASTRUCTURE SERVICES IN NEPAL

Issued at Kathmandu, Nepal

November, 2017

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- **Annex-I:** Application Form for a License  
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- **Annex III:** Performance Guarantee  
- **Annex IV:** Compliance Checklist  
- **Annex V:** Draft License  
- **Annex VI:** Telecommunications Infrastructure Regulations 2074 (2017) (Original Nepali Language version)
# Acronyms

<table>
<thead>
<tr>
<th>Acronyms</th>
<th>Full Forms</th>
</tr>
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<tbody>
<tr>
<td>AFL</td>
<td>Application For License</td>
</tr>
<tr>
<td>CDMA</td>
<td>Code Division Multiple Access</td>
</tr>
<tr>
<td>GHz</td>
<td>Giga Hertz</td>
</tr>
<tr>
<td>GMPCS</td>
<td>Global Mobile Personal Communications by Satellite</td>
</tr>
<tr>
<td>GoN</td>
<td>Government of Nepal</td>
</tr>
<tr>
<td>IAS</td>
<td>International Accounting Standard</td>
</tr>
<tr>
<td>IFRS</td>
<td>International Financial Reporting Standard</td>
</tr>
<tr>
<td>ILD</td>
<td>International Long Distance</td>
</tr>
<tr>
<td>ITU</td>
<td>International Telecommunication Union</td>
</tr>
<tr>
<td>LOI</td>
<td>Letter of Intent</td>
</tr>
<tr>
<td>Mbps</td>
<td>Mega Bit Per Second</td>
</tr>
<tr>
<td>MOIC</td>
<td>Ministry of Information and Communications</td>
</tr>
<tr>
<td>NDCL</td>
<td>Nepal Doosanchar Company Limited</td>
</tr>
<tr>
<td>NST</td>
<td>Nepal Standard Time</td>
</tr>
<tr>
<td>NTA</td>
<td>Nepal Telecommunication Authority</td>
</tr>
<tr>
<td>PG</td>
<td>Performance Guarantee</td>
</tr>
<tr>
<td>PSTN</td>
<td>Public Switched Telephone Network</td>
</tr>
<tr>
<td>QA</td>
<td>Qualified Applicant</td>
</tr>
<tr>
<td>QoS</td>
<td>Quality of Service</td>
</tr>
<tr>
<td>RFA</td>
<td>Request for Proposal</td>
</tr>
<tr>
<td>RTDF</td>
<td>Rural Telecommunication Development Fund</td>
</tr>
<tr>
<td>RTS</td>
<td>Rural Telecom Service</td>
</tr>
<tr>
<td>STD</td>
<td>Subscriber Trunk Dialling</td>
</tr>
<tr>
<td>SIUC</td>
<td>Shared Infrastructure Usage Charge</td>
</tr>
<tr>
<td>TISP</td>
<td>Telecommunications Infrastructure Service Provider</td>
</tr>
<tr>
<td>UNCITRAL</td>
<td>United Nations Commission on International Trade Law</td>
</tr>
<tr>
<td>VAS</td>
<td>Value Added Services</td>
</tr>
</tbody>
</table>
1. Definitions

In this Request for Applications (RFA), unless the subject matter or context otherwise requires, the following terms shall have the following meanings:

“Act” means the Telecommunications Act, 2053 (1997) as amended and any successor legislation;

“Applicant” means any Person that registers itself with the NTA as an applicant for purposes of this RFA, having purchased a copy of this RFA from the NTA;

“AFL” or “Application” means an application submitted by an Applicant in response to this RFA;

"Competent Authority” means, any legal person, or legal body or licensing authority authorized to deal with the issue concerning bidding, and also included any foreign mission or agency accredited within the territory of Nepal;

"Construction" means building or establishment or erection of Infrastructure in association with the scope of the License

“Control” means the ownership of at least 50% (fifty percent) of the voting interests in the subject Person and/or the ability to control in fact the business of the subject Person whether by ownership, contract or otherwise;

“Data Capability” means the network capable of providing Internet, E-mail and Fax services in addition to voice;

“Effective date” means the date identified as the effective date in the Licence;

“Force Majeure Event” means circumstances, which are beyond the control and proper responsibility of the Applicant/Licensee. By way of illustration, the following circumstances are agreed to be properly characterized as events of “force majeure”: flood, fire, earthquake, hurricane and other acts of God; war, military actions, civil war, guerrilla or terrorist actions, including all measures limiting the free movement of foreigners and their performance of activities; failure of public utilities, such as electrical power, natural gas and water, or transportation systems; and acts by a governmental or executive body which obstruct performance by the Licensee of Licence conditions.

“Gross revenues” includes all of the income or revenue recognized by the Licensee in connection with any and all Licensed Services;

“GoN” means Government of Nepal;
“Large Infrastructure” means towers higher than seven (7) metres, that are used in telecommunications service, and optical fiber used as backbone, and this also includes the telecommunications infrastructure as specified by the Ministry through publication of the notice in the Nepal Gazette, upon the NTA recommendation;

“License” means the license for Telecommunications Infrastructure Services to be granted pursuant to this RFA, and issued for the construction and operation of telecommunications infrastructure in accordance with Rule 6 of the Telecommunications Infrastructure Regulations, 2074

“Licensee” means the Person to whom the License is issued for construction and operation of telecommunications infrastructure in accordance with Rule 6 of the Telecommunications Infrastructure Regulations, 2074 (2017)

“Licensed Area” means the service area that ultimately covers the entire country;

“Licensed Service” means any of the Telecommunications Service which the Licensee will be authorized to provide pursuant to Clause 2 of the Licence;

“Main Network” means the PSTN/WLL/ILD network that consists of at least switching, transmission and access network;

“Ministry” means the Ministry of GoN entrusted with the task of overseeing the subject of information and communication;

“NTA” means the Nepal Telecommunications Authority and its successors;

“Operating Partner” means the party (or parties) who is (are) party to the AFL having demonstrated the Technical Expertise and Professional Experience as specified in Section 25.3 and who is expected to be part of the team responsible for the operational aspects of the project;

“Performance Guarantee” means the performance guarantee submitted as part of the License award process by the qualified successful Applicant;

“Person” means any individual, company, corporation, partnership, joint venture consortium, government or governmental entity;

“Policy” means the Telecommunications Policy, 2060 (2004) as amended and any successor policy statement;

“PSTN” means the Public Switched Telephone Network in Nepal, consisting of the telecommunications transmission and switching facilities, including any wire, cable, radio, satellite, optical or other electromagnetic Telecommunications Systems, that are (i) owned by any licensed Telecommunications Service Provider, including the NDCL, (ii) used for the transmission or switching of intelligence for members of the public for compensation, and (iii) located wholly or partly in Nepal;
“Quality of Service” means the criteria for the Telecommunications Infrastructure Services as determined by the NTA;

“RFA” means this Request for Application, including all annexes hereto, as amended or modified by the NTA;

“Rules” means the Telecommunications Infrastructure Regulations, 2074 (2017) as amended and any further regulations established pursuant to the Act;

“Rural areas” means such areas underserved or un-served by telecom services except Kathmandu Valley, Metropolitan, and Sub-Metropolitan areas as specified by the NTA for the purpose of Development & Expansion of Telecommunication services;

“Service Provider” means a person licensed by the NTA as per the Provision of Act to provide telecommunications services;

“Service Provider with Infrastructure” means such Service Provider who at the time of coming into effect of the Telecommunications Infrastructure Regulations 2074 (2017) had in his possession such infrastructure allowed to be retained by Sub-rule (3) of Rule 3 of the same Regulations.

“Shared Infrastructure Usage Charge” means the charges as payable by infrastructure seeker to the infrastructure provider for usage of telecommunications infrastructure.

“Sharing” means joint use of the telecommunications infrastructure by more than one Service Provider;

“Special Site” means site(s) at location restricted for physical construction work because of security or other reasons, like archaeological spots or ancient memorial spots or locations specified by the Ministry through Nepal Gazette upon the recommendation of the NTA as being technically difficult to construct telecommunications infrastructure as per the prevailing legislations

" Successful Applicant“ means the qualified Applicant selected through the evaluation process as specified in this RFA to issue LOI for granting License.

“Telecommunications Infrastructure” means the non-electronics infrastructure and services used in telecommunications services, like (including) land, building, tower, BTS Shelter, Energy Supply (Power Supply), generator, battery, air conditioner, fire extinguisher, Optical Fiber, Right of Way, Pole, duct, trench, etc;

“Telecommunications Infrastructure Service” means the service included in the telecommunications service by the GoN through the notice in the Nepal Gazette on 2074/05/04, by using the authority as provided by sub-section (2) of the Section 23 of the Act;

“Telecommunications Service” has the meaning assigned to that term in the Act;
“Telecommunications Service Provider” means any Licensee, which is licensed under the Act to provide Telecommunications Service to the public;

“Telecommunications System” has the meaning ascribed to that term in the Act;

"Equipment" means Telecommunications infrastructures equipment used by the Applicant’s customers for the purpose of making use of telecommunication infrastructures services and includes Large Infrastructures as defined in this document.

End of Part I
Part II
Introduction

2. Introduction

2.1 The purpose of this Request for Applications (RFA) is to invite Proposals from interested Applicants in the form of Applications for a Licence (AFL) to provide Telecommunications Infrastructure Services in Nepal.

2.2 This RFA is issued by Nepal Telecommunications Authority (NTA) pursuant to the Telecommunications Act, 2053(1997) (the “Act”), Telecommunications Infrastructure Regulation, 2074 (2017) and the policy of the Government of Nepal (GoN) to expedite the development of telecommunications services in Nepal. In particular, the RFA is aimed to regularize the construction and use of telecommunications infrastructure and to make the telecommunications service affordable & easily available through the sharing of telecommunications infrastructure and thus bringing about a reduction of investment in the telecommunications infrastructure with anticipation of lowering the service user charge.

2.3 Scope of Work, Network Roll-out Requirement, and Guidelines on Content and format of AFL are prescribed in this RFP document. The RFA is organized in five (5) parts, viz.:

Part I: Definitions
Part II: Introduction
Part III: Background Information
Part IV: Rights and Obligations of Successful Applicant and Licensee
Part V: Instructions to Applicants

Annexed to the RFA are 6 (Six) annexes.

2.4 The NTA intends to issue two (2) licenses to two Successful Applicants pursuant to this RFA.

2.5 It is the intention of the NTA to act quickly to implement the Telecommunication Infrastructure Regulation, 2074 B.S along with the applicable Provision of Act and Policy of GoN for increasing sharing of telecommunications infrastructure thus affecting reduction in investment resulting in lowering the cost of telecommunications services.

3. Time Schedule

The time schedule for the RFA process has been planned as mentioned here under.

<table>
<thead>
<tr>
<th>Event</th>
<th>Days from Start</th>
<th>Calendar Date (MM-DD-YYYY)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Notice Publication</td>
<td>Day 1</td>
<td>11-03-2017</td>
</tr>
<tr>
<td>Event</td>
<td>Days from Start</td>
<td>Calendar Date (MM-DD-YYYY)</td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td>-----------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>RFA document available for purchase</td>
<td>Day 1</td>
<td>11-03-2017</td>
</tr>
<tr>
<td>Deadline for questions or clarification</td>
<td>Day 34</td>
<td>12-06-2017</td>
</tr>
<tr>
<td>Pre-Application Meeting</td>
<td>Day 29</td>
<td>12-01-2017</td>
</tr>
<tr>
<td>Issuance of clarification</td>
<td>Day 35</td>
<td>12-07-2017</td>
</tr>
<tr>
<td>Deadline for submission of AFL(s)</td>
<td>Day 45</td>
<td>12-17-2017</td>
</tr>
<tr>
<td>Issuance of Letter of Intent (LOI) to the Selected Applicant</td>
<td>Day 90 (on or before)</td>
<td>01-17-2018</td>
</tr>
</tbody>
</table>

4. **Contact Address**

All correspondence relating to this RFA should be addressed to:

The Chairman  
Nepal Telecommunications Authority  
GPO Box No. 9754, ShreeKunja Bhawan,  
Kamaladi, Kathmandu, Nepal  
Tel.: +977-1-4255474  
Fax : +977-1-4255250  
E-mail: ntra@nta.gov.np

End of Part II
Part III
Background Information

This part of the RFA is only an attempt to provide to the applicant a collection of useful information on Nepal and its telecom sector, and as such all the data may not be up to date. Applicant is encouraged to carry out his own research for the latest updates.

5. Information

5.1 Nepal is a landlocked country situated in southern Asia, between China and India. The Nepalese territory of 147,181 square kilometres comprises three main geographical regions: the Terai (flat river plain of the Ganges) in the south, the central Hill region and the rugged Mountain (Himalayas) region in the north. The latter includes Mount Everest and other seven highest peaks of the world.

5.2 Administratively, Nepal is a federal democratic republican state. The main structure of the Federal Democratic Republic of Nepal consists of three levels, namely the Federation, the Province and the Local level. There are 75 districts in Nepal. There are seven States consisting of the Districts as mentioned in Schedule-4 of Constitution of Nepal (2015). There are Metropolitancities, Sub-Metropolitancities, Municipalities and Rural Municipalities under the Local level. Ward is the smallest administrative unit within a local level.

5.3 The population of Nepal is approximately 28.46 million. The annual population growth rate during 2011-2016 was 1.45%. About 80.47% of the population live in rural areas. The population of Kathmandu, Nepal’s capital city is slightly over two million.

5.4 The current GDP per capita of Nepal is about US$862 in fiscal year 2016/2017; thus, Nepal is considered a Low-Income country by the World Bank. Approximately 21.6% of the population lived below the national poverty line at the end of fiscal year 2015/2016.

5.5 Nepal’s overall economic activity has been encouraging in fiscal year 2016/17. Economic activities have expanded due to favourable monsoon, increase in capital expenditure, energy management, and improvement in investment environment including overall supply situation. As a result, gross domestic product (GDP) at basic price is estimated to grow by 6.94 percent in the current fiscal year. This growth rate is the highest since FY 1993/94.

5.6 Nepalese economy is in the stage of structural transformation as the share of service sector is increasing while that of agriculture sector is decreasing. The shares of agriculture and non-agriculture sectors to GDP are estimated to remain at 29.37 percent and 70.63 percent respectively in fiscal year 2016/17. The share of consumption in GDP has mostly remained high. Its share in GDP is estimated to remain 89.7 percent in the fiscal year 2016/17.

5.7 Of the targeted gross revenue mobilization of Rs. 565.90 billion in the fiscal year 2016/17, Rs. 353.91 billion has been mobilized in the first eight months.
5.8 The Telecommunications Act, 2053 (1997) became effective on January 1, 1997. The Act established a framework for the regulation of the telecommunications sector in Nepal. The Act also established the NTA as the regulatory and licensing authority for the Nepalese telecommunications sector. Chapter 5 of the Act sets out the legal framework for the issuance of licences to provide telecommunications services in Nepal. The Act has envisaged to encourage the national and foreign private sector investors in the operation of the Telecommunications Service.

5.9 The Telecommunications Policy, 2060, (2004) (the “Policy”) sets out the GoN's policy for the expansion of telecommunication services in the country. The current Act is in the process of amendment in accordance with the Policy.

6.0 Telecommunication Networks in Nepal

6.1 After the enactment of the Telecommunications Act, 2053 (1997) the telecommunications sector was opened to the private sector. Prior to that, the government operator, the Nepal Telecommunications Corporation (NTC), presently converted into a government company Nepal Doorsanchar Company Limited (NDCL) was the only telecom operator in the country.

6.2 Currently, the organizations licensed in the provisioning of telephones in the country stand at six, as listed below:

i. Nepal Doorsanchar Company Limited (NDCL), the incumbent, also known by its Trade Name as Nepal Telecom (NT), which has also been granted a nation-wide licence to provide Mobile telephone service.

ii. United Telecom Ltd. (UTL), licensed in the year 2002 to provide basic telephone service based on WLL technology for the entire country. As of Now company has been licensed for Basic Telephone Service.

iii. STM Telecom Sanchar Pvt. Ltd. (STM), licensed through least subsidy process in the year 2003 as a rural telecom operator for the Eastern Development Region (EDR) of the country. STM has since been authorized to provide rural telecom service in other regions, but without any further subsidy.

iv. Ncell Pvt. Ltd. (Ncell), licensed in the year 2004 to provide GSM based Mobile telephone service in the entire country.

v. Nepal Satellite Pvt. Ltd., licensed in the Fiscal year 2064/2065 (BS) to provide Basic Telecommunication service from the Mid-Western Development region.

vi. Smart Telecom Pvt. Ltd., licensed in the Fiscal year 2064/2065 (BS) to provide rural telecom service. The company has been awarded with Basic Telephone service in 2069/2070 BS.
6.3 NDCL, the only wire-line operator in Nepal. Apart from wire-line, NDCL has also deployed nationwide CDMA and GSM network to cover all districts and population of the country. Also, it has deployed WiMax service network in the country.

6.4 The fixed telephone subscriber base as of 14 April, 2017 stands over 684,265. Subscribers of the WLL services have reached over 174,649. The overall subscriber base position is shown in Table 1 below.

Table 1: Subscriber Base of Telephone Services, (as of 14 April, 2017)\(^1\)

<table>
<thead>
<tr>
<th>Services Operators</th>
<th>Fixed</th>
<th>Mobile</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>NDCL</td>
<td>680835</td>
<td>121532</td>
<td>14998775</td>
<td>1475975</td>
</tr>
<tr>
<td>UTL</td>
<td>-</td>
<td>50133</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>NCEII</td>
<td>-</td>
<td>-</td>
<td>15495158</td>
<td>-</td>
</tr>
<tr>
<td>STM*</td>
<td><strong>2832</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>NSTPL*</td>
<td>2984</td>
<td>-</td>
<td>-</td>
<td>368684</td>
</tr>
<tr>
<td>STPL</td>
<td><strong>598</strong></td>
<td>-</td>
<td>1530550</td>
<td>-</td>
</tr>
<tr>
<td>Others</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>684265</td>
<td>174649</td>
<td>32024483</td>
<td>1475975</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Services</th>
<th>Subscription (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed</td>
<td>3.24</td>
</tr>
<tr>
<td>Mobile</td>
<td><strong>126.44</strong></td>
</tr>
<tr>
<td>Others (LMS, GMPCS)</td>
<td>3.20</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>132.88</strong></td>
</tr>
</tbody>
</table>

6.5 The internet subscriptions including through the means of GSM mobile services have grown up to more than 58.72%. The over all distribution of Internet subscriptions and contribution of service providers is in table-2 below:

Table 2: Internet Subscriptions, (as of 14 April, 2017)\(^2\)

\(^1\)Source: MIS Report, Issue 102, Nepal Telecommunication Authority, August 2017

\(^2\)Source: MIS Report, Issue 102, Nepal Telecommunication Authority, August 2017
6.6 NDCL and Ncell have laid out their Optical fibre cable along East west Highway of Nepal. NTA has awarded authorizations to the selected existing operators to lay down OFC along Pushpalal LokMarga in the mid hill range across east to west of Nepal. Except few remote mountainous region operated through satellites, all other parts of Nepal have been covered through OFC and microwave network.

6.7 There are more than 6000 towers in operation in Nepal having ownership of different 5 voice operators which includes both ground based and roof top based towers. Majority of the them are roof top based towers. Nepal Telecom has more than 3200 towers, Ncell has more than 2600 towers, UTL has more than 170 towers, Smart Telecom has more than 300 tower and Nepal Satellite has more than 100 towers.

6.7 There are more than 50 Internet service providers in Nepal. They are having a subscriber base of more than 227,792. They are providing services mainly through wireless, cable and OFC. Among these prominent six operators have subscriber bases more than 10k. The World link communications has subscribers more than 100,000 and Subisu has more than 60,000 subscriber bases.

7. **Rural Telecommunications Service Policy**

The current policy of GoN provides that telecommunications services will continue to be provided by NDCL, UTL, NCell, Smart Tel, NSTPL and STM in the rural areas of Nepal. The RTDF fund established under the provision of section 30(4) of the Telecommunication Act, 1997 is being also mobilized to provide telecommunications services and infrastructure in the un-served and underserved areas of Nepal.

8. **Tariff Rates and Numbering Plan**

8.1 The telecommunications services of NDCL and other operators are provided at rates that are regulated by the NTA. The inter operator interconnection charges are determined by Interconnection guidelines, 2008 issued by NTA.

8.2 A national numbering plan has been in place in Nepal since Subscriber Trunk Dialling (STD) was introduced in the early 1980s for Fixed telephone service. The GSM and
CDMA mobile numbering plan consisting of 10 national significant digits starting from 96-XXXXXXXX to 98-XXXXXXXX are in implementation.

End of Part III
Part IV
Rights and Obligations of Successful Applicant and Licensee

A. Rights and Obligations of Successful Applicant

(i) **LOI Acceptance:** The Successful Applicant to whom the LOI is issued from NTA, must accept the LOI in writing within 15 (fifteen) days from the date of issuance of the LOI.

(ii) **Incorporation/Registration as a Legal Entity:** The successful applicant shall incorporate/register a Legal entity in Nepal as per the Rules and Regulation of GoN. The legal entity/company thus incorporated/registered shall have the same partners/shareholders which was formed for applying to respond to this RFA within the timeline as prescribed in clause 36.8 of ITA of this RFA.

(iii) **Performance Guarantee:** The Successful Applicant/s to whom the LOI has been issued shall furnish a Performance Guarantee as prescribed in Clause 37 of ITA this RFA.

(iv) **Application for License:** After the receipt of LOI from the NTA, the successful Applicant shall apply to the NTA to obtain the License within 15 days effective from the date of incorporation of a Legal Entity/company, in case of JV Applicant.

(v) **Other Rights & Obligations:** The other rights and obligations of the Successful Applicant shall be as prescribed in Part V, ITA of this RFA as applicable.

B. Rights and Obligations of Licensee

9. **Scope of Work**

9.1 **Licensed Service:**

Licensee shall be required to operate Telecommunication Infrastructure Service throughout the country through construction and operation of Telecommunications Infrastructures included but not limited to Large Infrastructures (Towers, Optical Fibre).

9.2 **Provision of Service:**

The Licensee shall provide the services as hereunder:

(a) Provide Telecommunications Infrastructure Services to Service Providers by constructing such telecommunications infrastructure complying with the standard as specified by the NTA.
(b) Repair & fix free of cost such infrastructure to bring it back to the quality as set by the NTA, when infrastructure provided as per sub-clause (a) above is out of order.

(c) Provide telecommunications infrastructure as per the agreement with Service Provider.

(d) Operate Telecommunications Infrastructure Service so as to comply with the minimum standards as set out by the International Telecommunication Union (ITU) for the operation of telecommunications service.

(e) Licensee shall abide by the standards set by the NTA in respect of the conditions of contract to be signed between the Licensee and sharing partner, and in respect of service charges.

(f) Licensee is required to operate and expand its service in the service area as stated in the License.

(g) Licensee shall, by construction or acquisition, be in possession of at least two hundred (200) telecommunication towers within two (2) years of obtaining License.

(h) To abide by other conditions as set by the NTA in regards to the operation of Telecommunications Infrastructure Service.

### 9.3 Construction of Large Infrastructure

Listed below are some relevant provisions as contained in the telecommunications infrastructure regulations 2074 (2017) which governs matters related to but not limited to the construction, operation, sharing of telecommunications infrastructures services, license of which the Applicant is seeking. (The Nepalese Version of the Telecommunications Infrastructure Regulations 2074 (2017) is attached in Annex – VI for reference)

#### 9.3.1 Necessary to obtain Approval:

(i) In order to construct Large Infrastructures, Licensee needs to apply to the NTA as per Schedule-4 of the Telecommunications Infrastructure Regulations 2074 (2017).

(ii) If the NTA finds it fit to grant its approval as sought by the Licensee, it may do so within thirty (30) days of the application. Such approval shall be in the format as shown in Schedule- 5 of the Telecommunications Infrastructure Regulations 2074 (2017).

(iii) Prior to granting the approval, if deemed necessary, NTA may ask the Licensee to provide additional information or documents and it will be the duty of the Licensee to make such information or documents available;

(iv) If at the site proposed to construct large infrastructure, a telecommunications infrastructure which may be shared already exists, no approval shall be granted to construct new Large Infrastructure.
But, if the existing infrastructure has low capacity, or if it is necessary to use it as an alternative, or for emergency conditions, Licensee may be granted approval to construct such Large Infrastructure.

(v) While granting approval to construct Large Infrastructure, NTA may specify necessary conditions and it shall be the duty of the Licensee to abide by such conditions.

9.3.2 To obtain approval at Special Sites:

(i) Licensee needs to obtain approval of the NTA before constructing Telecommunications Infrastructure at Special Sites.

(ii) NTA may specify necessary conditions regarding the construction and use of telecommunications Infrastructure at the Special Site(s).

(iii) Before granting approval as per sub-clause (i) above, it is necessary to obtain the consent of the concerned entity.

9.3.3 Relocation and Redevelopment

(i) Licensee may relocate or redevelop telecommunications infrastructure.

(ii) Prior to the relocation and redevelopment of Large Infrastructure, it is necessary for the Licensee to obtain prior approval from the NTA.

(iii) Prior to the relocation or redevelopment of infrastructure which is being shared, Licensee shall obtain the approval of the Service Provider sharing such telecommunications infrastructure.

(iv) In case the approval as mentioned in sub-clause (iii) above cannot be obtained, upon the request of the Licensee, NTA may grant approval to the relocation or redevelopment of the telecommunications infrastructure while ensuring the continuity of services of the sharing service provider.

9.3.4 Need to make Infrastructure Data public

Data/description of the telecommunications infrastructure as constructed by the Licensee shall be made public by placing such information in the Website of the Licensee within thirty (30) days of completion of the construction, and the NTA needs to be informed of the same.

9.3.5 Acquire or Obtain on Lease

(i) Licensee may, at a mutually agreed value, buy or obtain on lease telecommunications infrastructure under the possession of a Service Provider with Infrastructure
(ii) Before buying or obtaining on lease telecommunications infrastructure as described in sub-clause (i) above, Licensee shall obtain approval of the NTA.

(iii) Within thirty (30) days of buying or obtaining on lease as described in sub-clause (i) above, the Licensee shall inform the NTA about the same.

(iv) Irrespective of whatever is mentioned in sub-clause (i) above, a Licensee may not buy or obtain on lease telecommunications infrastructure of any other Licensee.

10. **Sharing of Telecommunications Infrastructure**

10.1 **Sharing Allowed:**

(i) A Service Provider may enter into agreement with a Licensee or another Service Provider with Infrastructure and engage in sharing activities.

(ii) If any agreement is reached as per sub-clause (i) of clause 10.1, NTA shall be informed within thirty (30) days of such agreement.

(iii) While allowing sharing of infrastructure, Licensee or Service Provider with Infrastructure may not act in a manner resulting in discrimination among Service Providers or against fair competition.

(iv) If, contrary to provisions in Sub-clause (iii) any Service Provider is discriminated in sharing, the discriminated Service Provider may report it to the NTA; and once such discrimination is reported, NTA shall, after conducting necessary investigation, give appropriate order within thirty five (35) days. It shall be the duty of the Licensee or concerned Service Provider to abide by the NTA order in such matter.

11. **Documentation of Sharing Data:**

Licensee or Service Provider with infrastructure shall document an updated database on sharing of telecommunications infrastructure with other Service Providers and make available to the NTA as and when required.

12. **Active Infrastructure cannot be shared:**

Irrespective of whatever is mentioned elsewhere, Licensee or Service Provider cannot share or allow to be shared any Active Infrastructure; these include Electronics infrastructure like Base Transmitter Station (BTS), NodeB, e-nodeB, Radio spectrum, Antenna, Feeder Cable, Radio Access Network (RAN), microwave radio equipment, billing platform, switching system, router, base station controller (BSC), radio network controller (RNC) and related services.

13. **Exclusivity**

13.1 Two Licences will be issued for two eligible and competent applicants with exclusive rights for five years. Within the period of five years from the date of issuance of the
Licences, no other License shall be issued to operate the same Telecommunications Service. Provided that, this sub-section shall not bar the NTA from issuing the License to other person in case the Licensee fails to provide the Telecommunications service as prescribed in the License or on the basis of subjective evaluation if it seems that the additional service for such Telecommunications Service is required.

However if a service provider having more than 75 percent share of GoN ask to grant license for Telecommunication Infrastructure Service to the NTA, then NTA shall provide the license for Telecommunication Infrastructure service to such service provider.

13.2 In the provisioning of the Telecommunications Infrastructure Service, the Licensee may utilize any appropriate technology, but ensure that the Tower and other associated equipment are field proven, and state of the art technology. The licensee shall comply with the standard of the infrastructure service as prescribed by the NTA from time to time.

14. **Network Roll-out Plan**

(i) As provided by Section 9.2 (g), the Licensee is required to be in possession of at least two hundred (200) Towers within two (2) years of obtaining the License, be it by construction or by acquisition.

(ii) Applicant shall submit its Network Roll-out Plan for first two years and the subsequent three (3) years for a total period of five years after obtaining the License.

(iii) Applicant shall give a breakdown of the number of Towers planned to be constructed, and the number of towers planned to be acquired by buying or obtaining on lease.

(iv) The plan shall demonstrate year-wise increase of the number of Towers to be constructed or acquired by buying or obtaining on lease.

(v) Applicant shall also submit its projection of the number of Tower to be developed at the request of Service Providers, as provisioned in Section 9.2 (c)

(vi) For each of the sub-sections 14 (i), (ii), (iii), (iv), and (v) a classification shall be submitted indicating the geographical locations of the proposed sites with the intention of providing good coverage of telecommunication services across all the seven states of Nepal.
15. **Fixing the Shared Infrastructure Usage charges (SIUC)**

(i) Shared Infrastructure Usage Charge (SIUC) applicable for sharing between Licensee and Service Provider with infrastructure shall be fixed as per mutual agreement between the concerned parties.

(ii) In case the concerned parties are not able to arrive at the SIUC any sharing party may apply to the NTA explaining reasons for the inability, together with the proposed SIUC.

(iii) Upon receipt of such application, the NTA shall fix appropriate SIUC for the sharing after necessary investigation and consultation with related party and SIUC as fixed by the NTA shall be final.

(iv) NTA shall, for this purpose, bring out necessary guidelines in order to fix the SIUC. These guidelines shall be abided by the concerned Licensee and the Service Provider.

16. **To be Allowed Sharing as per the Agreement**

If any Licensee buys or obtains in lease the infrastructure of a Service Provider with infrastructure, the Service Providers who had been sharing the infrastructure prior to the buying or leasing shall be allowed to continue to share the infrastructure in accordance with the earlier agreement.

17. **Re-sharing Not Allowed**

A Service Provider shall not re-share with another Service Provider the infrastructure which he has obtained for usage.

18. **Need to Construct Infrastructure**

(i) If a Service Provider finds it necessary to use certain telecommunications infrastructure at a particular site, he may request a Licensee to develop such infrastructure providing the later with detailed description of the same. Upon such request, the Service Provider and the Licensee shall arrive at mutually agreeable terms and arrive at an agreement to develop said telecommunications Infrastructure.

(ii) If the Licensee refuses to develop the telecommunications infrastructure as requested, the Service Provider may apply to the NTA for development of the infrastructure.

(iii) Upon receipt of the application of the Service Provider as per sub-clause (ii) above, the NTA shall instruct any Licensee to construct the infrastructure within a stipulated time, and it shall be binding for the Licensee to construct such infrastructure at the site specified.

19. **To abide by Prevailing Legislations**

(i) Before constructing the telecommunications infrastructure, if prevailing legislations require carrying out an Initial Environmental Examination or conducting Environmental
Impact Assessment, or obtain the consent of any entity, approval shall be granted only after the completion of such task.

(ii) Topics specifically mentioned in the Telecommunications Infrastructure Regulations, 2074 (2017) shall be dealt with as per the above mentioned regulations, while for other topics like License Renewal, License Amendment, Sale, Handover or Cancellation of License, Royalty to be submitted by the Licensee, Inspection, Investigation, Settlement of Dispute and others, Telecommunications Regulations, 2054 (1997) shall prevail.

20. **Continuity of Telecommunications Infrastructure at times of Disaster**

(i). Licensee and Service Provider with Infrastructure shall make necessary arrangements to ensure continuity of Telecommunications Infrastructure Services at times of disaster, and provide such information to the NTA.

(ii). To ensure continuation of Telecommunications Infrastructure Services at times of Disaster, NTA may specify necessary conditions or give directions, and it shall be the duty of Licensee or Service Provider with Infrastructure to abide by such conditions or directives.

21. **Period of Licence**

As expressly mentioned in Section 25 of the Act, total License period is twenty five (25) years commencing from the effective date of the License, with the Initial Term of five (5) years as specified in the notice published in the Nepal Gazette, in accordance with the provisions of Section 23(2) of the Act. Not less than 3(Three) months before the expiry of the relevant term, the Licensee may apply to have the Licence renewed for an additional term of 5 (five) years extending up to 25 years. The NTA shall grant the licence renewals, provided that there are no material breaches of the Licence.

22. **Fees Payable**

(1) Licence Fee - A licence fee of NRs 750,00,000.00 (Seventy Five Million Nepalese Rupees) shall be payable for the initial Licence period. The successful Applicant shall pay the licence fee in full at the time of issuance of the Licence.

(2) Renewal Fee - The renewal fee for each additional 5 (five) year licence term shall be NRs. 5,00,00,000.00 (Fifty Million Nepalese Rupees). The licence fee payable for any Licence renewal period shall be paid by the Licensee prior to commencement of any such renewal period.

(3) Annual Royalty to be paid to GoN- The Licensee shall pay a royalty fee of 4% (four percent) of the Licensee’s gross annual revenues in each fiscal year. This Royalty is due 3 (three) months following the end of each fiscal year.

(4) Rural Telecommunications Development Fund ("RTDF") - The Licensee shall contribute 2% (two percent) of its gross annual revenues in the fiscal year immediately preceding the anniversary date of the Licence, to the fund established by the NTA pursuant to
subsection 30(4) of the Act. This payment is due 3 (three) months following the end of each fiscal year.

23. **Need To Submit Annual Report**

Licensee or Service Provider with Infrastructure shall, within three (3) months of the expiration of the financial year, submit to the NTA a Report containing details of the Infrastructure constructed and sharing services operated by the Licensee or such Service Provider and an account of the Income and Expenditure for the fiscal year, duly audited by a Recognized Auditor.

**End of Part IV**
Part V
Instructions to Applicants

24. Eligibility Requirements:

24.1 An AFL will be eligible for evaluation only if all of the following requirements are met. AFL that does not comply with these requirements shall be rejected.

(a) A person Black-listed by any Telecommunications Regulatory Authority or any other competent government entity shall not be an Applicant for this RFA.

(b) If the Applicant is a foreign national, Nepalese citizens must own a minimum of 20% (twenty per cent) of the total investments/shares that the Licensee wishes to invest on telecommunications infrastructure services.

(c) Any one applicant who is directly or indirectly holding One (1) percent or more of the shares of any Existing Telecommunication Service Provider shall not be eligible to apply for the License.

(d) The minimum share of a partner having technical experience in a joint venture or consortium shall have at least 20% (Twenty percent) shareholding in the Applicant.

(e) The AFL shall be received in a sealed envelope before the closing date and time for submission of AFL(s) as identified in section 33.8.

(f) Only Applicants (or any company or other Person identified in the Application as a member or participant in the Applicant company or consortium) that have registered with the NTA and that have purchased a copy of this RFA from the NTA are eligible to participate in the Application process and to submit an Application.

(g) The AFL shall include a bid security of NRs. 18,75,000.00 (Nepalese Rupees One million and Eight Hundred Seventy Five Thousand only) or US$ 18,750.00 (US Dollars Eighteen Thousand Seven Hundred Fifty Hundred only) valid till 04-16-2018 .(Annex II)

(h) The AFL shall include a letter authorizing the Applicant to sign the Application Form on behalf of the applicant company, or the consortium.

(i) Other requirements as mentioned in the INVITATION FOR AN APPLICATION notice first published on 11-03-2017.

24.2 The applicant shall have the following Eligibility Conditions in relation to Technical competence and Experience:

(a) The applicant shall have experience having construction of at least 5,000 (Five Thousand) Telecommunications related Towers and operated and managed at least 10,000 (Ten Thousand) such Towers.
(b) The applicant shall have experience of having managed at least 5,000 (Five Thousand) Telecommunications Towers that can be shared by two or more service providers.

(c) The applicant shall have experience of having construction or operation telecommunications infrastructure in at least two countries, in case the Applicant is a foreign national.

24.3 The applicant shall have the following **Eligibility Conditions in relation to Minimum Capital**:

(a) Applicant shall be in profit for the last three years.

(b) The Applicant shall have a Minimum Capital equivalent to NRs.10,000,000,000/- (Ten Billion Nepalese Rupees) or USD 96,450,617.28 (Ninety-six Million Four Hundred Fifty Thousand Six Hundred Seventeen and 28/100 United State Dollar) (USD 1.00=NRs 103.68).

25. **Conditions of Qualifications**

Only such Eligible Applicants who meet the following conditions shall be considered as Qualified Applicants; However, any one, who is directly or indirectly holding One (1) percent or more of the shares of any Service Provider shall not be eligible to apply for the License.

25.1 **Nepalese Participation**

(a) If the Applicant is a foreign national, Nepalese citizens must own a minimum of 20% (twenty per cent) of the total investments that the Licensee wishes to invest on telecommunications infrastructure services.

(b) If the Applicant is a foreign national, provisions of Section 25.3 (a) (x) shall be complied, failing which, the Applicant will not be declared as qualified for evaluation.

(c) The AFL must include evidence that the Licensee proposed by the Applicant will comply with this provision in accordance with section 30.2(b) of this Part V to this RFA.

25.2 **Financial Strength, Capital & Investment, and Projected Demand**

The AFL shall include the following documents:
(1) Evidence(s) to demonstrate that the Applicant has been in profit for the last three years in a row, and that he can meet the financial capability as given hereunder:

(i) Applicant must have a Minimum Capital equivalent to NRs.10,000,000,000/- (Ten Billion Nepalese Rupees) or USD 96,450, 617.28 (Ninety-six Million Four Hundred Fifty Thousand Six Hundred Seventeen and 28/100 United State Dollar) (USD 1.00=NRs 103.68).

(ii) Applicant must have the capability to mobilize the financial resources of at least NRs.2,000,000,000.00 (Two Billion Nepalese Rupees) or USD 19,290,123.46 (Nineteen Million Two Hundred Ninety Thousand One Hundred Twenty Three and 46/100 United State Dollar) for the investment;

(2) Evidence(s) of Financial strength, Capital & Investment shall include:

(i) A brief account of the Estimated Capital, Financial and Business Plan also giving the Proposed Investment amount and indicating the proposed sources of Investment along with ratio of own financing and other sources,

(ii) Details of the Financial Analysis as per technical, operations, and marketing plan. Projection of Demand and Supply of the Service.

(iii) A detailed list of all sources and amounts of equity and debt financing required in the first 5 (five) years of operation, together with projected five years working capital, estimated total annual gross revenue, cost of services, cost of administration, profit and loss calculation, IRR calculation etc; and

(iv) Commitment letters from one or more financial institutions or other lenders or investors for the full amount of such required equity or debt financing. The commitment letters shall be provided by financially sound Nepalese or international financial institutions and shall state that the amount of required as equity or debt funding is in deposit or approved for borrowing by the applicable lender or shareholder.; and

(v) Supporting documentation regarding source of fund mobilization ( bank comfort letter, equity source, other financial source detail ) indicating that the Licensee proposed by the Applicant clearly has the capacity to finance the Telecommunications Infrastructure Service Operations.

25.3 Organization details, Technical Expertise, Reports, Operational Plans, and Commitment:

(a) The Applicant shall provide the following:

(i) If the Applicant is a legal entity already established, a brief description of the organization, documents demonstrating its legal status. The applicant shall also include the organogram and Management of the entity.
(ii) Documents showing Technical Expertise & Professional Experience of the Applicant, Technical Study Report and Operational Plan,

(iii) Description of Infrastructures, indicating the type of infrastructures intended to be set up, Place and Region for erecting the infrastructure incorporating electricity backup plan, Quality of Infrastructures, Work Plan on Operation & Maintenance of Infrastructures,

(iv) Details on whether or not the construction of infrastructure will adversely affect the Environment,

(v) In case of Infrastructures using Radio Frequency, details shall be provided as applicable,

(vi) Applicant shall provide a Commitment Letter indicating its willingness to meet the requirements as set out by a competent authority and ensure not to cause any adverse effect on public health, in cases where the radio frequency will be used,

(vii) Applicant shall provide details of the Plan(s) to ensure Continuation of Infrastructure Services even at times of Disaster,

(viii) Evidence of having constructed at least 5,000 (Five Thousand) Telecommunications related Towers and operated and managed at least 10,000 (Ten Thousand) such Towers.

(ix) Evidence of having managed at least 5,000 (Five Thousand) Telecommunications Towers that can be shared by two or more service providers.

(x) Evidence of having constructed or operated telecommunications infrastructure in at least two countries, in case the Applicant is a foreign national.

(xi) Risk Management Plan along with potential Risk identification & Risk Response Strategy & Plan

(xii) Technical Plan on design and configuration of all elements in Proposed infrastructure sharing provisioning service, improvement of tower tenancy, improvement of security systems

(b) A letter certified by Competent Authority shall be attached as an evidence to substantiate the statements as mentioned in 25.3 (a) (viii), (ix), and (x);

(c) In compliance with section 25.3 (a), and (b) above, the Applicant may rely on:

(i) the Technical Expertise and Professional experience of the Licensee it proposes,

(ii) the experience of any Person that is a shareholder in the Licensee or any Person that has committed in a binding agreement to become a shareholder in the Licensee,
provided that the Person/s has or will have a minimum ownership interest of 20% in the Licensee; or

(iii) the experience of any Key Personnel that is or will be an affiliate of the Licensee in connection with Management & Administration, Technical & Operations, Financial, Marketing.

(d) For the purposes of section 25.3(c)(iii), a Person is an affiliate of the Licensee if one of them (i.e. the Person or the Applicant) is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person.

(e) Where the License will rely on the experience of a Person identified in section 25.3.(c)(i) or in section 25.3.(c)(ii), the AFL must include a written commitment from said Person to participate in the Licensee’s operations, as well as a detailed description of such proposed participation.

(f) The AFL shall provide specific information regarding the telecommunications markets in which the Applicant (or, if its experience is relied upon, the Person identified in sections 25.3(c) (ii) or 25.3(c)(iii)) has operated. Details should be provided on the following:

(i) the number of years of operation and number of Large Infrastructures constructed;

(ii) names of the countries where the Applicant has constructed or operated telecommunications infrastructure;

(iii) the telecommunications management experience of the Applicant;

(iv) the types of telecommunications services provided; and

(v) The experience of the Applicant in rolling out a telecommunications infrastructure network.

25.4 Documents required:

(a) The Applicant shall compile and submit a document entitled, "Compliance Document for Application Form" which is to provide Descriptions including but not limited to the date of commencement of construction, Evidences, and Reports on the issues as required by the Application Form. Where such information, or document, or report, is already contained elsewhere in the AFL, this "Compliance Document for Application Form" will give pointers to such concerned documents, and where such information or report is not submitted, this document shall give the details as required by the Application Form.

(b) To substantiate the requirements set out in section 25.1, 25.2 and 25.3, the AFL shall include pertinent documentation, such as records of relevant government or regulatory authorities, auditor's reports, securities filings or independent analyst profiles.
The AFL shall include the Application in the Format as indicated in Annex-1 of Infrastructure Regulations, 2074 (2017), duly filled-in, complete with all the details required and signed by the authorized person of the Applicant, with the stamp or the seal of the company which the Applicant represents (Annex I).

25.5 **Black-List:**

Person(s) or companies black-listed by any telecommunications regulatory authority or by any other competent government entity cannot be an Applicant or its promoters. The Applicant shall produce the certificate to this effect issued by a competent authority.

26. **Field Proven Equipment:**

(a) All proposed types of infrastructure equipment shall be field-proven and actually used for public telecommunication service with satisfactory service. In view of the rapid development in communications technology and hardware, the Licensee shall install updated versions of the equipment field-proven through actual service. However, the changes introduced in the field-proven equipment shall be “evolutionary” and not “revolutionary” in nature.

(b) The NTA reserves the right to verify the quality of the equipment and its satisfactory performance in actual service with the network operators.

27. **Period of Validity of Application**

27.1 The AFL shall remain valid for 90 (ninety) days from the closing date identified in section 33.8 of this Part V.

27.2 Under exceptional circumstances, the NTA may require the Applicant to extend the period of validity of its Application for one or more periods which, in total, shall not exceed 30 (thirty) additional days beyond the period specified in Section 27.1. NTA’s notice requiring such an extension and the response thereto shall be made in writing. In this case, the Bid Security provided under Section 28 shall be suitably extended by the Applicant to match the extended period of validity of the AFL. In this case, an Applicant will not be permitted to modify its Application.

28. **Bid Security**

28.1 The Applicant shall furnish Bid Security money of NRs. 18,75,000.00 (Nepalese Rupees One million and Eight Hundred and Seventy Five thousands) or US$ 18,750.00 (US Dollars Eighteen Thousand and Seven Hundred Fifty) or a bank guarantee in the form of Annex- II to this RFA and issued by an recognized commercial bank located in or outside of Nepal. Where the Bid Security is issued by a commercial bank located outside of Nepal, it shall be counter guaranteed by a “A” Class Commercial Bank in Nepal.
28.2 The Bid Security shall remain valid for till 04-16-2018 (MM-DD-YYYY), with the possibility of extension under Section 27.2. The NTA will not be obliged to bear any financial charges in this respect.

28.3 The Bid Security of the unsuccessful Applicants will be released not later than 30 (thirty) days after the issuance of the Licence to the successful Applicant by NTA.

28.4 The successful Applicant's Bid Security will be released not later than 30 (thirty) days after the issuance of the Licence.

28.5 The Bid Security shall be forfeited in any of the following cases:

(a) the Applicant withdraws its Application prior to issuance of Licence;

(b) where the successful Applicant has received from the NTA a Letter of Intent to issue the Licence and the Licensee proposed by said Applicant fails or refuses to submit the Performance Guarantee in accordance with sections 36.3 and 37 of this RFA;

(c) after the issuance of Letter of Intent (LOI), the Applicant fails to comply with section 25.1 of this RFA; and

(d) the successful Applicant does not collect the Licence within 15 (fifteen) days after issuance of a letter to this effect.

28.6 On the occurrence of any of the forfeiture events identified above in section 28.5, the NTA shall be entitled to select another Applicant.

29. Grounds for Disqualification

29.1 The NTA shall disqualify Applications and remove them from further consideration for any of the reasons set out below:

(a) Failure to register with the NTA and purchase a copy of this RFA.

(b) Failure to submit the Application as prescribed in Annex-1 of Telecommunications Infrastructure Regulations, 2074 (2017).

(c) Failure to submit the Application within the prescribed deadline.

(d) Failure to submit a complete AFL in accordance with this RFA.

(e) Failure to comply with any of the procedures or other requirements established by this RFA.

(f) Failure to submit Bid Security Amount specified in the RFA document.

(g) Inaccuracy or misrepresentation of any facts in any part of the Application.
(h) Failure to meet the minimum Eligibility Requirement

(i) Illegal conduct related to the bidding process or improper attempts to influence the evaluation of Applications, such as:

(a) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

(b) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(c) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

(d) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(e) “obstructive practice” is deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

29.2 NTA will reject a proposal for award if it determines that the Applicant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;

29.3 If the Applicant is a foreign national, and the provisions of Section 25.3 (a) (x) is not complied the Applicant shall be disqualified.

30. Guidelines on Content and Format of AFL

AFL shall include the following documents and information:

30.1 Cover letter and Attachments

3 “Another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes employees of organizations taking or reviewing procurement decisions.

4 A “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

5 “parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

6 a “party” refers to a participant in the procurement process or contract execution.
(a) A cover letter and attachments must be signed by a person or persons duly authorised to act on behalf of the Applicant. Where the Applicant is a member of a consortium, the cover letter and attachments must be signed by a person or persons duly authorised to act on behalf of each member of the consortium. The individual or individuals that sign on behalf of any such Person must be duly authorised to act on behalf of the Person.

(b) The cover letter must provide a summary description of the Applicant, of the members of the consortium of the Applicant, if such a consortium exists.

(c) The cover letter must indicate a firm commitment to apply for the Telecommunications Infrastructure Service Licence.

(d) The cover letter must confirm that the Application is open for acceptance by the NTA for 90 (ninety) days from the closing date identified in section 33.8 of Part V of this RFA.

(e) Attached to the cover letter must be one or more Powers of Attorney or notarised certificates that clearly evidence the authority of the signatory(s) of the cover letter and other documents submitted with the Application which require signature on behalf of the Applicant, the members of the Applicants consortium, if such consortium exists or the Licensee proposed by the Applicant.

(f) Also included with the cover letter, must be the Bid Security in the form of Annex- II to this RFA, pursuant to Section 28 of this Part V.

(g) The cover letter must be accompanied by a formal application for Licence, in the form of Schedule-1 to the Telecommunications Infrastructure Regulations, 2074 (2017) (Annex I)

30.2 Information Regarding the Applicant

(a) General Information

   i. Where the Licensee has been legally established at the time the AFL is filed, a description of the legal status of the Licensee, including:

   - a copy of its articles and organizational by-laws;
   - a certified copy of a resolution of the board of directors of the Licensee proposed by the Applicant that authorizes the Applicant to submit the Application and to propose the Licensee for the issuance of Licence; and
   - any shareholder, joint venture agreement or Memorandum of Understanding, or other arrangement of any kind between the shareholders of the Licensee proposed by the Applicant or a draft of such agreement. If a draft is submitted, the Application shall include a statement signed by all shareholders or proposed shareholders stating that, if the Applicant's AFL is selected, the draft documentation will be signed and provided to the NTA before the Licence is issued.
ii. Where the Licensee proposed by the Applicant is not legally constituted as a corporation prior to the submission of the AFL, the Applicant must:

- Identify to the NTA all Persons that propose to have a direct or indirect interest in the Licensee;
- specify the nature and level of the direct or indirect interest that each such Person proposes to have in the Licensee;
- include a signed agreement amongst the proposed shareholders in the Licensee that unequivocally commits the shareholders to incorporate the Licensee and to organise the Licensee in a manner that will comply with the requirements set out in this RFA and in the terms of Licence; and
- a certified resolution of the boards of directors of all proposed corporate shareholders in the Licensee that authorizes the Applicant to submit the Application and to propose the Licensee for the issuance of Licence.

iii. Name, legal status, registered office address and a description of the business of all proposed or actual shareholders of the Licensee proposed by the Applicant.

iv. Name of person(s) who Controls or who will Control the Licensee proposed by the Applicant.

v. In the case of companies with shares listed on a stock exchange this information must be provided only to the best of the Applicant's knowledge and only in respect of shareholders owning more than 5% (five percent) of the issued shares.

vi. A chart showing the ownership structure of the Licensee proposed by the Applicant and illustrating the relationship among all Persons having a direct or indirect ownership interest.

vii. Projected financial statements (Balance Sheet, Income Statement, and Cash Flow) of the Licensee for five years of operation in accordance to the Roll-out Plan should be submitted by the Applicant. These statements shall be prepared in accordance with International Financial Reporting Standard (IFRS)/International Accounting Standard (IAS). Cash Flow must be prepared under direct method showing effect of foreign exchange fluctuations and the working capital.

viii. Performance analysis on the projected financial statements in the form of result of operation, cash flow (working capital), return on assets, assets turnover and return on capital employed for 5 (five) years from the date of Obtaining License. Applicants' expectation of risks as identified in the form of financial plan and business plan should be submitted with the AFL and measures to be taken to mitigate the same.
ix. Capital expenditure plan and gestation period for start-up of the operation of the Telecommunication Infrastructure Services.

x. Applicants' expectation of risks (financial and business) and measures to be taken to mitigate the same.

xi. The financial statements of any shareholder or proposed shareholder that owns or will own 15% (fifteen percent) or more of the issued shares of the Licensee and that is willing to guarantee the performance of the Licensee must be provided. The financial statements must be provided for the last 3 (three) years.

xii. If the Licensee proposed by the Applicant is or will be a company that is specially created for the purpose of submitting an AFL pursuant to this RFA, the financial statements of any shareholder or proposed shareholder that owns or will own 15% (fifteen percent) or more of the issued shares of the Licensee and that is willing to guarantee the performance of the Licensee must be provided. The financial statements must be provided for the preceding 3 (three) years and must be prepared in accordance with generally internationally accepted accounting standards.

xiii. Documentation that clearly demonstrates that the Licensee meets the requirements of section 25.2 (1) of this Part V to this RFA, including:

- Documentation that clearly demonstrates the net worth of the Licensee and, if applicable, the net worth of any shareholder or proposed shareholder that is willing to guarantee the performance of the Licensee;
- Documentation that clearly demonstrates that the shareholder or proposed shareholder of the Licensee meets the requirements of section 30.2.(a) (xi), if applicable;
- Documentation that clearly demonstrates that the requirements of section 30.2.(a) (xii) are met, if applicable;
- The identity of any shareholder or proposed shareholder that is willing to guarantee the performance of the Licensee proposed by the Applicant and the financial statements of said shareholder for the preceding 5 (five) years, prepared in accordance with internationally accepted accounting standards, if applicable.

xiv. Where the AFL is filed on behalf of a joint venture or consortium, the AFL shall include the following information with relevant supporting documentation:

- All information required pursuant to section 30.2(a);
- Specific details of the structure of the consortium;
- Written commitments from the participant(s) in the consortium that have telecommunications infrastructure Technical Expertise and Professional Experience to provide managerial and technical expertise to the Licensee;
In the event of participation by an individual, identification and proof of citizenship for that individual.

The consortium is further required to submit the agreements establishing the consortium, specifying at least:

- A clear allocation of responsibilities among participants;
- The duration of the consortium agreement;
- Details of ownership interests in the consortium and financial contributions of each member;
- Arrangements governing managerial control by the consortium over the operation of the Licensed Services.

xv. Documentation that clearly demonstrates that the requirements of section 28.1 have been met,

(b) Information Regarding Compliance with Nepalese Participation

The Applicant must provide appropriate information and legal documents (including financial, technical and operational agreements/arrangements amongst investors in the Licensee) to demonstrate that the Licensee proposed by the Applicant will comply with the Nepalese ownership requirement, as detailed in section 25.1 of this Part V to this RFA.

(c) Technical Expertise and Professional Skills

i. The AFL must include the specific information and documentation required in Sections 25.3(f) and 25.4 of this Part V to this RFA regarding the telecommunications markets in which the Licensee (or, if its experience is relied upon, the Person identified in Sections 25.3. (c)(ii) or 25.3. (c)(iii)) has operated.

ii. The Applicant must provide evidence that arrangements are in place to provide the Licensee proposed by the Applicant with access to the technology, professional know-how and Technical Expertise and Professional experience required to operate the Telecommunications Infrastructure Service.

iii. Where the Applicant will rely on the experience of a Person identified in Section 25.3. (c)(ii) or in section 25.3. (c)(iii) to satisfy the requirements of section 25.3 (a) (viii), (ix), and (x); of this Part V, the AFL must include:

- A statement that identifies the Person upon whose experience the Applicant will rely to satisfy the requirement of section 25.3 (a) (viii), (ix), and (x); and a description of how such Person is or will be related to the Licensee;
• Documentation that clearly demonstrates that the relationship between the Licensee and such Person falls within one of the categories listed in sections 25.3. (c)(ii) and (iii) of this Part V; and

(d) Equipment

i. The Applicant must provide documentation and information that clearly demonstrates that the requirements of section 26 of this Part V of this RFA are met, including, but not limited to, the information required to be submitted pursuant to section 26 (d) of this Part V of this RFA.

ii. The Applicant must provide the technical specifications of the infrastructure equipment to be supplied, installed and operated, including: type of the equipment, date of manufacture; and detailed descriptions of any updates carried out on the original model and proposed version of the software and years of updates, if any to be employed.

(e) Network Descriptions-

The Applicant must provide a concise description of the planned network of the Licensee proposed by the Applicant, including a description of the technology to be employed and the roll-out/service coverage plans for the first two years of operation. The Applicant should specify applicable technical standards, radio frequency requirements (including information concerning the frequency bands number of channels and the anticipated use), and network capacity.

(f) Operations

i. The AFL must include a general description of the proposed approach for smooth execution of acquisition, operation & sharing of Telecommunications Infrastructure Services;

ii. Human Resource Plan & Management Strategy shall be submitted, which shall also indicate the Key Manpower, their Experience & Skills, planned involvement of Nepali nationals in the management positions,

iii. a description of franchise arrangements that the Applicant proposes to use, if any;

iv. a brief statement of the particulars of any land that must be acquired for each additional Tower Site and the estimated compensation payable for the land; and

v. A description of quality standards and capacity, performance monitoring, and maintenance procedures and systems.

(g) Shared Infrastructure Usage Charge (SIUC)
The AFL must include the proposed Shared Infrastructure Usage Charge of the Licensee, which must be prepared in accordance with Section-15 of this RFA and any relevant section of the Act and the Rules.

30.3 Comments of the Applicant

The Applicant may include with its AFL the following:

(a) The Applicant's comments on the draft Licence, if any;

(b) Any of the Applicant’s ideas, opinions and information that do not fit into other parts of the AFL, and

(c) Any suggestions on if and how NTA can encourage quick adoption of sharing of telecommunications infrastructures, including subsidizing part of the SIUC.

31. Additional Information

Along with the AFL, Applicant shall submit following information, some as required by Section 25.2. (2), besides submitting such others as sought by the respective sections.

(i) Composition of organization/management,

(ii) Projection of Demand and Supply of the Service.

(iii) Economic and Technical Study Report, Operational Work Plan

(iv) Financial and Business Plan, also giving the Proposed Investment amount and the proposed sources of Investment and expatriation scheme,

(v) Network Roll-out Plan,

(vi) Human Resource Plan & Management Strategy shall be submitted, which shall give descriptions of Key Manpower, their Experience & Skills

(vii) Percentage use of domestic resources and plan to knowledge transfer,

(viii) Useful life and yearly maintenance requirements,

(ix) Nature of technical snag that may occur,

(x) Annual reports for last 3 (three) years of operation in conjunction with Section 25.3,

(xi) Certificate issued by a Competent Authority of past experience in conjunction with Section 25.3 as applicable,
32. **Compliance Checklist**

A “Compliance Checklist” is attached as Annex-V to this RFA. Applicants are expected to include a completed Compliance Checklist in their Applications, and may find it a useful reminder of the documents and information required to be included in their AFL(s). Whether or not the Applicant makes any other use of the Compliance Checklist, the Applicant must provide the specific documents and information identified in the checklist.

The Applicant should check off the identified documents and information to confirm that they have been included. Applicants should also identify the specific parts and page numbers of their Application which correspond to the documents and information identified in the Compliance Checklist.

33. **Submission of the AFL**

33.1 Documents and Information comprising the AFL - The documents and information comprising the AFL are identified in sections 30, 31, and 32 in this Part V of this RFA. It is essential that Applications include all of the documents specified in sections 30, 31 and 32 and that the documents are in the formation identified in the relevant sections. Failure to include any of the required documents or information shall result in disqualification of an AFL in accordance with section 37.4 of this Part V of the RFA.

33.2 The Applicant shall prepare Two copies of the AFL, clearly marking the first copy "Original Application" and the 2nd Copy "Copy of Application". In the event of discrepancy between two copies, the original shall govern. Each copy shall be delivered in a separate sealed envelope or other package.

33.3 Each Application package shall be clearly marked with the following information:

[Original Copy] or [Copy #___]
Name of Applicant:
Local Contact Name and Phone Number:
NOT TO BE OPENED BEFORE: 16.00 Hrs (Nepal Local Time), 12-17-2017.

33.4 The NTA will provide a written receipt confirming the delivery of each Application package received prior to the closing date and time.

33.5 Bid Security should be enclosed in a separately sealed envelope clearly marked with the name of the Applicant and the text “Bid Security”. This envelope should be delivered with the Application packages.

33.6 Delivery of the Application - Sealed Applications with one copy of RFA in ORIGINAL and One in COPY along with Bid Security envelope shall be packaged together in a single box or other container. The container shall be sealed; that is securely packed and closed, so that it is not possible to open it without visual evidence thereof. The container shall be delivered before the closing date 12-17-2017 to the following address:
33.7 If the individual packages and overall Application container are not sealed and marked properly, the NTA will assume no responsibility for the Application or the disposition of its contents. Improperly marked or sealed packages may be rejected by NTA.

33.8 Closing Date for Submission of AFL - The sealed Application package shall be delivered to the NTA at the address specified in section 33.6 not later than 15:00 Hrs, Nepal Standard Time (NST), on 12-17-2017.

33.9 Late Application - Applications received after the closing date and time identified in section 33.8 will not be entertained.

33.10 Pre-Application Meeting - The NTA shall conduct a “Pre-Application meeting” in the Office premises of NTA, Kamaladi Kathmandu on 12-01-2017, 14:30 Hrs (Nepal Local Time). The purpose of the meeting will be for NTA staff to provide answers to the written questions posed by potential Applicants (see section 40.5 in this Part V regarding the submission of questions), and to otherwise clarify the AFL process and related documentation. All authorised representatives of potential Applicants who have purchased the RFA documents shall be entitled to attend the meeting.

33.11 Opening of AFL(s) - The NTA will open the duly received AFL(s) in the presence of authorised representatives of any Applicants who desire to attend, commencing at 16:00 Hrs on the closing date identified in section 33.8, at the NTA’s office in Kathmandu. The opening will proceed irrespective of whether the representatives of Applicants are present or not.

34. Evaluation Criteria

34.1 The AFL(s) duly received shall be evaluated on the basis of following Criteria:

   i. Financial Analysis as per technical, operations, and marketing plan.

   ii. Capital proposed by the Applicant and Capability to mobilize financial resources.

   iii. Technical Expertise in construction of telecommunications towers

   iv. Technical Expertise in operation and Maintenance of telecommunications towers

   v. Experience in relation to survey, plan, design, build up/construction of telecommunications towers/Infrastructure

   vi. Experience of Operation and Maintenance of telecommunications towers
vii. Experience of Operation and Maintenance of telecommunications towers shared among two or more telecommunications service operators

viii. Geographical experience in multiple countries in relation to construction or operation and maintenance of telecommunication infrastructure;

ix. Roll out Plan as proposed by Applicant for the construction or acquisition of Telecommunication Infrastructures,

x. Economic & Technical Study Report and Operational Work Plan

xi. Experience and skills of the proposed Key Personnel in connection with Management & Administration, Technical & Operations, Financial, Marketing,

xii. Other Criteria as determined by the NTA based upon the other information sought in this RFA

34.2 The evaluation criteria with detailed Marking Scheme to be adopted to evaluate the RFAs submitted by applicants, including different attributes enumerated in Section 34.1 shall be determined by the NTA before the closing date of Application submission. The detailed Evaluation Criteria shall be prepared by the NTA pursuant to the Sub-Rule (1) and Sub-Rule(2) of the Rule 6 of the Telecommunications Infrastructure Regulation, 2074. The NTA shall decide the qualified successful Applicant/s based upon the evaluation of the received AFLs. The marking weightage for the evaluation of the RFAs shall be as mentioned hereunder:

a. Organizational Strength & Capacity 10%

b. Quality of Proposal/Plan (Technical, Financial, Business Modality, Marketing, Rollout, Employment Creation, Innovation etc) 20%

c. Technical Competence/Experience 50%

d. Financial Competence 20%

The minimum required pass marks for an Applicant shall be 70%.
35. **Evaluation of Applications**

35.1 The process of evaluating the AFL(s) received in relation to this RFA will proceed as follows:

(a) The NTA will open the AFL packages on the opening day identified in section 33.11 in this Part V. At that time, the NTA will confirm the identities of all Applicants,

(b) The NTA will review each Applicant’s “Qualifications and Service Proposal” (Part I of the AFL) to determine whether or not each Applicant is a Qualified Applicant within the meaning of section 25 of this Part V to this RFA. Applicants that fail to satisfy the criteria identified in section 25 for becoming a Qualified Applicant will be rejected.

35.2 After completion of the evaluation process, the Qualified Applicants shall be ranked on the merit basis. The highest top two rank applicants who will secure the minimum required pass marks will be selected as Qualified Applicants.

36. **Issuance of Letter of Intent**

36.1 The LOI will confirm the NTA’s intention to grant the Licence to the Successful Applicant. The LOI will also require the Successful Applicant to submit the required Performance Guarantee within 90 (thirty) days or within additional time period specified by the NTA of receipt of the LOI.

36.2 Successful Applicants shall be issued the Letter of Intent (LOI) by NTA.

36.3 If the Successful Applicant to whom the LOI is issued does not submit the required Performance Guarantee within prescribed duration as of section 36.1 of the RFA from the date of issue of the LOI, the NTA may:

(a) Cause the Applicant to forfeit the Bid Security pursuant to section 28.5 above,

(b) Disqualify the Applicant.

36.4 The Successful Applicant to whom the LOI is issued must accept the LOI in writing within 15 (fifteen) days from the date of issuance of the LOI.

36.5 The Successful Applicant to whom the LOI is issued must demonstrate to the satisfaction of the NTA that it has complied with section 25.1 of this Part V to this RFA prior to the issuance of the Licence. The NTA will not issue the Licence until this requirement has been met.
36.6 If the Successful Applicant ranked first and second is not able to fulfil necessary conditions as required by the Time Schedule, the third ranked applicant shall be issued the Letter of Intent (LOI) by NTA. This process shall continue accordingly.

36.7 The issuance of the LOI to the Applicant selected by the NTA pursuant to Section 36.2 or 36.6 above does not give the right to obtain the Licence. The Successful Applicant shall comply with the provisions of Sections 36.2, 36.3, 36.4, and 36.5 above and all other sections referenced in these sections, prior to the issuance of Licence.

36.8 The successful applicant shall incorporate/register a Legal entity/company in Nepal as per the Rules and Regulation of GoN within 90 days from the issuance of LOI by the NTA. If the Applicant requests for extension of the time period for the submission of certificate of incorporation stating valid reasons beyond its control and if NTA is satisfied with the reasons, NTA may extend the submission time for the same.

36.9 After incorporating legal entity/company in Nepal, the successful applicant shall submit the Performance Guarantee along with the Company Registration Certificate and other required associated legal document within 15 days from the date of incorporation of the Company. NTA shall issue the license to the successful applicant/s within 15 days from the submission of Performance Guarantee and certificate of incorporation.

37. Performance Guarantee

37.1 The Successful Applicant/s to whom the LOI has been issued shall furnish a Performance Guarantee in the amount of NRs. 37,50,000.00 (Three Million Seven Hundred Fifty thousand Nepalese Rupees) or US Dollars 37,500.00 (Thirty Seven thousand and Five Hundred United States Dollars) as indicated in the form of Annex-III to this RFA.

37.2 The Performance Guarantee shall be in the form of Annex-III to this RFA and issued by a recognized commercial bank located in or outside of Nepal. Where the Performance Guarantee is issued by a recognized commercial bank located outside of Nepal, it shall be endorsed by Nepal Rastra Bank.

37.3 The Performance Guarantee shall have a validity period of 24 months, commencing from the effective date of the Licence. However, the total amount of the Performance Guarantee may be released as follows:

i. 40% of the total amount shall be released after the Licensee is in the possession of first one hundred (100) towers, by construction, or by acquisition, or by Lease after verification from the NTA.

ii. Remaining 60% of the total amount shall be released after the Licensee is in possession of the next one hundred (100) towers, by construction or by acquisition or by lease after verification from the NTA.
37.4. The Performance Guarantee shall be forfeited by the Licensee in the event that the Licensee:

(a) fails to meet the roll-out obligations stipulated in the Licence;
(b) fails to implement a remedial plan accepted by the NTA in order to complete the roll-out obligations within the additional period provided for in the remedial plan;

37.4 The forfeiture shall not apply if the roll-out delay results from an event of force majeure as defined in the Licence.

38. **Attendance Register and Minutes of Meetings**

38.1 The NTA will keep a separate register of all those who are present at:

i. the Pre-Proposal Meeting (see section 33.10 above); and
ii. the initial opening of the AFL(s) (see section 33.11 above).

All representatives from the Applicants and the NTA attending the meetings shall sign the registers.

38.2 The NTA will prepare separate minutes for the AFL opening meeting and Pre-Proposal Meeting.

38.3 Responses to the written questions and results of the pre-Proposal meeting shall not constitute an amendment to the RFA documents or the application process unless the NTA re-issues the addenda RFA document with a specific identification of the resulting amendments.

39. **Information Provided by NTA**

39.1 The information contained in this RFA and any other information provided to Applicants during the Application process, in writing, is intended to assist Applicants in the preparation of their Applications. The NTA will attempt to ensure that Applicants are provided with the same information during the Application process, in accordance with section 40.5 of this Part V to this RFA.

39.2 The NTA has made and will continue to make commercially reasonable efforts to include accurate and current information in this RFA and in any other documentation provided to Applicants and potential Applicants. However, neither the NTA nor any of its agencies, employees, representatives, advisors or consultants shall have any liability whatsoever to any Applicant or any of its shareholders or members or any other Person resulting from use of or reliance on any of the information so provided. Applicants are encouraged to undertake their own verification of any information supplied by the NTA prior to use of or reliance on that information.
40. **Communications and Requests for Clarification**

40.1 All deliveries, notices or other communications made to Applicants in connection with the Application process shall be sent by fax, E-mail or personal delivery to the registered office of the applicable Applicant, as specified at the time the Applicant registered with the NTA in the course of purchasing the RFA documentation.

40.2 All deliveries, notices or other communications made by Applicants to the NTA in connection with the Application process shall be sent by fax, E-mail or personal delivery to the address specified in section 33.6.

40.3 During the period between the deadline for submissions of Applications and the award of the Licence, no Applicant, no Licensee proposed by any Applicant and no party interested in an Application shall be permitted to discuss the merits of any Application with any representative of the NTA. Any communications, or attempted communications, in contravention of this section shall be grounds for immediate disqualification.

40.4 Applicants are expected to carefully examine all instructions, forms and annexes in the RFA. Failure to furnish all information required by the RFA or the submission of an application, which does not comply with the RFA in all respects may result in disqualification of the Application.

40.5 A prospective Applicant requiring any clarification of the RFA may pose one or more questions to the NTA in writing (by letter or fax or email) on or before 12-06-2017, one day before Issuance of minutes of clarification as indicated in Section (3) of this RFA. The NTA will respond in writing to such written questions following the pre-proposal meeting described in section 33.10 above. Written questions received by NTA later on may not be entertained.

41. **Confidentiality of Applications**

41.1 The NTA shall treat all AFL(s) received in relation to this RFA as confidential during the period before the award of Licence.

41.2 After the Licence has been awarded, the NTA may decide to place some or all of the AFL(s) that the NTA has on file in relation to this RFA on the public record. However, prior to placing an AFL on the public record, the NTA will notify the Applicant that submitted the AFL that the NTA plans to place the Applicant's AFL on the public record. The Applicant will then have an opportunity to request that commercially sensitive or proprietary information in its AFL be treated as confidential. The NTA will advise the Applicant of the procedure for claiming confidentiality over any such information.

41.3 Neither the NTA nor any of its agencies, employees, representatives, advisors or consultants shall be liable in any respect whatsoever to any Applicant or any of its members or representatives for damages or harm resulting from a failure to maintain such confidentiality.
RFA for TISP License

42. **NTA Use of Applications**

Subject to the patent, copyright, trademark and similar laws of Nepal, the NTA shall have the right to use or reproduce ideas and information contained in an AFL without notice or payment of any kind to the Applicant.

43. **Cost of Application and Bidding**

The Applicant shall bear all costs associated with the preparation and submission of its AFL and the NTA will in no case be responsible for these costs, regardless of the conduct or outcome of the AFL process.

44. **Modification of the Terms of Licence**

The NTA in its discretion may modify the terms of the Draft of the Proposed Licence, as attached in Annex-IV, to reflect the plans or commitments made by the successful Applicant, to the extent that those plans or commitments meet or exceed the requirements. The Commitments made by the applicant in its AFL and the correspondence in this subject shall be part and parcel of the License to be issued to the successful applicant.

45. **Reservation of Rights**

45.1 The NTA reserves the right, in its sole discretion, to take any action, including amendment of this RFA, which it considers necessary to ensure that the Application process occurs in a fair, open and transparent manner, in accordance with law and so as to meet the objectives of the NTA and GoN

45.2 The NTA further reserves the right to modify or terminate the Application process at any time in its sole discretion.

45.3 The NTA also reserves the right to reject any or all Applications and/or decide not to select any Licensee proposed by an Applicant for award of the Licence.

45.4 For greater clarity, the NTA is not legally obligated to issue the Licence. It may terminate the application process or revoke an award of Licence at any time before the Licence is actually issued.

45.5 Neither GoN nor any of its Ministries, agencies, employees, representatives, advisors or consultants, including the NTA, shall incur any liability whatsoever to any Applicant or any Licensee proposed by an Applicant or any of their respective shareholders or any other Person by reason of any decision made or action taken by the NTA, its employees, consultants or advisors, in connection with the evaluation or disqualification of an Application or the carrying out (or termination) of the Application process initiated by this RFA.
45.6 This RFA has been issued, with a good intent, for the selection of Qualified and Capable Applicants for the provisioning of Telecommunications Infrastructure Services in Nepal. To this end, different parts of the RFA have sections informing the Applicant on the prevailing legislations, requirements to be met by the Applicants and various other topics. Any error, omission, discrepancy that may have crept in any part does not in any way minimize the validity of this document. In case any such error is detected, NTA, using its rights, shall make a decision keeping in view the licensing process. Such determination shall be final, and no complaints shall be entertained.

46. **Legal and Formal Requirements**

46.1 Governing Law - This RFA and any Licence issued pursuant to this RFA shall be exclusively subject to, and interpreted in accordance with, the Laws of Nepal.

46.2 Settlement of disputes - Any dispute, controversy or claim arising out of or in connection with this RFA document, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force and the venue shall be in Kathmandu.

46.3 Language - The AFL, accompanying documents, and all correspondence relating to this RFA shall be submitted in English language.

End of Part V
Annex-I
( Related to Sub-Rule(3) of Rule 4 of the Telecommunications Infrastructure Regulation, 2074 B.S)

Application form for a License

Shree Nepal Telecommunications Authority,

........................................................................................................................................

I hereby submit the following details to apply for obtaining a License for Telecommunications Infrastructure Services.

1. Details of Applicant:

   i. Name, Surname:

   ii. Address:
       
       Permanent:
       
       Temporary:

   iii. Telephone:

   iv. Email:

   v. Contact person's details:
      
      a. Name, Surname:

      b. Address:
c. Telephone:

d. Email:

2. **Regarding operation of Telecommunications Infrastructure Service:**

   i. Estimated Capital:
   
   ii. Proposed Investment Amount:
   
   iii. Source of Investment:
   
   iv. Date of Commencement of construction:
   
   v. Projection of Demand and Supply of the Service:

3. **Description of Infrastructure:**

   i. Type of Infrastructure:
   
   ii. Place and region for erecting the infrastructures
   
       (State, District, Village Municipality/ Municipality, Ward including Latitude, Longitude)
   
   iii. Quality of Infrastructure:
   
   iv. Details of such Infrastructures which uses radio frequency, if any:
   
   v. Work plan on Operation and Maintenance of Infrastructure:
   
       (Including Arrangement of Electricity Backup Plan)
   
   vi. Whether construction of Infrastructure will essentially affect the Environment in an adverse manner or not:
   
   vii. Other necessary technical details:

4. **Documents to be included with Application:**

   i. If the Applicant is a legally established Organization, name of such Organization, and documents demonstrating the legal status of the Organization,
   
   ii. Documents to show Technical Competence/Expertise and Professional experience,
   
   iii. Commitment to meet the standards set out by concerned agency so as not to cause any adverse effect on Public Health, in cases where radio equipment is to be operated,
iv. Economic and Technical Study Report and Operational Work Plan,
v. Plan for continuation of Infrastructure Services even at times of Disaster,
vi. Matters as specified by the Government of Nepal through notices in the Nepal Gazette,
vii. Approval as required by prevailing laws, as applicable.

I/We declare that the details mentioned above and submitted documents are TRUE and CORRECT. If proved False, I/We am/are accountable as per the prevailing laws. While operating and constructing Telecommunications Infrastructure Services, I/We shall work under terms and conditions specified prescribed by the concerned stakeholders including the Government of Nepal and the Nepal Telecommunications Authority as per the prevailing legislations.

Applicant's

Signature:……………………………

Name:…………………………….

Official Seal in case of an organization:

Address:……………………………

Date: ………………………………

III
Annex-II

Bid Security Form

Ref No: .................. Date: ......................

To,
The Chairman,
Nepal Telecommunications Authority
Kathmandu, Nepal

Whereas [Name of the Applicant] hereinafter called "The APPLICANT" has submitted its application dated [Date] to operate Telecommunications Infrastructure Service hereinafter called "The SERVICE"

KNOW ALL PEOPLE by these presents that we [Name of Bank] of [Name of country] having our registered office at [Address of Bank] hereinafter called "The BANK" are bound unto Nepal Telecommunications Authority, hereinafter called "The AUTHORITY" by the amount of NRs............................willingly and truly to be paid out to the said AUTHORITY upon entering any of the conditions specified below. The BANK binds itself, its successors and assigns by these presents sealed with the common seal of the said Bank this ...................... day of ................. 20XX.

The conditions of this obligation are :-

(i) If the APPLICANT withdraws its application prior to issuance of licence.
(ii) If the APPLICANT, having been notified of the acceptance of application by the AUTHORITY during the period of validity fails or refuses to furnish the Performance Guarantee of the specified amount and correct validity and Letter of Acceptance in accordance with the instructions given in the Letter of Intent issued by the AUTHORITY.
(iii) If the APPLICANT does not collect the licence within 15 (fifteen) days after issuance of the directive to this effect.

We undertake to pay to the AUTHORITY up to the above amount upon receipt of its first written demand without the AUTHORITY having to substantiate its demand, provided that in its demand the AUTHORITY will note that the amount claimed by it is due to the occurrence of one or more of the aforementioned conditions, specifying the occurred condition or conditions.

This guarantee will remain valid for 120 (one hundred and twenty) days from the closing date of submission of the application (ie until..................) and any demand in respect thereof should reach the Bank not later than the above date.

__________________
Signature and Seal of Bank
Date:
Address:
Annex-III
Performance Guarantee Form

Ref No: .................. Date: ......................

To,
The Chairman,
Nepal Telecommunications Authority
Shree Kunja Bhawan, Kamaladi, Kathmandu
Nepal.

WHEREAS [Name of the Licensee] hereinafter called "The LICENSEE" has agreed to operate Telecommunications Infrastructure Service hereinafter called "The SERVICE" as per the licence hereinafter called "The LICENCE" to be issued by the Nepal Telecommunications Authority hereinafter called "The AUTHORITY"

AND WHEREAS it has been stipulated by you in the Letter Of Intent submitted by the Authority that the LICENSEE shall furnish you with a bank guarantee by a reputable bank specified therein as security for compliance with the LICENSEE's performance obligations in accordance with the said LICENCE

AND WHEREAS we have agreed to give the appointed LICENSEE a guarantee:

THEREFORE we hereby affirm that we are guarantors and responsible to you, on behalf of the LICENSEE, up to a total amount equivalent of Nepalese Rupees.......................... [Amount in words]. We undertake to pay you, upon your first written demand declaring the LICENSEE to be in default under the LICENCE and without cavil or argument, any sum or sums within the limits of [Amount of Guarantee] as aforesaid, without your needing to provide or to show grounds our reasons for your demand or the sum specified therein.

This guarantee is valid until the............................ day of ................... , provided that at the end of 12 the months, 40% (Forty percent) of the total amount will be released on satisfactory completion of the obligations under the licence conditions. Remaining 60% (Sixty percent) of the total amount will be released on satisfactory completion of the obligations stipulated in licence within 24 months effective from the date of issuance of license after the expiry of the validity of this guarantee.

Signature and Seal of the Guarantors:

Date:

Address:
## Compliance Checklist

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Description</th>
<th>Confirmation as Included</th>
<th>Part of AFL where included</th>
<th>Page no.</th>
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<tbody>
<tr>
<td>1.</td>
<td>Cover letter providing a description of the Applicant, of the members of the consortium of the Applicant; Power(s) of Attorney or notarized certificates that clearly evidence the authority of the signatory(s) of the cover letter</td>
<td></td>
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<td>2.</td>
<td>Submitted the Application Form as indicated in Schedule-1 of Telecommunications Infrastructure Regulations, 2074 (2017), specified in Annex-I of this RFA duly filled-in, signed by the authorized person of the Applicant, with the stamp or the seal of the company which the Applicant represents.</td>
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<td>3.</td>
<td>Letter authorizing the Applicant to sign the Application Form on behalf of the applicant company.</td>
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<td>4.</td>
<td>Name, legal status, registered office address, description of the business of all proposed or actual shareholders of the Licensee proposed by the Applicant; Name of person(s) who Controls or who will Control the Licensee proposed by the Applicant.</td>
<td></td>
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<td>5.</td>
<td>Bid Security money</td>
<td></td>
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<td>6.</td>
<td>Evidence that Applicant has not been Black-listed by any Telecommunications Regulatory Authority or any other competent government entity</td>
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<td>7.</td>
<td>Evidence that Applicant does not directly or indirectly hold One (1) percent or more of the shares of any Service Provider</td>
<td></td>
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<tr>
<td>8.</td>
<td>Evidence that Nepalese citizens own a minimum of 20% (twenty per cent) of the total investments</td>
<td></td>
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<tr>
<td>9.</td>
<td>Evidence of having constructed at least 5,000 Telecommunications related Towers and operated and managed 10,000 such Towers.</td>
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<tr>
<td>10.</td>
<td>Evidence of having managed at least 5,000 Telecommunications Towers that can be shared by two or more telecom operators.</td>
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| 11.     | Evidence of having constructed or operated telecommunications infrastructure in at least two
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<tr>
<td>12.</td>
<td>“Compliance Document for Application Form” providing descriptions of Evidences, and Reports on issues as required by the Application Form, with pointers to such concerned documents, where such information is already contained elsewhere in the AFL, and give details as required by the Application Form where such information or report is not submitted, this document.</td>
</tr>
<tr>
<td>13.</td>
<td>Network Roll-out Plan</td>
</tr>
<tr>
<td>14.</td>
<td>Operational Work Plan</td>
</tr>
<tr>
<td>15.</td>
<td>Description of Infrastructure to be set up, maintenance of infrastructure</td>
</tr>
<tr>
<td>16.</td>
<td>Evidence to show equipment shall be field proven</td>
</tr>
<tr>
<td>17.</td>
<td>Whether construction of Infrastructure will adversely affect environment or not</td>
</tr>
<tr>
<td>18.</td>
<td>If using radio frequency, description and commitment to meet requirements not to cause adverse affect on Public Health</td>
</tr>
<tr>
<td>19.</td>
<td>Plan(s) to ensure continuity of services even at times of disaster</td>
</tr>
<tr>
<td>20.</td>
<td>Financial and Business Plan</td>
</tr>
<tr>
<td>21.</td>
<td>Economic and Technical Study Report</td>
</tr>
<tr>
<td>22.</td>
<td>Capital expenditure plan and gestation period for start-up of the operation of the Telecommunication Infrastructure Services</td>
</tr>
<tr>
<td>23.</td>
<td>Proposed Investment amount and the proposed sources of Investment, evidenced by letters from financial institutions, lenders &amp; other evidence demonstrating capacity to finance Applicant</td>
</tr>
<tr>
<td>24.</td>
<td>Projection of Demand and Supply of the Service</td>
</tr>
<tr>
<td>25.</td>
<td>Documents to show Technical Competence/Expertise and Professional experience</td>
</tr>
<tr>
<td>26.</td>
<td>Document to Show Minimum Capital of the Applicant</td>
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Annex-V

Draft License

(In accordance to the Sub-Rule (3) of Rule 6 of the Telecommunications Infrastructure Regulation, 2074)
Draft License to be Issued to Successful Applicant
for Telecommunications Infrastructure Services

M/S…………………………………………………………..,

…………………………………………………………..

This license has been awarded to you, as per the Telecommunications Act, 2053, Section (23) sub-section (2) and pursuant to Sub-Rule (3) of Rule 6 of Telecommunication Infrastructure Regulations, 2074(2017) (hereinafter called Infrastructure Regulations) to operate Telecommunications Infrastructures Services in Nepal.

1. **Details of the Licensee:**
   i. Name:
   ii. Address:
      - Permanent: (Insert address for the Licensee, as provided by the Applicant)
      - Temporary: (Insert address for the Licensee, as provided by the Applicant)

2. **Licensed Telecom Service:** Telecommunications Infrastructure Service (TIS)

3. **License Number:** TISP - xx

4. **Date of Issuance of License:** MM/DD/YYYY;
   **Effective Date of License:** MM/DD/YYYY

5. **Validity period of License:** 5 (Five) years from the effective date of this License. Not less than 3 (Three) months before the expiry of the relevant term, the Licensee may apply to have the License renewed for an additional period of 5 (five) years, until a full license term of 25 (twenty-five) years.

6. **In regard to Telecommunications Infrastructure Service license**
   (a) Date by which work needs to start: Within 3 (three) months of the Effective Date of the License.
   (b) Date to start providing telecommunications infrastructure service to telecom service provider(s): Within 12 (twelve) months from the Effective Date of the License.
7. **Quality standards of telecommunications infrastructures**: The Licensee shall maintain the quality of services as specified by NTA.

8. **Regions to provide Telecommunications service**: Nationwide
   i. States: (In accordance with the Roll-out Plan as specified by NTA (Annex-1)
   ii. Districts: AS ABOVE.
   iii. Local Units (Village councils/ Municipalities): AS ABOVE
   iv. Ward No: AS ABOVE

9. **Rural areas for development, expansion, and Operation of Telecommunications Infrastructure services**: Besides areas mentioned in the Roll-out Plan, any other areas as directed by the NTA.

10. **License Renewal fee**: NRs. 5,00,00,000.00 (Forty Five Million Nepalese Rupees)

11. **Annual Royalty to be paid to the Government of Nepal**: The licensee shall pay a Royalty fee of 4% (four percent) of the Licensee’s adjusted gross annual revenues in each fiscal year. The royalty fee shall be paid within 3 (three) months of the end of each fiscal year.

12. **Annual fee to be paid to NTA for Rural Telecommunication Development**: The Licensee shall pay a Rural Telecommunication Development Fund (RTDF) fee of 2% (Two percent) of the Licensee’s adjusted gross annual revenues in each fiscal year. The RTDF fee shall be paid as per NTA Rural Telecommunications Development Fund (bylaws), 2068.

13. **Roll out plan to construct, operate and expand telecommunications Infrastructures along with region and time period**: The Licensee shall develop its network within the area as prescribed in the Annex-I to this license, and as per Section 7 (vii) of the Infrastructure Regulations, and shall provide its service to those Service Providers who seek to share Licensee’s Infrastructure services, in accordance with Section 7 (i) and Section 22 of Infrastructure Regulation.

14. **Conditions to be abided by the licensee while operating Telecommunications Infrastructure Services**::

   (a) Interconnection: Not Applicable
(b) **Dispute Resolution:** In case of any dispute between the Licensee and any Service Provider regarding sharing of infrastructures, the NTA shall, on the request of either party, arbitrate to settle the dispute. If a complaint is filed with the Authority following a dispute between the Licensee and its customer or between the Licensees in regard to telecommunications services, the NTA shall arbitrate to settle the disputes according to the Section 16 of the Act.

(c) **Agreements with Service seekers:** The Licensee shall comply the agreement(s) between the Licensee and Service Providers seeking sharing of Licensee’s infrastructure services.

(d) **Quality and Fixation of standards:**

   (i) The Licensee shall maintain the quality of services as specified by NTA.

   The Licensee shall at all times meet or exceed the quality of service standards prescribed by the NTA.

   (ii) In the provisioning of the Telecommunications Infrastructure Service, the Licensee may utilize any appropriate technology, but ensure that the Tower and other associated equipment are field proven, and state of the art technology. The licensee shall comply with the standard of the infrastructure service as prescribed by the NTA from time to time.

   (iii) The Licensee shall maintain records of its performance in meeting these quality of service standards, and shall submit them to the Authority on a quarterly basis in such format as the Authority may require. The Licensee shall maintain annual records of the quality of the services provided to its customers.

(e) **Accounting:**

   (i) The Licensee shall establish and maintain adequate financial accounts.
(ii) The Licensee shall provide within 3 (three) months of the end of each fiscal year an analysis of the operations and financial performance of its entire business duly certified by a firm of Chartered Accountants.

(iii) The Licensee shall submit the audit report of its financial and physical performance to the NTA, within 3 (three) months of the end of each fiscal year.

(f) **Service Charge:**

(i) The Service Charge as payable by infrastructure seeker to the infrastructure provider for usage of infrastructure has been termed Shared Infrastructure Usage Charge (SIUC) shall be fixed as per mutual agreement between the concerned parties, failing which provisions of Section 18(ii), (iii) of Infrastructure Regulations apply.

(ii) The Guideline(s), to be brought out by the NTA for the purpose of fixing SIUC, shall be abided by Licensee and Service Provider.

(g) **Continuation of Services during Disaster:**

(i) Continuation of telecom infrastructure services even during times of disaster: Licensee to implement its Plan(s) as approved or amended by the NTA in order to ensure continuation of its Telecommunications Infrastructure services even at times of disaster.

(ii) Licensee shall abide by any guideline(s) brought out by NTA to ensure assured implementation of such plan(s) in order to give continuation of infrastructure services even at times of disaster.

(iii) Where required by the NTA and/or Authorized Agency, the Licensee shall participate in any emergency, disaster or security activities in collaboration with other Licensed Operators and relevant agencies, organisations and Government departments.

(h) **Updated Records to be maintained:**
The Licensee shall maintain updated records of its activities including information and data related to construction and sharing of its infrastructures by any Service Provider.

(i) All Data/description of the telecommunications infrastructure as constructed by the Licensee needs to be made public by placing such information in the Website of the Licensee within thirty (30) days of completion of the construction, and the NTA needs to be informed of the same, as per Section 9.3.4 of the Telecommunications Infrastructure Regulations, 2074 (2017).

(ii) Obligation of Licensee to report to and respond to the NTA necessitates Licensee to maintain an updated record, towards which the Licensee shall undertake the following:

1. On matters related to operation of licensed service, Licensee is required to maintain an updated record develop, publish and enforce Guidelines for use by its personnel when handling enquiries, requests and complaints from Service Providers.

2. The guidelines must address inter alia the following areas:
   - procedures for handling of enquiries, requests and complaints;
   - procedures adopted by the Licensee to ensure accuracy of financial transactions with seekers of its infrastructure; and
   - Making available to service seekers information on quality of service information relating to the Licensed Services.

3. The Licensee shall keep a complete record in writing of all comments and complaints received by it and submit it to the NTA on demand. In addition, the Licensee shall keep a complete record in writing of information relating to invoices, charges and inquiries received by it. The records shall be retained by the Licensee for not less than six (6) months.

4. The Licensee shall keep and maintain adequate records to permit the effective supervision and enforcement by the NTA under this License. The
documentation must be supplied in such manner and at such times as the NTA may direct in writing.

5. The Licensee shall supply to the NTA such documents, accounts, estimates, returns or other information and procure and furnish to the NTA such reports as the NTA may reasonably require for the purpose of monitoring and enforcing compliance by the Licensee under this license.

6. The NTA may use and disclose information obtained under this condition. Before disclosing any information obtained under this license, the NTA will consider if this information is of sensitive nature to the Licensee's business. By sensitive information is meant information, the disclosure of which would or could reasonably be expected to affect adversely the Licensee’s lawful business or commercial or financial affairs.

7. If the information, obtained from the Licensee is considered sensitive by the Licensee, NTA shall give the Licensee a reasonable opportunity to make representations on the proposed disclosure before the NTA makes a final decision whether or not to disclose the information.

8. The Licensee shall bear all expenses incurred in ensuring compliance with this condition. But the Licensee may not bear the cost of publishing documents.

(i) **Conditions mentioned in Act and regulations:**

The Licensee shall comply with the prevailing Acts, Regulations, Bye-Laws, Rules, Orders, Directives and Guidelines and other such instruments which may be formulated to regulate the sector by the NTA in future.

**J. Rights to Install and Supervise Equipment**

(i) The Licensee shall establish, maintain and operate its Licensed System, and shall provide the Licensed Services in compliance with the laws of Nepal.
(ii) The Licensee shall be liable to compensate any damages caused to any person or other operators in the course of operating the services.

**K. Billing**

(i) The Licensee shall provide its Customers with periodic, accurate and timely invoices which reflect inter alia the itemised charges for each Licensed Service provided, the terms and conditions on which the Licensed Services is provided and the due date for payment.

(ii) The Licensee shall take all reasonable steps to ensure the accuracy of bills issued to its customers and to issue such bills at regular intervals.

(iii) The Licensee may determine the content and format of its bill for its Customers and the bill shall present the real picture of the types of service and the units for which charges are levied.

(iv) The Licensee shall allow the inspector, appointed by the NTA, to inspect its billing processes and the devices used as applicable. The inspection may access to the relevant plant, premises or equipment and to make an investigations and tests as necessary on the operation of the processes.

**L. FDI Capping**

The licensee shall ensure that the total foreign equity in the paid up capital of the Licensee Company does not, at any time during the entire License period, exceed 80% of the total equity.

**M. Restriction against Anti-Competitive Conduct and Arrangements**

(i) The Licensee shall not engage in any conduct or enter into any agreement or arrangement which shall in any way prevent or restrict competition in relation to the provision of the Licensed Services by the Licensee.

(ii) In the provision of its telecommunications services, the Licensee shall supply and charge its services on objective and non-discriminatory terms. The Licensee shall not unduly discriminate against or show any preference to any other operator or service provider licensed by the NTA. Provided that, the Licensee may provide certain concession to the customers, who use the service to a greater extent.
(iii) The Licensee shall not use revenues from other services to cross subsidise the services that it provides. The Licensee shall operate this service as a separate service operator.

(iv) The Licensee shall not show undue preference towards, or exercise undue discrimination against any person or class of persons in relation to the provisioning of the Licensed Service or the charges for such Licensed Service under Section 42(3) of the Act.

(n) Ownership, Shareholding, Management

(i) The issue of this License is personal to the Licensee and this License shall not be assigned, transferred, sublet or otherwise disposed to any other party except in accordance with Section 27 of the Act.

(ii) The Licensee shall obtain the approval of the NTA as per Section 27 of Act and observe and comply with the regulations imposed by the NTA relating to any change in the ownership, shareholding or management of the Licensee at which has the effect of transferring the control over the activities under this License;

(o) The Licensee:

(i). This license shall come into force from the date............BS and shall be valid till the date.................BS.

(ii) The Licensee shall comply with the prevailing Acts, Regulations, Bylaws, Rules, Orders, Directives and Guidelines and other such measures which may be formulated to regulate the sector by the NTA in Future. In the event of any conflict or inconsistency between the provisions of this Licence, and the provisions of the Act, Rules or Regulations, the provisions of the Act, Rules and Regulations shall prevail.

(iii) The Licensee shall at all times co-operate with the Authority and its authorized representatives in the exercise of the functions assigned to the Authority under the Act. The Licensee shall comply with all orders, determinations, directives and decisions of the Authority.
(p) License Fees:

This License is issued upon payment of license fee Rs 7,50,00,000.00 (in words......only)

However, if the licensee wishes to pay the license fee in an installment basis, the licensee shall pay 30% (Thirty percent) of the Licensee fee before the issuance of the License. For the remaining amount, an interest rate of 12% (Twelve percent) per annum shall be levied in the remaining licensee fee. If the licensee fails to pay the installment amount as prescribed and/or fails to submit the Bank Guarantee on time, the Bank Guarantee submitted by the licensee shall be forfeited by the NTA.

(q) Scope of the Licence (Service Obligation)

(1) Scope of Work

1.1 Licensed Service:

(a) Licensee shall be required to construct and operate Large Infrastructures.

(b) While the existing Service Providers who have constructed and possess Large Infrastructures may continue their ownership and use of these infrastructures, approval shall not be granted to them to construct any more of such infrastructure, and only the Licensee(s) may obtain approval to construct such large infrastructures.

1.2 Provision of Service:

The Licensee shall provide the services as hereunder:

(a) Provide Telecommunications Infrastructure Services to Service Providers by constructing such telecommunications infrastructure complying with the quality as specified by the NTA.

(b) Repair & fix free of cost such infrastructure to bring it back to the quality as set by the NTA, when infrastructure provided as per sub-clause (a) above is out of order.

(c) Provide telecommunications infrastructure as per the agreement with Service Provider.
(d) Operate Telecommunications Infrastructure Service so as to comply with the minimum standards as set out by the International Telecommunication Union (ITU) for the operation of telecommunications service.

(e) Licensee shall abide by the standards set by the NTA in respect of the conditions of contract to be signed between the Licensee and sharing partner, and in respect of service charges.

(f) Licensee is required to operate and expand its service in the service area as stated in the License.

(g) Licensee shall, by construction or acquisition, be in possession of at least two hundred (200) telecommunication towers within two (2) years of obtaining License.

(h) To abide by other conditions as set by the NTA in regards to the operation of Telecommunications Infrastructure Service.

1.3 Construction of Large Infrastructure

1.3.1 Necessary to obtain Approval:

(i) In order to construct Large Infrastructures, Licensee needs to apply to the NTA as per Schedule-4 of the Telecommunications Infrastructure Regulations 2074 (2017),

(ii) If the NTA finds it fit to grant its approval as sought by the Licensee, it may do so within thirty (30) days of the application. Such approval shall be in the format as shown in Schedule- 5 of the Telecommunications Infrastructure Regulations 2074 (2017).

(iii) Prior to granting the approval, if deemed necessary, NTA may ask the Licensee to provide additional information or documents and it will be the duty of the Licensee to make such information or documents available;

(iv) If at the site proposed to construct large infrastructure, a telecommunications infrastructure which may be shared already exists, no approval shall be granted to construct new Large Infrastructure.

But, if the existing infrastructure has low capacity, or if it is necessary to use it as an alternative, or for emergency conditions, Licensee may be granted approval to construct such Large Infrastructure.

(v) While granting approval to construct Large Infrastructure, NTA may specify necessary conditions and it shall be the duty of the Licensee to abide by such conditions.

1.3.2 To obtain approval at Special Sites:
(i) Licensee needs to obtain approval of the NTA before constructing Telecommunications Infrastructure at Special Sites.

(ii) NTA may specify necessary conditions regarding the construction and use of telecommunications Infrastructure at the Special Site(s).

(iii) Before granting approval as per sub-clause (i) above, it is necessary to obtain the consent of the concerned entity.

1.3.3 Relocation and Redevelopment:

(i) Licensee may relocate or redevelop telecommunications infrastructure.

(ii) Prior to the relocation and redevelopment of Large Infrastructure, it is necessary for the Licensee to obtain prior approval from the NTA.

(iii) Prior to the relocation or redevelopment of infrastructure which is being shared, Licensee shall obtain the approval of the Service Provider sharing such telecommunications infrastructure.

(iv) In case the approval as mentioned in sub-clause (iii) above cannot be obtained, upon the request of the Licensee, NTA may grant approval to the relocation or redevelopment of the telecommunications infrastructure while ensuring the continuity of services of the sharing service provider.

1.3.4 Need to make Infrastructure Data public

Data/description of the telecommunications infrastructure as constructed by the Licensee shall be made public by placing such information in the Website of the Licensee within thirty (30) days of completion of the construction, and the NTA needs to be informed of the same.

1.3.5 Acquire or Obtain on Lease

(i) Licensee may, at a mutually agreed value, buy or obtain on lease telecommunications infrastructure under the possession of a Service Provider with Infrastructure

(ii) Before buying or obtaining on lease telecommunications infrastructure as described in sub-clause (i) above, Licensee shall obtain approval of the NTA

(iii) Within thirty (30) days of buying or obtaining on lease as described in sub-clause (i) above, the Licensee shall inform the NTA about the same

(iv) Irrespective of whatever is mentioned in sub-clause (i) above, a Licensee may not buy or obtain on lease telecommunications infrastructure of any other Licensee.
2. **Sharing of Telecommunications Infrastructure**

2.1 **Sharing Allowed:**

   (i) A Service Provider may enter into agreement with a Licensee or another Service Provider with Infrastructure and engage in sharing activities.

   (ii) If any agreement is reached as per sub-clause (i) of clause 10.1, NTA shall be informed within thirty (30) days of such agreement,

   (iii) While allowing sharing of infrastructure, Licensee or Service Provider with Infrastructure may not act in a manner resulting in discrimination among Service Providers or against fair competition,

   (iv) If, contrary to provisions in Sub-clause (iii) any Service Provider is discriminated in sharing, the discriminated Service Provider may report it to the NTA; and once such discrimination is reported, NTA shall, after conducting necessary investigation, give appropriate order within thirty five (35) days. It shall be the duty of the Licensee or concerned Service Provider to abide by the NTA order in such matter.

3. **Active Infrastructure cannot be shared:**

   Irrespective of whatever is mentioned elsewhere, Licensee or Service Provider cannot share or allow to be shared any Active Infrastructure; these include Electronics infrastructure like Base Transmitter Station (BTS), NodeB, e-nodeB, Radio spectrum, Antenna, Feeder Cable, Radio Access Network (RAN), microwave radio equipment, billing platform, switching system, router, base station controller (BSC), radio network controller (RNC) and related services.

4. **Network Roll-out Plan**

   (i) The Licensee is required to be in possession of at least two hundred (200) Towers within two (2) years of obtaining the License, be it by construction or by acquisition.

   (ii) Applicant shall submit its Network Roll-out Plan for first two years and the subsequent three (3) years for a total period of five years after obtaining the License.

   (iii) Applicant shall give a breakdown of the number of Towers planned to be constructed, and the number of towers planned to be acquired by buying or obtaining on lease.

   (iv) The plan shall demonstrate year-wise increase of the number of Towers to be constructed or acquired by buying or obtaining on lease.

   (v) Applicant shall also submit its projection of the number of Tower to be developed at the request of Service Providers.
5. **Fixing the Shared Infrastructure Usage charges (SIUC):**

(i) Shared Infrastructure Usage Charge (SIUC) applicable for sharing between Licensee and Service Provider with infrastructure shall be fixed as per mutual agreement between the concerned parties.

(ii) In case the concerned parties are not able to arrive at the SIUC any sharing party may apply to the NTA explaining reasons for the inability, together with the proposed SIUC.

(iii) Upon receipt of such application, the NTA shall fix appropriate SIUC for the sharing after necessary investigation and consultation with related party and SIUC as fixed by the NTA shall be final.

(iv) NTA shall, for this purpose, bring out necessary guidelines in order to fix the SIUC. These guidelines shall be abided by the concerned Licensee and the Service Provider.

6. **To be Allowed Sharing as per the Agreement:**

If any Licensee buys or obtains in lease the infrastructure of a Service Provider with infrastructure, the Service Providers who had been sharing the infrastructure prior to the buying or leasing shall be allowed to continue to share the infrastructure in accordance with the earlier agreement.

7. **Re-sharing Not Allowed:**

A Service Provider shall not re-share with another Service Provider the infrastructure which he has obtained for usage.

8. **Need to Construct Infrastructure:**

(i) If a Service Provider finds it necessary to use certain telecommunications infrastructure at a particular site, he may request a Licensee to develop such infrastructure providing the later with detailed description of the same. Upon such request, the Service Provider and the Licensee shall arrive at mutually agreeable terms and arrive at an agreement to develop said telecommunications Infrastructure.

(ii) If the Licensee refuses to develop the telecommunications infrastructure as requested, the Service Provider may apply to the NTA for development of the infrastructure.

(iii) Upon receipt of the application of the Service Provider as per sub-clause (ii) above, the NTA shall instruct any Licensee to construct the infrastructure within a stipulated time, and it shall be binding for the Licensee to construct such infrastructure at the site specified.

**(r) Counting of fiscal year**
For the purpose of payment of royalties and contribution to the RTDF, the counting of any fiscal year (12 months) is generally counted as per GoN's fiscal year i.e. from mid July of previous year to mid July of proceeding year, but the first fiscal year shall be counted from the date of issuance of license upto the end of the month of Ashadh (mid July).

(s) **Renewal and Revocation of License**

(i) This license may be renewed in accordance with section 25 of the Act.

(ii) The licensee shall submit an application to the NTA, 3 (three) months before the expiry of this license, for the renewal of license upon paying renewal fees.

(iii) The license may be revoked, if the Licensee contravenes the provision of this license, Act and Regulation.

(iv) This License may be revoked in accordance with Section 28 of the Act after consultation with the Licensee if:

- the Licensee is in contravention of the provisions of this License, the Act Regulations or any directives issued under the Act and has not, after having been notified of this by the NTA and subject to an order issued under Section 28 of the Act, and having been given a reasonable opportunity to make representations, remedied the contravention; or
- the Licensee has been declared bankrupt or insolvent;

(v) In connection with any renewal, the NTA may stipulate new license terms.

(t) **Amendment of The License**

This License may be amended by the Authority subject to the provisions of the Act, Rules and Regulations.

(u) **Force Majeure**

Notwithstanding anything to the contrary contained in this License, if the Licensee shall be rendered unable to carry out the whole or any part of its obligations under this License for any reason beyond the control of the Licensee, including but not limited to acts of strikes, war, riots etc, then the performance of the obligations of the Licensee as it is affected by such cause shall be excused during the continuance of any inability so caused
provided that the Licensee has taken all appropriate precautions and reasonable measures to fulfil its obligation and that it shall within 14 days of its first occurrence notify to the Authority the same and cause of such inability and its efforts to remove such cause and remedy its consequences.

(v) Exclusivity

Within the period of five years from the date of issuance of this Licences, no other License shall be issued to operate the same Telecommunications Service. Provided that, this sub-section shall not bar the NTA from issuing the License to other person in case the Licensee fails to provide the Telecommunications service as prescribed in the License or on the basis of subjective evaluation if it seems that the additional service for such Telecommunications Service is required.

However if a service provider having more than 75 percent share of GoN ask to grant license for Telecommunication Infrastructure Service to the NTA, then NTA shall provide the license for Telecommunication Infrastructure service to such service provider.

(w) INTERPRETATION

(i) In this Licence, words importing the singular shall include the plural and vice versa.

(ii) The headings in this Licence shall not affect its interpretation.

(iii) Any reference, express or implied, to any legislation (including rules and regulations issued pursuant to that legislation) includes references to that legislation (and rules and regulations) as it may be amended or modified from time to time.
(X) **Other Conditions specified by the NTA:**

(a) The AFL submitted in reply to the RFA for License on Telecommunications Infrastructure Services forms an integral part of this License, and all documents including Cover Letter and all attachments like Network Roll-out Plan, Financial and Business Plan, all commitments made on behalf of the Licensee form part of Licensee’s Obligations.

(b) For the smooth execution of the activities related to this License, NTA may give directions to the Licensee from time to time, and it shall be the duty of the Licensee to abide by those.
Annex-VI

Telecommunications Infrastructure Regulations, 2074 (2017)

(Original Nepali Language version Attached)
भाग ३
नेपाल सरकार
सूचना तथा सचार मन्त्रालयको
सूचना ५
अनलाइन सञ्चारमाध्यम सञ्चालन (पहिलो संशोधन) निर्देशिका २०७४
अनलाइन सञ्चारमाध्यम सञ्चालन निर्देशिका २०७३ लाई संशोधन
gर्न वाजछनौ भएको थियो,
सुशासन (व्यवस्थापन तथा सञ्चालन) ऐन २०६४ को दफा ४५
ले दिएको अधिकार प्रयोग गरी नेपाल सरकारले यो निर्देशिका बनाएको
छ।
१. संक्षिप्त नाम र प्राप्ति: (१) यस निर्देशिकाको नाम "अनलाइन
सञ्चारमाध्यम सञ्चालन (पहिलो संशोधन) निर्देशिका २०७४"
रहेको छ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७४/६/२५

(२) यो निर्देशिका तुलना प्रारम्भ हुनेछ ।

२. अनलाइन सञ्चारमाध्यम सञ्चालन निर्देशिका, २०७३ को दफा ३ मा संशोधन : अनलाइन सञ्चारमाध्यम सञ्चालन निर्देशिका, २०७३ (यस पधि "मूल निर्देशिका" भनिएर्न) को दफा ३ उपदफा (२) को सटटा देखायको उपदफा (२) राखिएर्नको छ :-

"(२) यो निर्देशिका प्रारम्भ हुनु अधिसुधा सञ्चालनमा रहेका अनलाइन सञ्चारमाध्यम माफिक अनलाइन पत्रकारीता गर्न चाहने व्यक्ती वा संस्थाले दर्ता लागि दिर्भाग्यले तोकेर्न अवधिमित्र अनुसूची-१ यमोजनमा दौड्यो विभागमा दर्खास्त दिनु पर्नेछ।"

३. मूल निर्देशिकाको दफा ६ मा संशोधन :- मूल निर्देशिकाको दफा ६ को उपदफा (१) मा रहेका "प्रत्येक वर्षको असार मसाला" भन्ने शब्दहरू सटटा "प्रत्येक आर्थिक वर्ष सामान भएको मितिले तीन महिनामित्र" भन्ने शब्दहरू राखिएको छन् ।

सूचना २

dूरसञ्चार पूर्वाधार सम्बन्धी नियमावली, २०७४
dूरसञ्चार ऐन, २०५३ को दफा ६१ ले दिएको अधिकार प्रयोग गरी नेपाल सरकारले देखायका नियमहरू बनाएको छ।

परिच्छेद-१
प्रारम्भक

१. साधन नाम र प्रारम्भक (१) यी नियमहरूको नाम "दूरसञ्चार पूर्वाधार सम्बन्धी नियमावली, २०७४" रहेको छ।

(२) यो नियमावली तुलना प्रारम्भ हुनेछ ।

२. परिभाषा: विषय वा प्रसार अर्को अर्क नलागेमा यस नियमावलीमा,-

२
अधिकारिकता मुद्दा विभागबाट प्रमाणित गरिएको मात्र लागु हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७४/६/२५

(क) "अनुमालिपत्र" भन्नाले दूरसञ्चार पूर्वांधार सेवाको निमाण तथा सञ्चालनको लागि प्रदान गरिएको नियम ६ बमोजिमको अनुमालिपत्र सम्मत्तै पछि。

(ख) "अनुमालिपत्र प्राप्त व्यक्ति" भन्नाले दूरसञ्चार पूर्वांधार सेवाको निमाण तथा सञ्चालनको लागि प्रदान गरिएको नियम ६ बमोजिमको अनुमालिपत्र प्राप्त गरिएको व्यक्ति सम्मत्तै पछि।

(ग) "ऐन" भन्नाले दूरसञ्चार ऐन, २०५३ सम्मत्तै पछि।

(घ) "टुला पूर्वांधार" भन्नाले दूरसञ्चार सेवामा प्रयोग हुने सात मिटरभन्दा अला टावर र व्यक्तिको रूपमा रहने ओँट्टकल फाइबर सम्मत्तै पछि र सो शवदले प्राथिकरणको सिफारिसमा मन्त्रालयले नेपाल राजपत्रमा सूचना प्रकाशन गरी तोकेका दूरसञ्चार पूर्वांधार समेतलाई जनाउँछ।

(ङ) "दूरसञ्चार पूर्वांधार” भन्नाले दूरसञ्चार सेवामा प्रयोग हुने जगाले, भवन, टावर, विटरियस सेल्टर, उर्जा आपूर्ति (पावर सलाइ), जननेट, व्याट्री, एयर कॉन्डिशनर, ऑडियोफोन, ऑटोमेटिक फाइबर, राइटअफ बे, पोल, डान्ट, टेलिज जस्ता अवशेषलाई (ननइलेक्ट्रॉनिक्स) पूर्वांधार तथा सुविधा सम्मत्तै पछि।

(च) "दूरसञ्चार पूर्वांधार सेवा” भन्नाले नेपाल सरकारले ऐनको दफा २३ को उपदफा (२) बमोजिम नेपाल राजपत्रमा सूचना प्रकाशन गरी तोकेको दूरसञ्चार पूर्वांधार सेवा सम्मत्तै पछि।

(छ) "सेवा प्रदायक" भन्नाले ऐन बमोजिम दूरसञ्चार सेवा सञ्चालन गर्न अनुमालिपत्र प्राप्त व्यक्ति सम्मत्तै पछि।

(ज) "मन्त्रालय" भन्नाले सूचना तथा सञ्चार सम्मती विषय हैने नेपाल सरकारले मन्त्रालय सम्मत्तै पछि।

(भ) "सहप्रयोग" भन्नाले दूरसञ्चार पूर्वांधारमा एकैमन्दा बढी सेवा प्रदायकको संयुक्त प्रयोग सम्मत्तै पछि।

अधिकारिकता मूल विभागबाट प्रमाणित गरिएको मात्र लागू हुनेछ।
३. अनुमतिपत्र नल्लई दूरसञ्चार पुर्वाधार सेवा सञ्चालन गर्न नहें: (१) केहीले पनि अनुमतिपत्र नल्लई दूरसञ्चार पुर्वाधारको निमित्त तथा सञ्चालन गर्न हुँदैन।

(२) उपर्युक्त (१) मा जुनसूकै कुरा लेखेको भए तापिनाँ अनुमति प्राप्त व्यक्तिले दूरसञ्चार पुर्वाधार निमाण गर्न प्रारम्भ गर्न भएको मितिदिन सेवा प्रदायकहरू दुःखा पुर्वाधारको निमाण तथा सञ्चालन गर्न पाउने गरी अनुमतिपत्र प्रदान गरिने छैन।

तर सेवा प्रदायकहरू दुःखा पुर्वाधार निमाण गर्नका लागि सम्भौतै गर्नसेको अवस्थामा जो नियमले बाध्य पुनर्गरीर्ने मानिने छैन।

(३) उपर्युक्त (१) मा जुनसूकै कुरा लेखेको भए तापिनाँ यो नियममात्र निरस्त्र छौँदा क्षेत्र दूरसञ्चार पुर्वाधार निमाण गर्नसेको सेवा प्रदायकहरू त्यसै दूरसञ्चार पुर्वाधारको सञ्चालन तथा व्यवस्थापन गर्न अनुमतिपत्र लिनुपरेछ।

(४) उपर्युक्त (२) मा जुनसूकै कुरा लेखेको भए तापिनाँ नेपाल सरकारको पञ्चहर्ष प्रतिष्ठानमा बढी शैधैर लगानी भएको सेवा प्रदायकहरू दूरसञ्चार पुर्वाधार सेवाको निमाण तथा सञ्चालन गर्न जुनसूकै ब्यवस्थाले अनुमतिपत्रको लागि प्राधिकरण सम्बन्ध आवेदन दिन सर्जनेछ।

(५) उपर्युक्त (५) बमोजिम आवेदन परेका प्राधिकरणले दूरसञ्चार पुर्वाधार सेवाको निमाण तथा सञ्चालन गर्न अनुमतिपत्र प्रदान गर्नु पर्ने।

(६) उपर्युक्त (६) बमोजिम प्राधिकरणले दूरसञ्चार पुर्वाधार सेवाको निमाण तथा सञ्चालन गर्न अनुमतिपत्र दिन निमाण ५५ र ६६ तथा निमाण ५५ को उपर्युक्त (२) मा भएको ब्यवस्थाले व्यवस्थाले बाध्य पुनर्गरीर्ने मानिने छैन।

४. अनुमतिपत्रको लागि निवेदन दिनु पनि: (१) प्राधिकरणले राष्ट्रिय सरकारको दैनिक समाचारपत्रमा कम्हिमा पैरीस दिनको अवस्थाको तालिका दूरसञ्चार पुर्वाधार सेवाको अनुमति प्राप्त गर्न चाहने व्यक्तिको
लागि आवेदन माग गरी अड़क्छी भाषामा सूचना प्रकाशन गर्नु पर्नेछ।

(२) उपनियम (१) वभोजिम कुनै पनि आवेदन दर्ता हुन नआएमा वा एउटा मात्र आवेदन दर्ता भएमा पनि दिनको स्थाद दिइ पून: सूचना प्रकाशन गर्नु पर्नेछ।

(३) दूरसञ्चार पुर्वाधार सेवाको अनुमतिपत्र लिन भएने व्यक्तिले उपनियम (१) वभोजिम सूचना प्रकाशन भएको अवधिमित्र अनुसूची-१ वभोजिमको ढाँचामा प्राधिकरण सम्बन्ध लिबेदन दिनु पर्नेछ।

तर सेवा प्रदायकसँग प्रत्यक्ष वा अप्रत्यक्ष रूपमा एक प्रतिबंधभन्दा बढी लगानी भएको व्यक्ति अनुमतिपत्रको लागि लिबेदन दिन योग्य हुने छैन।

५. अनुमतिपत्रको लागि आवश्यक पनि जूनी, प्रावधिक नियुक्तित, अनुभव र लगानी: (१) अनुमतिपत्र प्राप्त गर्न आवश्यक पनि न्युनतम जूनी, प्रावधिक नियुक्तित तथा अनुभव अनुसूची-२ भए उल्लेख भए वभोजिम हुन र पर्नेछ।

(२) अनुमतिपत्र प्राप्त गर्नको लागि लिबेदन दिने व्यक्ति विदेशी भए त्यस्तो व्यक्तिले निर्माण गर्न चाहेको दूरसञ्चार पुर्वाधार सेवा सम्बन्धी कृपा लगानीको कमी वीस प्रतिबंध लगानी नेपाली नागरिकको हुन पर्नेछ।

६. अनुमतिपत्र दिनुपर्ने: (१) नियम ४ वभोजिम लिबेदन प्राप्त भएपछि प्राधिकरणले लिबेदको प्रावधिक र आर्थिक योग्यता तथा क्षमतालाई आधार गर्न भए मूल्याङ्कन गर्नेछ।

(२) उपनियम (१) वभोजिम हरेक मूल्याङ्कनको सूचक, आधार तथा अन्य कार्यविधि प्राधिकरणले तोको वभोजिम हुनेछ।

(३) उपनियम (१) वभोजिम मूल्याङ्कन गर्दा निबेदकलाई अनुमतिपत्र दिन उपयुक्त डेखिएमा अनुसूची-३ वभोजिमको ढाँचामा प्राधिकरणले अनुमतिपत्र दिनुपर्नेछ।

७. अनुमतिपत्र प्राप्त व्यक्तिले पालना गर्नुपर्ने शर्तहरू; अनुमतिपत्र प्राप्त व्यक्तिले देहायका शर्तहरू पालना गर्नु पर्नेछ।

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आधिकारिकता मुद्रण विभागबाट प्रस्तावित गरिएको मात्र लागि हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७५/६/२५

(क) प्राधिकरणले निर्धारण गरेको गुणस्तर अनुसारको दूरसञ्चार पूर्वाधारको व्यवस्था गरी सेवा प्रदायकलाई दूरसञ्चार पूर्वाधार सेवा उपलब्ध गराउनु पर्ने,

(ख) दूरसञ्चार पूर्वाधार कुनै कारणले विघ्नमा प्राधिकरणले तोकिदिएको रूपमा राख्न अनुरूप नियुक्त रूपमा मान्य सामान्य गर्नु पर्ने,

(ग) दूरसञ्चार सेवा प्रदायकलाई सामूहिक अनुरूप दूरसञ्चार पूर्वाधार सेवा उपलब्ध गराउनु पर्ने,

(घ) अन्तरर्राष्ट्रीय दूरसञ्चार संघले दूरसञ्चार सेवा सञ्चालनका सम्बन्धमा तोकिदिएको न्यूनतम रूपमा शर्तहरु नुहोस् गरी दूरसञ्चार पूर्वाधार सेवा सञ्चालन गर्नु पर्ने,

(ड) अनुमतिपत्र प्राप्त व्यक्ति र सहप्रयोगकर्ता भीतर हुने सम्भाव्यता का शर्तहरू र सेवाको शुल्क सम्बन्धमा प्राधिकरणवाट तोकिदेखि सामान्य अनुरूप नुहोस् पर्ने,

(च) अनुमतिपत्रमा तोकेका भमोजिमको क्षेत्रमा सेवा सञ्चालन त्यस विस्तार गर्नु पर्ने,

(छ) अनुमतिपत्र प्राप्त गरेको दुई वर्षमा कम्तीमा दुईसय वटा दूरसञ्चार टाइम निर्माण वा प्राप्त पक्ष पर्ने,

(ज) दूरसञ्चार पूर्वाधार सेवा सञ्चालनका सम्बन्धमा प्राधिकरणले तोकेको अन्य शर्तहरु पालना गर्नु पर्ने।

5. अनुमतिपत्रको संख्या र अवधि: (१) पूर्वाधार सेवाको विकासको लागि पहिलो पटक दुईवटा अनुमतिपत्र प्रदान गरिएको छ।

(२) उपनियम (१) भमोजिम कुनै पूर्वाधार सेवाको अनुमतिपत्र निर्देशकको पार्थ वर्षसम्म त्यस्तो दूरसञ्चार पूर्वाधार सेवा सञ्चालन गर्न अर्को अनुमतिपत्र दिइएको छैन।

तत्पश्चात् अनुमति प्राप्त व्यक्तिले अनुमतिपत्रमा तोकिए भमोजिमको दूरसञ्चार पूर्वाधार सेवा उपलब्ध गराउनु नसकेको वा वहाँ नुहुने मूल्याङ्कनको आधारमा त्यस्तो दूरसञ्चार पूर्वाधार सेवाको वा आवश्यकता छ भन्ने देखिएका नेपाल राजपत्रमा सूचना प्रकाशन गरी यस अनुमति दिन यस उपनियमले बाधा पुनःकारको मान्यता छैन।
(३) अनुमतिको अवधि बढीमा पच्छो वर्षको हुनेछ।

तर एक पटकमा पाँच वर्षभन्दा बढी अवधिको लागि अनुमतिपत्र दिइने छैन।

(४) अनुमतिपत्र नवीकरण गर्न चाहने अनुमतिपत्र प्राप्त व्यक्तिले अनुमतिको अवधि समाप्त हुनु तीन महिना अगाई अनुमतिपत्र नवीकरणको लागि प्राधिकरण समस्त निवेदन दिनु पनि छै। त्यसैर निवेदन परेमा एक पटकमा पाँच वर्षमा नवढाई अनुमतिपत्र नवीकरण गरिरिदिनु पनि छै।

९. अनुमतिपत्र र नवीकरण दर्तार: अनुमतिपत्र दर्तार तथा अनुमतिपत्र नवीकरण दर्तार देखाउँ व्यभिचार हुनेछ–

(क) अनुमतिपत्रको लागि सात करोड पुष्प वाख रूपमा।

(ख) अनुमतिपत्र नवीकरणको लागि पाँच करोड रूपमा।

१०. शेयर विक्री गर्न प्राधिकरणको स्वीकृति लिनुपर्न: (१) अनुमतिपत्र प्राप्त व्यक्तिले दूसरस्वामी पूर्वाधारको बीस प्रतिशत वा सोभन्दा बढी शेयर विक्री गरिन पनि सरदा प्राधिकरणको स्वीकृति लिनु पनि छै।

(२) उपविनयम (१) व्यभिचार शेयर विक्री गर्न प्राधिकरणले तोको व्यभिचारको दूसरस्वामी समवेति अनुमति प्राप्त गर्नुको व्यक्तिलाई मात्र विक्री गर्न सफल छै।

(३) उपविनयम (१) र (२) मा जुनसैको कृपा लेखिएँको भए तरपनि अनुमतिपत्र प्राप्त व्यक्तिले अनुमतिपत्र प्राप्त गरेको दुई वर्षसम्म र लिनितम र खाट ९ को खाट (४) व्यभिचारको भर्न पूर नगरस्वामी बीस प्रतिशत वा सोभन्दा बढी शेयर विक्री गर्न पाउँदै छैन।

परिच्छेद-३
दूसरस्वामी पूर्वाधारको निर्माण

११. दूसरा पूर्वाधार निर्माण गर्न स्वीकृति लिनौ पनि: (१) अनुमतिपत्र प्राप्त व्यक्तिले दूसरा पूर्वाधार निर्माण गरिनको लागि अनुसूची-४ व्यभिचारको खाट विद्यमान प्राधिकरण समस्त निवेदन दिनु पनि छै।
(२) उपनियम (१) वर्मोजिम प्राप्त निवेदन जार्चुक गर्न निवेदकलाई ठूला पुर्बाधार निर्माण गर्न स्वीकृति दिन सनातन देखिएमा प्राधिकरणले सो निवेदन प्राप्त गरेको तीस निरन्तिरि अनुसूची-५ वर्मोजिमको ठूलोमा स्वीकृति दिनेको छ।

(३) उपनियम (२) वर्मोजिम स्वीकृति दिनुपर्दा प्राधिकरणले आवश्यक ठामेमा निवेदकलाई ठूला पुर्बाधार अथवा विवरण वा कागजात मार्ग गर्न सक्नेछ र त्यस्तो विवरण वा कागजात उपलब्ध गराउनु निवेदकलाई कर्त्त्व हुनेछ।

(४) उपनियम (२) मा जुनसुकै कुरा लेखिएको भए तापति ठूला पुर्बाधार निर्माण गर्न प्रस्ताव गरिएको स्थानमा सहयोग गर्न सकिएको दुस्स्त्वार पुर्बाधार उपलब्ध भएका तयार पुर्बाधार निर्माण गर्न स्वीकृति दिनेका छेत।

tर त्यस्तो पुर्बाधारको कामता कमी भएका वा एकल्पक रूपमा वा आपत्तिकर्तृत्व अनुसार सो पुर्बाधार प्रयोग गर्न आवश्यक परमेत्र अनुमतिले प्राप्त व्यक्तिकलाई ठूला पुर्बाधार निर्माण गर्न स्वीकृति प्राप्त गर्न सकिएको छ।

(५) उपनियम (२) वर्मोजिम ठूला पुर्बाधार निर्माण गर्न स्वीकृति दिनेको प्राधिकरणले तोकेको सामान्य वर्मोजिम कम्यमा तीनवटा सेवा प्रदायकको ठूला पुर्बाधार निर्माण गर्न सक्ने गरी स्वीकृति दिनु पर्नेछ।

tर प्रतिविभाग वा व्यवसायीक दृष्टिले तीन वा तीनवटा बढी सेवा प्रदायकको ठूला पुर्बाधार सहयोग गर्न नसक्ने भएमा प्राधिकरणले त्यस्तो ठाउँमा सोन्नामा कम सेवा प्रदायकले ठूला पुर्बाधार प्रयोग गर्न सक्ने गरी स्वीकृति दिन सकिनेछ।

(६) यस नियम वर्मोजिम ठूला पुर्बाधार निर्माण गर्न स्वीकृति दिनेको प्राधिकरणले आवश्यक शर्त सक्नेछ र त्यस्तो शर्तको पालना गर्न सम्बन्धमा अनुमतिले प्राप्त व्यक्ति कर्त्त्व हुनेछ।

१२. विशेष स्थानमा दुस्रस्त्वार पुर्बाधार निर्माण गर्न स्वीकृति लिनु पर्नेछ।
(१) यस नियमानुसार अन्यत्र जुनसुकै कुरा लेखिएको भए तापति अनुमतिले प्राप्त व्यक्ति तथा सेवा प्रदायकले विशेष स्थानमा
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ समिति २०७४/६/२५

दूरसञ्चार पूर्वाधार निर्माण गर्नु अधिकाधिकरणको स्थायित्तिक लिनु पर्नेछ।

स्थायित्तिकरण: यस नियमको प्रयोजनको लागि “विशेष स्थान” भन्नाले सुरुका वा अन्य कारणले भीतिक निर्माणका काम गर्न नियन्त्रण गरिएका पुरातात्त्विक स्थल वा प्राचीन स्मारक स्थल वा विशेष भौगोलिक कारणले प्रचलित कानून बमोजिमका दूरसञ्चार पूर्वाधार निर्माण गर्न प्राथमिक रूपमा कल्ट बन्ने भनी प्राथमिकरणको सिद्धार्थसमा मन्त्रालयले नेपाल राजपत्रमा सृजना प्रकाशन गरी तोरको स्थान सम्भनु पर्नेछ।

(२) विशेष स्थानमा दूरसञ्चार पूर्वाधार निर्माण तथा प्रयोग गर्नमा सम्बन्धमा प्राथमिकरणले आवश्यक स्थान तैयार सक्नेछ।

(३) उपनियम (१) बमोजिम स्थायित्तिक दिनुअधिक प्राथमिकरणले सम्बन्धित निकायबाट निर्माणमा सहमति लिनु पर्नेछ।

१९. स्थायित्तरण तथा पुनर्विकास गर्न सक्नेछ: (१) अनुमतिपत्र प्राप्त व्यक्ति तथा नियम ३ को उपनियम (२) बमोजिमका सेवा प्रदानको दूरसञ्चार पूर्वाधारको स्थायित्तरण तथा पुनर्विकास गर्न सक्नेछ।

(२) उपनियम (१) मा जुनसुङ्को कुरा लेखाने भए तापिन ढुला पूर्वाधारको स्थायित्तरण तथा पुनर्विकास गर्नु अधिक प्राथमिकरणको स्थायित्तिक लिनु पर्नेछ।

(३) अनुमतिपत्र प्राप्त व्यक्ति वा नियम ३ को उपनियम (६) बमोजिमका सेवा प्रदानको सहयोग भएको दूरसञ्चार पूर्वाधारको स्थायित्तरण तथा पुनर्विकास गर्न सहयोगकार्यको सहमति लिनु पर्नेछ।

(४) उपनियम (३) बमोजिम सहमति प्राप्त हुन नसकेको अनुमतिपत्र प्राप्त व्यक्ति वा नियम ३ को उपनियम (६) बमोजिमका सेवा प्रदानको अनुमोदन प्राधिकरणले सहयोगकार्यको सेवाको निर्देशनलाई सुनिश्चित बन्ने गरी त्यस्तो दूरसञ्चार पूर्वाधारको स्थायित्तरण तथा पुनर्विकास गर्न स्वीकृति दिनेछ।

१४. पूर्वाधारको विवरण सार्वजनिक गर्नुनेछ: (१) अनुमतिपत्र प्राप्त व्यक्तिले निर्माण गर्नको दूरसञ्चार पूर्वाधारको विवरण त्यस्तो

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पूर्वाधार निर्माण भएको तीस दिनभित्र आफ्नो वेबसाइटमा राखी सार्थजनिक गर्नु पर्नेछ र सोको जानकारी प्राधिकरणलाई दिनु पर्नेछ ।

(२) नियम ३ को उपनियम (३) बमोजिमका सेवा प्रदायक्ले सहप्रयोग हुन सक्ने आफ्नो दूरसञ्चार पूर्वाधारको विवरण यो नियमानुसार प्राप्त भएको तीन सहभागिता आफ्नो वेबसाइटमा राखी सार्थजनिक गर्नु पर्नेछ र सोको जानकारी प्राधिकरणलाई दिनु पर्नेछ ।

२५. खिरिद गर्न वा लिजमा लित सक्ने: (१) अनुमतिपत्र प्राप्त व्यक्तिले नियम ३ को उपनियम (३) बमोजिमका सेवा प्रदायक्ले दूरसञ्चार पूर्वाधार आपसी सहभागिता तय भएको मूल्यमा खिरिद गर्न वा लिजमा लित सक्नेछ।

(२) उपनियम (१) बमोजिम ढूळा पूर्वाधार खिरिद गर्नु वा लिजमा लितु आधि अनुमतिपत्र प्राप्त व्यक्तिले प्राधिकरणको स्वीकृति लितु पर्नेछ।

(२) अनुमतिपत्र प्राप्त व्यक्तिले उपनियम (१) बमोजिम दूरसञ्चार पूर्वाधार खिरिद गरेको वा लिजमा लितेको तीस दिनभित्र प्राधिकरणलाई जानकारी हिन्तु पर्नेछ।

(४) उपनियम (१) सा जुङसुकै कुरा लेखिएको भए तापनि कुनै अनुमतिपत्र प्राप्त व्यक्तिले अर्कै अनुमतिपत्र प्राप्त व्यक्तिको दूरसञ्चार पूर्वाधार खिरिद गर्न वा लिजमा लित हुदेन।

परिच्छेद-४

दूरसञ्चार पूर्वाधारको सहप्रयोग

२६. सहप्रयोग गर्न सक्ने: (१) सेवा प्रदायक्ले अनुमतिपत्र प्राप्त व्यक्ति वा नियम ३ को उपनियम (३) बमोजिमका सेवा प्रदायक्लो सम्भीताला राखी दूरसञ्चार पूर्वाधारको सहप्रयोग गर्न सक्नेछ।

(२) उपनियम (१) बमोजिम सम्भौता भएमा सम्भौता गर्न पश्चात तीस दिनभित्र प्राधिकरणलाई त्यसको जानकारी दिनु पर्नेछ।

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आधिकारिकता मुद्रण विभागबाट प्रस्तावित गरिएको मात्र लागु हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७४।

(३) अनुमतिपत्र प्राप्त व्यक्ति वा नियम ३ को उपनियम
(४) बमोजिमका सेवा प्रदायकले खुस्ती विषयको सहप्रयोग गान दिन्छ सेवा प्रदायकहरूका भेदभाव भएकोले र स्वच्छ प्रतिपालन भएकोले कुनै कार्य गर्नुहुन्छ।

(५) उपनियम (६) विपरीत अनुमतिपत्र प्राप्त व्यक्ति वा सेवा प्रदायकले कुनै सेवा प्रदायकलाई सहप्रयोग गान भेदभाव भएकोले त्यस्रो भेदभाव गरिएको सेवा प्रदायकले प्राधिकरण सम्बन्धित निवेदन दिन सक्ने।

(७) उपनियम (८) बमोजिम निवेदन प्राप्त भएको प्राधिकरणले सो सम्बन्धित आवश्यक जाँच गरी चैतीस दिनमा पर्यायको आदेश दिन पर्ने।

(९) उपनियम (१०) बमोजिम दिएको आदेशको पालना गर्नु सम्बन्धित अनुमतिपत्र प्राप्त व्यक्ति वा सेवा प्रदायकले कर्त्तव्य हुनेछ।

१५. सकिय खुस्ती विषयको सहप्रयोग गृह नसको: (१) यस नियमबाटै भएको अन्यत्र जनुसूक्ष्म कुरा लेखिएको भएता तापमान अनुमतिपत्र प्राप्त व्यक्ति तथा सेवा प्रदायकले सकिय खुस्ती विषयको सहप्रयोग गान बा मारात्य सक्ने हुनेछ।

स्पष्टीकरण: यस नियमले प्रमोजको लागि “सकिय खुस्ती” प्रयोगले वेस ट्रांसमिटर र स्टेशन (बीटीएस), नोड शी, इनोड शी, रेडियो संकेत, एप्टीना, फिडर केबल, रेडियो एक्सेस नेटवर्क (आरएप्टीना), माइक्रोस्कोप रेडियो सेल्क, बिलिबिड्स्टेढ्ड, स्विफ्ट प्रगती, रास्ता, वेस स्टेशन कंट्रोलर (बीएसएससी), रेडियो नेटवर्क कंट्रोलर (आरएप्टीना) जस्ता विभिन्न सी.एन.ए.केस (पूर्वाधार र तत्त्व सम्बन्धी सुविधा सम्बन्ध) पर्नसे।

(२) उपनियम (१) मा जनुसूक्ष्म कुरा लेखिएको भएता तापमान खुस्ती विषयको लागि, नेपाल सरकारलाई प्राप्त हुने राजपत्र बा उपभोक्ताको हितको दृष्टिले उपयुक्त देकिएको प्राधिकरणको सिफारिष्टमा आवश्यक सेवा, शर्त तथा कार्यविधि तोकी मनुष्यालाई नेपाल राजपत्रमा सूचना प्रकाशण गरी सकिय खुस्ती विषयको समेट सहप्रयोग हुन सक्ने गरी आवश्यक व्यवस्था गान सक्ने।

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको मात्र लागु हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७४/६/२५

16. सहयोगको मूल्य निर्धारण: (१) अनुमतिपत्र प्राप्त व्यक्ति वा नियम ३ को उपनियम (२) बमोजिमका सेवा प्रदायकबाट सहयोग गरेका वापर लाई मूल्य पक्षहरुको आपसी सहमतिवाद निर्धारण हुनेछ।

(२) उपनियम (१) बमोजिम पक्षहरुबाट सहयोगको मूल्य निर्धारण हुन सक्नेछ। सोको कारण खुलाई कुनै सहयोगकोमाल स्त्रृक तथा सम्बन्धित पक्षहरु परामर्श गरिने सहयोग वापरको स्वाभाविक मूल्य निर्धारण गरेछ र यसै निदेशकरणले निर्धारण गरिने मूल्य अनित्य हुनेछ।

(३) उपनियम (२) बमोजिम निर्देशन प्राप्त भएमा प्राप्त व्यक्ति सहयोगको आवश्यक जानकारी र सम्बन्धित पक्षहरु परामर्श गरी सहयोग वापरको स्वाभाविक मूल्य निर्धारण गरेछ र यसै सहयोगको निदेशकरणले निर्धारण गरिने मूल्य अनित्य हुनेछ।

(४) प्राधिकरणले यस नियम बमोजिम मूल्य निर्धारण गर्न सम्बन्धित आवश्यक मापदंड जारी गरेछ र तयार नालाको सम्बन्धित अनुमतिपत्र प्राप्त व्यक्ति तथा सेवा प्रदायकलाई पालना गर्न पर्नेछ।

19. सम्भूमिता बमोजिम सहयोग गर्न निर्देशन: कुनै अनुमतिपत्र प्राप्त व्यक्ति आयु अनुमतिपत्र प्राप्त व्यक्ति शैक्षितको श्रेणी खरिद गरेमा वा नियम ३ को उपनियम (२) बमोजिमको सेवा प्रदायकबाट दुरसञ्ज्ञार पुर्वाधार खरिद गरेमा वा लिजुमा लिएमा तयार खरिद गर्न वा लिजुमा लिनदेशी सहयोग गरिनेका सेवा प्रदायकलाई पृथु सम्भूमिता बमोजिम सहयोग गर्न दिनु पर्नेछ।

20. पुन: सहयोगको गर्न नपाइए: कुनै सेवा प्रदायकलए अफुले सहयोगको लागि लिएको दुरसञ्ज्ञार पुर्वाधार अन्य सेवा प्रदायकलाई पुन: सहयोग गर्न दिन पाउने छैन।

परिचय-५
विविध

21. प्राधिकरणले कानून बमोजिमको तर्क पूरा गर्न पर्न: दुरसञ्ज्ञार पुर्वाधार निर्देशन गर्नु अघि प्राधिकरणले कानून बमोजिम प्रारम्भिक बातचीत लाई प्रत्येक बमोजिमको प्रारम्भिक बातचीत लाई प्रत्येक प्राधिकरणले कार्य सम्पन्न भएर्ने, मात्र स्वीकृति प्रदान गरिनेछ।

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२२. पूर्वार्ध निमाण गर्नु पर्ने: (१) कृपा ठाउँमा सेवा प्रदायकलाई दुरसञ्चार पूर्वार्ध आवश्यक भएर त्यस्तो सेवा प्रदायकले कृपा अनुमतिप्राप्त प्राप्त व्यक्ति/संस्था/धर्म/मूल्य दुरसञ्चार पूर्वार्ध विकास गर्न सो सम्बन्धी विस्तृत विवरण सहित अनुरोध गर्न सम्भवेछ। त्यसै अनुरोध भएकोमा सम्बन्धित सेवा प्रदायक र अनुमतिप्राप्त प्राप्त व्यक्तिबीच दुरसञ्चार पूर्वार्ध विकास गर्न सम्बन्धित आपसी सहमतिमा सम्भौता हुनेछ।

(२) उपनियम (१) वमोजिमको अनुमतिप्राप्त प्राप्त व्यक्तिले दुरसञ्चार पूर्वार्ध विकास गर्न इत्यः करिमा सेवा प्रदायकले दुरसञ्चार पूर्वार्ध विकासको लागि प्राधिकरण सम्झा निवेदन दिन सम्भवेछ।

(३) उपनियम (२) वमोजिम निवेदन प्राप्त भएमा प्राधिकरणले कृपा अनुमतिप्राप्त प्राप्त व्यक्तिलाई अवधि तोकी पूर्वार्ध निमाण गर्न निवेदन दिनेछ र त्यस्तो अनुमतिप्राप्त प्राप्त व्यक्तिले सो स्थानमा सो दुरसञ्चार पूर्वार्ध निमाण गर्नु पर्नेछ।

२३. विवदको अवस्थामा दुरसञ्चार पूर्वार्धको निर्ल्यल्ला: (१) अनुमतिप्राप्त प्राप्त व्यक्ति र नियम ३ को उपनियम (२) वमोजिमका सेवा प्रदायकले विवदको अवस्थामा दुरसञ्चार पूर्वार्ध सेवा सञ्चालन निर्ल्यल्ला हुन सक्नु गरी आवश्यक व्यवस्था गरी सोचा जानकारी प्राधिकरणलाई पेश गर्नु पर्नेछ।

(२) विवदको अवस्थामा दुरसञ्चार पूर्वार्ध सेवाको सञ्चालनको निर्ल्यल्लाको लागि प्राधिकरणले आवश्यक शर्त तोका वा निवेदन दिन सम्भवेछ र त्यस्तो शर्त वा निवेदनको पालना गर्नु सम्बन्धित अनुमतिप्राप्त प्राप्त व्यक्ति वा सेवा प्रदायकको कार्यक्रम हुनेछ।

२४. पूर्वार्ध सञ्चालन तयार गर्न: प्राधिकरणले देखाउन बाट कृपा भागमा उपलब्ध दुरसञ्चार पूर्वार्धको सञ्चालन (नेटवर्क) को विवरण सञ्चालन गरी एउटै सञ्चालना अवधि गराउन आवश्यक व्यवस्था गर्नेछ।

२५. वार्षिक प्रतिवेदन रेखा गर्नु पर्ने: अनुमतिप्राप्त प्राप्त व्यक्ति वा नियम ३ को उपनियम (२) वमोजिमका सेवा प्रदायकले प्रवेशक आधिक वर्ष समाप्त भएको तीन महिनाभित्र आफैले निमाण वा सञ्चालन गरेका पूर्वार्ध सेवाको विवरण र आफैलो आय व्ययको विवरण

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मान्यता प्राप्त लेखा परीक्षकद्वारा लेखा परिक्षण गर्न लगाइ साहित्यकरण समूह खेस गर्नु पर्नेछ ।

२६. विचरण अध्यक्षकको राज्यपालव: (१) अनुमतिपत्र प्राप्त व्यक्ति वा नियम ३ को उपनियम (३) वयोगितिकका सेवा प्रदानकेर दरसन्ध्यार सेवा प्रदानकलाई उपलब्ध गराएको दरसन्ध्यार पुर्वाधार सेवा सम्बन्धी विचरण अध्यक्षकको रुपमा तयार गरी राख्नु पर्नेछ ।

(२) उपनियम (१) वयोगितिकको विचरण प्राधिकरणते माग गरेका व्यक्ति उपलब्ध गराउनु पर्नेछ ।

२७. यसै नियममा वयोगितिहरू रुपमा हुने : यस नियममा लेखाएको कुरामा यसै नियममा वयोगितिहरू रुपमा अनुमतिपत्रको नबीकरण, संशोधन, विशेष, हस्ताक्षरण वा खारेजी, अनुमतिपत्र प्राप्त व्यक्तिले दुकानदारपन्न रोक्लिर, निरीक्षण, जाँचके तथा विवाद समाधान लगायतका अन्त्य कुराको हक्कमा प्राधिकरित दरसन्ध्यार नियममा वयोगित हुनेछ ।

२८. अनुमतिहरू हरेकेर तथा ध्यान गर्न सक्ने: मन्त्रालयले प्राधिकरणको सीमाकोरितमा अनुमतिहरू आवश्यकता अनुसार हरेकेर तथा ध्यान गर्न सक्नेछ ।

२९. निर्देशिका वा कार्यविधि बनाउन सक्ने: प्राधिकरणले ऐस तथा यस नियममा अधिनियम रही आवश्यक निर्देशिका वा कार्यविधि बनाइ लागि गर्न सक्नेछ ।

३०. खारेजी र ब्याँचाई: (५) दरसन्ध्यार पुर्वाधार निर्माण तथा सहप्रयोग सम्बन्धी आदेश, २०७९ खारेजी गराएको छ ।

(२) उपनियम (१) वयोगितिहरू अवेदन वयोगित भए गरेका काम कार्यक्रमहरू यसै नियममा वयोगित भए गरेको मानिनेछ ।

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आधिकारिकता मुद्रण विभागबाट प्रस्तावित गरिएको भाषा लागि हुनेछ ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७४/१६/२५

अनुसूची-१
(नियम ४ को उपनियम (३) सँग सम्बन्धित)
अनुमतिपत्रको लागि दिइने निर्देशनको ढाँचा

श्री नेपाल दूरसञ्चार प्राधिकरण,

दूरसञ्चार पूर्वाधार सेवा सञ्चालन गर्न अनुमतिपत्र पाउनको लागि निम्न विवरणहरू खुलाई यो निर्देशन गरेको छ।

१. अनुमतिपत्र लिन चाहनेका व्यक्तिको:-

(क) नाम, धर:
(ख) ठेगाना:
(क्र) स्थायी:
(ख्र) अस्थायी:
(ग) टेलिफोन:
(घ) इमेल:
(ड) सम्पर्क गर्न व्यक्तिको:-
(१) नाम, धर:
(२) ठेगाना:
(३) टेलिफोन:
(४) इमेल:

२. दूरसञ्चार पूर्वाधार सेवा सञ्चालन सम्बन्धमा:-

(क) अनुमानित पूँजी:
(ख) प्रस्तावित लगानी रकम:
(ग) लगानीको स्रोत:
(घ) निर्माण शुल्क गर्न मिलि:
(ड) सेवाको मान र आपूर्तिको प्रकृतिपणा:

३. पूर्वाधारको विवरण:-

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खण्ड ६७) संस्था २९ नेपाल राजपत्र भाग ३  समिति २०७४/६/२५

(क) पूर्वाधारको किसिमः
(ख) पूर्वाधार निर्माण/बढाई गर्न स्थान र क्षेत्रः
  (प्रदेश, जिल्ला, गाउँपालिका/नगरपालिका, बडा,
   ल्याटिच्यूड, लाङ्ग्च्यूड सहित)
(ग) पूर्वाधारको गुणस्तरः
(घ) रेडियो फिनिचल्सी प्रयोग हुने पूर्वाधार भए संस्करको
   विवरणः
(ङ) पूर्वाधारको मर्मत सञ्चालन सम्बन्धी कार्योयोजनाः
  (विभाग आयोजित व्यवस्था (व्याकरण) को व्यवस्था सहित)
(च) पूर्वाधार निर्माण गर्न व्यापकरणमा सार्थक रुपमा
   प्रतिकूल असर पनि/नपनि
(छ) अन्य आवश्यक प्राधिकृत विवरणः

४. निबेदनसाथ संलग्न गर्नुपर्ने कार्यात्मकृति-
(क) अनुमतिपत्र लिन चाहने व्यक्ति संघटित संस्था भए सो
   संस्थाको नाम र सो संस्थाको कार्यक्रम स्थिति देखि गरी
   कार्यात्मकृति
(ख) प्राधिकृत निर्देशना तथा पेशा सम्बन्धी अनुमति सम्बन्धी
   कार्यात्मकृति
(ग) रेडियो उपकरण सञ्चालन गर्न हकमा जनसम्बन्धमा
   प्रतिकूल असर नपने गरी सम्बन्धित निकायले तोकको
   माध्यममा पूरा गर्ने प्रतिबद्धता
(घ) आर्थिक तथा प्राधिकृत अध्ययन प्रतिवेदन र कार्य
   सञ्चालन योजना
(ङ) विपदका समयमा पनि पूर्वाधार सेवाको निरन्तरता
   सम्बन्धी योजना
(च) नेपाल सरकारले नेपाल राजपत्रमा सूचना प्रकाशित गरी
   तोकिएक प्रमोजिमका कुराहुः
(छ) प्रचारित कार्यक्रम प्रमोजिम कुनै स्वीकृति आवश्यक पनि
   भए त्यस्तो स्वीकृति।

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आधिकारिकता मुद्रण विभागबाट प्रसारण गरिएको मात्र लागु हुनेछ।
उपरोक्त विषयमा पेश गरेका विवरण एवं कार्यसङ्ग सत्य साँचो हो। भूमित ठहरिएमा प्रचलित कानून विषयमा सहकाल बुझाउँला। दूरसञ्चार पूर्वाधार सेवा सञ्चालन तथा निर्माण गर्ने नेपाल सरकार, प्राधिकरण लगायत सरकारबाला निकायबाट प्रचलित कानून विषयमा तोकिएको शर्त बन्देजको पूर्ण अधीनक्रम रहेको कार्य गर्नेछ।

निवेदकको -
सञ्चित संस्था भए सो संस्थाको छाप: हस्ताक्षर:

नाम:
ठेगाना:
भित:

अधिकृतता मूलम विभागबाट प्रमाणित गरिएको मात्र जानै हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३  मिति २०७४/५/२५

अनुसूची-२
(नियम ५ को उपनियम (१) संग सम्बन्धित)
अनुमतिपत्र लिन आवश्यक पर्यंत न्यूनतम पौঁजी, प्राविधिक निर्देशना र पेशा अनुभव

(क) न्यूनतम पौजी
(१) पिछलो तीन वर्ष नाफामा रहेको;
(२) न्यूनतम पौजी दश अब्ज स्पैयाँ बराबर भएको;
(३) दूरसञ्चार नियामक निकाय वा अन्य अविभाजन प्राप्त सरकारी निकायबाट कालोफसियमा नपरेको。

(ख) प्राविधिक निर्देशना र पेशा अनुभव:
(१) दूरसञ्चारसंग सम्बन्धित कम्प्युटर पाँच नजार ट्रावर निर्माण गरेको र दश नजार ट्रावर सञ्चालन तथा व्यवस्थापन गरेको;
(२) कम्प्युटर पाँच नजार ट्रावर दुई वा दुईभन्दा बढी संख्या प्रदाताको सहयोगमा हुन सक्ने गरी व्यवस्थापन गरेको;
(३) विदेशी व्यक्तिको हकमा कम्प्युटर दुई मुलुकमा दूरसञ्चार पुर्वाधिकारको निर्माण वा सञ्चालन सम्बन्धी अनुभव भएको।

१५ वर्ष विभागात प्रमाणित गरिएको मात्र लागू हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३  मिति २०७४/६/२५

अनुसूची-३
(नियम ६ को उपनियम (३) सँग सम्बन्धित)

दूरसञ्चार पूर्वाधार सेवा सञ्चालन गर्न दिइने अनुमतिपत्रको ढाँचा

अनुमतिपत्र पाउने व्यक्तिको:-

(क) नाम:
(ख) ठेगाना:
स्थायी:
अस्थायी:

२. अनुमतिपत्र दिइएको दूरसञ्चार सेवा:

३. अनुमतिपत्र नम्बर:

४. अनुमतिपत्र जारी गरिएको मिति:

५. अनुमतिपत्र बेहाल रहने अवधि:

६. दूरसञ्चार पूर्वाधार सेवा सम्बन्धमा

(क) काम सञ्चालन गर्नु पनि मिति:
(ख) दूरसञ्चार सेवा प्रवाहकलाई दूरसञ्चार पूर्वाधार सेवा
उपलब्ध गराउने शुरु मिति:

७. दूरसञ्चार पूर्वाधारको गुणस्तर सम्बन्धी मापदण्ड:

८. दूरसञ्चार पूर्वाधार सेवा सञ्चालन गर्ने ख्यात:

(क) प्रदेश: (ख) जिल्ला: (ग) गाउँपालिका/नगरपालिका:
(घ) ब्याख्या नेखाएँ:

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएका मात्र लागु हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३  संयि  २०७४/२५

९. दूरसञ्चार पूर्वांगार सेवा विकास, विस्तार र सञ्चालन गर्नु पनेल ग्रामीण श्रेणी:

१०. अनुमतिपत्र नवीकरण गरे बापट बुअबाजुनु पनेल दस्तुर:

११. नेपाल सरकारलाई बुअबाजुनु पनेल वार्षिक रेखालेली दस्तुर:

१२. ग्रामीण श्रेणीको दूरसञ्चार विकासको लागि वार्षिक रूपमा प्राधिकरणलाई बुअबाजुनु पनेल दस्तुर:

१३. पूर्वांगार निर्माण, सञ्चालन र विस्तार गर्नु पनेल नेपाल तथा समयावधि (Roll Out Obligation)

१४. अनुमतिपत्र प्राप्त व्यस्तिते दूरसञ्चार पूर्वांगार सेवा सञ्चालन गराउ पालना गर्नु पनेल शर्तहरू:

(क) अन्तरआवश्यकता:
(ख) विवरण समाधान:
(ग) सेवाग्राहीसँगको सम्बन्ध:
(घ) गुणस्तर तथा स्तर निवर्तण:
(ङ) लेखाअन्त:
(च) सेवा शुल्क:
(छ) बिवरणका बिरकत पनि दूरसञ्चार पूर्वांगार सेवा सञ्चालनको निर्देशन:
(ज) विवरण अथवा विवरणका रजिस्ट्री:
(झ) ऐसो, नियममा सल्लिखित शर्तहरू:
(ञ) प्राधिकरणले तोकका अन्य शर्तहरू:

कार्यालयको छाप:

अनुमतिपत्र दिने अधिकारीको,

हस्ताक्षर:

नाम:

पद:

कार्यालय:

मिति:

२०

अधिकारिकता मुद्रण बिवरणवाद प्रमाणित गरिएको मान्य लागू हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७४/६/२५

अनुसूची-४
(नियम ११ को उपनियम (१) सँग सम्बन्धित)

दूरसञ्चारका ठूला पूर्वाधार निर्माणको लागि दिइने निवेदनको ढाँचा

श्री नेपाल दूरसञ्चार प्राधिकरण

दूरसञ्चारका वेहायको ठूला पूर्वाधार निर्माणको लागि निम्न विवरणहरू खुलाई यो निवेदन गरेको छु।

१. निवेदक सम्बन्धी विवरण:–
(क) नाम, धर: 
(ख) ठेगाना: 
स्थानी: 
अस्थायी: 
(ग) टेलिफोन: 
(घ) ईमेल: 
ढ) सम्पर्क गर्ने व्यक्तिको:–
(१) नाम धर: 
(२) ठेगाना: 
(३) टेलिफोन: 
(४) ईमेल: 

२. निवेदकले प्राप्त गरेको दूरसञ्चार सेवा सञ्चालन अनुमतिपत्र सम्बन्धी विवरण:–
(क) अनुमतिपत्रको किसिम: 
(ख) अनुमतिपत्र नं: 
(ग) अनुमतिपत्र बाहाल रहने अवधि: 

३. पूर्वाधार सम्बन्धी विवरण:–

२१

अधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको यो मात्र लागू हुनेछ।
खण्ड वेध) संख्या २९ नेपाल राजपत्र भाग-३ मिति २०७४/२५

(क) पूर्वांगारको किसिम:
(ख) प्रस्तावित लगानी रकम:
(ग) लगानीको खोल:
(घ) निर्माण शुरु गर्न समय:
(ङ) निर्माण सम्पन्न गरी सक्ने समय:
(च) पूर्वांगार निर्माण गर्दा बालबरणमा सार्थक रूपमा प्रतिकूल असर पनि/नपनि:

४. पूर्वांगारको प्राप्तिक्रिया विवरण:

(क) पूर्वांगार निर्माण/खडा गर्न स्थान:
(लिङ्ग, गाउँपालिका/नगरपालिका, बदा, ल्याटिस्कूड, लोहिचौड सहित)
(ख) पूर्वांगारका लागि प्रयोग हुने मुख्य सामग्रीहरू/उपकरणहरू:
(ग) उपकरण आयात हुने देश:
(घ) पूर्वांगारको साहित्य:
(ङ) पूर्वांगारको मापदण्ड:
(च) रेडियो फिबरकेसी प्रयोग हुने पूर्वांगार भए सोको विवरण:
(छ) पूर्वांगारको समस्त सञ्चालन सम्बन्धी कार्ययोजना:
(विशेष आपूर्तिको व्यवस्था (व्यापको व्यवस्था सहित)
(ज) अन्य आवश्यक प्राप्तिक्रिया विवरण:

५. निवेदन साथ साथ संलग्न गर्नुपर्ने कागजातहरू:

(क) पूर्वांगार खडा गर्न स्थानमा जग्गा बा घरको सहमति बा स्थीरकृत लिनु पनि/नपि भए तयारो सहमति बा स्थीरकृत सम्बन्धी विवरण,
(ख) पूर्वांगारको निर्माण तथा सञ्चालन सम्बन्धी प्राप्तिक्रिया अवहेल्यन प्रतिवेदन,

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अधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको मात्र लागू हुनेछ।
(ग) खिलेङ्गो उपकरण सञ्चालन गर्ने हकमा जनस्वास्थ्यमा प्रतिकूल असर नपर्ने गरी सम्भवित निकायले तोकेको मानदंड पूरा गर्ने प्रतिपक्ष,
(घ) प्रचलित कानून बमोजिम कुनै स्वीकृति आवश्यक पर्ने भए त्यस्तो स्वीकृति सम्बन्धी विवरण,
(ड) अन्य सम्भवित आवश्यक विवरण।

उपरोक्त बमोजिम पेश गरेका विवरण एवं कागजात सत्य साँचो हो। भद्रा ठहरिएको प्रचलित कानून बमोजिम सहूला बुफालो।

दूरसञ्चार पूर्वाधार सेवा सञ्चालन तथा निमाण गरेको नेपाल सरकार, प्राधिकरण लगायत सरकारवाला निकायबाट प्रचलित कानून बमोजिम तोकिएको भाँति बन्देको पूर्ण अधीनन्या रही कार्य गरेछ।

संगठित संस्था भए सो संस्थाको छाप

निवेदकको,-
हस्ताक्षर:
नाम:
मिति:

२३
अधिकारिकाको मुद्रण विभागबाट प्रस्तावित गरिएको मात्र लागु हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ मिति २०७४/३/२५

अनुसूची-५

(नियम १६ को उपनियम (२) संग सम्बन्धित)

दूरसङ्चारका ठूला पूर्वाधार निर्माण गर्न दिइँदै स्वीकृतिको छाँचा

श्री ................................................

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तपाईलाई दूरसङ्चार पूर्वाधार निर्माण सम्बन्धी नियमबाट, २०७४ को नियम १६ को उपनियम (२) वमोजिम दूरसङ्चारका देखायका ठूला पूर्वाधार निर्माण गर्न स्वीकृति दिइँदै छ।

(क) पूर्वाधारको किसिम:

(ख) पूर्वाधारको परिमाण:

(ग) पूर्वाधारको प्रयोग:

(घ) पूर्वाधार आयात हुने भए आयात हुने देखि:

(ङ) स्वदेशमै निर्माण हुने भए निर्माण गर्न व्यक्ति:

(च) निर्माण शुरु गर्ने मिति:

(छ) निर्माण सम्पन्न गरी सबै गर्ने मिति:

(ज) पूर्वाधार निर्माण गर्दै वातावरणमा सार्वभौम रूपमा प्रातिकृत अन्तर पनि/नप्ना:

(झ) अन्य आवश्यक प्राधिकृत विवरण:

दूरसङ्चार पूर्वाधार निर्माण गर्दै नेपाल सरकार, प्राधिकरण लगायत सरोकारलाई निकायवाट प्राधिकृत कानून वमोजिम तौसिएको शर्त पालना गर्नुहाला।

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आधिकारिकता मुद्रण विभागवाट प्रमाणित गरिएको मान लागू हुनेछ।
खण्ड ६७) संख्या २९ नेपाल राजपत्र भाग ३ समिति २०७४/६/२५

स्वीकृति दिनेका अधिकारीको-

नाम:

पद:

हस्ताक्षर:

समिति:

आज्ञाले,
महेन्द्रमान्ग गुरुङ
नेपाल सरकारको सचिव

२५

अधिकारिकता मुद्रण विभागाले प्रमाणित गरिएको मान्य लाग्नुहोस्।