COMMUNICATIONS AUTHORITY OF KENYA

ANNEX 1 : COMMENTS AND QUESTIONS FROM THE STAKEHOLDER VALIDATION WORKSHOP

No.	Name	Organisation	Comment	Response
1.	Ganson Lewela	Airtel	Considering that both LRA and IGSS have infrastructure. We need a clear demarcation as to which Infrastructure components fall under IGSS and which ones fall under LRA to eliminate any ambiguity	This is noted and appreciated. For clarity, the LRA essentially terminate their signals while the IGSS will provide services locally. In terms of infrastructure, LRA licence holders will be responsible for availing the signal/fibre for commercialization by locally domiciled and licensed entities. For submarine Cables, IGSS shall be responsible for active components and commercialize the cable. The LRA will be responsible for the submarine Cable and including Power Feed Equipment.
2.	Leon Nel	Eutelsat	SCLR and SLR, can the CA confirm that a LRA licensee will not be required to register a local company/entity to apply for the LRA and will be able to apply as a foreign registered entity	The current practice does not require foreign entities to be locally registered, and this will continue to apply

3.	Amr Ashour	Eutelsat	There is a difference between the Submarine landing and satellite landing, cable are using terrestrial target Kenya only, while satellites (in most cases) are global or regional in nature not targeting specific country… this enables many use cases for use when needed … so merging between land and satellite may need a revisit due the differences btw technologies	This is noted and appreciated. The proposal does not contradict the global nature of satellite operations but rather it recognizes that for the satellite footprint to be used in Kenya, the Satellite operator needs an LRA. This does not affect how the same footprint is being used in another country. It only applies for those entities; be it satellite or submarine who wish to provide such connectivity to Kenya.
4.	AMIDA MACHIRI		CA please confirm that annual operating fees for holders of TEC license will be paid at 0.4% of the combined annual revenue for the TEC and TED services as defined in the proposed framework	Yes, under the proposed framework the annual operating fee for both the CEC and CED will be set at 0.4% of Annual Gross Turnover.
5.	AMIDA MACHIRI		Will the certified installations under TEC be required to further be submitted to CA after certification by Technical personnel?	As is practise, the Authority will carry out its own inspections to confirm compliance from time to time. Licensees will also be required to submit summary reports, on quarterly basis, of installations done and who certified the same.
6.	Archith Rao	Motorola Solut	a clarification - so someone who imports communication equipment needs to have a CED license and also a CEV Class license? So how exactly is this meant to stop unofficial imports or those	No only a CED licensee will be allowed to import and type approve equipment. CEV will obtain type approved equipment

			importing from the wrong places?	from CED for their retail. All ICT imports must go through the Kentrade system. For a permit to be approved, the importer must attach a valid CED license and proof of type approval for the imported equipment.
7.	Debbie S. Majale	TBM	For the TEC, is it possible to take up both CEC & CED?	Yes, it is possible to do so.
8.	Snehar		It seems CA are trying to regulate data centres unlike any other country which may disincentivise investment. Data centres only handle passive infrastructure and are subject to other regulations including NEMA, Data Protection Act, ISO 27001 and pcidss in terms of IT and physical security. Also we disagree that data centres have influence over customer access to data. The regulation of data centres needs to be seriously reconsidered	This is addressed in our responses available on our website.
9.	Snehar		Also confirm that any licence fees will not apply to the power pass through costs	The Authority's billing approach is based on relevant revenue accrued from licensed services.
10.	Leon Nel	Eutelsat	Can the CA confirm that type approval applications will not be limited to TED License holders and that equipment manufacturers and network operator / NFP licensees will be entitled to apply for type approval for equipment that they may wish to see authorized for importation and sale to end users	Type approval is a process based on whether the applicant is using the equipment individually or for resale/marketing. For marketing purposes, an entity will require to have a CED license, while other licensees who provide

				infrastrucrture and services are also allowed to ype approve and import for individual use. Each entity will be required to attach a relevant CA licence/compliance certificate where applicable.
11.	Kopano Monyetsane	Eutelsat	Comment 44- Can CA please provide clarity on the procedures, timelines, and cost involved for the transition of a license from NFP-T3 to NFP-T2	The process will be similar that undertaken for licence upgrades and new applications as currently done. The Authority is considering new approaches to shorten its current internal processes in tandem with market needs for quick turnaround times.
12.	Ganson Lewela	Airtel Kenya	We support the option for NFP-T1 to have a 15 or 25 Year License Term, as this ensures flexibility depending on an entity's future investment plans.	This is noted and appreciated.
13.	Amr Ashour	Eutelsat	Please clarify the situation for ESIM/ESV/AES platforms passing Kenya if SLR will be applicable, or still the non-objection approach	Yes, no Licensing requirements be placed on vessels that have Satellite terminals installed on them and that the ESIM terminals onboard vessels are not subject to licensing, and instead the vessels owners be required to notify civil/maritime Authorities in Kenya of their use of ESIMs, as the case may be.

				Although the Vessels and ESIMs will not require licences, the satellite operators providing such services either to overflying/passing or landing/docking vessels, will be required to have a Landing Rights Authorization.
14.	Betty Kerubo	MTN Kenya	Which cable landing infrastructure components will be classified under IGSS and the LRA licence	LRA: physical cable, power feed equipment, active satellite footprint over Kenya IGSS: Switching and the Network Control/Operation Centre, submarine Line Terminal Equipment, which must be located in Kenya.
15.	Kopano Monyetsane	Eutelsat	Comment 185 - Can CA please clarify if LRA will be required for visiting ESIMs including those installed on vessels and aircrafts as they transverse through Kenya territory?	Yes, the LRA will be applicable to the satellite operator facilitating these services.
16.	Ganson Lewela	Airtel Kenya	Can NFP-T3&4 who border each other and are in the same geographic area do direct connections without relying on NFP-T1's and T2's since they are in the same geographic area and in bordering Counties? This is to ensure a more flexible network design.	Note that NFP-T4 and Micro-ASP have been combined to form Micro-Network and Service Provider (MNSP) NFP-T3 will be allowed to connect their infrastructure within the scope of their 3 counties' limitations. They can therefore provide similar connectivity to

				MNSPs within these 3 counties
17.	AMIDA MACHIRI		As regards licensable services under TEC and TED license, does it only apply to installation and importation and distribution of active equipment i.e actual switches, routers, antennas, storage, servers, etc or does it also apply to installation of passive equipment like cabling, racks, towers, fibre cables as well.	The scope of the two licences will be as follows: CEC: Scope is strictly limited to the installation and maintenance of communication equipment/devices; it excludes manufacturing, importation, and sale. CED: Required for entities that import equipment for resale or procure equipment from local manufacturers for resale. Local manufacturers selling domestically must use a licensed CED or acquire a CED license.
18.	Debbie S. Majale	tbm.co.ke	Are there any Transitional Provisions for Telecommunication Contractors (TEC) to Communication Equipment Contractor (CEC) and/or Communication Equipment Distributor (CED)?	Yes, there are transitional provisions for TEC licence. Exisiting Telecommunication Contractors will have the options be issued with CED and CEC at no cost on request.
19.	Ganson Lewela	Airtel Kenya	On Licensing of Data Centres, the National ICT Policy states that "The government will promote, encourage and license private sector investment in neutral data centres by companies incorporated for that purpose" . Since the objective is to promote, Data Centres can be issued with Class Licenses instead of the normal NFP-Tx Licenses since they have specific physical locations	This is noted and appreciated. The Authority will review this proposal as we undertake the next steps.

			with geographic diversity for Disaster Recovery purpose only. We cannot equate Data Centres to NFP-Tx's.	
20. 1.	Ian Siako-	Safaricom	a). With the proposal to increase the geographical scope of NFPT3 and the introduction of NFPT4, there is a risk of having different legal entities belonging to the same beneficial owners. And with both classes' application fees' being lower than the overall NFPT1 application fees of KES 15M, how does the Authority plan to ring fence this loophole and avoid dilution of the NFP T1 License? b). On NFP T3 being limited to 3 counties, there exists a risk of furthering the digital divide. Licensees may choose to only invest in populated counties leaving out existing marginalized counties. How will this be addressed? c). We welcome the Authority's consideration of Satellite services as an enabler in closing the digital divide. Even as we continue to embrace this new revolutionary technology, we request the CA to conduct a more comprehensive study on satellite, as it was done in South Africa, to better align this new reality with the market structure. d). On payment of some licences in USD especially spectrum License, can the Authority reconsider this payment to be done in KES. 5.	Please note that NFP-T4 and Micro-ASP have been combined to form Micro-Network and Services Provider (MNSP) a) This is addressed in our responses available on our website. b) Whereas this may be a potential outcome, the proposed licensing framework has provisions including MNSP and CNSP that specifically address this concern. c) This is noted and appreciated. d) This is noted and appreciated.

			What are the next steps after this validation Workshop and what can we expect its implementation?	
21.	OBADIA	Metrolinks	For T3 you just said you cannot downgrade to T4 since it's only Covers 1 county. My question is, will the fee Still be the same for someone operating in only one county with a T3, or is the fee going to change?	The regulatory fees will remain the same.
22.	John Mkota		I look at today's review as a good step towards the right direction. I have noted with concern, the prohibitive agreements between MNOs, operationalizing restrictive policies for instance the FUP to lower tier licence. To ensure that the end user does not get service disruptions before expiry of a billing cycle, I reach out to CA to intervene and ensure paid for capacity is supplied to the end of the billing cycle pursuant to SLA requirements. Thank you.	This is noted and appreciated.
23.	AMIDA MACHIRI		Question to CA: As regards licensable services under TEC and TED license, does it only apply to installation and importation of active equipment i.e actual switches, routers, antennas, storage, servers etc or does it also apply to installation of passive equipment like cabling, racks, towers, fiber cables as well? We would recommend the definition of licensable services to only relate to the importation, sale, installation and	The scope of the two licences will be as follows: CEC: Scope is strictly limited to the installation and maintenance of communication devices; it excludes manufacturing, importation, and sale.

			maintenance of Type Approved Devices.	CED: Required for entities that import equipment for resale or procure equipment from local manufacturers for resale. Local manufacturers selling domestically must use a licensed CED or acquire a CED license.
24.	Gichuki		For clarity: If one holds an NFP Tier 3 and an ASP licence, are there any additional licences or fees required apart from the County Business Licence to operate in the Counties	There will be no additional licences or fees required by the Authority beyond those detailed in the market structure. However, licensees are encouraged to evaluate and understand the different business environments in each county as regards their business plans.
25.	AMIDA MACHIRI		Question to CA: As regards licensable services under TEC and TED license, does it only apply to installation and importation of active equipment i.e actual switches, routers, antennas, storage, servers etc or does it also apply to installation of passive equipment like cabling, racks, towers, fiber cables as well? We would recommend the definition of licensable services to only relate to the importation, sale, installation and maintenance of Type Approved Devices.	For clarity the scope of the two licences will be as follows: CEC: Scope is strictly limited to the installation and maintenance of communication devices; it excludes manufacturing, importation, and sale. CED: Required for entities that import equipment for resale or procure equipment from local manufacturers for resale. Local manufacturers selling domestically

				must use a licensed CED or acquire a CED license.
26.	Ganson Lewela	Airtel	As a follow-up on paying license fees in USD. We note that IMT Frequency Spectrum acquisition is currently charged and paid in USD and in support of Safaricom, we propose that these be charged and paid in KEs since the IMT spectrum is being bought and consumed in Kenya unlike the Landing Rights License.	This is noted and appreciated.
27.	Amr Ashour	Eutelsat	thanks for the feedback regarding the ESIM/ESV/AES … passing or visiting or staying …. but we need to clarify that passing aircraft or vessels are only using networks while they are passing only i.e. for few cases there is no land services offered in such case, and it could be burdensome for this type of use to be able to submit for LR for unknown amount of use or visits which depends on moving platform that may change its route for any purpose …. so we would invite CA reconsider the case of passing aircrafts or vessels for limited duration (if possible).	The provider of the service in Kenyan airspace is the one required to be licensed under LRA.
28.	Mbua	Naya Solutions	1. Please give more info on the Micro-ASP. Is the Micro- ASP for one County also? If so this would be a bit limiting. My proposal is we have it allow for at least 5 counties, as that's just 10% of Counties in Kenya. 2. T4 is limited to one County. What happens to clients who would be along the county border lines? 3. Can one operate under the Micro-ASP	1. First the NFP-T4 and Micro-ASP have been combined to Micro-Network and Services Provider (MNSP) 2. Yes, the proposed MNSP licence category is restricted to one county. 3. Whereas we remain cognisant that such cases

			countrywide while being serviced by T1 providers for both the capacity and last-mile connections? Thanks.	are possible, such will be treated on a case-by-case basis. However, provision of services beyond one county will require an MNSP licence holder to upgrade to the NFP-T3 licence and equivalent ASP 4. No, that scenario will require an ASP licence.
29.	Adam Lane	Huawei	Following up on Amida's question, What is the definition of **licensable services for CEC**, and what is the basis of that definition? If you argue it includes a wide scope of trenching, selling and installing cabinets and cables etc?	For clarity the scope of the two licences will be as follows: CEC: Scope is strictly limited to the installation and maintenance of communication devices; it excludes manufacturing, importation, and sale. CED: Required for entities that import equipment for resale or procure equipment from local manufacturers for resale. Local manufacturers selling domestically must use a licensed CED or acquire a CED license.
30.	Amr Ashour	Eutelsat	thanks for the feedback for the point of ESIM/ESV/AES but the case for the passing is difficult to be enforced in practice, and this services are offered while in motion (passing) not while in staying in the territories of Kenya this doesn't equate	Our proposal doesn't differentiate between land or air services. As such, the provider of the either service will be required to be licensed under the LRA category.

			those who obtain LR for land services, so it may cause non-equal treatment, in this case the only question is about interference to be voided based on regulations	
31.	Archith Rao	Motorola Solutions	Can 1 organization be a CED and CEC Archith Rao - Motorola Solutions	Yes, the licensing framework allows an entity to hold multiple licences.
32.	Hussein	NESPAK	I'm Hussein from NESPAK - Network Service ls providers Association of Kenya. Kindly clarify the minimum eligibility and documentation requirements for the newly introduced licenses, specifically Tier 4 (T4) Infrastructure and Managed Application Service Provider (M-ASP). Our understanding is that, for infrastructure licenses, one of the minimum requirements is registration as a limited liability company, while for Application Service Provider (ASP) licensing, registration as a business name has previously been acceptable. In this regard, we request confirmation on whether the same legal entity requirements apply to the new T4 and M-ASP licenses, and a detailed outline of the minimum documents required for each category, including but not limited to company registration documents, ownership structure, tax compliance, and any technical or operational prerequisites. This is regard to the fact that the two licenses are cojoined So then this renders the minimum requirement for ASP application to be a business name not effective	This is noted and appreciated. We also clarify that the NFP-T4 and Micro-ASP have been combined to Micro-Network and Services Provider (MNSP) The Authority will take this into consideration as we undertake the next steps with the intention of aligning the regulatory requirements of both the NFP and ASP licence categories.

33.	Samwel		what step should one take if applied for ASP licence and offer letter is out but un-able to have it,	Whereas this is outside the scope of this validation workshop, please reach out to us via email for further assistance: info@ca.go.ke
34.	Omar Pederzoli		Could you touch again on the timeline for the T4 license to be operational?	Whereas we cannot provide a definite timeline, we commit to keep all stakeholders informed on our website and other media.
35.	Debbie S. Majale	TBM	For the TEC, with the split of CEC & CED how does this restructuring impact licensee responsibilities and accountability	The responsibilities and accountability will be outlined in the licences as guided by the scope of the two licence categories. Also note that there is a transitional provision that will also guide the transitions fro TEC to CED and CEC
36.	Debbie S. Majale	TBM	Those with valid TEC up to next year will this change in the next renewal cycle?	The responsibilities and accountability will be outlined in the licences as guided by the scope of the two licence categories. Also note that there is a transitional provision that will also guide the transitions fro TEC to CED and CEC
37.	Ochi Oke		If a NFP T3 has reached his maximum allocation of 3 counties, can the T3 holder engage a separate T3 entity in separate counties for infrastructure lease to operate within those extra counties (outside his own 3 counties) but within the counties of the approached T3	This will be considered a malpractice and will be deemed as non-compliance to the licence conditions. The licensing framework provides flexibility for

			entity, will that be countered as malpractice or business practice.?	licensees to either upgrade or downgrade depending on their business case and model.
38.	Karinga		Can one currently having ASP only apply for NFP T4?	No, this is not envisaged in the proposed licensing framework.
39.	MHCL		If I have ASP LICENSE should I also need a CED as a retailer ?	It depends on your business model and operations. If the devices are for facilitating your services or offering end-user services as part of the service fee, then there is no requirement to acquire a CED. However, in the event you wish to distribute and market communication equipment, then one will require the CED licence.
40.	EMANUEL MWANIA		Considering that the lower-tier licenses will open the market to a wider group of participants, including layman investors with limited regulatory or technical experience, what mechanisms will CA put in place to support small ISPs in meeting reporting and regulatory obligations?	This is noted and appreciated. The Authority is planning consumer, licensee as well as investor awareness forums to address this gap.
41.	NESPAK	NESPAK	AM DUNCAN from NESPAK Now that the NFP-T4 licence is available, what is the official turnaround time from application submission to approval? Previously the process took too long, so we would like to know the specific timeline CA is committing to under the T4 framework	The Authority is guided by its service charter available on our website. However, we have noted industry concerns about the lengthy processing timelines and we are pursuing different approaches to meet the industry demands.

				Meanwhile, we continue to encourage applicants to submit the right documentation as detailed in the application forms.
42.	Pius		How does it take for someone get an offer letter for NFP-3?	The Authority is guided by its service charter available on our website. Meanwhile, we continue to encourage applicants to submit the right documentation as detailed in the application forms.
43.	Ochi Oke		If a NFP T3 has reached his maximum allocation of 3 counties, can the T3 holder engage a separate T3 entity in separate counties for infrastructure lease to operate within those extra counties (outside his own 3 counties) but within the counties of the approached T3 entity, will that be countered as malpractice or business practice.?	This will be considered a malpractice and will be deemed as non-compliance to the licence conditions. The licensing framework provides flexibility for licensees to either upgrade or downgrade depending on their business case and model.
44.	NESPAK		What are the estimated timelines for these reviews to take effect? just estimates, weeks, months, years. This is basically for planning purposes for the interested parties were 6 months to renewal of the current licences.	Whereas we cannot provide a definite timeline, we commit to keep all stakeholders informed on our website and other media.
45.	Snehar		It seems from the initial public consultation document, where NFP-T3 was proposed for data centres, now the proposal is NFP-T1, or T2??	Yes that was the case, additional consultation contributed these changes.
46.	Mbua	Naya Solutions		The licensing framework provides

			1. What happens if i started out with the T4 /Micro-ASP but now i want to upgrade to ASP only? 2. Then is there some sort of upgrade/downgrade path predefined? 3. If i want to upgrade a given license midterm, does the authority offer one to pay the difference on the next license? Thanks.	flexibility for licensees to either upgrade or downgrade depending on their business case and model. However downgrading from NFP-T3 to MNSP is not allowed Upon either upgrade or downgrade, an entity is expected to pay the full regulatory fees as stipulated in the relevant forms and follows through a normal licensing process.
47.	Ian Siako	Safaricom	As an ASP provider providing fixed data services to customers, Do I need an Equipment Licenses for the Routers?	No, a CED licence is not required as long as such equipment forms part of the service at no extra cost to the customer.
48.	Unverified	ELINNS SMART TECHNOLOGIES	This might be out of the scope of today's meeting, But Counties are now emerging as a barrier of entry to this Market. I don't know if CAK can look into this	Whereas this is beyond the scope of this validation workshop, it is noted and several engagements are ongoing on the same concerns.
49.	Archith Rao	Motorolla Soluions	Thank you very much for the positive interaction during the session today. I was very impressed with the presentation and would like to know more about how to work together with CA on the proposed changes - especially to understand the requirements for the CED...Communication Equipment Distributors, to ensure people do not import from the wrong region or wrong/fake radios, and our goal would be to support you to ensure people follow the rules.	This is noted and appreciated. Please reach out to us via the following email address: telecomlicensing@ca.go.ke and typeapproval@ca.go.ke
50.	Snehar Shah	IX Africa	It seems from the initial public consultation document where NFP-T3 was proposed for data centres now the	This is noted and appreciated. The changes were as a result of the

			proposal is NFP-T1, or T2?	review of the comments received from stakeholders.