Stakeholder Comments and the Authority's Responses on the Telecommunications Market Structure

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
1.	Phillip Wainaina	Concise Kenya	Community-Based Internet Providers	a) We propose a category for county-only licenses, where we have non-profit Community Based (CBO) providers that only charge low fees to be able to maintain systems and pay bills, to be given alternative simple licences. County-based, youth-based ISP licenses must be lowered to be affordable. b) The internet is now a source of income for low-budget customers, mostly the youth. This internet offers employment opportunities, and licensing small players creates affordable internet, creating more jobs, awareness, and information for communities. The internet is a basic right now.	This creates employment for the youth and makes Internet services affordable. It also increases online opportunities, making more money available, reducing crime, and paying more taxes. The Internet is not for the rich. It's for everyone. It's a basic need. Kids now need the Internet to do homework.	The comments were considered but not adopted. a) Community-based organisations (CBOs) are currently provided for through the Community Networks Service Provider License (CNSP). This category shall be maintained in the market structure. The Authority views the CNSP fees as sufficiently low to enable CBOs to offer their services on a non-profit basis. b) This comment and proposal align with the proposed County ASP and NFP-T4, which allows all Kenyans, including the youth, to participate. The proposed County ASP has been renamed to Micro ASP.
2.	Martin Muriu	Hubspot Solutions	Proposed NFP-T4, County ASP, and new fees	I support the proposed establishment of NFP-T4 and County ASP	It has also been a challenge for small ISPs to establish businesses due to the high cost of licenses. Making licenses affordable will help many small ISPs comply and meet legal requirements needed by partners such as KPLC.	This is noted and appreciated.
3.	Isaiah Nyakoe Obiri	Smatrix IT Experts Ltd	NFP	a) Upon application, kindly reduce the waiting time for the license to at least 2 weeks upon submission of required documentation. b) Allow us time to operate with a letter up to a specified date on waiting to comply with you since your internal review is a process of time c) Let compliance not limit our access to other parties in		Taking note that these comments are not on the proposed Market structure:- a) NFPs are gazetted for less than 30 days, and the internal process makes it impractical to issue the license within 2 weeks. b) The legal framework does not allow temporary Authorization, and operations can commence only once the license is issued. c) This is addressed in (b) above. d) This is noted

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				play, like KPLC and county governments. I propose the authority to spell out well-documented terms to assist us in collaborating with the parties without much constraint. d) I thank you for reviewing the fee barrier downwards since it accommodated most of our ability to pay		
4.	Mwakio Justin	Kwetu computers	Vote in favor of affordable compliance fees for small ISPs	Vote in favor of affordable compliance fees for small ISPs	Most remote regions of the county are underserved	This is noted and appreciated.
5.	Geoffrey Kirenge	Apple Internet	ASP Tier 4	I support the proposal.	I would like to commend the Communication Authority of Kenya for their thoughtful proposal to introduce the new Tier 4 licensing structure. This initiative is a significant step forward in supporting small and medium enterprises (SMEs), providing them with the opportunity to thrive in a more accessible and sustainable environment. The new structure not only empowers local businesses but also contributes to the government's efforts to bridge the digital divide, especially in rural areas. By making internet connectivity more accessible, the proposal helps connect homes with valuable digital resources and opportunities, ensuring that no community is left behind in the pursuit of economic growth and digital inclusion. This is a crucial move for both SME development and national connectivity.	This is noted and appreciated.
6.	Samuel Ochieng	Wait For It Internet Limited	A.3.21 - A.3.24 (Introduction of a new Licence category – Network Facilities Provider – Tier 4 (NFP-T4))	The adoption of this proposal will benefit the current players and new potential entrants in the Internet Service Provision field by easing entry and ensuring fair play. This will encourage compliance	The current categorisation does not cater for new entrants or small enterprises because of the expensive cost of licenses. This led to a high number of non-compliance, thereby resulting in losses from both the authority side (loss of revenue) and on the ISP's side (loss of credibility and opportunities to start a business)	This is noted.

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7.	Mike	Majirani Networks	Tier 4 licensing	It will be a good idea if the new proposal includes smaller ISPs with pocket-friendly licensing prices.	That would bring about certification and compliance of small ISPs, contrary to what is happening now.	This is noted. We clarify that the proposed Micro ASP and NFP-T4, with their pocket-friendly licensing prices, are targeted at bringing the smaller ISPs to the licensing regime.
8.	Enock Kiptoo	Freelance	A.3. Proposals 19. It is recommended to clarify in the market structure that NFP-T2 and NFP-T3 licensees Operate under a technology-neutral principle as envisaged under the ULF, allowing them to deploy tower infrastructure and satellite systems, including satellite hubs, provided they adhere to the county scope limitations. An NFP-T3 licensee shall be subject to the following three additional provisions: a) have a geographical coverage limitation of a maximum of three (3) counties; b) be allowed to establish Satellite Hubs and use satellite systems for their infrastructure without technology limitations, provided they comply with commensurate fee payments, based on the number of counties in which they operate; c) be penalized 0.2% of their annual gross turnover if they establish infrastructure in more than three (3) counties without first upgrading their Licence to NFP-T2. Each	The proposal to increase the geographical scope of the NFP-T3 License to 3 counties will spur investments in the tower business and increase the number of towers in previously commercially unviable areas for many tower companies. Given that NFP-T3 licensee may not have requisite financial muscle to deploy satellite systems, the important point for CA regulation is the deployment of satellite hubs, which allows for communication between a satellite and a local area network.	CA may be required to draft guidelines to regulate satellite hubs deployed under the NFP-T3 license framework soon because their deployment is different from the deployment of satellite earth stations for NFP-T1 and NFP-T2 licensees who apply for satellite landing rights (SLR) from the Communications Authority of Kenya.	This is noted.

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			additional city or county will be penalized at 0.2% of annual gross turnover.			
9.	Victor Odhiambo Abich	Elinns Smart Technologies Limited	Network facility provider section A.2.3	I fully support the introduction	The current entry fee is too high for small ISPs whose net revenue is negligible.	This is noted and appreciated
10.	Duncan Kamau Karangi	FutureLink Networks	Market Structure and Licensing Framework for ISPs and NFPs (Section 3.2)	The Communications Authority should consider restructuring the licensing fees for NFP-Tier 4 and ASP county-level licenses to make them affordable for small and medium-sized ISPs. Additionally, there should be a framework to allow staggered payments or incentives for startups in the sector.	Affordable licensing fees will enable smaller ISPs to formalise their businesses, leading to more competition and innovation in the telecommunications industry. It will also promote equitable digital access in underserved regions, driving economic growth and aligning with Kenya's national broadband strategy goals.	It is the Authority's view that the proposed fees charged for Micro ASPs and NFP-T4 are sufficiently low.
11.	Harrison Gikonyo Kariuki	MPF Networks	Section 24: NFP T4 and County ASP	The consideration to introduce NFP T4 is a great move by CA since it is affordable to County-ISPs.	The last-mile internet connectivity will enable small ISPS to run their businesses legally and fully compliant. They will also form associations like ICPAK with a vision to streamline and improve service delivery in this industry.	This is noted and appreciated.
12.	Leonard	Nexusnet services	Market structure and licensing framework for ISPs and NFPs (section 3.2)	Amendment of the rates on all tiers for licensing and boost compliance to also allow startups to pay also	All the tiers to be amended and made affordable	The fees charged for various licenses cover the administrative cost for undertaking functions of issuance, managing, monitoring, ensuring compliance, and enforcing licensing requirements in the sector. Fees may also be based on market study findings and benchmarked with international best practices.
13.	Hans Kibidi	Diametrix technologies	Market structure and licensing framework for lSP	The communication authority should consider a small lSP with a cheaper price for licence (according to county)	This will enable young people to create employment amongst themselves, and they will be able to afford the price of a license to better our country.	This comment and proposal align with the proposed Micro ASP and NFP-T4, which provides an opportunity for all Kenyans, including the youth, to participate.
14.	Kenneth Karanja	Weller Freedoms	I propose a structure that is more accommodating to all the Small ISPs who do the last-mile connectivity. Maybe an introduction to tier 4 for county connectivity and tier 5 for constituency connectivity, with licenses for tier 5 going as low as Ksh. 3,000 per year, which will act as the starting point	I propose a structure that is more accommodating to all the Small ISPs who do the last-mile connectivity. Maybe an introduction to tier 4 for county connectivity and tier 5 for constituency connectivity, with licenses for tier 5 going as low as Ksh. 3,000 per year, which will act as the starting point for many ISPs as they rise up to tier 1.	This will ensure many ISPs will adhere to CAK rules and will increase the tax base and, at the same time, ensure quality delivery of internet services	It is the Authority's view that the proposed fees charged for Micro ASPs and NFP-T4 are sufficiently low even at the lowest administrative areas

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			for many ISPs as they rise to tier 1.			
15.	Nicholas	Billmart Technologies Ltd	County Licensing	I propose to you as the regulator in the market. It is good to have a county-level license, but also you intervene for us who have been compliant. We have really suffered from county harassment, demanding us to pay wayleave charges, considering that we pay KPLC. We end up being terrorized to pay other wayleave costs that don't support our business other than just frustrating the sustainability.	I personally have had many encounters in Machakos County, Nairobi and Kisii County	Industry players have previously informed the Authority of the challenges faced in paying county wayleave charges. Though the matter is outside the scope of this consultation, the Authority is dealing with it under a separate initiative.
16.	Collins Areba - Secretary general	Internet Service Providers Association of Kenya	A.3. Proposals 19 a)	a) Increase geographic limitation to 15 counties. b) Clarify that the three-county geographic limitation does not prevent licensee from building remote clusters of three-county networks as long as they are interlinked by service from a T2.	Currently, NFP T-3 can deploy in any county as long as they adhere within county boundaries, and as long as their networks are "carried" across county boundaries by someone with an NFP T-2. The proposed additional provisions could be interpreted as follows: a) NFP - T3 are still permitted to be set up in any county and can additionally cross up to three county boundaries in a homogenous network but also be carried by a T2 to a different location and still carry out similar setup. For instance, Licensee A, present in Kilifi, Kwale and Mombasa can still get dark fiber and roll out in Kisumu, Siaya, Homa Bay under the same NFP T-3 License. This option is agreeable to ISPAK. b) NFP - T3 scope has reduced from as described above, to only cover 3 counties. So, for instance Licensee A can now only operate in Kilifi, Kwale and Mombasa but cannot additionally offer service anywhere else and is subject to penalties as indicated in part C. c) If this is the intended amendment, then we feel as ISPAK that it is	a) We confirm that the NFP-T3 shall be limited to establishing infrastructure to a maximum of 3 counties. This is a simple county count, whether clustered or not. b) The proposed limitation of 3 counties for NFP-T3 licences is based on the competition concerns raised by NFP-T2 licensees. In addition, we wish to inform you that the Authority proposes the NFP-T4 licence having observed a growing increase in unauthorized ISPs operating in limited and localized areas, especially in densely populated estates. These ISPs do not have the extensive coverage that NFP-T3 licensees possess. The proposed fee for the NFP-T4 licence is with a view to making it affordable to such entities and is not premised on the Higher Tier licences."

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					punitive to Tier 3 as constituted currently on account of cost of the license relative to the new proposed Tier 4 license. We propose an adjustment from 3 counties to 15 counties, to match the cost of the license.	
17.	Michael Mwangi	Megatech Solutions Ltd	A.2.1. Tower Business.	A.2.1. Tower Business. Allow NFP-T3 and NFP-T4 to establish telecommunications towers.	A.2.1. Tower Business. Allow NFP-T3 and NFP-T4 to establish telecommunications towers.	This is noted.
18.	Michael Mwangi	Megatech Solutions Ltd	A.3. Proposals - 19a	A.3. Proposals - 19a Append this to four (4) counties. Nairobi, Kiambu, Machakos and Kajiado are all bordering each other in Nairobi metropolis	A.3. Proposals - 19a Append this to four (4) counties. Nairobi, Kiambu, Machakos and Kajiado are all bordering each other in the Nairobi metropolis	The comments were considered and not adopted. The NFP-T3 shall be limited to establishing infrastructure in a maximum of 3 counties. This is a simple county count, whether clustered or not, regardless of the proximity of the county boundaries, as in certain metropolitan areas. The proposed limitation of 3 counties for NFP-T3 licences is based on the competition concerns raised by NFP-T2 licensees.
19.	Michael Mwangi	Megatech Solutions Ltd	A.3. Proposals - 19c	A.3. Proposals - 19c Fix an amount, gross turnover is a that does not consider high operational costs Consider lowering the current NFP-T3 fees	A.3. Proposals - 19c Fix an amount, gross turnover is a that does not consider high operational costs. Consider lowering the current NFP-T3 fees	The comments were considered and not adopted. Levying annual operating fees as a percentage of the annual gross turnover for certain license categories is based on international best practice. It is designed to ensure that regulatory fees are fair and proportionate to growth of a licensee's economic activity in the market. This also applies to NFP-T3 fees. The Authority also levies fixed annual and one-time fees for certain licence categories.
20.	Michael Mwangi	Megatech Solutions Ltd	A.3. Proposals - 24	A.3. Proposals - 24. Very welcome. Proceed with this.	A.3. Proposals - 24. Very welcome. Proceed with this.	This is noted and appreciated.
21.	Patience Maingi	WIOCC Kenya Limited	Section A.2.2 and A.3 (Proposals), Paragraph 17	Further, clarify the scope of NFP-T2 and NFP-T3 to prevent overlaps in satellite and tower infrastructure. Differentiating licensing requirements for NFP-T2 and NFP-T3 entities, particularly in satellite and tower operations, is ambiguous. We request detailed guidelines	Clear delineation of licences prevents overlaps, ensuring businesses can make informed decisions about license upgrades or modifications. This leads to regulatory clarity and informed business decisions.	NFP-Tx Licensees may deploy services using any technology including satellite. This proposal seeks to eliminate technology and service restrictions on NFP-T3, which are inconsistent with the Unified Licensing Framework (ULF) principles of Technology neutrality. The differentiation between NFP-T2 and NFP-T3 will thus only be limited to geographic scope of coverage. The scope of the various licenses shall

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				outlining the scope and limitations of NFP-T2 and NFP-T3 operations.		be as defined in the Market structure under review. This proposal will offer consumers with wider choice and offer an opportunity for local start-ups to enter the market.
22.	Patience Maingi	WIOCC Kenya Limited	Section A.3 (Proposals), Paragraph 19 (Subsection c)	We suggest a grace period for rectification before penalties for NFP-T3 licensees. We propose a warning and rectification period before penalties are imposed. To ensure businesses are not unfairly penalized and to encourage adherence to regulations through dialogue.	Penalties of 0.2% of annual gross turnover for operating beyond the three-county limit may discourage expansion and limit business growth opportunities. This will also avoid undue financial burden on businesses for unintentional non-compliance.	The procedure for the imposition of penalties is stipulated in the law (KICA) and in the licence conditions.
23.	Barrack Otieno	Association of Community Networks in Kenya	A.2.1. Tower Business	We agree with the observation that reserving the Tower Infrastructure business exclusively for NFP-T2 licensees contradicts the principles of the Unified Licensing Framework (ULF) and introduces unnecessary barriers.	Allowing other license categories to establish tower infrastructure would encourage investments and innovation leading to more deployment of infrastructure resulting in connectivity, especially in underserved areas.	This is noted and appreciated.
24.	Barrack Otieno	Association of Community Networks in Kenya	A.2.2. Satellite Services 14	This is a sound and well-aligned proposal.	Satellite systems are crucial for connecting remote and underserved areas where terrestrial infrastructure may not be viable. Allowing NFP-T3 licensees access to satellite technology supports the goal of universal connectivity.	
25.	Barrack Otieno	Association of Community Networks in Kenya	A.3. Proposals 17	The proposal to allow NFP-T3 licensees to establish satellite systems, including hub facilities, and provide satellite services—while adhering to the geographical scope principle distinguishing NFP-T3 and NFP-T2 is a positive and forward-looking measure.	Allowing NFP-T3 licensees to operate satellite systems will improve connectivity in remote and underserved regions where terrestrial infrastructure is often impractical or cost-prohibitive	
26.	Barrack Otieno	Association of Community Networks in Kenya	A.3. Proposals 18	Kindly clarify whether the proposed three counties for the NFP-T3 license coverage should be located within the same geographical area or if they can be situated in different regions.	Clear guidance will ensure stakeholders can align their investment and operational strategies accordingly	We confirm that the NFP-T3 shall be limited to establishing infrastructure to a maximum of 3 counties. This is a simple county count, whether clustered or not.

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27.	Barrack Otieno	Association of Community Networks in Kenya	A.3. Proposals 21	For the new NFP tier 4, we propose a unified license as maintaining separate licenses may create administrative and financial burdens for applicants. Please address potential conflicts between the newly proposed NFP-T4 license and the existing NFP-T3 licenses to ensure seamless transitions for license upgrades. Additionally, consider incentivizing NFP-T3 licensees to expand their geographical coverage by offering reduced penalties for early upgrades to higher-tier licenses.	Administrative and financial burdens could deter potential entrants, particularly in the current challenging economic climate. A unified licensing framework would streamline processes, reduce costs, and make the licensing structure more attractive and accessible to investors. The introduction of a new license tier (NFP-T4) may overlap with the operational areas of existing NFP-T3 licensees with potential disputes thus important to address how these licenses might interact.	The comments were considered and not adopted. NFP- Tx licenses allow for the deployment of infrastructure, while an application service provider license authorises the holder to provide end-user services. These are separate market segments in the ULF and cannot be combined into a single licence. The differentiation between NFP-T3 and NFP-T4 will be the geographic scope of coverage. The scope of the various licenses shall be as defined in the Market structure under review. The proposed NFP-T4 will offer consumers wider choice and allow local start-ups to enter the market. The NFP-T3 license includes a transitional clause for upgrading to T2, which will also be provided for T4. Additionally, the procedure for imposing penalties is stipulated in the law (KICA) and in the licence conditions.
28.	Caroline Mbugua	GSMA	A.2.2.	The Satellite technology can provide communication services across boarders as rightfully acknowledged in the above section. Under section A.2.2. this market structure review recommends that to make the NFP-T3 Licence more commercially viable and attractive to potential investors, its scope of coverage be increased from one (1) county to three (3) counties. In carrying out its mandate, it is not clear how the CA how will enforce this license condition considering the borderless nature of satellite technology. We therefore recommend maintaining the restriction to NFP-T3 from establishing satellite systems to avoid interference, possible		The comments were considered and not adopted. The differentiation between NFP-T3 and NFP-T4 will be geographic scope of coverage. The scope of the various licenses shall be as defined in the Market structure under review. Though the matter of the Authority's enforcement mechanism is outside the scope of this consultation, there are mechanisms to ensure licensed entities comply with the law and license conditions.

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				negative QoS impact and non-compliance to their license obligations that may result in a distortion of the market.		
29.	Stellar Wawira	TELKOM KENYA LIMITED	17. NFP-T3 should be allowed to establish satellite systems and provide satellite services 19. NFP-T3 should be allowed to deploy satellite systems provided they adhere to county scope	The scope of the NFP-T3 license should not be expanded to include satellite services.	Satellite services are borderless, and it is not clear how the regulator intends to enforce adherence to the geographical limitation. The proposed change will lead to fragmentation of international mobile telecommunications spectrum causing interference and resulting in inefficient allocation and monetization of the spectrum.	The comments were considered and not adopted. Though the matter of the Authority's enforcement mechanism is outside the scope of this consultation, the Authority has a robust Spectrum Management framework that enables it to address spectrum interference issues that may arise. The Authority's proposal is for NFP-T3 to establish communications infrastructure in a maximum of 3 counties. Further this proposal seeks to allow NFP-T3 to utilize satellite technology or any other, in line with the technology neutrality principle, for local connectivity as defined by their geographic scope of coverage. International communication services to and from all NFP Licence holders will continue to be handled through IGSS Licence holders. It the Authority's view that permitting NFP-T3 to use satellite services will not result in fragmentation of IMT spectrum.
30.	Fiona Asonga	TESPOK	A.3: 17 Establishment of satellite systems by NFP-T3	Same compliance requirements imposed on NFP-T2 should be imposed on T3 licensees without any deviation.	To ensure fair market oversight	This is noted. We clarify that compliance requirements are specific to the licence category and will be applied accordingly.
31.	Fiona Asonga	TESPOK	Section A 3.18	NFP Tier 3 to be limited to 2 counties as opposed to 3 counties. Whenever T3 or T4 licensee vacate a county, what are the requirements- do they hand over the infrastructure to T2 or what are the requirements. There is nothing in these proposals that is protecting the business of the NFP Tier 2 who should be ones with infrastructure across the entire country.	This is necessary to maintain a balance on the role of the NFP Tier 2 licensees. Where NFP Tier 3 serves 2 counties they should be required to hand over traffic to NFP Tier 2 for any onward services. This also allows for NFP-T4 to transition to T3 once they exceed one county.	The comments were considered and not adopted. There are provisions in the license conditions that provide for smooth exit from the market by any licensee that has to vacate the market. The differentiation between NFP-T3 and NFP-T2 will be geographic scope of coverage and is a means of protecting NFP-T2 from uncontrolled expansion of NFP-T3. The traffic from NFP-T3 and T4 networks bound for termination beyond the permitted region will be carried by NFP-T2, T1 or IGSS as may be appropriate.

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				Proposal to increase to 2 counties; the process should be gradual and progressive.		
32.	Fiona Asonga	TESPOK	Section A. 3: 19 (c) Penalties	Penalty for noncompliance to be 0.5% of annual gross revenue with a possibility of license suspension.	This will deter any such violations.	This proposal may be submitted to the ongoing legal reforms (KICA) review, as the law currently provides for a penalty of 0.2 per cent of the annual gross turnover (revenue). Licence suspension is not provided for but suspension of service / part of operation is catered for in the ULF framework. Suspension of the license is not practical as it leads to more challenges such as the difficulty of determining whether or not to power down the entire network once the license has been suspended. Suspension of the licence is not envisioned in KICA and as such the Authority would be acting ultra vires.
33.	Fiona Asonga	TESPOK	Section A 3. 20: Conversion to NFP-T2	Is this not a breach of their licenses that is being permitted with no action? The process of compliance should be within 6-12 months from the effective date of the regulations	For the new structure not to contradict itself	We wish to clarify that section A.3. 20, deals with how existing NFP-T3 operating in more than 3 counties will transition into the proposed framework. We further wish to point out that the proposed limitation to 3 counties for NFP-T3 licences is based on the competition concerns raised by NFP-T2 licensees.
34.	Fiona Asonga	TESPOK	Compliance requirements	All licensees should be subjected to standardized compliance requirements with no deviations to ensure uniformity and fairness.	Need to be cognizance of creating a fair playing ground for all operators.	This is noted and appreciated
35.	Fiona Asonga	TESPOK	Section A 3.21	What is the purpose and functionality of the County ASP License? It is not clear as the document doesn't give details of this category and their responsibilities. It just mentions; an NFP Tier 4 will have to apply for this license.	The rational for applying for the 2 licenses the NFP-Tier 4 and County ASP is unclear:	The Micro ASP license holder shall be permitted to provide ASP services that can be limited to one County. (Refer to A.2.3 - 15 & 16). NFP licenses provide for deployment of infrastructure, while application service provider license authorizes the holder to provide end user services. These are separate market segments in the ULF and hence cannot be combined into a single licence. The scope of the various licenses shall be as defined in the Market structure under review.

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36.	Ian Siako	Safaricom	A.3. 17:	Propose deletion in entirety. We recommend that satellite system establishment and operation should be primarily reserved for NFP-T1 and NFP-T2 licensees as is the case in the existing licensing framework.	The proposal to allow NFP-T3 licensees to establish satellite systems while adhering to geographical scope limitations presents regulatory complexities such as the potential for overlapping coverage as satellite connections are borderless. This will lead to negative interference and will negatively impact quality of services. Additionally, the proposal presents potential risk for government revenue erosion as it creates a loophole that can be used by satellite companies to be licensed at a lower license fee. For example, a satellite operator may seek 16 NFP-T3 Licenses across the country (47/3). The NFP-T3 license fee is KES 200,000 per license. The total license cost will be 16 * 200,000 = KES 3.2M. This is significantly lower than the cost of the NFP-T2 license, which is KES 15M. As a result, the government may potentially lose approximately KES 11.8M in revenue.	The comments were considered and not adopted. The differentiation between NFP-T2 and NFP-T3 will be geographic scope of coverage. The scope of the various licenses shall be as defined in the Market structure under review. Though the matter of the Authority's enforcement mechanism is outside the scope of this consultation, there are mechanisms to ensure licensed entities comply with the law and license conditions. Licensing of satellite companies intending to provide services in Kenya, is provided for both in the current and proposed market structure. The scope of each license category is defined and clarified further in this proposed structure. No single legal entity can be issued the multiple licenses for the same category. The Authority's proposal is for NFP-T3 to establish communications infrastructure in a maximum of 3 counties. Further this proposal seeks to allow NFP-T3 to utilize satellite technology or any other, in line with the technology neutrality principle, for local connectivity as defined by their geographic scope of coverage. International communication services to and from all NFP Licence holders will continue to be handled through IGSS Licence holders.
37.	Ian Siako	Safaricom	It is recommended to clarify in the market structure that NFP-T2 and NFP-T3 licensees operate under a technology-neutral principle as envisaged under the ULF, allowing them to deploy tower infrastructure and satellite systems, including satellite hubs, provided they adhere to the county scope	It is recommended to clarify in the market structure that NFP-T2 and NFP-T3 licensees operate under a technology-neutral principle as envisaged under the ULF. However, NFP-T3 shall be allowed to deploy tower infrastructure, provided they adhere to the county scope limitations. An NFP-T3 licensee	NFP-T3 should not be allowed to have satellite systems. The rationale is that allowing NFP-T3 licensees to establish satellite systems while adhering to geographical scope limitations presents regulatory complexities, such as the potential for overlapping coverage as satellite connections are borderless. This will lead to interference and negatively impact NFP-Tier1 licensed quality of services.	The comments were considered and not adopted. The Authority has a robust Spectrum Management framework that enables it to address spectrum interference issues that may arise.

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			limitations. An NFP-T3 licensee shall be subject to the following three additional provisions: a) have a geographical coverage limitation of a maximum of three (3) counties; b) be allowed to establish Satellite Hubs and use satellite systems for their infrastructure without technology limitations, provided they comply with commensurate fee payments, based on the number of counties in which they operate; c) be penalized 0.2% of their annual gross turnover if they establish infrastructure in more than three (3) counties without first upgrading their Licence to NFP-T2. Each additional city or county will be penalized at 0.2% of annual gross turnover.	shall be subject to the Following two additional provisions: a) have a geographical coverage limitation of a maximum of three (3) counties; b) deleted c) be penalised 0.2 % of their annual gross turnover if they establish infrastructure in more than three (3) counties without first upgrading their Licence to NFP-T2. Each additional city or county will be penalised at 0.2 % of the annual gross turnover.		
38.	Ian Siako	Safaricom	Currently, NFP-T3 licensees that have surpassed these proposed requirements will be permitted to operate until their respective Licence terms expire, after which they must apply for and convert to NFP-T2 Licence.	Propose amendment as below Currently, NFP-T3 licensees that have surpassed these proposed requirements will be required to apply for and convert to NFP-T2 Licence at the commencement of the licensing framework.	If NFP-T3 Licensees are allowed to continue with their current licenses until they expire, this will lead to unfair advantage as they will be benefitting from the new licensing framework, yet they will be paying lower licensing fees under the Tier 3 license.	The comments were considered and not adopted. The current practice as earlier envisaged during transition to ULF is aimed at ensuring that existing licensees are transitioned into the new framework with same or more favorable conditions. This means that the revised framework in general will be applied to both existing and new licensees in a manner that ensures none of the parties is disadvantaged.
39.	Ian Siako	Safaricom	Introduction of a new Licence category – Network Facilities Provider – Tier 4	We welcome the proposal.		This is noted and appreciated

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			(NFP-T4) with operations limited to one county. Applicants for this Licence will also be required to simultaneously apply for a County ASP Licence.	However, we believe this may lead to undesirable outcomes, for example imposition of further levies at county level. We therefore recommend CA exercises caution in its implementation.		The licensing of ICT service providers is a national government function vested on the Authority. It is our expectation that this should not attract charges other than those the County governments charge.
40.	Ian Siako	Safaricom	Enforcement will be based on licensee declaration through compliance returns or findings from inspection activities. The Authority's regional presence and inspection activities will be instrumental in ensuring compliance by NFP-T3 licensees.	Enforcement will be based on licensee declaration through compliance returns or findings from inspection activities. The Authority's regional presence and inspection activities will be instrumental in ensuring compliance by all licensees.	This is to clarify that the framework and enforcement applies to all licensees.	This is noted and appreciated
41.	Ian Siako	Safaricom	The proposed regulatory fees and Licence terms for these categories are: NFP-T4 a) Application fees – KShs.1,000 b) Initial fees - KShs.15,000 c) Annual Operating Licence fees - KShs. 15,000 or 0.4 per cent of the Annual Gross turnover, whichever is higher. d) Licence Term – 15 years **Micro ASP** a) Application fees – KShs.1,000 b) Initial fees - KShs.10,000, c) AOL – KShs.10,000 or 0.4 per cent of the Annual Gross turnover, whichever is higher)	We propose that the fees to be revised to mirror the fees applicable to NFP-T1 and NFP-T2.	This is to guard against abuse whereby one entity can have a NFP-T4 license for each county which enables them to have nationwide coverage at a much lower fee. For example 47*(Application fees KShs.1,000 + Initial fees - KShs.15,000) =752,000) against NFP-T1 and NFP-T2 (Kshs. 15 million) which creates unfair competition between the different categories of licenses.	The comments were considered and not adopted. A single legal entity cannot be issued multiple licenses of the same category. The proposed NFP-T4 will offer consumers with wider choice and offer an opportunity for local start-ups to enter the market. Mirroring the fees applicable to this category to those of NFP-T1 and NFP-T2 will constitute an entry barrier, rigorous enforcement will address the raised concerns.

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
			d) Licence Term – 15 years			
42.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	17. NFP-T3 licensees should be allowed to establish satellite systems, including hub facilities, and provide satellite services, provided they comply with the geographical scope principle of distinction between NFP-T3 and NFP-T2.	We propose the deletion of this section in its entirety	NFP-T2 licensees have made substantial investments based on the current licensing structure, which differentiates between regional and national operations. Allowing NFP-T3 licensees to operate satellite systems disregards these investments and the high infrastructure costs. Further, it is not clear how the Authority will ensure geographical scope is adhered to if the technology implemented is capable of going beyond the set geographical parameters.	The Authority's proposal seeks to allow NFP-T3 to utilize satellite technology or any other (technology neutrality) for their connectivity as defined by their geographic scope of coverage. Such Satellite services shall be sourced by all NFPs from IGSS License holders.
43.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	21. Introduction of a new Licence category – Network Facilities Provider – Tier 4 (NFP-T4) with operations limited to one county. Applicants for this Licence will also be required to simultaneously apply for a County ASP Licence.	We propose that the Licence categories under NFP remain the same. This introduction should be done away with.	The problem with illegal Internet Service Providers (ISPs) is the policing. It has created a secondary market resulting in the vandalism and theft of infrastructure. The solution is not to introduce an NFP-T4 license to regularize those players, but to have more stringent enforcement with punitive consequences.	The proposed NFP-T4 will offer consumers with wider choice and offer an opportunity for local start-ups to enter the market. It is our view that this new licence category will present an opportunity for higher tiers licensees to expand their market. It is important to note that vandalism may be precipitated by anticompetitive practises. The Authority continues to encourage the operators to put in place measures to safeguard their infrastructure such as cameras, sensors and alarms.
44.	Amr Ashour	Eutelsat Group	A2.2 Satellite Services	Eutelsat Group agrees with CA that, restricting satellite systems to only certain regions, contradicts the technology neutrality licensing principle that allows licensees to use any type of technology to provide communications services. Currently, the NFP-T3 licensees are indeed restricted from establishing satellite systems because NFP-T3 is a regional License, whereas satellite systems are borderless. Eutelsat Group is of the view that releasing regulatory restrictions to align with the principle of neutrality	The National ICT Policy Guidelines of 2020 aim to increase the number of competing companies by creating incentives for market players, lowering the barriers to entry, reducing the cost of failure, and encouraging the trial of new ideas. It is submitted that preventing any licensee, providing end user services, from accessing any and all types of infrastructure and technology would limit meeting the said objectives. We kindly submit that implementing and enforcing technology neutrality, through necessary regulatory intervention, will remove certain market barriers to entry and facilitate service provision over time, in	This is noted and appreciated. We clarify that the geographic scope of NFP-T2 is nationwide and there are provisions of license upgrade in the licence conditions.

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				should apply to all last mile access of end users, where the use case defines the appropriate technology that licensees, licensed to provide end user services, should be able to utilize to meet the users' needs. Further, service provision should not be limited or restricted to the infrastructure deployment, which could be differentiated based on its use and nature, such as using radio spectrum, or based on the high cost of deployment and other criteria that make it challenging to apply neutralizations between different infrastructures and technologies. It is submitted that infrastructure deployment differs substantially in its geographic coverage, access, number of users, capacity offering ...etc. Eutelsat Group is of the view that it could be challenging to implement limitations based on geographical scope, as some satellite networks are designed to provide services ubiquitously to end users. Further, such geographic restrictions may hinder mobility applications that can respond effectively to disaster relief efforts and emergency situations, which by the ubiquitous nature of satellite services can be available over the majority - if not the entire surface area - of the territory of Kenya. Thereby, we would seek clarification whether NFP-T2 Licenses could cover the entire territory of Kenya, and respectfully CA to confirm the	line with the Authority's mission of enabling regulation seeking to ensure that "high quality internet access is available everywhere in Kenya". In this same light, we support the added provision under para. 19) b) which allows NFP-T3 licenses to establish satellite hubs and use satellite systems without technology limitations.	

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				procedures to convert between different Tiers and timeline for the procedures.		
45.	Amr Ashour	Eutelsat Group	A3. Proposals (18)	Eutelsat Group would like to underline that Kenya is composed of 47 Counties, which vary significantly in terms of geographical area, population, and economic development. These differences will impact service delivery, governance, and resource allocation under Kenya's government system. The elimination of disparities is often the focus of national planning and resource distribution efforts to ensure equitable development across the country. Noting the identified priorities for ICT development under the Kenya Government's Manifesto (para. 8), we would kindly encourage CA to increase the number of counties (limited to 3 under this proposal) to be covered under the NFP-T3 license to represent and serve the needs of the counties that may require exemptions to meet the Government's stated policy objective of ensuring Universal Access. Clause 6.1.3 Universal Access of the National ICT Policy at sub-clause 2 stating that the Government will seek to ensure that: "High quality internet access is available everywhere in Kenya." We kindly note, however, that any potential extension of the license to broaden its geographical coverage should not result in	As per the above ICT Guidelines, in order to increase competition, regulatory incentives for market players, and reduced costs are key. The policies, regulations and market structure should be thus aimed at removing certain market barriers identified over time, in line with the Authority's mission. In this context, it is proposed that increasing the number of counties that can be covered by NFP-T3, and removing any potential (even indirect) restriction imposed on such licensees to utilize satellite systems, would facilitate the provision of services to areas that are currently underserved. Consequently, more people would be in a position to reap the benefits of satellite technology without having to increase the cost on the fiscus and public funds or require investment by the Universal Services Fund to cover the needs of unserved population. At any rate, we recommend not increasing the fees should CA decide to extend the geographical scope of the license to more counties.	The comments were considered and not adopted We clarify that the proposed limitation to 3 counties for NFP-T3 licences is based on the competition concerns raised by NFP-T2 licensees. Further, please note that the geographic scope of NFP-T2 is nationwide.

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				higher fees to facilitate the expansion of satellite services. Further, Eutelsat Group would like to seek clarification whether NFP-T2 Licenses could cover the entire territory of Kenya.		
46.	Ninette K. Mwarania	CAK	A.2.1 (12)- Tower Business	Reserving Tower Infrastructure business to NFP-T2 is contradictory to ULF principles. Consider allowing the other tiers access to the RTI business	This can culminate in exclusive control over a key resource creating a barrier that could restrict the other NFP's access which could eventually make this market uncompetitive	This is noted and appreciated. We confirm that Tower business can be undertaken by any NFP-Tx subject to their geographic scope limitations under the proposed revisions to the market structure.
47.	Ninette K. Mwarania	CAK	A 2.2 - Satellite Services	Satellite services are licensed under NFP-T2. Due to ULF, NFP-T3 should also be allowed to establish satellite systems, including hub facilities, and provide satellite services. The differentiation between NFP-T2 and NFP-T3 should be based solely on geographical scope without extending it to the infrastructure/technologies employed.	This will promote innovation in the type of technologies/ infrastructure used regardless of the geographical scope resulting in better quality of service	This is noted and appreciated
48.	Ninette K. Mwarania	CAK	A.3.- Proposals	The scope of NFP-T3 will be expanded from one (1) county to three (3) to enhance its commercial viability. A new license category, NFP-T4, will replace the expanded T3. The T4 license will be permitted to operate in only one (1) county. Subject to the authority's approval, both T4 and T3 licenses will be upgraded to higher tiers as needed. Proposal Additionally, clarify whether a single NFP can acquire multiple T4 licenses across different counties, provided that operations for each license are confined to its respective county.	The scope of NFP-T3 will be expanded from one (1) scale, which could translate to lower production costs and lower consumer service costs. This will give more clarity and ensure predictability in licensing.	We clarify that a single legal entity cannot be issued multiple licenses of the same category.

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49.	George Menye	Zainlink Networks	Section 3.2	The Communication Authority should consider restructuring the licensing fees for NFP-Tier 4 and ASP county-level licenses to make them affordable for small and medium-sized ISPs. Additionally, there should be a framework to allow staggered payments or incentives for startups in the sector and special consideration for PLWDs	Affordable licensing fees will enable smaller ISPs to formalize their businesses, leading to more competition and innovation in the telecommunications industry. It will also promote equitable digital access in underserved regions, driving economic growth and aligning with Kenya's national broadband strategy goals as well as Vision 2030.	It is the Authority's view that the proposed fees charged for Micro ASPs and NFP-T4 are sufficiently low. The Authority considered micro, small and medium sized ISPs while proposing the new category. Further, we clarify that staggered payments are not provided for in the KICA for amounts below Kshs 1Billion.
50.	Daniel Tesfagaber	Rivada Space Networks GmbH	Section A.3, Paragraph 17	the proposal to allow NFP-T3 licensees to establish satellite systems, including hub facilities, and provide satellite services aligns well with this principle. This step will encourage market participation, particularly from operators deploying advanced satellite constellations, especially non-geostationary satellite orbit (NGSO) systems. However, we believe the geographical restrictions imposed on NFP-T3 licenses, limiting their operations to a maximum of three counties, remain inconsistent with the nature of satellite systems. Satellite networks are inherently borderless and designed to provide seamless, wide-area coverage serving entire countries. For instance, NGSO-enabled Earth Stations in Motion (ESIMs) used in maritime, aviation, and land-based mobility applications require nationwide or even global coverage to function effectively. Furthermore, international companies, who rely on satellite connectivity to conduct their business, often have user terminals located in various	We urge the Authority to reconsider geographical restrictions for satellite systems under NFP-T3 licenses. Removing these restrictions, or at a minimum providing exemptions for satellite-based services, would align with the principles of technology neutrality and enhance Kenya's competitiveness in the global satellite market, making it more attractive for market entry of global satellite operators and satellite services providers. Higher competition ensures higher quality of service and lowers costs, which will ultimately benefit Kenyan end users and citizens.	T The Authority's proposal is for NFP-T3 to establish terrestrial infrastructure in a maximum of 3 counties. Further this proposal seeks to allow NFP-T3 to utilize satellite technology or any other (technology neutrality) for their connectivity as defined by their geographic scope of coverage. Such Satellite services shall be sourced by all NFPs from IGSS License holders. The Authority's proposal is for NFP-T3 to establish terrestrial infrastructure in a maximum of 3 counties.

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				countries around the world. Imposing county-specific limitations on satellite services contradicts operational realities and could deter operators from entering the market.		
51.	Jamal Abdi			The introduction of NFP-T4 will allow all small ISP's to get licensed instead of operating illegaly thus making the license affordable for small scale service providers, please make it into effect.		This is noted and appreciated
52.	Brian Mutwiri		Vote in favor of affordable compliance fees for small ISPs	am writing to express my strong support for the proposed affordable compliance fees for Internet Service Providers (ISPs) as outlined in the recent CAK document. As an aspiring young entrepreneur with a keen interest in establishing an ISP in Nairobi and Kiambu, I believe these measures are crucial for fostering innovation and encouraging new entrants into the telecommunications sector. The proposed fees structure, particularly the tiered approach and consideration of factors like annual turnover, demonstrates a commitment to supporting businesses of all sizes. This will enable young entrepreneurs like myself to navigate the regulatory landscape and contribute to the growth of the Kenyan digital economy.	I urge you to vote in favour of this important motion.	This is noted and appreciated
53.	Betty Kerubo	Bayobab	A2.3. Rapid growth africa growth of illegal internet service (ISPs) at the last mile	We thank Authority for taking into consideration our concerns about the influx of unlicensed operators in the market. As wholesale provider in the T2		This is noted and appreciated

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				providers category we have seen a lot of disruption and unfair competition in the market by these unlicensed operators. Besides being unlicensed, another characteristic of these ISPs is that they usually move from provider leaving behind a trail of unpaid debts. We support the efforts to bring these ISPs under the regulatory ambit and urge the Authority to also team this up with strict enforcement of the new provisions. We undertake to support the Authority by reporting any unlicensed operators.		
54.	Betty Kerubo	Bayobab	A3. Proposals (18)	We propose that the T3 licensees who have surpassed the proposed requirements be required to regularize their status and apply for T2 licences within the financial year and not later than 30th June 2025.	Having this lengthy time period for compliance will be unfair to the T2 licensees who will be in direct competition with the T3 ISPs who have surpassed their licence limit and are essentially operating as T2 noting that the compliance requirements will be different.	We clarify the proposed changes to the Telecom market structure, and any amendments to licences, shall only come into force after issuance of an official notice. The law envisages that public bodies shall provide reasonable notice for transitions.
55.	Michael Murungi	Google	A.2.2 -Satellite Services	We recommend that amendments should be made to the Public Consultation Document to the effect that the proposed geographical expansion to only three (3) counties for the NFP-Tier 3 licence is quite limiting. The eventual scope of the NFP T-3 licence should be clarified specifically where a licensee wishes to restrict its service to one (1) county. To this end, the proposed geographical expansion to only three (3) counties for the NFP-Tier 3 licence should be expanded to at least six (6) to nine (9) counties, covering the major regions in Kenya.	The CA's proposal is technology-neutral, positive, and forward-looking, though it could benefit from introducing stronger commercial incentives to enhance its overall appeal. Restricting NFP-Tier 3 licences to three (3) counties would be too limiting. The proposed expansion to either six (6) or nine (9) counties will ensure a bigger market and make it easier for licence holders to recoup their investments depending on each region's coverage. Satellite technology should be embraced and supported with targeted incentives, recognizing its rapid adoption and ongoing advancements. Such support will not only accelerate technological integration but also make the sector more attractive to investors, fostering innovation and enhancing	The proposal to expand the scope of NFP-T3 licence to 6 to 9 counties is not adopted. a) The proposed limitation of 3 counties for NFP-T3 licences is based on the competition concerns raised by NFP-T2 licensees. In addition, we wish to inform you that the Authority proposes the NFP-T4 licence having observed a growing increase in unauthorized ISPs operating in limited and localized areas, especially in densely populated estates. These ISPs do not have the extensive coverage that NFP-T3 licensees possess. b) We confirm that the NFP-T3 shall be limited to establishing infrastructure to a maximum of 3 counties. This is a simple county count, whether clustered or not. c) The proposed limitation to one county for the NFP-T4 licence is based on the need to

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				We also propose that the basis of geographical expansion for the NFP T-3 licence be further clarified in the amended Public Consultation Document on whether the cap of three (3) counties is applicable per region or whether a licensee can offer services in three (3) counties across multiple regions. We also propose that the NFP-Tier 4 licence be geographically limited to between one (1) to three (3) counties; with the respective County ASP licenses sought simultaneously.	connectivity. This proposal for further clarity on the geographical scope of each licensing category would then provide some regulatory clarity on whether current holders of the NFP T-3 licence who wish to restrict their operations to one (1) county will be required to convert/downgrade to the NFP T-4 licence. Furthermore, it is not clear whether current holders of the NFP T-3 licence who wish to restrict their operations to one (1) county will be required to convert/downgrade to NFP T-4. The Public Consultation Document only states that the scope of the NFP T-3 licence coverage be increased from one (1) county to three (3) counties.	address competition concerns with regard to the scope of the NFP-T3 licence whose scope is limited to three counties. However, entities that downgrade to lower licences and are found operating beyond the scope of the lower licence they possess, will have their licences revoked. We clarify that any NFP-T3 license holders who wish to restrict their operations to one (1) county will not be required to downgrade to NFP T-4. However, any NFP-Tx which submits a request to downgrade its license will be charged a fee equivalent to the minimum AOL fee of the license they currently hold. The fee schedule will be revised to reflect the same.
56.	Michael Murungi	Google	A.3 (24) Fees for NFP-T4	Licencing Period; A proposal to increase the licensing period to twenty (20) years, (up from 15 years) is recommended, considering the rapid adoption and advancement of satellite technology.	This longer timeframe will provide more certainty and stability, making the market more attractive to investors.	The comments were considered and not adopted. The evolution of technology is fairly rapid, and a review lasting more than 15 years would be administratively unviable. The licence is renewable at the end of the term, and continuity is therefore provided for.
57.	Michael Murungi	Google	A.2.3 – Rapid Growth of Illegal ISPs at the last mile	Licencing Period; We recommend that amendments should be made to the Public Consultation Document to the effect that the licensing period be extended to twenty (20) years, (up from 15 years) is recommended, considering the rapid adoption and advancement of satellite technology. Licence fees; We recommend that amendments should be made to the to the effect that the AOL fees for NFP T-4 and the Micro ASP licence respectively, both be capped at	The rationale for this recommendation to adjust the licensing fees for NFP T-4 and County ASP licences is to encourage the unauthorized ISPs to take up either licence depending on the scope of operations and their varying economic circumstances. This will decrease the number of unauthorized ISPs countrywide, thereby supporting regulation and quality internet connectivity for end-users through last-mile ISPs. The amendments to the licence fees and licence period will improve the quality of the optic fibre to homes and enterprises, as well as enhance consumer protection through customer complaint mechanisms due to regulatory oversight and supervision. Lower fees and longer license periods	The comments were considered and not adopted. It is the Authority's view that the fees for the proposed NFP-T4 licence category are sufficiently low for varying economic circumstances. Additionally, the Authority is of the opinion that the 15-year period provides a sufficient payback period to recoup the investments that an NFP-T4 will make. The innovations in the business segment associated with NFP-T4 and Micro ASP evolves rapidly, and an earlier review period would be preferred. We clarity that under the ULF, services to the public may be offered under Applications Service

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				KShs.10,000 (USD 77) or 0.4 per cent of the Annual Gross turnover, whichever is higher). Technology-neutral and flexibility; We recommend that amendments should be made to the Public Consultation Document to the effect that the ISPs and other service providers under NFP-Tier 3 and NFP-Tier 4, licences operate under a technology-neutrality principle as envisaged under the ULF, allowing them to deploy wireless technologies on licence-free frequency bands, optic fiber, tower infrastructure and satellite systems, including satellite hubs, provided they adhere to the county scope limitations as applicable	provide stability and cost savings for operators/ISPs, encouraging them to invest more in robust optic fiber networks for homes and enterprises. Regulatory oversight tied to the proposed amendments ensures adherence to quality standards, leading to more reliable and faster internet connections for consumers. Finally, clear and favourable licensing terms attract new entrants and encourage existing players to expand their services, resulting in greater competition and improved service offerings. The amendments to the licence fee and periods will also reduce barriers to entry and result in increased investor confidence and foreign direct investment into the Kenyan market. The longer licence terms proposed will also provide more certainty and stability, making the market more attractive to investors.	Provider (ASP) or Content Service Provider (CSP) Licences as the case may be. Please take note that NFP-Tx licence categories are for setting up infrastructure.
B. INTERNATIONAL GATEWAY LICENCE, SUBMARINE CABLE LANDING RIGHTS AND SATELLITE LANDING RIGHTS						
58.	Martin von der Ohe	Lacuna Space	Section B	The proposed satellite landing rights fees across all satellite systems, irrespective of their applications, raises significant concerns. While the intention might be to streamline regulation of satellites, submarine cables and gateways, the blanket approach disregards the unique nature, purpose, and economic realities of some satellite applications, particularly low-margin satellite-IoT services. Satellite-IoT services often operate on narrow margins, as they cater to niche applications such as environmental monitoring, logistics, and	1. Economic Impact on Low-Margin Satellite Applications: Satellite-IoT services operate in a cost-sensitive market, catering to industries that often have tight operational budgets. Imposing high fees would make these services financially unviable, potentially leading to the loss of critical applications such as disaster monitoring, precision agriculture, and global asset tracking. These industries directly benefit society and the economy, making their disruption counterproductive. 2. Unique Role of Satellites in Remote Connectivity: In remote regions, terrestrial infrastructure is either prohibitively expensive or technically infeasible to deploy. Satellites can provide a cost-effective and reliable alternative. High fees	The Authority has considered your comment as well as your justification. Whereas we propose to retain our proposal to merge the Satellite Landing Right (SLR) and Submarine Cable Landing Right (SCLR) licence to align with the technology neutrality principle, we wish to amend the proposed regulatory fees as follows: a) Application fee: USD 500 b) Initial license fee: USD 25,000 c) Annual operating fee: Not Applicable d) License term: 15 years Licensees shall have discretion to implement diverse communications technologies and systems, encompassing, but not limited to,

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				agricultural management. High fees would disproportionately affect these services, potentially driving them out of the market and hindering technological innovation and deployment. Remote and rural regions rely heavily on satellite connectivity to overcome geographical and logistical challenges that prevent the deployment of terrestrial infrastructure. High fees would act as a significant hurdle, delaying or outright preventing connectivity in these areas. The policy inherently disadvantages satellite systems compared to terrestrial solutions. True technology neutrality should involve equitable consideration of all technologies, factoring in their unique strengths and limitations. It is therefore proposed to not change the current initial and annual operating licence fees, or to create subcategories of satellite applications, for example based on bandwidth use (see Australian apparatus licence fees) or satellite complexity (e.g. reduced fees for small satellites). In any case a minimum annual operating fee should be avoided.	would disproportionately harm these regions, further entrenching the digital divide. 3. Technology Neutrality and Policy Consistency: A technology-neutral approach would ensure that fees and regulations are proportionate to the economic realities and societal contributions of each technology. By imposing a minimum charge for annual operating fees, the proposed policy violates this principle, favoring high-margin systems. 4. Global Competitiveness and Innovation: High fees could stifle innovation and deter investment in the satellite industry, leading to a loss of global competitiveness. As other nations adopt satellite-friendly policies to promote innovation and connectivity, countries with burdensome regulations risk falling behind in technological advancement. 5. Contradiction to Connectivity and Development Goals: The goal of universal connectivity, championed by international organizations and national governments alike, requires support for all viable technologies. Penalizing low-margin satellite systems undermines efforts to close the digital divide, particularly in regions where terrestrial solutions are unfeasible.	submarine cables, satellite signals, and cross-border terrestrial networks. Current holders of the Submarine Cable Landing Rights licence will be issued new licenses at no cost under the proposed market structure. These licenses are as follows: a) Landing Rights License; and a) International Gateway Systems and Services License. Current Holders of the existing Satellite Landing Rights Licence will be issued the proposed Landing Rights Licence at no cost for the remainder of the Licence term. Current Holders of the International Gateway Systems and Services Licence will be issued with a revised International Gateway Systems and Services. The existing IGSS Licence will be modified to make it technologically neutral and to permit a Licence holder to utilize any form of technology to handle the international traffic rather than the current restrictions. Consequently, this shall be the scope of the two licences: *a)* **Proposed Landing Rights Authorization:** *The authorization permits the transmission of telecommunication signals to Kenya to facilitate international connectivity between Kenya and the rest of the world. The holder of the authorization may establish a landing station in the country where necessary; and* *b)* **Modified IGSS Licence:** T*he Licensed Systems are communications systems of any kind used for the transmission and reception of telecommunications traffic from a point(s) in the Republic of*
59.	Levin M. Born	Leosat Kenya Limited and Globalstar, Inc.	Section B	Globalstar does not support the adoption of the above stated changes to the Satellite Landing Rights license, including the proposed new fees associated to the new merged license, and would like to motivate the CA to reconsider this change by proposing the following points:	Generally speaking, the underlying purpose of a Satellite Landing Rights license is to establish a relationship between the regulator of a given administration and the operator of the satellite system which is landing capacity in that administration. Such a license is intended to be a simplified administrative process that does not confer any operational or commercial rights to its holder but simply ensures that such a system operator has followed due process	

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					internationally and is compliant with local allocations and services. Further, Satellite Landing Rights licenses are assigned to the foreign entity that owns and operates the satellite(s) from which the capacity is being provided. Merging this license with the Submarine Cable Landing license would remove the light-touch flexibility inherent in this simplified process, which in turn would reduce the number of satellite system operators willing to seek such a license in Kenya, and ultimately diminish the number of technologies, systems, and services that are available to Kenyan consumers. Such an impact would be contrary to the aim of "removing certain market barriers identified over time" as stated in the published document and would harm the Kenyan consumer rather than support their access to new satellite technologies.	*Kenya to points outside the Republic of Kenya. The Switching/Routing and the Network Control/Operation Centre shall be situated in the Republic of Kenya.* Satellite operators currently serving IGSS licence holders will be required to apply for the Landing Rights Authorization during the transition period.
60.	Levin M. Born	Leosat Kenya Limited and Globalstar, Inc.	Section B	Globalstar does not support the adoption of the above stated changes to the Satellite pressy license, including the proposed new fees associated to the new merged license, and would like to motivate the CA to reconsider this change by proposing the following points:	We believe that the principles of technology neutrality should be focused on spectrum management policies intended to enable innovation and efficient use of scarce resources such as radiofrequency. We do not believe that these principles should extend to commercial categories which are impacted by economic factors, not technological ones. A submarine cable landing station presents a widely differing economic model and revenue potential to landing rights awarded to a foreign-owned and operated satellite system. Merging these distinct types of licenses and adopting a single license fee would cause a disadvantage to satellite system operators due to underlying commercial models and accordingly would belie the principles of technology neutrality rather than bolster them.	
61.	Levin M. Born	Leosat Kenya Limited and Globalstar, Inc.	Section B	Globalstar does not support the adoption of the above-stated changes to the Satellite Landing	As satellite systems continue to proliferate, operators of such systems are seeking homes for the necessary ground	

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				Rights license, including the proposed new fees associated with the new merged license, and would like to motivate the CA to reconsider this change by proposing the following points:	infrastructure to support connectivity and system operations across Africa. As these operators consider where to place this infrastructure, the regulatory burden associated to authorising such installations is an important consideration, including the procedures, timelines, and licensing costs. As Kenya works to continue to be a core African hub for ICT and technology for global companies, increasing the fee associated with landing capacity in the country tenfold is not supportive of the overall goal of being a competitive destination for such investments.	
62.	Levin M. Born	Leosat Kenya Limited and Globalstar, Inc.	Section B	Globalstar does not support the adoption of the above-stated changes to the Satellite Landing Rights license, including the proposed new fees associated to the new merged license, and would like to motivate the CA to reconsider this change by proposing the following points:	An overview of the existing fees for other administrations across the continent that have landing rights in place illustrates that the current fee of USD 12,500.00 for fifteen years is competitive and in line with the norm, whereas an increased fee of KSH 15,000,000.00 for 15 years would make Kenya the most expensive place in Africa to secure such rights:	
63.	Levin M. Born	Leosat Kenya Limited and Globalstar, Inc.	Section B	Globalstar does not support the adoption of the above stated changes to the Satellite Landing Rights license, including the proposed new fees associated to the new merged license, and would like to motivate the CA to reconsider this change by proposing the following points:	Country License Fee (USD) License Validity Price per Year (USD) Nigeria 0.00 Life of Satellite/System 0.00 Ghana 10,000.00 10 Years 1,000.00 Tanzania 5,000.00 5 Years 1,000.00 Zambia 3,500.00 10 Years 350.00 Kenya (current) 12,500.00 15 Years 833.33 Kenya (proposed) 115,964.44 15 Years 7,730.96 NB: The above information has been gathered from the existing rules and regulations in each country. Zambia has proposed new rules that have not yet been adopted but were published for review and contributions in 2024. Amounts are converted to USD for illustrative purposes only at the current exchange rate on January 19th, 2025.	
64.	Fiona Asonga	TESPOK	Section B2.31	Part a. The separation of fiber for local and for transit is not an industry best practice.	Terrestrial cable infrastructure is not built as perceived in the document. It is normally	The comments were considered and not adopted.

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				Part c. Satellite services beyond traditional communication services, such as telemetry, tracking and control subsystem (TTC), space research, and meteorological aids, among others. This section should be deleted as it creates confusion on the Landing Rights License. It interferes with the NFP Tier 2 License. Landing Rights to only land allows the NFP Tier 2 to thrive and carry traffic to the neighbouring countries.	one cable that gets configured for different user allocations at the termination points. If the Landing Right License allows for building of infrastructure, then we should realize there will be a challenge with the geographical allocation of the service from a cable deployment perspective.	Section B2.31 seeks to introduce a new market space in which entities can set up systems in Kenya to exclusively serve other jurisdictions, leveraging Kenya's unique geolocation. The NFP-T2 jurisdiction is within the country and does not carry cross-border traffic. All International traffic, including cross-border communications, is authorised under IGSS. We also clarify as follows. a) Holders of the Landing Rights License shall have the discretion to implement diverse communication technologies and systems, encompassing but not limited to submarine cables, satellite signals, and cross-border terrestrial networks. b) Current holders of the Submarine Cable Landing Rights licence will be issued new licenses at no additional cost under the proposed market structure. These licenses are as follows: i) Landing Rights Licence; and ii) International Gateway Systems and Services Licence. c) Current Holders of the International Gateway Systems and Services Licence will be issued with a revised International Gateway Systems and Services. The existing IGSS Licence will be modified to make it technologically neutral and to permit a Licence holder to utilize any form of technology to handle the international traffic rather than the current restrictions. Consequently, this shall be the scope of the two Licences: i) **Proposed Landing Rights Authorization**: *The authorization permits the transmission of telecommunication signals to Kenya to facilitate international connectivity between Kenya and the rest of the*

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						world. The holder of the authorization may establish a landing station in the country where necessary. ii) **Modified IGSS Licence**: *The Licensed Systems are communications systems of any kind used for the transmission and reception of telecommunications traffic from a point(s) in the Republic of Kenya to points outside the Republic of Kenya. The Switching/Routing and the Network Control/Operation Centre shall be situated in the Republic of Kenya.* d) Satellite operators currently serving IGSS licence holders will be required to apply for the Landing Rights Authorization during the transition period.
65.	Fiona Asonga	TESPOK	Clause 32	The wording "or provide end-user/Direct-to-device services" should be removed from clause 32.	Direct-to-device licensing should not be addressed in the licensing framework until after WRC-27. An ASP license is not sufficient for providing Direct-to-device services, which should require partnership with an NFP Tier 1 licensee)	Clause 32 has been reviewed to clarify the reference to *direct-to device*, and will read as follows:- *Holders of the Landing Rights licence shall commercialize their wholesale capacity through IGSS Licence holders only or provide end-user direct- to- device (D2D) services through ASP Licence holders. Direct-to-cellular satellite services shall be handled as provided for in the National Table of Frequency Allocations.*
66.	Pierre-Frédéric Siaud	Sateliot	B1	Sateliot considers that the original distinction made between SCLR, SLR and IGSS is relevant, adapted to the current space industry landscape, and should be kept as it is. Erasing this distinction might lead to confusion, and to market entry barriers, particularly for New Space operators. Distinguishing between the SCLR and the SLR is important given that markets are too different from one another.	Nowadays, New Space operators are transforming the world by introducing innovative solutions with new architectures. It is crucial for regulations to adapt to these advancements to ensure the best solutions are made available to end-users. Some operators, such as Sateliot, aim to deploy their technology on a large scale at a very low cost for end-users. However, applying SCLR conditions to SLR would create a barrier to market entry, as the costs associated with SCLR are not suited to SLR, and the revenue models are too	The Authority has considered your comment as well as your justification. Whereas we propose to retain our proposal to merge the Satellite Landing Right (SLR) and Submarine Cable Landing Right (SCLR) licence to align with technology neutrality, we wish to amend the proposed regulatory fees as follows: i) Application fee: USD 500 ii) Initial license fee: USD 25,000 iii) Annual operating fee: Not Applicable iv) License term: 15 years

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					different to be treated similarly. Such an approach would jeopardize affordable access to this technology for end-users. The previous regulatory system was adapted in its distinction. We consider that the differences in initial License fees, annual operating fees, and deployed technologies among these License categories are consistent with the technology-neutrality principle of the ULF framework and constitute a testimony that the regulator of Kenya has a developed framework, adapted, and suitable for the different types of operators. It is important for the regulator of Kenya to maintain this position, and benefit from the technologies that operators can offer thanks to this relevant framework.	Licensees shall have discretion to implement diverse transmission solutions, encompassing, but not limited to, submarine cables, satellite signals, and cross-border terrestrial networks. Current holders of the Submarine Cable Landing rights licence will have the licences replaced with the following new licenses at no cost under the proposed market structure for the reminder of the Licence term. i) Landing Rights License; and ii) International Gateway Systems and Services License. Current Holders of the existing Satellite Landing Rights Licence will be issued the proposed Landing Rights Licence at no additional cost for the reminder of the Licence term. Current Holders of the International Gateway Systems and Services Licence will be issued with a revised International Gateway Systems and Services Licence. The existing IGSS Licence will be modified to make it technologically neutral, and to permit a Licence holder to utilize any form of technology to handle the international traffic rather than the current restrictions. Consequently, this shall be the scope of the modified IGSS Licence: - *The Licensed Systems are communications systems of any kind used for the transmission and reception of telecommunications traffic from a point(s) in the Republic of Kenya to points outside the Republic of Kenya. The Switching/Routing and the Network Control/Operation Centre shall be situated in the Republic of Kenya*
67.	Pierre-Frédéric Siaud	Sateliot	B2	Sateliot kindly suggests the CA to develop a new Satellite Landing Rights fees framework, that would be more adapted to the needs and the reality of the space industry.	In line with our previous comment, the price increase for satellite landing rights is too important and not adapted to satellite operators that expect to provide a service at a low cost for end-users, allowing for sustainability, resource efficiency, and productivity increases in many industries. The submarine cable industry is too different from the satellite industry and therefore should not be submitted to similar licenses. The current distinction made in Kenya's regulatory framework gives it strength and attractivity for operators. Merging regulation systems for distinct services always constitutes a risk of having the regulation not adapted specifically to the intended service. Changing the initial license fee from $12,500 to around $116,000 certainly constitutes a drastic change that would make satellite operators reconsider their intention to provide services in Kenya.	
68.	Ian Siako	Safaricom	SCLR licensees acquire rights to land submarine	SCLR licensees acquire rights to land submarine cable systems that	This is to clarify that IGSS allows not only satellite technology but also terrestrial	The comments were considered but not adopted.

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			cable systems that pass under the sea into the mainland, and SLR licensees acquire rights to land their satellite signal in the country. IGSS licensees, on the other hand, handle international traffic using satellite technology.	pass under the sea into the mainland; SLR licensees acquire rights to land their satellite signal in the country, whereas IGSS licensees, on the other hand, handle international traffic using satellite technology, and/or Terrestrial Cross-Border Stations for the transmission and reception of telecommunications traffic from a point(s) in the Republic of Kenya to points outside the Republic of Kenya.	cross-border transmission (Fiber, microwave, and satellite) links.	The Authority will review the existing IGSS Licence to make it technologically neutral and to permit a Licence holder to utilize any form of technology to handle the international traffic rather than the current restrictions. In addition, holders of the Landing Rights License shall have the discretion to implement diverse transmission solutions, encompassing, but not limited to, submarine cables, satellite signals, and cross-border terrestrial networks.
69.	Ian Siako	Safaricom	The existing SCLR Licence be modified to exclude international gateway provisions	The existing SCLR and SLR licenses should be modified to exclude international gateway provisions.	This is to align proposals 29 and 32. We seek clarity on the transition period for all existing SCLR and SLR licenses.	The proposal to align clause 29 and 32 is noted. We clarify that the current holders of the Submarine Cable Landing rights licence will have the licences replaced with the following new licenses for the reminder of the Licence term at no cost under the proposed market structure. a) Landing Rights License; and b) International Gateway Systems and Services License. Current Holders of the existing Satellite Landing Rights Licence will be issued the proposed Landing Rights Licence at no cost for the reminder of the Licence term. We further clarify the proposed changes to the Telecom market structure shall come into force after an official notice.
70.	Ian Siako	Safaricom	The existing IGSS Licence be modified to make it technologically neutral, and to permit a Licence holder to utilize any form of technology to handle the international traffic. Therefore, billing and switching of international traffic will be a preserve of this Licence category; there	The existing IGSS License be modified to make it technologically neutral, and to permit a Licence holder to utilize any form of technology to handle the international traffic. Therefore, billing and switching of international traffic will be a preserve of this Licence category; there will be no change in the fees charged for the IGSS Licence.	To align with proposal under point 32 which provides that holders of Landing Rights Licenses shall only commercialize the capacity within Kenya through licensed IGSS licensees or provide end-user/direct-to- device (D2D) services through duly licensed NFP- Tier 1 licensees.	The comments were considered and not adopted. Clause 32 has been reviewed to clarify the reference to *direct-to device*, and will read as follows:- Holders of the Landing Rights licence shall commercialize their wholesale capacity through IGSS Licence holders only or provide end-user direct- to- device (D2D) services through ASP

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			will be no change in the fees charged for the IGSS Licence	However, this licensing category should be restricted to NFP- T1.		Licence holders. Direct-to-cellular satellite services shall be handled as provided for in the National Table of Frequency Allocations The IGSS licence is issued to any entity that qualifies under the Market Structure and cannot be restricted to NFP-T1 licence holders. In addition, providing direct-to-device services through NFP-T1 conflicts with the ULF which provides that such services are offered under the ASP licences while infrastructure is established under NFP licences.
71.	Ian Siako	Safaricom	Section B2.31	The SLR and SCLR Licence categories be merged to create a new Licence category called the Landing Rights Licence. This change aims to ensure technology neutrality and allow investors to land signals using any technology. Furthermore, this new Licence category will expand its scope to accommodate investors looking to leverage on Kenya's unique location to establish and operate the following ~~three (3)~~ two (2) types of infrastructure: ~~a) Satellite hub(s) that exclusively serve clients outside Kenya; and~~ b) Satellite services beyond traditional communication services, such as telemetry, tracking and control subsystem (TTC), space research, and meteorological aids, among others. c) The establishment of submarine cables systems for the provision of international connectivity services across the sea. We seek clarity as to whether holders of the modified IGSS	Operating Terrestrial cross-border cables and microwave links under this license creates an international transit corridor within Kenya, which is a regulated space. This corridor will conflict with the existing IGSS licensing framework, which provides for such services. As such, this venture should be operationised under the IGSS license.	The comments were considered and not adopted. Cable infrastructure that transit Kenya without providing services in Kenya will be constructed and operated under the Landing rights Licence and not the IGSS licence. Licensees shall have discretion to implement diverse transmission solutions, encompassing, but not limited to, submarine cables, satellite signals, and cross-border terrestrial networks. Current Submarine Cable Landing Rights licence holders will be issued new licenses at no cost under the proposed market structure. These licenses are as follows: a) Landing Rights License; and b) International Gateway Systems and Services License. Current Holders of the existing Satellite Landing Rights Licence will be issued the proposed Landing Rights Licence at no cost for the remainder of the Licence term. Current Holders of the International Gateway Systems and Services Licence will be issued with a revised International Gateway Systems and Services. The existing IGSS Licence will be modified to make it technologically neutral and permit a Licence holder to utilize any technology to handle the international traffic rather than the

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
				License will be required to apply for a separate landing rights license.		current restrictions. Consequently, the scope of the licences shall be: a) **Proposed Landing Rights Authorization:** *The authorization permits the transmission of telecommunication signals to Kenya to facilitate international connectivity between Kenya and the rest of the world. The holder of the authorization may establish a landing station in the country where necessary.* b) **Modified IGSS Licence:** T*he* Licensed *Systems are communications systems of any kind used for the transmission and reception of telecommunications traffic from a point(s) in the Republic of Kenya to points outside the Republic of Kenya. The Switching/Routing and the Network Control/Operation Centre shall be situated in the Republic of Kenya.* Satellite operators currently serving IGSS licence holders will be required to apply for the Landing Rights Authorization during the transition period.
72.	Ian Siako	Safaricom	Section B2.32	Propose amendment as below Holders of Landing Rights Licences shall only commercialize the capacity within Kenya through licensed IGSS licensees or provide end-user/direct- to- device (D2D) services through a duly licensed NFP-T1	Provision of D2D service from satellite should be through the NFP-T1 in the country for the following reasons: • An ASP license is not sufficient for providing Direct-to-device services. This requires partnership with an NFP Tier 1 licensee. • The existing NFP-T1 have to date made significant investments to acquire operating licenses, in particular IMT spectrum licenses for their exclusive use nationally and, to roll out mobile network infrastructure in Kenya. • Satellite coverage is inherently borderless and has the potential to provide services illegally and cause harmful interference within the territorial borders of Kenya • NFP-T1 subscribes to and adheres to the quality-of-service framework (QoS), which should also be used to measure the quality of the D2D services.	Clause 32 has been reviewed to clarify the reference to *direct-to device*, and will read as follows:- *Holders of the Landing Rights licence shall commercialize their wholesale capacity through IGSS Licence holders only or provide end-user direct-to-device (D2D) services through ASP Licence holders. Direct-to-cellular satellite services shall be handled as provided for in the National Table of Frequency Allocations.*

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					• NFP- Tier 1 would then provide such services under the rights currently afforded to them in terms of its existing licenses, manage interference and ensure co-existence with existing priority services.	
73.	Ian Siako	Safaricom	Section B2.33	Propose amendment as below The proposed regulatory fees and Licence term for the Landing Rights category are: a) Application fee: Kshs. 5,000 b) Initial Licence fees: Kshs. 15 million. c) Annual operating fees: Kshs. 4 million or 0.4% of Annual Gross Turnover, whichever is higher d) Licence Term: 25 years	We seek clarity that the fees relate to the landing rights license category. A long-term license (25 years) will encourage long-term investment in the country.	The comments were considered and not adopted. The Authority is of the view that the 15-year period is adequate for licensees to recoup their investments and provides a reasonable time frame for the Authority to review the performance of a licensee and any other regulatory issue. Further, the licensing framework provides licensees with an opportunity to renew their licences depending on their compliance status.
74.	Ian Siako	Safaricom	Section B2.33.1	Propose amendment as below The proposed regulatory fees and Licence terms for the IGSS Licence will be modified to allow, among others a license term of 25 years and to make them technology neutral.	A long-term license (25 years) will encourage long-term investment in the country.	
75.	Ganson Lewela	Airtel	B.2. Proposals	We propose to amend Proposal 32 by replacing ASP's with NFP-T1 as follows: "32. Holders of Landing Rights Licences shall only commercialize the capacity within Kenya through licensed IGSS licensees or provide end-user/direct-to-device (D2D) services through duly licensed". Further, we have noted that in the current market structure, Satellite Landing Rights are captured as applicable for Global Mobile Personal Communications by Satellite (GMPCS) and do not seem to cover other satellite systems that are used by NFPs for providing connectivity, such as VSAT, IGSS, etc. Can the	This is because D2D satellite services can only be achieved through IMT spectrum, which should be the preserve of NFP-T1 and not ASPS. LEO providers will require partnerships with NFP-T1S (MNOs) to enable the use of this spectrum for D2D.	Clause 32 has been reviewed to clarify the reference to *direct-to device*, and will read as follows:- Amend clause 32: Landing Rights licensees shall only commercialize their wholesale capacity through IGSS licensees. Landing Rights licensees shall only provide Satellite Direct-to-Device (D2D) services, covered under the ITU GMPCS MoU, through ASP licensees. Direct-to-cellular (D2C) satellite services shall be handled as provided for in the National Table of Frequency Allocations (TOFA).

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
				Authority clarify which satellite providers are required to obtain satellite landing rights licenses? In the proposed structure, this is not clear. Is this applicable to Satellites in geostationary orbit (GEO) and those in non-GEO (such as MEO/LEO). Secondly, is this only applicable to those providing GMPCS services?		
76.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	31. The SLR and SCLR Licence categories be merged to create a new Licence category called the Landing Rights Licence. This change aims to ensure technology neutrality and allow investors to land signals using any technology. Furthermore, this new Licence category will expand its scope to accommodate investors looking to leverage on Kenya's unique location to establish and operate the following three (3) types of infrastructure: a) Terrestrial cables that only transit Kenya destined to neighbouring countries; b) Satellite hub(s) that exclusively serve clients outside Kenya; and c) Satellite services beyond traditional communication services, such as telemetry, tracking and control subsystem (TTC), space research, and meteorological aids, among others.	Amend this section to delete the second part as below: The SLR and SCLR Licence categories be merged to create a new Licence category called the Landing Rights Licence. This change aims to ensure technology neutrality and allow investors to land signals using any technology.	The Authority has a responsibility to protect local investors as much as they are encouraging foreign investment. Kenyan companies have put in significant capital investment to establish infrastructure for the provision of services as set out in (a) – (c), allowing foreign investors to directly set up their own infrastructure would disregard this investment. The practice has been that foreign investors purchase capacity from Kenyan companies who have infrastructure in Kenya for onward transmission in the foreign countries, this should continue to be the case.	We clarify that the proposed Landing Rights Authorisation will be technology-neutral with the expanded scope set out in (a) – (c), seeking to accommodate entities looking to leverage on Kenya's unique geolocation to serve other countries. If these entities wish to serve the Kenyan market, then they will be required to either apply for the appropriate licences or commercialize through existing licence holders. The ICT sector policy now permits fully foreign-owned firms (foreign investors) to be granted licences in Kenya.

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77.	Amr Ashour	Eutelsat Group	B.2. Proposals (29)	Eutelsat Group agrees with CA's proposal to modify the existing SCLR License to exclude international gateway provisions. However, Eutelsat Group strongly recommends that the IGSS License should include the services indicated below. [see also Eutelsat Group's response to B.2 Proposal (30)] a) Satellite hub(s) that act as feeder links for Satellite networks; and b) Satellite services beyond traditional communication services, such as telemetry, tracking and control subsystem (TTC), space research, and meteorological aids.	Eutelsat Group is of the view that excluding International Gateway operations will enable the Kenyan market to attract network operators to deploy their earth station facilities in Kenya and will enable the national market to export capacities to other countries, opening the supply chain for added value services that will positively impact the telecom market growth. It would further remove market barriers in line with the Authority's mission of enabling regulation and accommodating investors looking to leverage on Kenya's unique location.	The proposal to include the listed services under the IGSS licence is not adopted. The existing IGSS Licence will be modified to make it technology neutral and to permit a Licence holder to utilize any form of technology to handle the international traffic rather than the current restrictions. Consequently, this shall be the scope of: *a)* **Modified IGSS Licence:** T*he Licensed Systems are communications systems of any kind used for the transmission and reception of telecommunications traffic from a point(s) in the Republic of Kenya to points outside the Republic of Kenya. The Switching/Routing and the Network Control/Operation Centre shall be situated in the Republic of Kenya.* *b)* **Proposed Landing Rights Authorization:** *The authorization permits the transmission of telecommunication signals to Kenya to facilitate international connectivity between Kenya and the rest of the world. The holder of the authorization may establish a landing station in the country where necessary.* Satellite operators currently serving IGSS licence holders will be required to apply for the Landing Rights Authorization during the transition period.
78.	Amr Ashour	Eutelsat Group	B.2. Proposals (30)	Eutelsat Group agrees that the existing IGSS License modification to make it technologically neutral, and to permit a License holder to utilize any form of technology to handle international traffic. Therefore, billing and switching of international traffic will be a preserve of this License category.	Further to the comments above, given the costs and long-term investments associated with the establishment and operation of an international Gateway, Eutelsat Group would like to clarify whether Foreign-owned companies that may consider applying for an IGSS license will be required to register a local Company and be subject to the requirement to issue 30% of its shareholding to Kenyans after or within 3 Years of receipt of the license. We submit that an exemption from these	Levying annual operating fees as a percentage of the annual gross turnover for certain license categories is based on international best practice. It is designed to ensure that regulatory fees are fair and proportionate to growth of a licensee's economic activity in the market. The Authority also levies fixed annual and one-time fees for certain licence categories. Foreign entities that seek to be licensed under the IGSS category will be required to register a local company. We further clarify that 30 per cent local

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				Further, Eutelsat Group proposes to add the following Services under the IGSS category: c) Satellite hub(s) that act as feeder links for Satellite networks; and d) Satellite services beyond traditional communication services, such as telemetry, tracking and control subsystem (TTC), space research, and meteorological aids. With respect to the fees, Eutelsat Group would strongly recommend substituting the annual fee calculated as 0.4% of the annual gross turnover from licensed services, with fixed annual fees given that these Earth Stations should be used to act as feeder links for satellite networks and do not realize direct revenues (i.e. do not entail services to end-users). For cases using these Earth Station facilities for services in Kenya, CA may consider the annual gross turnover from licensed services deducted from NFP tiers.	requirements would be instrumental in attracting foreign satellite operators and foreign investments, especially in cases where the hub(s) act as feeder links for satellite Networks that may, inter alia, serve clients outside Kenya.	equity requirement previously required for foreign firms was repealed in 2023 and is therefore no longer applicable.
79.	Amr Ashour	Eutelsat Group	B.2. Proposals (31)	Eutelsat Group would like to raise a few concerns with respect to CA's proposal of merging the SLR and the SCLR Licenses to create a new License category called the Landing Rights License. As illustrated in A2.2 above, with respect to the "technology neutrality licensing principle", Eutelsat Group is in the view that abolishing restrictions to align with the principle of neutrality should be applicable for last mile access, where the use case defines the appropriate technology that	The proposed combination of the SLR and SCLR License Categories under a new single category called the Landing Rights License fails to recognise the fundamental differences and divergent characteristics of the two types of services licensed under the existing SLR and SCLR Licenses. These include, inter alia: • SLR refers to a satellite system's space segment, authorising a foreign satellite operator to provide beam coverage over the territory or a large portion of Kenya, contributing to universal access, whereas SCLR licenses terrestrial undersea cable-based services providing for a single or	With reference to your proposal to align the principle of neutrality to last mile access is not adopted. It is the Authority's view that the principle of technology neutrality should not be limited to last mile access rather should cut across the entire value chain. Whereas the SCLR and SLR licensees deploy different technologies, the operational aspects of both licence categories are similar in that they both relate to landing signals. Further, the proposal to add Satellite elements under the scope of the SCLR to meet the unified license approach is not practical.

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				licensees should be able to utilize to meet the end user needs. On the contrary, we believe that the technology neutrality principle should not be applicable to the upstream infrastructure and technology deployment, which could be differentiated based on its type and nature, such as on whether it is using radio spectrum or undersea or fibre optic cables or depending on the high cost of deployment, infrastructure service capacity and other criteria that make it challenging to apply neutralizations between different upstream infrastructures and technologies. It is submitted that upstream infrastructure, technology and service provision differ substantially in their geographic coverage, access and capacity offering etc. Satellite LRs are ubiquitous in nature, whereas Submarine Cable Rights would be very localized to the locality of the cable landing station. Thereby, Eutelsat Group strongly recommends keeping the existing separation of licenses between Terrestrial (SCLR) and Satellite (SLR) supply chains, which would require totally different treatment. This would be well justified by the different nature of the two use cases and would not contradict the principle of neutrality. Further, Eutelsat Group proposes that CA may wish to consider adding Satellite elements under the scope of the SCLR to meet the unified license approach,	restricted number of local landing points for undersea cables, • SLR's include limited satellite capacity, in Mbps or single digit Gbps associated with the beam(s) covering Kenya, whereas SCLR provide high capacity backhaul links running into potentially Tbps, • the services provided under SLRs, including receive-only broadcasting services do not require the establishment of local infrastructure and presence, whereas the cable landing station and the need for interconnection of large capacities requires local infrastructure and equipment. Further, Eutelsat Group respectfully submits that requesting multiple fees for the provision of a single service to end users creates significant complexity and regulatory burden, as well as increases the operational costs, potentially impacting the cost of service-delivery to end users. We kindly note that affordability is a significant consideration when evaluating universal access and call upon CA to kindly reconsider the present proposal, which we believe will create market barriers for foreign satellite operators wishing to enter the Kenyan market.	Whereas we propose to retain our proposal to merge the Satellite Landing Right (SLR) and Submarine Cable Landing Right (SCLR) licence to align with technological neutrality, we wish to amend the proposed regulatory fees as follows: a) Application fee: USD 500 b) Initial license fee: USD 25,000 c) Annual operating fee: Not Applicable d) License term: 15 years Foreign entities that seek to be licensed under the IGSS category will be required to register a local company. We further clarify that 30 per cent local equity requirement previously required for foreign firms was repealed in 2023 and is therefore no longer applicable. Current Holders of the existing Satellite Landing Rights Licence will be issued the proposed Landing Rights Licence at no cost for the remainder of the Licence term. We clarify that this review does not address Broadcasting systems and services

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				meanwhile keeping the SLR separated. This will ensure responding to The National ICT Policy Guidelines of 2020 aim to "increase the number of competing companies by creating incentives for market players, lowering the barriers to entry, reducing the cost of failure, and encouraging the trial of new ideas". Combining or merging both Licenses may impose difficulties for satellites not interested in providing Cabling landing services and visa-versa. In addition, clarity is requested with respect to whether there would be a requirement to register a local company in Kenya and comply with local / citizen shareholding requirements for purposes of the new proposed combined license. Such a requirement does not consider the nature of satellite Landing Rights and the fact that they do not authorise the provision of end user services by the satellite operator but rather allow licensed service providers in Kenya to utilise the authorised satellite capacity to provide services to end users under the requirements of their respective service licenses. The SLR authorisation does not and should not require a foreign satellite operator to register a local company. Eutelsat Group respectfully requests that this be retained along with the Satellite LRs in the current form. Finally, Eutelsat Group		

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				respectfully would like to seek clarification from CA regarding the transition of the Landing Rights already issued by the authority under the new proposed framework.		
80.	Amr Ashour	Eutelsat Group	B.2. Proposals (32)	Eutelsat Group would first like to clarify, with reference to CA's proposal that holders of Landing Rights Licenses shall only commercialize the capacity within Kenya through licensed IGSS licensees or provide end user/ direct- to- device (D2D) services through duly licensed ASPs, that this provision would not imply restricting satellite operators holders of Landing Rights from applying for a service license in Kenya such as an Applications Service Provider's License, where applicable.	Eutelsat Group would further like to note for the sake of clarification that in some cases, satellite operators, holders of SLRs may offer authorized satellite capacity to International Service Providers, located outside Kenya, who might further commercialize the services inside Kenya through locally licensed distribution partners / service providers, holders of the necessary Licenses applicable within Kenya. It follows that the applicable regulatory framework shall not restrict satellite operators to only working directly with locally licensed IGSS Licensees or holders of ASP Licenses, respectively. We kindly submit that the proposed regulatory framework shall accommodate this commercial reality and therefore, suggest a slight modification to the proposed text, as follows: "authorised satellite capacity within Kenya shall only be commercialised through licensed IGSS licensees or provide end-user/direct- to- device (D2D) services through duly licensed ASPs."	We clarify that a holder of Landing Rights licence will not be prevented from applying for another licence provided they meet the requirements of the licence.
81.	Amr Ashour	Eutelsat Group	B.2. Proposals (33)	Eutelsat Group strongly invites CA to reevaluate the proposal to merge both licenses into the new Landing Rights License for the reasons and justifications stated above. It is respectfully submitted that the Satellite Landing Rights and the related fees remain as per the current market structure. We believe that the distinction between SCLR, SLR, and IGSS is well justified and reflects the unique operational models and	It is submitted that the SLR and the SCLR are not comparable in terms of the covered services and their technical and operational characteristics. Therefore, Eutelsat Group believes that distinct licensing requirements and fees should be maintained. With regards to the proposed fees, it should be noted that the proposed Initial License Fees of Kshs 15 million are not much less than the average cost of a new generation satellite and, when combined with the proposed Annual Operating fee, they become an excessively	Whereas the SCLR and SLR licensees currently deploy different technologies, the operational aspects of both licence categories are similar in that they both relate to landing signals. We therefore retain our proposal to merge the Satellite Landing Right (SLR) and Submarine Cable Landing Right (SCLR) licence to align with technological neutrality. We consequently amend the proposed regulatory fees as follows:- a) Application fee: USD 500 b) Initial license fee: USD 25,000 c) Annual operating fee: Not Applicable

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				service requirements of each service. Maintaining the current distinct approach shall ensure regulatory clarity and certainty and further ensure the National ICT Policy Guidelines of 2020 aim to increase the number of competing companies by creating incentives for market players is effectively met. We further note that the proposed fees for the new combined LRs License are a significant increase to the existing SLR license fees and would be a barrier to entry. We suggest CA reconsider the applicable fees and apply a structure that will attract more investments and foster industry growth.	high financial burden for the operator, not adapted to the evolving realities of the satellite industry. This would result in significant price increases for the service delivery, ultimately burdening consumers in Kenya, as it would be impossible to cover the costs of the regulatory fees for a single country covered by the limited portion of the satellite's coverage capacity.	d) License term: 15 years
82.	Tatiana Lawrence	Iridium Satellite LLC (Iridium)	B.2. Proposals	Iridium kindly suggests the CA: a) Consider suppressing the requirement for landing rights for satellite services and follow international best practices regarding Open Skies. b) Alternatively, the CA could consider replacing the existing licensing landing right requirement with a more straightforward administrative registry of the satellite capacity, which can be done without a fee and is valid for the satellite's lifespan. This approach has also been adopted by several nations, ensuring that no market barriers are imposed by the regulatory framework. c) Finally, if the CA decides to maintain the landing right	**1.The importance of a technology and service-neutral regime and the elimination of market entry barriers and regulatory burdens as enablers of the market.** As the published document highlights, "The current market structure, which was established in 2008, is based on a Unified Licensing Framework (ULF) that operates on technology and service neutrality principles. This framework was considered critical towards simplifying and facilitating market entry by minimizing regulatory requirements and processes for evolving and dynamic technologies." Additionally, the CA notes that "The National ICT Policy Guidelines of 2020 aim to increase the number of compelling companies by creating incentives for market players, lowering the barriers to entry, reducing the cost of failure, and encouraging the trial of new ideas." Within this context, Iridium agrees with the importance of a technology and service-	We have reviewed your comments, and we respond as follows:- a) Your proposals below are not adopted: i) open skies and effectively eliminating the landing rights requirement. ii) replacing the existing licensing landing right requirement with a more straightforward administrative registry of the satellite capacity. *a)* The Authority is of the view that the ITU manages a cooperative system of international coordination of the radio frequencies used by satellites, aimed at preventing harmful interference with each other or with other radio systems. ~~*b)*~~ Licensing is a matter under the jurisdiction of each ITU Member State. Administrations may license satellite systems and ensure that its own satellite operators follow the rules and conditions contained in the ITU Radio Regulations~~.~~ c) Each Member State can enact such domestic rules/licensing requirements, as

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				requirement, we kindly ask that the existing licensing fees be kept, avoiding creating a market failure that will affect connectivity services nationwide, as described below.	neutral regime and the elimination of market entry barriers and regulatory burdens as enablers of the market. Furthermore, it is of paramount importance to increase competition and create incentives for market players, which is ultimately reflected in better and more affordable services nationwide. Several studies support this point. For instance, a study prepared by the OECD on Latin American Internet access policies demonstrates that countries with higher levels of competition in the broadband market experience significant improvements in service quality and affordability. The report highlights that competition drives innovation and efficiency, resulting in better services for consumers. Transitioning from high regulatory entry barriers to flexible regulations facilitates investment. Since the beginning of the liberalisation of the telecommunications markets in the 1990s, there has been consensus around the fact that regulators should not be involved in detailed management but rather setting a basic set of conditions for efficient service supply, with a tendency towards deregulation. Therefore, Iridium emphasises the importance of the abovementioned public policy objectives and respectfully suggests that the CA maintains or even lowers the fees for a better market. Furthermore, it should be noted that the present approach, as indicated in the public consultation, ultimately contradicts the broader and higher public policy objectives because it would be against simplifying and facilitating market entry and will contravene the aim of creating incentives for market players, lowering the barriers to entry, reducing the cost of failure, and encouraging the trial of new ideas. This is	long as they do not contradict the international commitments undertaken by signing the Radio Regulations. We hold the view that our proposals do not contravene the ITU Radio Regulations. b) Whereas we propose to retain our proposal to merge the Satellite Landing Right (SLR) and Submarine Cable Landing Right (SCLR) licence to align with the technology neutral principle. We have amended the proposed regulatory fees as follows: i) Application fee: USD 500 ii) Initial license fee: USD 25,000 iii) Annual operating fee: Not Applicable iv) License term: 15 years Further we would like to point out that our proposal does not aim to increase costs, barriers, and complexity to the existing framework, but rather creates an opportunity for wider scope for the licence holders regardless of technology or system adopted. We believe that by revising the proposed initial licence fee from KSHs 15,000,000 to USD 25,000 makes the licence more affordable. Please note that there is no Annual Operating fee associated with this licence.

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					because the current proposal aims to increase costs, barriers, and complexity to the existing framework, leading to less competition, fewer offers available for the community and more costly services. We kindly request the CA reconsider the proposal following the abovementioned mandates and objectives. By maintaining or lowering the fees and reducing regulatory burdens, the Communications Authority of Kenya can encourage more market players to participate, ultimately leading to better and more affordable services for all citizens. 2.T**he provision of satellite capacity is already coordinated, permitted and approved at the ITU leve**l It is also important to note that satellite services, due to their global nature, are coordinated and notified at the international level by the ITU. Concretely, the operation of satellites and the corresponding spectrum is governed by the Radio Regulations (RR) and the procedures that are required for inclusion in the Master International Frequency Register (MIFR). The information can always be accessed by Administrations. Thus, all information required by domestic authorities regarding the footprint and coverage of satellites radiating signals over their territories is available in the ITU's MIFR. The MIFR is a comprehensive database where all satellite networks and their frequencies are registered. This database ensures that there is no harmful interference between satellite communications globally. The process involves coordination, notification, and recording of satellite frequencies and orbital locations. Furthermore, Administrations also possess all information on the domestic providers of services employing satellite capacity,	

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					and these domestic providers are responsible for obtaining the respective authorisations to sell the services, pay the corresponding fees and produce all information required by the Authority. For the above reasons, many nations have adopted an open skies policy8 and do not impose any requirement for the provision of satellite capacity, effectively eliminating the landing rights requirement since the early 2000s. The open skies policy has resulted in less market entry barriers, cost and more competition, ultimately facilitating the provision of services for citizens, companies and industries. This is aligned with the objectives highlighted by the CA on the published consultation. **3.The existing proposal potentially creates a market failure.** The landing right authorisation merely allows satellite providers to offer capacity to domestic licensees. It does not constitute a license to provide telecommunication services or use spectrum resources in the country. Therefore, domestic licensees are required to obtain the authorisation to use spectrum and offer services to an array of needs, including internet access, backhaul for mobile telephony, operation of backbone networks, connectivity for devices and applications (IoT/M2M), navigation, and tracking, among many others. By increasing satellite landing right fees by over tenfold, all of the mentioned services will be more costly for the national industry, citizens, academia, and all users in general. Within this context, satellite capacity providers may be forced to cancel their existing landing rights authorisation due to business constraints created by the regulatory burdens introduced by the proposal. In this scenario, competition will be significantly and negatively affected, going against the proposal's mandate and	

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					public policy objectives cited as motivation. Most importantly, Kenyan people won't have access to critical satellite services Moreover, this could lead to a monopoly with merely a single company offering satellite capacity for all connectivity needs in the Nation. This will affect the quality and availability of services, as well as the affordability of satellite capacity for all of the existing connectivity needs, which, as is widely known, go beyond the direct offering of Internet service provision. In other words, several industry actors and all citizens will be negatively impacted by the proposed fee increase and change in the satellite landing right authorisation. In sum, the proposal is actually introducing a market failure in the market segment of provision of satellite capacity to domestic licensees for the operation and offering of several connectivity services that are enabled by satellites. This is the case because the proposal increases fees and acts as a market entry barrier, preventing competition and only favouring certain vertically integrated providers that will likely consolidate their market power and pricing strategy, affecting competition and diversification of connectivity solutions for all Kenyans. **4.The proposal jeopardises additional service availability in the nation.** Iridium provides essential services, including maritime and aeronautical safety services (GMDSS and AMS(R)S), widely used emergency communications, and other critical functions. Raising the license fees could undermine the provision of these services in Kenya, adversely impacting safety and emergency response capabilities for Kenyan citizens.	
83.	Daniel Tesfagaber	Rivada Space Networks GmbH	Section A.3, Paragraph 17	The proposal to allow NFP-T3 licensees to establish satellite systems, including hub facilities,	We urge the Authority to reconsider geographical restrictions for satellite systems under NFP-T3 licenses. Removing	The Authority's proposal is for NFP-T3 to establish terrestrial infrastructure in a maximum of 3 counties. Further this proposal seeks to allow

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				and provide satellite services aligns well with this principle. This step will encourage market participation, particularly from operators deploying advanced satellite constellations, especially non-geostationary satellite orbit (NGSO) systems. However, we believe the geographical restrictions imposed on NFP-T3 licenses, limiting their operations to a maximum of three counties, remain inconsistent with the nature of satellite systems. Satellite networks are inherently borderless and designed to provide seamless, wide-area coverage serving entire countries. For instance, NGSO-enabled Earth Stations in Motion (ESIMs) used in maritime, aviation, and land-based mobility applications require nationwide or even global coverage to function effectively. Furthermore, international companies, who rely on satellite connectivity to conduct their business, often have user terminals located in various countries around the world. Imposing county-specific limitations on satellite services contradicts operational realities and could deter operators from entering the market.	these restrictions, or at a minimum providing exemptions for satellite-based services, would align with the principles of technology neutrality and enhance Kenya's competitiveness in the global satellite market, making it more attractive for market entry of global satellite operators and satellite services providers. Higher competition ensures higher quality of service and lowers costs, which will ultimately benefit Kenyan end users and citizens.	NFP-T3 to utilize satellite technology or any other (technology neutrality) for their connectivity as defined by their geographic scope of coverage. Such Satellite services shall be sourced by all NFPs from IGSS License holders. The restriction placed on NFP-T3 with regard to the use of satellite systems is similar to the restrictions placed on satellite operators whose signal is available in multiple territories. It is expected that any entity that wishes to deploy services that straddle more than 3 counties will apply for an NFP-T2 licence rather than NFP-T3 licence.
84.	Daniel Tesfagaber	Rivada Space Networks GmbH	Section B.2, Paragraph 31	This represents an 800% increase in the initial fee and introduces significant recurring annual costs for satellite operators. While subsea cables typically operate over several decades and generate substantial revenue streams due to their long lifespans, NGSO satellite systems operate under	We recommend that the Authority adopt a fee structure for satellite landing rights that reflects the unique operational and economic characteristics of satellite services. This could involve: • Maintaining a lower initial fee for satellite services (e.g., USD $12,500–$25,000).	This is noted. We have amended the regulatory fees for the proposed Landing Rights Authorisation as follows: i) Application fee: KES 65,000 ii) Initial license fee: KES 3,250,000 iii) Annual operating fee: Not Applicable iv) License term: 15 years

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				fundamentally different economic and operational models. NGSO systems, for instance, require substantial capital investment not only during deployment but also for the periodic replenishment of satellites to maintain the functionality and coverage of their constellations. Unlike subsea cables, which have static infrastructure with minimal physical upgrades, NGSO constellations demand continuous investment in satellite replacements, technological upgrades, and orbital maintenance. These recurring costs reduce the financial capacity of NGSO operators to absorb high upfront licensing fees and recurring charges. Moreover, NGSO systems aim to provide global, seamless coverage, often focusing on underserved and remote regions where revenue generation per user is typically lower than the dense urban markets. NGSO operators also face unique technical and regulatory challenges, such as spectrum sharing and collision avoidance, which require additional resources and compliance measures. The operational dynamics of NGSO satellites are not directly comparable to those of subsea cables, which have a static, high-capacity infrastructure with stable operational models. Subsea cables primarily serve as backbone infrastructure for densely interconnected global	• Introducing scaled annual operating fees based on actual usage or revenue, rather than fixed minimum fees.	

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				networks, while NGSO systems target a diverse range of use cases, including high-speed connectivity in remote areas, disaster resilience, and enterprise solutions. Given these fundamental differences, applying the same fee structure to NGSO satellites as to subsea cables fails to account for the unique economic realities and operational challenges of satellite operators. Such an approach risks discouraging investment in NGSO networks, which are critical to addressing the digital divide and providing innovative connectivity solutions. Impact of Proposed Fees on Satellite Services The proposed fee structure risks discouraging investment in satellite services for several reasons: i) Disproportionate Fees: The steep increase in fees places an undue financial burden on satellite operators, particularly new entrants looking to establish a presence in Kenya. ii) Misalignment with Economic Models: Unlike subsea cables, satellite operators often operate with leaner revenue streams, especially in emerging markets where they aim to provide affordable connectivity to underserved areas.		

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				iii) Barrier to Innovation: High fees may deter operators from introducing innovative satellite technologies, such as NGSO constellations and ESIM applications, that could significantly enhance Kenya's connectivity landscape.		
85.	Daniel Tesfagaber	Rivada Space Networks GmbH	Policy Alignment and Investment Attraction	Aligning the proposed regulatory framework with Kenya's National ICT Policy Guidelines of 2020 is essential for fostering investment and innovation. The guidelines emphasise lowering barriers to entry and encouraging new ideas, both of which are critical for attracting satellite operators. Prohibitive fees or overly restrictive licensing conditions could undermine these goals and discourage global satellite operators from considering Kenya as a strategic hub.	We urge the Authority to adopt a regulatory framework that balances simplicity, fairness, and competitiveness. Provisions should support the long-term growth of satellite services, enabling Kenya to leverage its geographical position as a gateway for regional and global connectivity.	This is noted One of the objectives of this Market Structure review is to simplify and clarify the scope of various licence categories. One of the objectives of this market structure review is to provide clarity on the scope of the various licenses. We have amended the regulatory fees for the proposed Landing Rights Authorisation as follows: i) Application fee: USD 500 ii) Initial license fee: USD 25,000 iii) Annual operating fee: Not Applicable iv) License term: 15 years Further we would like to point out that our proposal does not aim to increase costs, barriers, and complexity to the existing framework, but rather creates an opportunity for wider scope for the licence holders regardless of technology or system adopted. We believe that by revising the proposed initial licence fee from KSHs 15,000,000 to USD 25,000 makes the licence more affordable. Please note that there is no Annual Operating fee associated with this licence.
86.	Daniel Tesfagaber	Rivada Space Networks GmbH	Advantages of Satellite Systems Over Subsea Cables	Rivada's Outernet architecture provides a clear example of how satellite systems can complement and, in some cases, surpass subsea	The Authority should recognise the unique resilience and strategic importance of satellite systems in the regulatory framework, encouraging investment	This is noted.

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				cables in delivering global connectivity. Unlike traditional satellite systems that rely on gateways and subsea cables for international traffic, Rivada's Outernet eliminates this dependency. The network provides global, gateway-independent connectivity, ensuring resilience against disruptions to terrestrial or subsea infrastructure. Recent incidents of damage to subsea cables, which caused significant connectivity disruptions, highlight the vulnerabilities of cable-based systems. In contrast, satellite systems like Rivada's Outernet ensure continuous, secure, and reliable connectivity even during infrastructure failures. This resilience is particularly critical for Kenya's strategic sectors, including finance, logistics, and disaster management.	through supportive policies and proportionate fees.	
87.	Nihan Yalçın	Plan-S Satellite & Space Technologies	Proposed Fee Structure and Its Market Impacts	We recommend adopting a tiered/sub-classified licensing and/or fee structure for satellite services based on classifications such as service features, market potential, etc. to encourage small-scale operators and new entrants to contribute to social and economic development of Kenya without undue financial constraints and barriers. Additionally, clear distinctions between IoT (low-data rate communication) and broadband and real-time communication services should be made for charging satellite operators based on service capabilities and market	**a) Proposed Fee Structure and Its Market Impacts** One significant change is the substantial increase in the initial cost of the Satellite Landing Rights ("SLR") license. This fee is proposed to be raised from USD 12,500 to approximately USD 115,000, which represents an almost 1,000% increase. In addition to this substantial initial fee, operators would be required to pay an annual operating fee of 0.4% of their gross turnover. These financial requirements, while intended to enhance regulation, could inadvertently create barriers for small-scale operators and new entrants, potentially limiting competition and innovation.	Your proposal on a tiered an/or tailored approach to licensing is not adopted on account of technology and service neutral approach adopted in the ULF. Your concerns relating to service capabilities and market potentials will be addressed through amendment of the proposed regulatory fees for the Landing Rights Authorisation as follows: i) Application fee: USD 500 ii) Initial license fee: USD 25,000 iii) Annual operating fee: Not Applicable iv) License term: 15 years

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				potentials, with tailored licensing and/or fee frameworks that recognize their unique features and capabilities. While we commend the CA's commitment to modernising Kenya's telecommunications market, we believe there is an opportunity to reconsider the proposed licensing framework to ensure it contributes to the social and economic development of Kenya, increase the efficiency of scarce resources for the benefits of Kenyan citizens. By adopting a balanced approach that promotes inclusivity, encourages healthy competition, and recognises the unique importance of satellite services for underserved areas, the framework can better support sustainable growth, innovation, and connectivity. We respectfully request that you reconsider the proposed fee structures in light of the elements outlined in this letter and revise them to foster a robust, dynamic, and competitive market structure that benefits all stakeholders of Kenya.	We would like to hereby highlight potential impacts of the proposed fee increase on the Kenya market as satellites play a critical role in providing connectivity to rural and underserved areas, which often lack access to terrestrial infrastructure. These regions often rely on satellite services for essential communication needs in agriculture, environmental monitoring, animal tracking, and asset tracking, all of which are critical for enhancing the efficiency of businesses across various sectors. Increased financial obligations under the proposed framework could hinder efforts to expand access in these areas, undermining Kenya's commitment to bridging the digital divide. While the CA's objectives aim to promote fairness and competition, the increased costs could result in unintended consequences, including barriers to entry and reduced competition. This, in turn, may result in diminished innovation, lower service quality, Higher prices, underutilised resources, and the potential abuse of dominant position. First and foremost, direct or indirect barriers to market entry and heavy financial burdens could disproportionately impact small-scale operators and new entrants. These players may find it challenging to manage such financial demands, which could discourage them from entering the market as this will obviously reduce competition in the market. The increased licensing fees and annual levies could impose a significant financial burden on small-scale operators with limited resources. This could hinder their ability to invest in infrastructure, expand their operations, and compete effectively. Meanwhile, larger and already dominant operators, with established market presence	

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					and significant financial resources, are less likely to be affected by such increased fees. We believe that lack of competition reduces the motivation for companies to innovate, leading to technological stagnation and slower progress in satellite communications. Additionally, this situation often leads to a decline in service quality, leaving customers with poorer experiences and fewer alternatives. Another critical concern is the underutilisation of scarce resources, such as spectrum, which can stifle economic efficiency and industry potential. Furthermore, the absence of new players also removes an essential driver of industry growth. New entrants often bring fresh ideas, capital, and technologies that drive innovation and expand market opportunities. Without them, the overall pace of development in the industry slows, leaving opportunities for economic growth, technological advancement, and job creation untapped. The proposed fee structure also risks limiting Kenya's global competitiveness in the satellite and broader telecommunications markets. Moreover, countries that limit competition in the satellite industry risk slowing the growth of their domestic markets, potentially making it more challenging to attract international investment and forge valuable partnerships. If there is no competition in a market, existing players may engage in anti-competitive practices or exert undue influence on regulatory bodies, shaping policies to their advantage and creating. Imbalances in the sector. This may negatively impact the small-scale satellite operators and regional service providers as well as Kenyan citizens due to lack of rich	

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					service ecosystem and competition. Such challenges highlight the importance of maintaining a balanced competitive landscape to ensure sustainable growth and innovation in the industry. Furthermore, the proposed changes may disproportionately affect satellite service providers, which are critical for delivering connectivity to rural and underserved areas. These areas often rely on satellite services due to the limited reach of terrestrial infrastructure. By imposing significant financial obligations on operators, the proposed framework could hinder efforts to expand connectivity in these regions, undermining Kenya's commitment to bridging the digital divide. Additionally, it is expected that satellite operators will impose higher landing rights and annual fees on Kenyan citizens to overcome these high rates. **b) Differentiation between the Servies** It is crucial to ensure that the same financial conditions cannot be uniformly applied to all operators, regardless of their size or market segment. Instead, revenue-based classifications and tiered/sub-classified fee structures should be considered, considering factors such as service features, market size, and operational scale. We believe that such an approach would enable small-scale operators and new entrants to participate in the market without being overwhelmed by financial constraints, fostering a competitive and dynamic ecosystem. Additionally, the lack of differentiation between IoT services (low-data rate communication) and satellite broadband and real time services such as NGSO FSS	

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					services in the proposed framework is main concern. This lack of differentiation could hinder the development and adoption of these technologies, potentially limiting their potential to drive economic growth and improve service delivery in various sectors. For example, IoT services are critical for driving innovation and efficiency in sectors like agriculture, logistics, environmental monitoring, and maritime but often operate on lower revenue margins. Satellite broadband services, on the other hand, involve unique technological requirements and higher revenue potential. Treating These services uniformly under a single fee obligation could stifle their growth and inhibit innovation. A tailored approach with distinct licensing and/or fee structures is necessary to Promote their sustainable developments and address the specific requirements of each segment.	
88.	Betty Kerubo	Bayobab	Section B2	1. We request the Authority to clarify on whether the existing SCLR licensees be required to transition to the Landing Rights Licence at expiry of their licence terms. 2. Investors intending to transit through the country should not be required to acquire a landing rights licence	One of the key reasons and advantages for sub marine Consortium cable members is that in territories where they do not intend to commercialise capacity in county, they are not required to get licenses/permits for transit through the territory. This then serves as an incentive to invest in cable and achieve the overall intention of bringing the internet to underserved communities. Therefore, whereas this change to the license is stated to accommodate Investors looking to leverage Kenya's unique location, we believe the requirement for Investors intending to transit through the country to acquire this licence will have a negative effect of driving Investors away.	We clarify that: Current holders of the Submarine Cable Landing rights licence will have the licences replaced with the following new licenses at no cost under the proposed market structure for the remainder of the Licence term. i. Landing Rights License; and ii. International Gateway Systems and Services License. Current Holders of the existing Satellite Landing Rights Licence will be issued the proposed Landing Rights Licence at no additional cost for the remainder of the Licence term. Investors intending to transit through the country will have the option of transiting through infrastructure operated by licensees holding both IGSS and NFP-Tx as appropriate or building their

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						own infrastructure and, therefore, requiring a Landing Rights Authorisation.
89.	Peter Maritim	Intracom	SECTION ON LICENSING: Submarine Cable Landing Rights (SCLR) Satellite Landing Rights (SLR) International Gateway Systems and Services (IGSS) Licence	On LICENSING, it is being proposed that: a) The SLR and SCLR Licence categories will be merged to create a new Licence category called the Landing Rights Licence (LRL). b) The existing SCLR Licence must be modified to exclude international gateway provisions. c) holders of Landing Rights Licenses (LRL) shall only commercialize the capacity within Kenya through licensed IGSS licensees or provide end-user/direct- to-device (D2D) services through duly licensed ASPs. d) The existing IGSS Licence must be modified to make it technologically neutral and permit a Licence holder to utilise any form of technology to handle international traffic. Therefore, billing and switching of international traffic will be a preserve of this Licence category; there will be no change in the fees charged for the IGSS Licence.	On LICENSING, my response is as follows: a. Merging SLR and SCLR License categories is a welcome move as it saves license fees needed to renew them separately. The new category of the unified licence, Landing Rights Licence (LRL), also eases license administration by taking into consideration emerging and efficient technologies used to land/evacuate international traffic by sea/land or air. b. Modifying SCLR/LRL to exclude international gateway provisions is a dangerous and irresponsible regulatory move as it removes any form of consumer protection from foreign hostilities. LRL (new category) alone automatically creates a port of import/export of digital content which makes IGSS an automatic license alongside it even though an LRL holder may not trade (directly) locally with end consumers. Therefore, an upstream regulatory checkpoint with a clear imposition of responsibility on the part of the licensee through various regulatory instruments becomes necessary for consumer protection. The need for regulatory oversight arises in cases such as where a powerful foreign actor in possession of unique and threatening technical overreach overwhelms the capabilities of a licensee with landing rights. It is at this point that only the resources of a state actor (regulator) can be marshalled to protect the end consumers downstream. c. Holders of LRLs who choose to trade locally with end consumers must be	This is noted We clarify that under the ULF, services to end-users cannot be provided under the infrastructure licences. These are Landing Rights, IGSS and NFP-Tx licence categories. Services to end users are provided under the ASP and CSP licence categories.

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					compelled to, alone or in partnerships, have local presence to offer subscription management services. The subscription management services would offer a point of presence in the country focusing on the following: subscription fee collection, marketing and sales, technical and installation support, operation of a national call centre, guarantees of quality of service and customer protection. Modifying the existing IGSS License making it technologically neutral is a progressive move to account for emerging technologies and innovations in the sector.	
90.	Micheal Murungi	Google	B, B.2 International Gateway Licence, Submarine Cable Landing Rights and Satellite Landing Rights	Technology-neutrality and flexibility; We recommend that amendments should be made to the Public Consultation Document to the effect that the IGSS, SCLR, and SLR licences operate under a technology-neutrality principle as envisaged under the ULF 2021. We propose that there should be no licensing and regulatory requirements with respect to an entity leasing sub-sea cable capacity from a third party provided that such third party is licensed. **Licencing Period;** We recommend that amendments should be made to the Public Consultation Document to the effect that the licensing period be extended to twenty (20) years, (up from 15 years) is recommended,	Changes to the regulatory and licensing structure for the licensees identified above, aligned with the technology-neutrality principle of the ULF 2021, can positively impact companies such as Google, their Products, and partners by driving creativity and innovation in the sector. A technology-neutral approach ensures that no specific technology is favored, fostering fair competition and innovation across diverse platforms. Simplified and balanced licensing frameworks encourage market entry, support the deployment of a wide range of solutions, and facilitate scalable partnerships. By maintaining neutrality and clarity, the regulatory environment can promote technological advancement while aligning with national priorities and global standards. A longer licensing timeframe will provide greater certainty and stability, making the market more attractive to investors. This will also allow sufficient	This is noted We clarify that under the proposed amendments to the ULF, only licenced IGSS may acquire capacity directly from holders of Landing Rights Authorisations. Additionally, IGSS licensees will be authorised to lease capacity to NFP-Tx licensees only. With regard to the licensing period, the Authority is of the view that the 15-year period is adequate for licensees to recoup their investments and provides a reasonable time frame for the Authority to review the performance of a licensee and any other regulatory issue. Further, the licensing framework provides licensees with an opportunity to renew their licences depending on their compliance status. The proposed regulatory fees for the Landing Rights Authorisation has been revised as follows:- i) Application fee: USD 500 ii) Initial license fee: USD 25,000 iii) Annual operating fee: Not Applicable iv) License term: 15 years

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				considering the rapid adoption of internet connectivity. **Licence fees;** We recommend that amendments should be made to the Public Consultation Document to the effect that the AOL fees be capped at KShs.2,000,000 (approx. USD 15,500) or 0.4 per cent of the Annual Gross turnover, whichever is higher). The initial licence fees should be revised downward to KES 4,000,000 (approx. USD 30,895). **Transitional period;** We propose amendments to the Public Consultation Document to the effect that the current holders of SLR and SCLR licences are guided with clarity on the licensing transitional periods (if any) as the SLR and SCLR licence categories will be merged to create the Landing Rights Licence category.	time for licence holders to recoup the investments. The rationale for the licence fee recommendation is to encourage the licensees to take up either licence depending on the scope of operations. This will increase investment in the sector, thereby supporting regulation and quality internet connectivity for end-users. The proposal on transitional periods will provide licensees with greater certainty as to the applicability and scope of the Landing Rights Licence.	With regard to the transitional period, we clarify that:- a) Current holders of the Submarine Cable Landing rights licence will have the licences replaced with the following new licenses at no cost under the proposed market structure for the remainder of the Licence term. i) Landing Rights License; and ii) International Gateway Systems and Services License. b) Current Holders of the existing Satellite Landing Rights Licence will be issued the proposed Landing Rights Licence at no additional cost for the remainder of the Licence term.
91.	Pressy Akinyi	American Chamber of Commerce	Section B1	Section B1 of the Market Structure Review outlines three existing types of licenses for international connectivity: Submarine Cable Landing Rights (SCLR), Satellite Landing Rights (SLR), and International Gateway Systems and Services (IGSS)—each with distinct fees and compliance obligations. The review itself highlights that this framework does not align with the technology-neutral principles of	AmCham proposes that regulatory simplicity and certainty be prioritized, as they are key factors in attracting and retaining international investment. A clear, consistent, and technology-neutral licensing framework will enhance market confidence, minimize unnecessary regulatory burdens, and foster long-term growth in Kenya's digital economy.	The concept of Landing Rights Authorisation is well-established internationally with the aim of availing international connectivity infrastructure and capacity to downstream providers of end-user services. In this regard, the **Landing Rights Authorization** will *permit the transmission of telecommunication signals to Kenya to facilitate international connectivity between Kenya and the rest of the world, where the holder of the authorization may establish a landing station in the country where necessary.*

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				the existing Unified Licensing Framework (ULF), a point with which we agree. Given this, it is unclear why the Market Structure Review proposes two separate international connectivity licenses—Landing Rights License (LRL) and IGSS - instead of a single, technology-neutral international gateway license. A streamlined, unified approach would reduce complexity, ensure regulatory consistency, and better support technological innovation and investment.		**On the other hand, the Modified IGSS Licence** provides for the deployment o**f** *communications systems of any kind used for the transmission and reception of telecommunications traffic from a point(s) in the Republic of Kenya to points outside the Republic of Kenya. The Switching/Routing and the Network Control/Operation Centre shall be situated in the Republic of Kenya.*
92.	Pressy Akinyi	American Chamber of Commerce	Proposed scope of activities authorized by Landing Rights Licence	The Market Structure Review proposes modifying the scope of the existing Submarine Cable Landing Rights (SCLR) license to exclude international gateway provisions. However, the current SCLR license explicitly authorizes licensees to construct, install, and operate subsea systems for the conveyance of telecommunications traffic between Kenya and the rest of the world. Given this, it is unclear what specific activities will continue to be authorized under the existing SCLR or the newly proposed Landing Rights License (LRL). Additionally, in paragraph 31 of Section B2, the review states that the LRL will "allow investors to land signals using any technology". The term "land signals" is not clearly defined, and further clarification is needed to understand its intended	We propose providing greater clarity on the new licensing proposals, specifically outlining the activities that will be authorized under the existing SCLR and the newly proposed LRL. Additionally, further explanation of the term "land signals" is needed to ensure regulatory transparency and industry alignment.	

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
93.	Pressy Akinyi	American Chamber of Commerce	Paragraph 31 of Section B2	The proposal to expand the scope of the Landing Rights License (LRL) to accommodate investors leveraging Kenya's strategic location includes provisions for landing signals using any technology and the establishment of terrestrial transit cables, satellite hubs serving customers outside Kenya, and other satellite services. However, the term "investor" in this context is not clearly defined, raising questions about whether foreign investors would be eligible to apply for licenses under this new category. Clarification on investor eligibility and participation criteria is necessary to ensure transparency and alignment with Kenya's investment and regulatory framework.	We propose defining the term "investor" to provide clarity on eligibility for licensing under the expanded LRL category. Additionally, it would be helpful to specify whether such entities must be locally incorporated and whether they are required to meet foreign direct investment conditions, such as local personnel or ownership requirements.	The term, *"investor"* has its standard meaning, and in the context of this market structure review can either be a local or foreign entity (natural or legal person) that seeks to be licensed to provide communication services in Kenya. Foreign investors are required to comply with relevant government policies including those on foreign direct investment, local personnel and ownership requirements. We further clarify that 30 per cent local equity requirement previously required for foreign firms was repealed in 2023 and is therefore no longer applicable.
C. ORDINARY VENDORS and EQUIPMENT DISTRIBUTORS						
94.	Hillary Kiprop Cheserek	Kenya Education Network	Section C, Paragraph 37 and Paragraph 39 "Under section C (Ordinary Vendors and Equipment Distributors) of the market review document on paragraph 37, the authority proposes to introduce a new license category known as Telecommunications Equipment Distributor (TED). This license is issued to any wholesale supplier of communications equipment and an entity that wishes to import communications equipment for sale.	We propose an amendment to the proposal to allow holders of NFP T1, T2, T3 and ASP T1, T2, T3 to seek type approvals services without the need to apply for a TED license. It is therefore proposed that Paragraph 39 be worded as follows. "Consequently, only licensed TEDs will be able to seek type approval/acceptance services. Every TED will ensure that all low power communications equipment they sell in the market has been type approved, has a minimum one-year warranty period and avail spares for all equipment its manufacturers/imports. Licensed operators holding NFP T1 to T3	Current holders of ASP and NFP licenses seek private type approvals services that allow them to import equipment for use within their own networks. The unintended consequence of paragraph 39 is hindering licensed holders from importing telecommunications equipment for their own internal use.	This proposal is adopted, we have amended Clause 37as follows:- a) Introduction of a new Licence category, Communication Equipment Distributor (CED) Licence, to be issued to any supplier of communications equipment who imports or acquires such equipment from local manufacturers for resale in Kenya. b) 37.2 Deleted *c)* Introduce a new clause that reads as follows:- *No licence shall be required under this market structure in order to manufacture communications Equipment in Kenya. However, such local manufactures that desire to sell their equipment in Kenya shall be*

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			Paragraph 39 of the document allows only licensed TEDs, to seek type approval/acceptance services. "	and ASP T1 to T3 are exempted from this requirement and can seek type approval/services"		*required to do so through a licensed TED or acquire a TED licence.* d) Introduction of a new paragraph. after clause 37 that reads as follows: *Holders of ASP, CSP, CNSP and infrastructure licences are Authorised to seek type-approval and import ICT equipment for the deployment of their services but not for resale*. e) Clause 39 will be amended as follows: *All entities permitted to import communications equipment shall be required to seek Type Approval in accordance with requirements set out in law.*
95.	Peter Maritim	Intracom	Section on Ordinary Vendor and Distributor	On ORDINARY VENDOR AND DISTRIBUTOR, it is proposed that: Introduction of a new Licence category, Telecommunication Equipment Distributor (TED), Licence, to be issued to the following entities: a) Any wholesale supplier of communications equipment; and b) Any entity who wishes to import communications equipment for sale TED regulatory fees will be: a. Application fee: Kshs. 5,000 b. Initial Licence fees: Kshs. 250,000 c. Annual operating fees: Kshs. 120,000 or 0.4% of gross annual turnover whichever is higher d. Licence Term: 15 years.	On ORDINARY VENDOR AND DISTRIBUTOR, my response is as follows: Introduction of the new license category is a prudent move to safeguard consumers from unscrupulous vendors who might, knowingly or unknowingly, become conduits of intended or unintended surveillance especially in the age of digital interconnectedness. A vendor purporting to offer these services must be compelled to display their license at all times or on demand as this imposes a sense of responsibility on their part therefore acting as a way to protect consumers of their services. The fees should be reviewed downwards to reflect market conditions. They should not be a barrier to entry or operation, as many SMEs depend on these businesses to create employment and improve livelihoods. Consumer protection, not revenue from fees, should be the overriding factor.	ORDINARY VENDOR AND DISTRIBUTOR SECTION The proposed fee structure will ensure that only firms that have the financial capacity to meet the envisaged regulatory requirements such as warranties, stocking of spare parts will be licensed as CEDs and exclude entities that do not have such capacity. Entities that cannot afford this shall source their equipment for resale from the CEDs.
96.	Michael Mwangi	Megatech Solutions Ltd	C.2. Proposals - 43.	C.2. Proposals 43. TradeNet data is not sufficient to reviw TECs for	C.2. Proposals 43. TradeNet data is not sufficient to reviw TECs for TED as some import through other entities	This is noted and adopted.

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
				TED as some import through other entities		We clarify that the following clause 43 will be revised to read as follows: All current holders of the TEC licence will be eligible to be issued a modified TEC Licence as well as a TED licence for the remainder of their licence terms at no extra cost.
97.	Michael Mwangi	Megatech Solutions Ltd	C.2. Proposals - 44.	44. Proposed TED license fees is too high	44. Proposed TED license fees is too high	The proposed fee structure will ensure that only firms that have the financial capacity to meet the envisaged regulatory requirements such as warranties, stocking of spare parts will be licensed as TEDs and exclude entities that do not have such capacity. Entities that cannot afford this shall source their equipment for resale from the TEDs.
98.	Barrack Otieno	Association of Community Networks in Kenya	C.2. Proposals 45	The proposal to introduce nil regulatory fees for CEVs (Communication Equipment Vendors) is commendable, as it encourages market participation. a) However, we recommend the following enhancements for effective implementation: Introduce a database for registered vendors and distributors to ensure traceability and compliance with IMEI standards. b) Consider a phased approach to implementing the TED (Telecommunication Equipment Dealer) license to provide vendors with sufficient time to align their operations with the new requirements. c) Create a special category for not-for-profit and research entities importing equipment, exempting them from regulatory fees to support innovation and development.	a) A central registry of vendors and distributors would enhance compliance, mitigate illegal equipment imports, and maintain the integrity of the market. Ensuring adherence to IMEI standards is particularly important for combating counterfeits and enhancing device security. b) The gradual rollout of the TED license will prevent disruption and allow vendors to adapt their processes, ensuring smoother transitions and broader industry compliance. c) Exempting not-for-profit and research entities from regulatory fees will promote innovation, support research initiatives and align with broader national goals to foster technological advancement as they often operate with minimal budgets.	We clarify that the vendor licence category has not been subject to regulatory fees and this shall be maintained under the current proposal. They will now, however, be required to only purchase equipment's from TEDs a) The requirement to only purchase from TEDs shall ensure traceability of equipment sold by CEVs b) The phased implementation of the TED shall be considered under the transitional provisions on the implementation of the revised framework. c) CNSPs, as non-profit licencees, are also permitted to Import equipment for the deployment of their own services. Entities that seek to import equipment for research purposes shall be catered for under the Authority's regulatory sandbox. Additionally, importation of ICT equipment for special purposes such as not-for-profit or research are considered on a case-by-case basis.

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99.	Fiona Asonga	TESPOK	Section C. Clause 34	Please give a detailed definition and detailed examples of what constitutes low power telecommunications equipment e.g. CPEs, Access Points, Smart TVs, Smart Watches etc. Please also define how much power is classified as low power.	The definition of low power telecommunications terminal equipment is not clear. It is not therefore clear which equipment will require a Communications Equipment Vendor license and which one will require a Telecommunications equipment Distributor license for sale and supply.	The definitions of Low-power devices requested are provided in the Authority's "Guidelines on the Use of Radiofrequency Spectrum by Short Range Devices" available on our website.
100.	Fiona Asonga	TESPOK	Clause C.2 37.2	A definition of what qualifies as communication equipment is necessary, such as telecommunication equipment used by licensees for the operation of licensed systems. This clause provides that foreign manufacturers who wish to distribute their own equipment locally will be required to obtain a TED license. Are foreign manufacturers who distribute their products through licensed TED's also required to obtain a TED license?. This is not clear. We propose that the requirement for foreign manufacturers to obtain a TED license be removed especially for foreign manufacturers who distribute through licensed TED. We propose that you clarify that foreign manufacturers do not need a TED, but can only sell to local TEDs. Does the definition of communication equipment for sale include things such as modems and set top boxes ? Proposal: Licensees to be exempted as they bring this equipment to service their customer needs. More clarity required on	Lack of a definition will lead to unintended ambiguity, eg may be implied to mean that importers of mobile phones, or of minor components not specific to telecommunications equipment would also require the license. This clause is not clear on whether foreign manufacturers that distribute through licensed TEDs are required to obtain a TED license. This clause may stifle the sale and distribution of telecommunications equipment in the Kenyan market as foreign manufacturers may not open to obtaining licenses in Kenya.	We clarify as follows: a) The use of the expressions "communication equipment" or "ICT equipment" in the context of this market structure review is that ascribed to the term "equipment" in the KICA. *b)* Clause 37 will be amended as follows: *Introduction of a new Licence category, Telecommunication Equipment Distributor (TED) Licence, to be issued to any supplier of communications equipment who imports or acquires such equipment from local manufacturers for resale in Kenya.* c) 37.2 Deleted d) Introduce a new clause that reads as follows:- *No licence shall be required under this market structure in order to manufacture communications Equipment in Kenya. However, such local manufactures that desire to sell their equipment in Kenya shall be required to do so through a licensed TED or acquire a TED licence.* e) Introduction of a new paragraph. after clause 37 that reads as follows: *Holders of ASP, CSP, CNSP and infrastructure licences are Authorised to seek type-approval and import ICT equipment for the deployment of their services but not for resale.* f) Clause 39 will be amended as follows: *All entities permitted to import communications equipment shall be required to seek Type Approval in accordance with requirements set out in law.*

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				the intention or gap to be addressed by TED especially for operating licensees.		
101.	Fiona Asonga	TESPOK	Clause 39	Please clarify on whether low-power communications equipment import, distribution and sales requires a TED license or is covered under the CEV CLASS license Please also provide a clear definition for low power communications equipment. What are the specifications an equipment should have to qualify as a low power telecommunication equipment?	This clause is not clear and contradicts clause 41 of the proposed market structure since it implies that to import (with type approval) of a low power device, it is necessary to have TED. Clause 41 provides that low power devices do not need TED, they only need a CEV.	The importation and distribution of low-power equipment among other communication equipment will be a preserve of the TED licence holder, while the sale of this equipment to end users will be undertaken by holders of CEV licence. Please note that clause 41 has not provided that low-power devices do not need a TED licence. In addition, the definition of Low-power devices requested are provided in the Authority's "Guidelines on the Use of Radiofrequency Spectrum by Short Range Devices" available on our website.
102.	Fiona Asonga	TESPOK	Clause 41	Please clarify what the difference between the proposed communications vendor licensee and the proposed telecommunication equipment distributor license is intended to be.	It is not clear what the distinction is, and rationale for it.	
103.	Fiona Asonga	TESPOK	Clause 44	This clause provides for payment of regulatory fees by TED licensees as below:- a. Application fee: Kshs. 5,000 b. Initial Licence fees: Kshs. 250,000 c. Annual operating fees: Kshs. 120,000 or 0.4% of gross annual turnover whichever is higher d. Licence Term: 15 years Please clarify what revenue the 0.4% applies to? Some entities carry out other businesses other than supply maintenance and installation of telecommunications equipment. It is not clear whether the 0.4% only apply to revenue for the supply of the equipment or to the entire	The object of this proposal as listed under clause 9 of the Proposed market structure is to remove market barriers. This requirement for separate license and fees for equipment supply, installation and maintenance will beat this object as it will increase the cost of doing business for operators and also increase costs to consumers for operators that carry out supply and installation. This requirement for separate license and fees for equipment supply, installation and maintenance will increase the cost of doing business for licensees and also increase costs to consumers	We clarify as follows: a) TED license holders shall be billed based on 0.4 per cent of the Annual Gross turnover accrued from licensable services; b) TEC license holders shall be billed based on 0.4 per cent of the Annual Gross turnover accrued from licensable services; and c) Holders of both TEC and TED will be billed based on 0.4 per cent of the combined turnover. All current holders of the TEC licence will be eligible to be issued a modified TEC Licence as well as a TED licence for the remainder of their licence terms at no additional cost

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				revenue of the business entity. The regulations should clarify that the 0.4% shall only apply to revenue from the sale, supply of the telecommunication equipment (excluding low power telecommunication equipment) Secondly, for licensees that hold both TED and TEC license does it mean they will be required to pay 0.8% (i.e. 0.4 % +0.4%) of their revenue since Clause 53 also provides that they will be required to also pay a similar percentage as annual operation fees under TEC license. We Propose that holders of TEC and TED only pay license annual operating fee under one license. This is because when an operator is contracted to supply and install telecommunication network or equipment the fees are rarely separated for the equipment and the installation, but it is paid as a whole. Please also clarify whether current TEC licensees who are to be issued with a TED license will be required to pay any fees.		
104.	Ian Siako	Safaricom	Foreign manufacturers that wish to distribute their own equipment locally will be required to obtain this Licence. Manufacturers domiciled in Kenya will, however, not be required to obtain any licence, but will be required to sell to only licensed TEDs. Any local manufacturer that wishes to	We seek clarity as to whether Manufacturers domiciled in Kenya and any local manufacturer are envisaged to be 2 separate categories of manufactures. If so, we request clarity on the definitions of the same. If they are not separate categories, they seem to contradict each other.	The clarity will address the possible ambiguity where a manufacturer domiciled in Kenya can also be construed to mean a local manufacturer. Curing the ambiguity will ensure clarity on the category which requires a license, and which one does not.	We clarify as follows Clause 37 will be amended as follows; a) Introduction of a new Licence category, Telecommunication Equipment Distributor (TED) Licence, to be issued to any supplier of communications equipment who imports or acquires such equipment from local manufacturers for resale in Kenya. b) 37.2 Deleted c) Introduce a new clause that reads as follows:-

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			distribute communications equipment to local Vendors will be required to obtain a TED Licence;			*No licence shall be required under this market structure in order to manufacture communications Equipment in Kenya. However, such local manufactures that desire to sell their equipment in Kenya shall be required to do so through a licensed TED or acquire a TED licence.* d) Introduction of a new paragraph. after clause 37 that reads as follows: *Holders of ASP, CSP, CNSP and infrastructure licences are Authorised to seek type-approval and import ICT equipment for the deployment of their services but not for resale*. e) Clause 39 will be amended as follows: *All entities permitted to import communications equipment shall be required to seek Type Approval in accordance with requirements set out in law.*
105.	Miriam Maina	LTK	Paragraph 37.2	Replace "any entity who wishes to import communications equipment for sale" with "any entity in the business of importing communications equipment, except where the equipment sale is part and parcel of delivery of telecommunication service in which the customer also purchases the communications equipment that is used.	Any provider of telecommunications services is bound to itself import communications equipment for use in delivery of the telecommunications services; in such case where a sale is part and parcel of delivery of service (and not a sale of equipment in itself), it needs to be clear that such instances do not make them a telecommunication equipment distributor who must also have the proposed TED license.	
106.	Miriam Maina	LTK	Paragraph 39	Add the underlined phrase below to the statement. "Consequently, only licensed TEDs and telecommunication service providers importing equipment themselves for use in or sale in course of delivery of telecommunication services will be able to seek type approval/acceptance services."	To clarify that other licensed telecommunication service providers licensed by the Authority and who wish to import equipment directly may also apply for type approval. However, where they use equipment sourced from TED licensees, they need not apply for it as it will be responsibility of TEDs to have done so.	
107.	Miriam Maina	LTK	Paragraph 37	A definition of what qualifies as communication equipment is necessary, such as telecommunication equipment used by licensees for the operation of licensed systems.	Lack of a definition will lead to unintended ambiguity, eg may be implied to mean that importers of mobile phones, or of minor components not specific to telecommunications equipment would also require the license.	
108.	Miriam Maina	LTK	Paragraph 41	Please clarify what the difference between the proposed communications vendor licensee and the proposed telecommunication equipment distributor license is intended to be.	It is not clear what the distinction is, and rationale for it.	
109.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	37.3 Foreign manufacturers that wish to distribute their own equipment locally will be required to obtain this Licence. Manufacturers domiciled in Kenya will,	This needs to be clarified. Does it mean that Manufactures that need to sell equipment directly to clients do not require the license? or does it mean that they are	From the reading of the section, it is not clear whether Manufacturers domiciled in Kenya can sell directly to clients who are not TEDs without a licence.	

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			however, not be required to obtain any licence, but will be required to sell to only licensed TEDs. Any local manufacturer that wishes to distribute communications equipment to local Vendors will be required to obtain a TED Licence;	precluded from selling directly to clients who are not TEDs?		
110.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	37. Introduction of a new Licence category, Telecommunication Equipment Distributor (TED), Licence, to be issued to the following entities: 37.1 Any wholesale supplier of communications equipment; and 37.2 Any entity who wishes to import communications equipment for sale. 37.3 Foreign manufacturers that wish to distribute their own equipment locally will be required to obtain this Licence. Manufacturers domiciled in Kenya will, however, not be required to obtain any licence, but will be required to sell to only licensed TEDs. Any local manufacturer that wishes to distribute communications equipment to local Vendors will be required to obtain a TED Licence;	We propose the deletion of this new license category in its entirety.	The introduction of additional license categories and costs will increase the cost of doing business, which will ultimately be passed on to the client. This goes against the principles of the National ICT Policy in terms of inclusivity and will further increase the digital divide.	The proposal is not adopted. Despite the ease of entry in this market segment, most vendors operate without a Licence, often importing and selling substandard communication devices. This raises several concerns due to non-compliance with local standards, such as the requirement for a unique International Mobile Equipment Identity (IMEI). Further, the large number of vendors makes it nearly impossible to control the sale of substandard devices in the market. With the aforementioned in mind, we are of the view that the proposed TED licence will ensure that only firms with the financial capacity to meet the envisaged regulatory requirements, such as warranties and stocking of spare parts, will be licensed as TEDs and exclude entities that do not have such capacity. Entities that cannot afford this shall source their equipment for resale from the TEDs.

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
111.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	37.3 Foreign manufacturers that wish to distribute their own equipment locally will be required to obtain this Licence. Manufacturers domiciled in Kenya will, however, not be required to obtain any licence, but will be required to sell to only licensed TEDs. Any local manufacturer that wishes to distribute communications equipment to local Vendors will be required to obtain a TED Licence;	This needs to be clarified. Does it mean that Manufactures that need to sell equipment directly to clients do not require the license? or does it mean that they are precluded from selling directly to clients who are not TEDs?	From the reading of the section it is not clear whether Manufacturers domiciled in Kenya can sell directly to clients who are not TEDs without a licence.	We clarify as follows: Clause 37 will be amended as follows:- a) Introduction of a new Licence category, Telecommunication Equipment Distributor (TED) Licence, to be issued to any supplier of communications equipment who imports or acquires such equipment from local manufacturers for resale in Kenya. b) 37.2 Deleted c) Introduce a new clause that reads as follow:- *No licence shall be required under this market structure in order to manufacture communications Equipment in Kenya. However, such local manufactures that desire to sell their equipment in Kenya shall be required to do so through a licensed TED or acquire a TED licence.* d) Introduction of a new paragraph. after clause 37 that reads as follows:- *Holders of ASP, CSP, CNSP and infrastructure licences are Authorised to seek type-approval and import ICT equipment for the deployment of their services but not for resale*. e) Clause 39 will be amended as follows: *All entities permitted to import communications equipment shall be required to seek Type Approval in accordance with requirements set out in law.*
112.	Amr Ashour	Eutelsat Group	C.2. Proposals (37)	Eutelsat Group propose that CA may consider instead of adding license layer, to consider enforcement of increased penalties against those importing and selling such equipment. Eutelsat would further seek clarification from CA if the TED license is only applicable to low power terminal equipment such as mobile phones and vehicle tracking devices and does not	Introducing a new and additional type of licensing layer – that of Telecommunication Equipment Distributor (TED) will not resolve the problem of vendors operating, importing and selling sub-standard low power telecommunications terminal equipment such as mobile phones and vehicle tracking devices.	This proposal is noted. Despite the ease of entry in this market segment, most vendors operate without a Licence, oftentimes importing and selling sub-standard communication devices, thereby raising several concerns due to non-compliance with local standards, such as the requirement for a unique International Mobile Equipment Identity (IMEI). Further, the large number of vendors makes it

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
				extend to satellite terminal equipment.		nearly impossible to control the sale of substandard devices in the market.
113.	Amr Ashour	Eutelsat Group	C.2. Proposals (39)	Eutelsat Group would like to raise concerns regarding the limitation of the right to seek type approval / acceptance services only to licensed TEDs. We would kindly suggest that equipment manufacturers and licensees, that may seek to manufacture locally or import for self-use or for sale, telecommunications equipment should also be entitled to seek type approval / acceptance, and not limited to TED license holders	Restricting the right to seek type approval / acceptance to only TEDs will impose limitation on competition and may add additional unnecessary complexity to the process.	With the aforementioned in mind, we are of the view that the proposed TED licence will ensure that only firms that have the financial capacity to meet the envisaged regulatory requirements such as warranties, stocking of spare parts will be licensed as TEDs and exclude entities that do not have such capacity. Entities that cannot afford this shall source their equipment for resale from the TEDs.
D. TELECOMMUNICATIONS CONTRACTORS						
114.	Michael Mwangi	Megatech Solutions Ltd	D.2. TEC Proposals - 53.	D.2. TEC Proposals - 53. Annual operating fees: Kshs. 10,000. Maintain current 3,000	Maintain current 3,000 due to poor economic growth and restriction from importation and sales.	This is adopted. The proposed regulatory fees and Licence term for this category has been reviewed as follows are: a) Application fee: Kshs. 1,000 b) Initial Licence fees: Kshs. 7,500 c) Annual operating fees: Kshs. 3,000 or 0.4% of gross annual turnover whichever is higher. d) Term: 10 years Levying annual operating fees as a percentage of the annual gross turnover for certain license categories is based on international best practice. It is designed to ensure that regulatory fees are fair and proportionate to growth of a licensee's economic activity in the market. The Authority also levies fixed annual and one-time fees for certain licence categories.
115.	Barrack Otieno	Association of Community Networks in Kenya	D.2. Proposals 53	We recommend maintaining the current fee structure to encourage a larger number of unemployed graduates to seek formal registration under this category. Any proposed changes to the fees should be informed by a comprehensive study that evaluates the rationale and impact of the changes on the target group.	a) Keeping fees low will lower the barriers to entry for unemployed graduates, fostering entrepreneurship and formal participation in the industry. b) A study to gather feedback from stakeholders, including the Association for Community Networks in Kenya, will ensure that any fee adjustments are justified, reasonable, and aligned with the broader objectives of inclusivity and industry growth. c) Given the current economic challenges, it is critical to support emerging professionals by minimizing financial burdens and promoting accessible opportunities for formal engagement in the sector.	

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
116.	Fiona Asonga	TESPOK	Clause 48	Please clarify, What does certified mean? What kind of certificate would be issued? Who would check these certificates? It should be up to a customer to decide on acceptance or quality of installation and not the regulator as the terms and conditions of service are agreed upon between the parties. It is not also clear whether this certificate will be provided for each piece of equipment or each project? Some projects involve many pieces of equipment. We propose that this clause be deleted.	This clause is not clear. What does certified mean? Will the authority check the certificates? It should be up to a customer to decide on acceptance or quality of installation and not the regulator as the terms and conditions of service are agreed upon between the parties.	This proposal is not adopted. Certified in the context of this market structure means the signing off ICT installation works by a holder of the appropriate Technical Personnel licence issued by Authority as provided in the law and Guidelines of Undertaking ICT Infrastructure Works, 2018. This is further backed by final certifications of those installations by the Authority upon submission of the returns by the contractor. This is because the enforcement of conformance to standards is the responsibility of the Authority and not consumers.
117.	Fiona Asonga	TESPOK	Clause 49	This clause provides as follows: - "It is proposed that the scope of the TEC license shall remain as installation and maintenance of communication devices, but shall exclude manufacturing, importation, sale of devices, spares and repairs and equipment and devices". What is the difference between maintenance of devices and repairs of devices?	This clause is not clear. Doesn't repair and supply of spares fall under maintenance services?	This is noted. Whereas maintenance is undertaken on equipment that has not necessarily failed, repairs are undertaken on equipment that has failed, Clause 49 has been amended to read as follows: It is proposed that the scope of TEC Licence remains as installation and maintenance of communication devices, but shall exclude manufacturing, importation and sale of devices/spares.
118.	Fiona Asonga	TESPOK	Clause 53	Please clarify what revenue the 0.4% applies to? Some entities carry out other businesses other than maintenance and installation of telecommunications equipment. It is not clear whether the 0.4% only apply to revenue for the supply of the equipment or to the entire revenue of the business entity. The regulations should clarify that the 0.4% shall	It is not clear from this clause what revenue will be used to tabulate the annual operating fees. Please note that some companies carry out other business other than those licensed under the Act. Revenue from this business should be exempted when tabulating the annual operating fee. Secondly the additional fees proposed herein will significantly increase the operating costs of licensees who already hold other licenses under the Act thus	We clarify as follows: a) TED license holders shall be billed based on 0.4 per cent of the Annual Gross turnover accrued from licensable services; b) TEC license holders shall be billed based on 0.4 per cent of the Annual Gross turnover accrued from licensable services; and c) Holders of both TEC and TED will be billed based on 0.4 per cent of the combined turnover as is the current practice with holders of multiple licences.

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				only apply to revenue from the sale, supply and installation of the telecommunication equipment. Secondly, for licensees that hold both TED and TEC license does it mean they will be required to pay 0.8% of their revenue. We propose that holders of TEC and TED only pay annual operating fee under one license. Also, for operators that already hold another licenses with CA where they pay an annual operating fees equivalent to 0.4% of their revenue and also pay the USF levy, this increment will really increase their operational costs and as a result will increase the cost of services to consumers. We propose that operators that already hold other licenses with CA be exempted from paying the 0.4% annual operating fee under TEC and TED licenses and that the current annual operating fee (flat fee of Kshs 3000) continue to apply to such licensees.	increasing the cost of services to consumers. We therefore propose that fees currently being paid by licensees who hold other licencees with CA under the Act be maintained for the TEC license. TEC licensees should also not be required to pay separate licensee fees including annual operating fees under the TED license	
119.	Ian Siako	Safaricom	It is proposed that the scope of TEC Licence remains as installation and maintenance of communication devices, but shall exclude manufacturing, importation, sale of devices/spares, and repairs of equipment and devices.	It is proposed that the scope of TEC Licence remains as installation and maintenance of communication devices, but shall exclude manufacturing, importation, sale of devices/spares	Maintenance of communication devices includes repairs of the equipment and devices.	This is noted. Clause 49 has been amended to read as follows: It is proposed that the scope of TEC Licence remains as installation and maintenance of communication devices, but shall exclude manufacturing, importation and sale of devices/spares.
E. TECHNICAL PERSONNEL LICENCE						

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
120.	Peter Maritim	IntraCom	SECTION ON TECHNICAL PERSONNEL: Telecommunication Technical Personnel Licence; WM Telecommunication Technical Personnel Licence; EM Telecommunication Technical Personnel Licence; IMWE SECTION ON ORDINARY VENDOR AND DISTRIBUTOR	On TECHNICAL PERSONNEL, it is proposed that: Absorb these categories of Technical Personnel and issue them with a Licence that allows them to carry out installation, support and maintenance of IP networks being built establishing two different categories and the attendant classes: a) Telecommunication Engineering Personnel Licence: - Electrical and electronics Engineering, telecommunications or equivalent. i) Class A –Degree ii) Class B – Diploma iii) Class C – Certificate b) Telecommunication Systems Professionals - IT and Computer Science or equivalent. i) Class A –Degre ii) Class B – Diploma iii) Class C - Certificate	On TECHNICAL PERSONNEL, my response is as follows: Licensing of technical professionals should not be mandated where a professional chooses to work under the umbrella of a registered and appropriately licensed entity. It should be left to industry to self-organise. Some specialized certifications alone can outmatch formal education. Consideration and framework to license professionals who choose to work individually should be subjected to more public participation so as not to disadvantage talent.	This is not adopted. It is the Authority's view that services provided under this category are critical and cannot be subjected to self-regulation at this point. Clause 48 will be amended to read as follows:- Applicants for the CEC licence shall be required to apply for the Licence based on standard requirements that consider the competence of the technical staff that they propose to engage to undertake the work. We further note that the absence of regulation would potentially lead to damage to the country's networks, frequency interference as well as threats to public safety. Clause 64 addresses the onboarding of individuals that have special certifications as well as work experience and talent.
121.	Eng. Nyagaka Ondiere	Safaricom PLC	E.2, 63	Provision should be made for temporary licensing for a maximum of two years of non-resident practitioners, and only for specific tasks, with a caveat for knowledge transfer, technical training, and upskilling of local practitioners.	This is for instances where a technology is totally new in the country, procured by an entity within the country, and whose expertise may not be readily available.	This is noted. A new clause shall be added that reads as follows: The Authority may issue temporary Authorizations to foreign technical experts on a case-by-case basis, to install type-approved equipment. This shall be based on a comprehensive justification by the local licensee that seeks to engage the services of the foreign technical expert. Such Authorization shall only

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						have effect as long as the foreign technical expert obtains a work permit.
122.	Eng. Nyagaka Ondiere	Safaricom PLC	E.2, 64	This section is not clear on requirements for inclusion of personnel whose academic background is not in ICT or Engineering. Membership to professional bodies or associations, local/ global certifications, or having completed trainings offered by authorized professional training bodies and/ or equipment manufacturers or authorized vendors should be a minimum requirement.	Most practitioners whose background is not in ICT or Engineering receive non-standardized half-baked on the job trainings and hence may not reflect the standards envisioned within the industry. Proof of a form of formal training is key in ascertaining professional gap bridging and adherence to industry standards.	Clause 64 states an intention to begin recognising personnel with prior learning experience. It is envisaged that a clear framework shall be developed in future to achieve this.
123.	Gonzalo de Dios	Kuiper Systems LLC	Section E.2.	If the Telecommunication Technical Personnel Licence is expanded to include IT personnel, the Authority should permit non-citizens and non-permanent residents to apply for such licences.	For operators, like Amazon, that serve multiple jurisdictions, restrictions on the ability of foreign engineers employed by the operator to work in Kenya harms the continuity of global operations. Amazon respectfully urges the Authority to permit foreign technical personnel and non-permanent residents to apply for and receive telecommunications technical personnel licences, even if only for a temporary period. Expanding eligibility would allow engineers and technicians already familiar with a satellite operator's system to work closely with local, licenced Kenyan technicians prior to and following deployment of the operator's broadband services. Such collaboration ensures that repairs and updates to telecommunications infrastructure are conducted in a consistent manner throughout all areas of an operator's service footprint and that customers in Kenya receive consistency in their connectivity and service quality. Global operators need to rely upon an experienced and global workforce that can augment and support the work of Kenyan	This is noted. A new clause shall be added that reads as follows: The Authority may issue temporary Authorizations to foreign technical experts on a case-by-case basis, to install type-approved equipment. This shall be based on a comprehensive justification by the local licensee that seeks to engage the services of the foreign technical expert. Such Authorization shall only be considered where the foreign technical expert has obtained an appropriate work permit.

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					technicians. Broadening the Telecommunications Technical Personnel Licence to include foreign personnel will provide operators with greater flexibility to employ individuals that are best equipped to support complex network operations and maintenance while ensuring that these individuals comply with Kenyan licencing requirements. This flexibility will help attract technical personnel in the IT industry to the dynamic Kenyan technology sector and will promote foreign investment locally.	
124.	Barrack Otieno	Association of Community Networks in Kenya	E.2. Proposal 64	We recommend expanding the section on technical personnel requirements to include provisions for Continuous Professional Development (CPD) programs and certifications. This will ensure personnel remain updated on evolving technologies. Additionally, consider emphasizing partnerships with training institutions to support the development of a skilled workforce.	Collaborating with training institutions will create a sustainable pipeline of skilled professionals, equipping them with the knowledge and practical expertise needed to address industry demands.	The proposal is noted. The Authority will consider collaboration with various professional bodies to ensure our licencees are equipped with the knowledge and practical expertise to provide their services to the industry.
125.	Fiona Asonga	TESPOK	Clause 63	This clause is discriminative to foreigners that are here legally and who hold work permits that enable them to work in Kenya. Why is this only for Kenyan Citizens? Anyone with a valid work permit is eligible to do work in Kenya and therefore should be able to obtain a license to enable them to carry out their work. We propose amendment to include holders of valid work permits.	This clause is discriminative to foreigners that are here legally and who hold valid work permits that enable them to work in Kenya.	This is adopted. Clause 63 is amended as follows: Additionally, holders of relevant work permits shall be eligible to apply for the Telecommunications Technical Personnel Licence whose licence term shall be aligned with the validity period of the work permit.

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126.	Ian Siako	Safaricom	TP: issue them with a Licence that allows them to carry out installation, support and maintenance of IP networks being built by our licensees.	We welcome the proposal; however, it creates a clash in roles of CA and ICTA regarding licensing of technical personnel. We recommend that CA should retain the role.	The proposal to have one Authority as the licensing Authority will create clarity and efficiency in licensing of personnel and execution of the attendant deliverables.	The mandate of Issuing licences for provision of ICT services lies with CA as this mandate is drawn from Constitution of Kenya. This should not be confused with the mandate of ICTA which is responsible for accreditation of ICT professionals in public agencies in accordance with the Government of Kenya IT Governance Standards. The accreditation is aimed at ensuring development and retention of a standard level of professionalism in hiring of ICT officers in Government.
127.	Ian Siako	Safaricom	The proposed regulatory fees and Licence term for this category are: i. Application fee: Kshs. 500 ii. Initial Licence fees: Kshs. 1000 iii. Annual operating fees: Kshs. 500 iv. Licence Term: 10 years	The proposed regulatory fees and Licence term for this category are: i Initial Licence fees: 500 iv. Licence Term: 10 years	The proposal results in additional fees to both operators and/or the individual technical personnel. This increases costs to the operators/companies employing these personnel and may not be affordable to individual thus affecting their participation in the digital agenda of the country.	This is not adopted. There is no proposal to increase the fees for this licence category.
128.	Ian Siako	Safaricom	Only Kenyan Citizens and holders of a Permanent Residency Visas shall be eligible to apply for Telecommunications Technical Personnel Licence.	Propose deletion and amendment as follows: Kenyan Citizens and holders of a Permanent Residency Visas or valid work permits shall be eligible to apply for Telecommunications Technical Personnel Licence.	The provision is discriminatory to foreigners who hold work permits that enable them to work in Kenya.	This is adopted. Clause 63 is amended as follows:- Additionally, holders of relevant work permits shall be eligible to apply for the Telecommunications Technical Personnel Licence whose licence term shall be aligned with the validity period of the work permit.

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
129.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	60. It is proposed that the Authority absorbs these categories of Technical Personnel and issue them with a Licence that allows them to carry out installation, support and maintenance of IP networks being built by our licensees.	Please clarify the intention of the Authority for this license category. Over regulation of the sector will not only make it difficult for professionals to practice in the sector but is likely to cause brain drain as there is demand for these professionals in other countries where there is no over regulation.	It appears that the Authority is seeking to license personnel in the ICT sector. This brings back the issue of the ICT Practitioners bill which was highly opposed by stakeholders.	The proposal to licence ICT professionals as Technical Personnel is made in line with requests to the Authority from this group that is not provided for in the current market structure. We wish to emphasise that the mandate of Issuing licences for provision of ICT services lies with CA as this mandate is drawn from Constitution of Kenya and has never been a subject of the ICT Practitioners Bill.
130.	Caroline Chirchir	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	63. Only Kenyan Citizens and holders of a Permanent Residency Visas shall be eligible to apply for Telecommunications Technical Personnel Licence.	Consider amending to include foreigners working in Kenya with valid work permits.	There is a category of personnel that are working in Kenya with valid work permits. This category should also be eligible for the licence provided that should their work permit be revoked or expires the same follows for the licence.	This is adopted. Clause 63 is amended as follows:- Additionally, holders of relevant work permits shall be eligible to apply for the Telecommunications Technical Personnel Licence whose licence term shall be aligned with the validity period of the work permit.
131.	Amr Ashour	Eutelsat Group	E.2. Proposal (63)	Although Eutelsat Group is sympathetic to the CA's desire to reserve telecommunications Technical Personnel Licenses for Kenyan Citizens and holders of a Permanent Residency Visa, it is kindly submitted that the proposal be amended to allow for exceptions and the utilization of foreign specialists to effect or carry out specialized installation, support and maintenance of equipment or implementations that require specialized or equipment manufacturer related technicians and specialists for the installation, support or maintenance project.	Eutelsat Group is of the view that not allowing for such exception, which can carry a reasonable fee, for a temporary foreign / specialist telecommunications technical personnel license will result in delays or possibly even prevent installation and usage of state of the art newly developed equipment and technology for which support, maintenance and related training remains proprietary to the manufacturer / equipment provider.	This is noted. A new clause shall be added that reads as follows: The Authority may issue temporary Authorizations to foreign technical experts on a case-by-case basis, to install type-approved equipment. This shall be based on a comprehensive justification by the local licensee that seeks to engage the services of the foreign technical expert. Such Authorization shall only be considered where the foreign technical expert has obtained an appropriate work permit.

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132.			E, E.1- Technical Personnel Licence	We propose amendments to the Public Consultation Document to the effect that the provision which states:- "Only Kenyan Citizens and holders of a Permanent Residency Visas shall be eligible to apply for Telecommunications Technical Personnel licence" be deleted in its entirety.	This proposed recommendation will make it difficult for foreign skilled personnel to be hired/engaged in Kenya as duly licensed personnel. Foreign professionals can offer Kenyan citizens valuable technology and skills transfer. It is therefore proposed that foreign personnel with valid work permits be granted this licence.	This is adopted. Clause 63 is amended as follows:- Additionally, holders of relevant work permits shall be eligible to apply for the Telecommunications Technical Personnel Licence whose licence term shall be aligned with the validity period of the work permit.
G. PUBLIC COMMUNICATION ACCESS CENTRE (INTERNET CYBERCAFÉS)						
133.	Eng. Nyagaka Ondiere	Safaricom PLC	G.2, 69	The PCACs should also capture the public access points by the various internet service providers as well as campus access points in institutions of learning, especially ones that can be accessed outside of a specific building (s).	These public and campus Wi-Fi stations pose the same cybersecurity risks as internet caffes and have similar operating models, and hence operation of such should be well regulated.	The proposal is noted and appreciated. The Authority will consider developing guidelines on provision of Internet services through various types of public access points operated by licensed internet service providers and other entities such as hospitals, supermarkets, hotels, parks etc.
134.	JAMES MASHAO NJOROGE	MASHCOM DIGITAL BUREAU	CYBER CAFE REGULATION	you should not introduce those measures as they will kill the business which is mostly run by youth hence creating unemployment	Cyber cafe business already killed by introduction of smartphones, people use their smartphones and laptops to surf the internet. Cyber cafes are maintained by other services like, printing, scanning, lamination and photocopy	The proposal by the Authority is aimed at addressing online safety concerns and streamlining the operations of PCACs such as cyber cafes. We have noted the concerns over the additional costs but note, however that, public safety concerns take precedence. The Authority has renamed the licence category to Public Internet Access Services (PIAS) Clause 69 to read as follows: *That all entities providing public internet access services be licenced under the category of Public Internet Access Services (PIAS) licence. These are entities such as Cyber cafes, hotels, hospitals, markets etc.* Clause 70: *This Licence will be a CLASS Licence with Licence terms and conditions set by the Authority including, but not limited to, provisions for record*

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						keeping, software for keeping logs, CCTV surveillance, as well as identification of persons accessing the service point/facility.
135.	Gabriel Ouma Ochieng	Konigin Ventures	44.2. Proposals 69. That PCACs that provide internet browsing services be licensed under the category of Internet Cafes. 70. This Licence shall be re-introduced, but as a CLASS Licence with Licence terms and conditions set by the Authority including provisions for record keeping, logging-in software, CCTV surveillance, as well as identification of persons accessing the service point/facility.	I agree with the proposals for the use of logging-in software, record-keeping, and CCTV surveillance as these measures will enhance the security of internet cafes and restrict access to sites with explicit content, potentially preventing online child sexual exploitation and abuse. However, I do not agree with the requirement for individuals to provide identification documents, as these are sensitive pieces of personal information. Additionally, I do not agree with the proposal for imposing additional licenses on cyber cafes, given that these businesses are already facing challenges due to reduced internet usage, with the rise of affordable home Wi-Fi and mobile data penetration. The cost of these additional licenses would place a financial strain on the already limited income of cyber cafes, which are also responsible for county government business permits, Kenya Films Classification Distributor Licenses, and music copyright licenses.	The inclusion of logging-in software, record-keeping, and CCTV surveillance is a positive step towards improving security in internet cafes, helping to ensure that users are monitored and that harmful content is restricted. This can play a critical role in preventing harmful activities such as online child sexual exploitation and abuse. However, the requirement for identification documents is concerning due to the potential risks to privacy and the handling of sensitive personal data. Businesses should be cautious when collecting such information, and a more balanced approach should be considered. The proposal for additional licenses raises concerns due to the financial burden it places on cyber cafes, which are already dealing with the impacts of changing internet usage patterns. The increasing availability of affordable home Wi-Fi and mobile data means fewer people are visiting internet cafes for browsing or other online services. Moreover, cyber cafes already bear various licensing costs, including county business permits, film classification licenses, and music copyright fees. Adding more licensing costs at this time could severely strain our limited income, leading to potential closures and reduced services for the community.	The proposal by the Authority is aimed at addressing online safety concerns and streamlining the operations of PCACs such as cyber cafes. We have noted the concerns over the additional costs but note, however that, public safety concerns take precedence. The Authority has renamed the licence category to Public Internet Access Services (PIAS) Clause 69 to read as follows: *That all entities providing public internet access services be licenced under the category of Public Internet Access Services (PIAS) licence. These are entities such as Cyber cafes, hotels, hospitals, markets etc.* Clause 70: *This Licence will be a CLASS Licence with Licence terms and conditions set by the Authority including, but not limited to, provisions for record keeping, software for keeping logs, CCTV surveillance, as well as identification of persons accessing the service point/facility.*
136.	Barrack Otieno	Association of Community Networks in Kenya	G.2. Proposals 70	We propose including incentives for community networks that operate cybercafés or digital hubs offering value-added services such as e-government access, online training, and remote	Community networks providing services like e-government access and online training play a critical role in bridging the digital divide and empowering underserved populations. Incentives could include tax benefits, grants, or reduced regulatory fees	The proposal by the Authority is aimed at addressing online safety concerns and streamlining the operations of PCACs such as cyber cafes.

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
				workspaces. Additionally, encourage partnerships with internet service providers to supply affordable high-speed connectivity to these hubs, enhancing their functionality and societal impact.	to support their operations and expand their impact.	We have noted the concerns over the additional costs, however, public safety concerns take precedence. The Authority has renamed the licence category to: Public Internet Access Services (PIAS) Clause 69 to read as follows: That all entities providing public internet access services be licenced under the category of Public Internet Access Services (PIAS) licence. These are entities such as Cyber cafes, hotels, hospitals, markets etc. Clause 70: This Licence will be a CLASS Licence with Licence terms and conditions set by the Authority including, but not limited to, provisions for record keeping, software for keeping logs, CCTV surveillance, as well as identification of persons accessing the service point/facility
137.	Ian Siako	Safaricom	70. This Licence shall be re-introduced, but as a CLASS Licence with Licence terms and conditions set by the Authority including provisions for record keeping, logging-in software, CCTV surveillance, as well as	Propose deletion	This proposal has a potential of contravening Chapter 4 of the Constitution of the Kenya 2010 and the provisions of the Data Protection Act (2019).	The proposal by the Authority is aimed at addressing online safety concerns and streamlining the operations of PCACs such as cyber cafes. We have noted the concerns over the additional costs but note, however that, public safety concerns take precedence. The Authority has renamed the licence category to Public Internet Access Services (PIAS) Clause 69 to read as follows: *All entities providing public internet access services be licenced under the Public Internet Access Services (PIAS) licence category. These entities include Cyber cafes, hotels, hospitals, markets, etc.* Clause 70: *This Licence will be a CLASS Licence with Licence terms and conditions set by the Authority, including, but not limited to, provisions for record keeping, software for keeping logs, CCTV*

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						surveillance, and identification of persons accessing the service point/facility.
138.	Eagle Cyber			The move you have taken is a very nice one. I am a cyber operator but what i can say is that, let the regulation be issued at an interval because of the cost.		The Authority's proposal aims to address online safety concerns and streamline the operations of PCACs, such as cyber cafes. We have noted the concerns over the additional costs but note, however that, public safety concerns take precedence. The Authority has renamed the licence category to Public Internet Access Services (PIAS) Clause 69 to read as follows: *All entities providing public internet access services be licenced under the Public Internet Access Services (PIAS) licence category. These include Cyber cafes, hotels, hospitals, markets, etc.* Clause 70: *This Licence will be a CLASS Licence with Licence terms and conditions set by the Authority including, but not limited to, provisions for record keeping, software for keeping logs, CCTV surveillance, and identification of persons accessing the service point/facility.*
139.	Caroline Chirchir Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	Dimension Data Solutions Ltd and Dimension Data Solutions East Africa	70. This Licence shall be re-introduced, but as a CLASS Licence with Licence terms and conditions set by the Authority including provisions for record keeping, logging-in software, CCTV surveillance, as well as identification of persons accessing the service point/facility. We propose amendment as below: This Licence shall be reintroduced, but as a	We propose amendment as below: This Licence shall be re-introduced, but as a CLASS Licence with Licence terms and conditions set by the Authority including provisions for record keeping, logging-in software, CCTV surveillance, as well as identification of persons accessing the service point/facility.,	How will this be conducted vis a vis the right to privacy guaranteed under the constitution? It is critical that the Authority's proposals be in line with the Constitution of Kenya.	Every entity that collects personal data from the public would be expected to comply with the regulations of the Data protection Act.

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
			CLASS Licence with Licence terms and conditions set by the Authority, including provisions for record keeping, logging-in software, CCTV surveillance, and identification of persons accessing the service point/facility. How will this be conducted vis a vis the right to privacy guaranteed under the constitution? It is critical that the Authority's proposals be in line with the Constitution of Kenya.			
H. DATA CENTRES						
140.	Snehar Shah	IX Africa Data Centre Limited	H2. Data Centre - Need for Licensing	Data Centres already go through various approvals including EIA, NEMA etc and are certified for PCI-DSS Physical Security and ISO 27001 IT Security and are not involved in providing telecoms or connectivity directly so should not be regulated	Regulation will pose a barrier to investment in making Kenya digitalised, a key destination for local cloud and AI. The costs of regulations will make Kenya uncompetitive about other markets.	Whereas CA's mandate is to regulate the ICT sector, several other government agencies have different mandates over different issues, which may inevitably result in multiple licenses being issued. It is recognised that Data Centres support critical information infrastructure in the digital ecosystem which necessitates regulatory oversight. Kenya's National ICT policy guidelines, 2020, provide that the government will promote, encourage, and license private sector investment in neutral data centres by companies incorporated for that purpose. In addition, the Kenyan National E-Commerce Strategy envisages data centres hosting e-commerce platforms that are also envisaged to be operated under a regulatory framework. Further, it is expected that adoption of cloud services as envisaged in Kenya's Cloud Policy will lead to increased investment opportunities for Data Centers. The policy has mandated all

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
						entities to prioritize cloud-based solutions when making ICT investments (procurement of hardware, software, renewal of existing software licenses, revamping existing ICT infrastructure including Data Centers). This prioritization aims to achieve the following key objectives: a) To accelerate adoption of green cloud computing technology. b) To reduce Total Cost of Ownership of ICT infrastructure. c) To ensure robust Cybersecurity measures on data hosted on cloud. d) To enable collaboration and interoperability among entities. e) To promote Data Residency and Sovereignty. The proposed licencing of Data centres, which is informed by the increasing use and provision of cloud services in the country, is aimed at achieving the under listed objectives among others: Protecting investors' interests by ensuring that disputes that arise between Data Centres and their customers, some of whom maybe be licensed entities, may be resolved in a manner that does not result in interruption of services to the parties, thereby creating a trusted environment:- a) Ensuring that Data centres put in place elaborate measures to protect end users of the services provided through their Data centres and their partners; b) Introduce regulatory oversight to ensure that services not permitted under the Kenyan law are not provided; and c) Ensuring certain standards are met of uptime failover protocols and redundancy ensuring high level of reliability in the Data Centre ecosystem. It is the view of the Authority that the licensing of Data centres in Kenya in order to achieve the aforementioned objectives will not constitute a barrier but make Kenya a preferred investment

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
						destination for providers of cloud services to Kenya and the region.
141.	Snehar Shah	IX Africa Data Centre Ltd	H2. Data Centre - Need for Licensing	No precedents set in other key markets such as South Africa, Brazil etc.	South Africa currently does not have a specific, standalone "data centre license". Co-location data centres operating in South Africa are built and operated in accordance with environmental legislation and building by-laws and thus there is no telecommunication license requirement. Data centres are not providing telecom services.	This is noted, however other countries may also learn from Kenya, as no single solution suits every jurisdiction.
142.	Snehar Shah	IX Africa Data Centre Ltd	H2. Data Centre - Need for Licensing Point 73	We challenge the CA's assertion that co-location facility owners significantly influence data accessibility.	Actual data access practices fall under the purview of individual facility tenants who are categorized as data controllers or data processors under the Data Protection Act, 2019 (DPA). We emphasize that co-location facility owners have no direct control over data processing activities within their facilities and therefore cannot be held responsible for ensuring data access rights, as these responsibilities lie with the tenants.	We wish to clarify that the Data Centre operator exercises significant control over their clients' access to physical infrastructure, network resources and data within the Data Centre on account of the facilitation they provide to entities that are collocated in the facility. The intention is to ensure that all players in the communications landscape, including Data Centres, are subject to regulatory oversight. The Authority has taken note of the Feedback by respondents on the applicability of the ASP license for Data Centres and therefore proposes to license Data Centres, regardless of the Data Centre type, under the NFP -T1 and NFP-T2 category. Consequently, clauses 77 is deleted and clauses 76 and 78 are amended as follows: Clause 76: *Data Centres shall be provided under the relevant NFP-T2 licence category depending on the number of locations that the entity will have a physical presence.* Clause 78: *The proposed regulatory fees for data centres will align with that of the relevant NFP-Tx as per the current market structure.* Data Centres are being considered based on the role they play in facilitating the provision of critical information infrastructure in the same manner that tower companies are regulated.
143.	Snehar Shah	IX Africa Data Centre Ltd	H2. Data Centre - Need for Licensing Point 77	The policy requirement for licensing co-location centers that offer either or all of building, power, servers, internal communication infrastructure, and other related services (excluding public-space communication infrastructure) under an ASP License is erroneous.	Lack of applicability of the Data Protection Act, 2019 (DPA): Co-location facilities that solely provide physical space have no direct control over the licensable activities conducted by their users/tenants. The tenants, who act as either data controllers or data processors under the DPA, bear the responsibility for ensuring compliance with data access rights of their end consumers. To this end, tenants typically have established data sharing agreements and privacy policies to facilitate data access rights. Co-location facility owners are not privy to these agreements and policies. Therefore, the CA's assertion that co-location facility owners "significantly influence data accessibility" is fundamentally flawed. Facility owners have no direct influence on how individual licensees access and utilize data within their co-location facilities.	

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
144.	Snehar Shah	IX Africa Data Centre Ltd	H2. Data Centre - Need for Licensing Point 77	The policy requirement for licensing co-location centers that offer either or all of building, power, servers, internal communication infrastructure, and other related services (excluding public-space communication infrastructure) under an ASP License is erroneous.	The ASP licence terms states that licensed services are "electronic communications services which are normally provided at a fee and consists wholly or mainly in the conveyance of signals on electronic communications networks and includes telecommunications and transmission services over electronic communications networks." As evidenced by the foregoing, co-location data centres do not fit into the mold of the ASP Licence. If IXAfrica were to apply for the ASP licence, it will be generally subject to all the relevant obligations under the KICA which is not appropriate.	With respect to the proposal of self-regulation, it is the Authority's view that Kenya's Data Centre market is not yet ready for self-regulation. The natural tendency is to move from regulation to self-regulation. Please also take note that the National ICT Policy Guidelines ,2020 envisages the development of guidelines for Data Centres and this shall be developed as a follow up to licensing. The Authority has considered the proposal to introduce incentives and will be dealt with outside the market structure review The proposal to introduce incentives such as Tax breaks, Grants and others is noted, and the Authority shall share the proposal with the relevant Agencies.
145.	Snehar Shah	IX Africa Data Centre Ltd	H2. Data Centre - Need for Licensing Point 77	The policy requirement for licensing co-location centers that offer either or all of building, power, servers, internal communication infrastructure, and other related services (excluding public-space communication infrastructure) under an ASP License is erroneous.	"Rather than imposing ASP or NFP-T3 licensing requirements on data centres, we propose a more targeted and facilitative approach: a) Define Data Centres as Critical Infrastructure: Recognise data centres as essential infrastructure and establish guidelines specific to their operations without categorizing them as telecommunications providers. This recognition would underscore the importance of data centres in supporting the digital economy and ensure that regulatory measures are tailored to their unique operational needs. Include the full definition of data centre operators not just colocation data centre operators. By defining data centres as critical infrastructure, Kenya can prioritize their development and maintenance, ensuring they receive the necessary support and protection. b) Focus on Collaboration and Self-Regulation: Encourage collaboration between the Communications Authority and data centre operators to address regulatory concerns through self-regulatory standards and industry best practices. This collaborative approach	

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					would allow for the development of flexible and adaptive regulatory frameworks that can evolve with technological advancements. By leveraging the expertise of industry stakeholders, Kenya can ensure that regulatory measures are practical, effective, and aligned with global standards. Self-regulation can also foster a culture of compliance and continuous improvement within the industry. c) Promote Investment Through Incentives: Consider tax breaks, grants, or other incentives to encourage the development of data centre infrastructure, aligning with Kenya's goals of fostering a vibrant digital economy. Financial incentives can significantly reduce the initial capital expenditure required for establishing data centres, making Kenya a more attractive destination for both local and international investors. Additionally, incentives can stimulate innovation and competition within the sector, leading to the development of cutting-edge facilities and services. By promoting investment through incentives, Kenya can accelerate the growth of its digital infrastructure and enhance its position as a regional technology hub."	
146.	Snehar Shah	IX Africa Data Centre Ltd	H2. Data Centre - Need for Licensing Point 78	The proposed regulatory fees for data centres will align with those for ASP and NFP-T3 as per the current market structure.	A significant part of the revenues of data centres are power costs which are typically passed through to the customers with no margin. So, any license fee calculation needs to ensure the correct definition of revenues	This is noted. Billing will be applicable to the licensed services.
147.	Murage Gichuki	IX AFRICA DATA CENTRE LIMITED	Licensing of Co-Location Data Centers	We respectfully disagree with the Communications Authority's (CA) assertion that co-location data center owners significantly influence data accessibility. Under the Data Protection Act, 2019 (DPA), tenants of co-location facilities act as data	we urge the CA to reconsider the requirement for co-location data centers to obtain an Application Service Provider (ASP) license. Instead, we propose the development of a specific licensing framework tailored to co-location data centers that recognizes their passive	Response provided on row 144.

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
				controllers or data processors and are solely responsible for managing and securing their data. Co-location facility owners only provide physical infrastructure without engaging in data handling or processing activities.	infrastructure role without imposing undue regulatory burdens.	
148.	Murage Gichuki	IX AFRICA DATA CENTRE LIMITED	No Telecommunications Function	Data centres do not provide any telecommunications or technology services. Their role is limited to enabling customers to manage their own data and applications through the provision of physical infrastructure. Unlike telecommunications providers, data centres do not engage in the transmission of data or the provision of communication services. Their role is limited to enabling customers to manage their own data and applications. As a result, imposing licensing requirements designed for telecommunications service providers would fully inaccurately categorize the activities of data centres, leading to significant regulatory mismatches. By subjecting data centres to the same licensing requirements as telecommunications providers, the regulatory framework would fail to recognize the fundamental differences in their operations. This misclassification could result in several adverse and unintended outcomes: a) Inappropriate Regulatory Burden: Data centres would be required to comply with regulations that are irrelevant to their core functions, leading to	Rather than imposing ASP or NFP-T3 licensing requirements on data centres, we propose a more targeted and facilitative approach: a) Define Data Centres as Critical Infrastructure: Recognise data centres as essential infrastructure and establish guidelines specific to their operations without categorizing them as telecommunications providers. This recognition would underscore the importance of data centres in supporting the digital economy and ensure that regulatory measures are tailored to their unique operational needs. By defining data centres as critical infrastructure, Kenya can prioritize their development and maintenance, ensuring they receive the necessary support and protection. b) Include the entire industry, not just a subset or only colocation data centre providers in the industry definition. c) Focus on Collaboration and Self-Regulation: Encourage collaboration between the Communications Authority and data centre operators to address regulatory concerns through self-regulatory standards and industry best practices. This collaborative approach would allow for the development of flexible and adaptive regulatory frameworks that can evolve with technological advancements. By leveraging the expertise of industry stakeholders, Kenya can ensure that regulatory measures are practical, effective,	Data Centres are being considered based on the role they play in facilitating the provision of critical information infrastructure in the same manner that tower companies are regulated. With respect to the proposal of self-regulation, it is the Authority's view that Kenya's Data Centre market is not yet ready for self-regulation. The natural tendency is to move from regulation to self-regulation. Please also take note that the National ICT Policy Guidelines, 2020 envisages the development of guidelines for Data Centres and this shall be developed as a follow up to licensing.

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				unnecessary administrative and financial burdens. This will divert resources away from critical infrastructure investments and innovation. b) Operational Inefficiencies: The imposition of telecommunications-specific regulations on data centres will create operational inefficiencies. For example, data centres might be forced to implement compliance measures that are designed for communication networks, which do not align with their operational realities. c) Market Distortion: Treating data centres as telecommunications providers will distort the market by creating an uneven playing field. Data centres will face regulatory hurdles that their international counterparts do not, making Kenya a less attractive destination for data centre investments. d) Is the proposal only to regulate independent colocation data centre operators which represent only a small fraction of the total data centre industry. The majority of data centre operations are either held in house directly with corporates, with other third party providers such of IT service providers or offshore. We cannot limit the scope of these regulations to only one segment of the industry. e) Stifling Innovation: The additional regulatory burden will	and aligned with global standards. Self-regulation can also foster a culture of compliance and continuous improvement within the industry. d) Promote Investment Through Incentives: Consider tax breaks, grants, or other incentives to encourage the development of data centre infrastructure, aligning with Kenya's goals of fostering a vibrant digital economy. Financial incentives can significantly reduce the initial capital expenditure required for establishing data centres, making Kenya a more attractive destination for both local and international investors. Additionally, incentives can stimulate innovation and competition within the sector, leading to the development of cutting-edge facilities and services. By promoting investment through incentives, Kenya can accelerate the growth of its digital infrastructure and enhance its position as a regional technology hub.	

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				stifle innovation within the data centre sector. Operators may become more risk-averse, focusing on compliance rather than exploring new technologies and services that could enhance their offerings and contribute to the digital economy. In summary, the proposed licensing requirements will not only misclassify the activities of data centres but also introduce regulatory mismatches and hurdles that will hinder the growth and development of Kenya's digital infrastructure.		
149.	Murage Gichuki	IX AFRICA DATA CENTRE LIMITED	Consistency with Previous Regulatory Stance	In 2023, the CA granted IX Africa a waiver from obtaining an ASP license for operating co-location facilities, acknowledging that these operations do not constitute telecommunication services under the Kenya Information and Communications Act (KICA). The current proposal contradicts this prior position without clear justification. Co-location data centers primarily operate as real estate businesses, offering secure physical space, power, and cooling infrastructure for clients to house their own IT equipment. They do not provide telecommunication services but rather function as landlords for technology tenants.	We request that the CA maintain consistency in its regulatory approach and continue exempting co-location data centers from ASP licensing requirements, recognizing their distinct operational model rooted in real estate infrastructure provision.	The framework for licensing Data Centres has since been reviewed and is considered necessary to fall under the Authority's regulatory oversight.
150.	Murage Gichuki	IX AFRICA DATA CENTRE LIMITED	Negative Impact on Kenya's Investment Attractiveness	Introducing a licensing requirement for data centers risks undermining Kenya's attractiveness as a regional data center hub. Kenya has positioned itself as a favorable destination for data center investments due to its progressive regulatory	We recommend that the CA carefully consider the potential negative impact of licensing requirements on Kenya's competitiveness in the data center industry and explore alternative, less restrictive regulatory approaches.	Whereas CA's mandate is that of regulating the ICT sector, it is important to note that several other government agencies have different mandates over different issues, which may inevitably result in multiple licenses being issued. It is recognised that Data Centres support critical information infrastructure in the digital

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				environment, strategic location, and expanding digital economy. Implementing a license could deter both local and foreign investors, diverting investments to more business-friendly countries. South Africa stands as a notable example of success in this industry, having attracted significant data center investments, created thousands of jobs, and generated substantial tax revenue precisely because it imposes no licensing requirements on data center operators. This business-friendly approach has enabled South Africa to establish itself as the leading data center hub in Africa.		ecosystem which necessitates regulatory oversight. Kenya's National ICT policy guidelines, 2020, provides that the government will promote, encourage and license private sector investment in neutral data centres by companies incorporated for that purpose; Further, it is expected that adoption of cloud services as envisaged in Kenya's Cloud Policy will lead to increased investment opportunities for Data Centers. The policy has mandated all entities to prioritize cloud-based solutions when making ICT investments (procurement of hardware, software, renewal of existing software licenses, revamping existing ICT infrastructure including Data Centers). This prioritization aims to achieve the following key objectives: • To accelerate adoption of green cloud computing technology. • To reduce Total Cost of Ownership of ICT infrastructure. • To ensure robust Cybersecurity measures on data hosted on cloud. • To enable collaboration and interoperability among entities. • To promote Data Residency and Sovereignty. The proposed licencing of Data centres, which is informed by the increasing use and provision of cloud services in the country, is aimed at achieving the under listed objectives among others: 1. Protecting investors' interests by ensuring that disputes that arise between Data Centres and their customers, some of whom maybe be licensed entities, may be resolved in a manner that does not result in interruption of services to the parties, thereby creating a trusted environment; 2. Ensuring that Data centres put in place elaborate measures to protect end users of

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						the services provided through their Data centres and their partners; 3. Introduce regulatory oversight to ensure that services not permitted under the Kenyan law are not provided 4. Ensuring certain standards are met of uptime failover protocols and redundancy ensuring high level of reliability in the Data Centre ecosystem. It is the view of the Authority that the licensing of Data centres in Kenya in order to achieve the aforementioned objectives will not constitute a barrier but make Kenya a preferred investment destination for providers of cloud services to Kenya and the region.
151.	Murage Gichuki	IX AFRICA DATA CENTRE LIMITED	Disproportionate Financial Impact of Turnover-Based Fees	Data center operations have a unique cost structure where electricity consumption constitutes at least 50% of total turnover. Imposing a 0.4% annual operating fee on gross turnover effectively translates into an additional tax on energy consumption. While 0.4% may appear modest, in practice, it imposes a substantial financial burden on data centers and its customers, discouraging growth and innovation.	We propose that the CA reevaluate the use of turnover-based fees for data centers and consider alternative fee structures that more accurately reflect operational realities, such as capacity-based or tiered fees.	Billing will be applicable to the licensed services.
152.	Murage Gichuki	IX AFRICA DATA CENTRE LIMITED	Need for a Tailored Regulatory Framework	Applying the ASP license to co-location data centers fails to account for the diverse models within the industry. International best practices, such as Thailand's Type 1 telecommunication license for co-location data centers, offer a more fitting regulatory approach by focusing on infrastructure rather than telecommunication services.	We advocate for the development of a dedicated licensing framework for data centers, crafted through stakeholder engagement and public participation. This framework should distinguish between fully-fledged data centers and co-location facilities to ensure appropriate and effective regulation.	We clarify as follows:- Clause 71 details the current practice of establishing Data Centres in Kenya and is by no means an attempt to classify Data Centres. The commercial Data Centres envisioned to be licensed are those that are integral to the provision of public information and communication services. The 2020 ICT policy guidelines seek to encourage Kenyan businesses and County governments to share Data infrastructure to

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						minimise network duplication, among other objectives. Considering ULF's technology and service neutral approach, the Authority proposes to licence commercial Data Centres as NFP-T2 to actualize this provision.
153.	Patience Maingi	WIOCC Kenya Limited	Section H.3, Paragraph 75	Implement a licensing exemption model tailored to data centres' scope that differentiates between operators with NFP-T3 or ASP licenses.	Ensures effective oversight of facilities while maintaining a balanced approach to regulatory compliance costs. We recommend that the Regulator consider organizing a Data Centre workshop with relevant stakeholders to foster industry collaboration and enhance understanding of compliance requirements	This is not adopted Data Centres shall be provided under the NFP-T2 licence category depending on the number of locations that the entity will have a physical presence. The proposal to hold a workshop is welcome, however, this shall only be considered once this framework has been adopted, and Data Centre operators are licensed.
154.	Patience Maingi	WIOCC Kenya Limited	Section H.3, Paragraph 77	Placing a burden on Data Centre providers to determine if clients offering public communication services hosted in the data centre hold appropriate Licence would be breaching the corporate veil and would stifle business.	We propose removing this burden on the DC operators to Encourage investment and ensure competitiveness for operators in the regional and national ICT market.	This is not adopted The proposal for Data Centers to provide services to unidentified entities is contrary to regulatory requirements and would lead to instances where there is blatant disregard for the law. Furthermore, KYC requirements are standard practice across the world.
155.	ALN Kenya	ALN Kenya	H.3.75-78	A. Understanding the Role of Data Centres in the Digital Ecosystem Data centres have the potential to serve as foundational infrastructure for Kenya's digital economy, enabling data storage, cloud services, and digital applications if they are able to provide such services at a price that spurs rather than disincentivises their use. It is crucial to understand the role data centres and data centre providers play in the ecosystem and to distinguish their functions from those of telecommunications operators or application service providers, specifically: •Carrier-Neutral Data Centres: These facilities provide space,	Unlike telecommunications providers, data centres do not engage in the transmission of data or the provision of communication services. Their role is limited to enabling customers to manage their own data and applications and their customers must manage their own telecommunications, data and applications services and contract with licensed service providers to satisfy these requirements. As a result, imposing licensing requirements designed for telecommunications service providers would inaccurately categorize the activities of data centres, leading to significant regulatory mismatches. 2. Globally, carrier-neutral data centres are not generally subject to licensing as telecommunications operators or application service providers. Leading	Several other government agencies have different mandates over different issues, which may inevitably result in multiple licenses being issued. It is recognised that Data Centres support critical information infrastructure in the digital ecosystem which necessitates regulatory oversight. Kenya's National ICT policy guidelines, 2020, provides that the government will promote, encourage and license private sector investment in neutral data centres by companies incorporated for that purpose; Further, it is expected that adoption of cloud services as envisaged in Kenya's Cloud Policy will lead to increased investment opportunities for Data Centers. The policy has mandated all entities to prioritize cloud-based solutions when making ICT investments (procurement of hardware, software, renewal of existing software

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				power, cooling, and physical security for colocated servers. Carrier neutral means that data centres allow interconnection between many interconnection providers and colocation customers. Carrier-neutral data centres are not tied to any one service provider (telecommunications, ISP, or other), providing diversity and flexibility for the client seeking service, aligning with the technology and service neutrality principles underlying the Authority's Unified Licensing Framework. In some cases, they may offer servers for clients' use or certain on-site services, but even when offering such services, data centre providers do not manage, transmit, or own the data stored on these servers. Data centres only provide the physical infrastructure while the ownership, storage, transmission, and use of the data are under the control of the clients who utilize the data centre space. •No Telecommunications Function: Data centres do not provide any telecommunications services or technology. Their role is limited to enabling customers to manage their own data and applications through the provision of physical infrastructure. Colocation customers in data centres are in fact dependent on telecommunications service providers (who would need to be separately licensed by the Authority) for connectivity for	markets instead focus on: • Establishing Clear Operational, Safety and Environmental Standards: Countries with thriving data centre industries prioritize the establishment of clear and robust operational, safety and environmental standards. These standards ensure that data centres operate efficiently and safely, protecting both the infrastructure and the data stored within as well as minimising their impact on the environment. By focusing on these operational aspects, regulators can ensure that data centres provide reliable and secure services without imposing unnecessary licensing burdens. • Ensuring Compliance with Data Protection and Cybersecurity Laws: Leading markets emphasize the importance of compliance with data protection and cybersecurity laws. These laws are designed to protect the privacy and security of data, ensuring that data centres implement appropriate measures to safeguard against breaches and cyber threats. By enforcing stringent data protection regulations, countries can build trust with users and businesses, encouraging the use of data centre services while maintaining high standards of data security. •Promoting Infrastructure Investment through Incentives : Rather than imposing regulatory hurdles, successful markets promote infrastructure investment through various incentives. These incentives may include tax breaks, grants, and subsidies, and also a predictable and clear regulatory landscape aimed at encouraging the development and expansion of data centre facilities. By creating a favourable investment climate,	licenses, revamping existing ICT infrastructure including Data Centers). This prioritization aims to achieve the following key objectives: i. To accelerate adoption of green cloud computing technology ii. To reduce Total Cost of Ownership of ICT infrastructure iii. To ensure robust Cybersecurity measures on data hosted on cloud. iv. To enable collaboration and interoperability among entities. v. To promote Data Residency and Sovereignty. The proposed licencing of Data centres, which is informed by the increasing use and provision of cloud services in the country, is aimed at achieving the under listed objectives among others: 1. Protecting investors' interests by ensuring that disputes that arise between Data Centres and their customers, some of whom maybe be licensed entities, may be resolved in a manner that does not result in interruption of services to the parties, thereby creating a trusted environment; 2. Ensuring that Data centres put in place elaborate measures to protect end users of the services provided through their Data centres and their partners; 3. Introduce regulatory oversight to ensure that services not permitted under the Kenyan law are not provided 4. Ensuring certain standards are met of uptime failover protocols and redundancy ensuring high level of reliability in the Data Centre ecosystem. It is the view of the Authority that the licensing of Data centres in Kenya in order to achieve the aforementioned objectives will not constitute a barrier but make Kenya a preferred investment destination for providers of cloud services to Kenya and the region.

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				their servers hosted in a carrier-neutral data centre. By subjecting data centres to the same licensing requirements as telecommunications providers, the regulatory framework would fail to recognize the fundamental differences in their operations. This misclassification could result in several adverse outcomes: 1. Inappropriate Regulatory Burden: Data centres would be required to comply with regulations that are irrelevant to their core functions, leading to unnecessary administrative and financial burdens. This will divert resources away from critical infrastructure investments and innovation. 2. Operational Inefficiencies: The imposition of telecommunications-specific regulations on data centres will create operational inefficiencies. For example, data centres might be forced to implement compliance measures that are designed for communication networks, which do not align with and have no relevance for their operational realities. 3. Market Distortion: Treating data centres as telecommunications providers in Kenya will distort the market by creating an uneven playing field. Data centres in Kenya will face regulatory hurdles that their international counterparts do not, making Kenya a less attractive	countries can attract both local and international investors, fostering growth and innovation in the data centre sector. 1. Kenya has the potential to strengthen its position as a leader in the African data centre market. Aligning its regulatory framework with international best practices will enhance its competitiveness and attract global players to invest in the country. By adopting a regulatory approach that focuses on operational, safety and environmental standards, data protection, and investment incentives, Kenya can create an environment that supports the growth of its digital infrastructure. 2. Moreover, aligning with international best practices will ensure that Kenya remains competitive in the global market. Investors and businesses often look for jurisdictions with clear, predictable, and business-friendly regulatory environments. By avoiding unnecessary licensing requirements and instead focusing on creating a supportive regulatory framework, Kenya can signal its commitment to fostering a vibrant and innovative digital economy. 3. We strongly believe that Kenya's ambitions to become a regional leader in digital infrastructure can be best achieved through a balanced regulatory framework that: • Recognises the unique role of data centres as infrastructure providers. • Avoids unnecessary licensing obligations that misclassify their activities. • Maintains a clear and predictable regulatory and fiscal environment for data	

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				destination for data centre investments. 4. Stifling Innovation: The additional regulatory burden will stifle innovation within the data centre sector. Operators may become more risk-averse, focusing on compliance rather than exploring new technologies and services that could enhance their offerings and contribute to the digital economy. In summary, the proposed licensing requirements will not only misclassify the activities of data centres but also introduce regulatory mismatches that will materially hinder the growth and development of Kenya's digital infrastructure. B. Existing Regulatory Frameworks Already Address Key Concerns Kenya already has comprehensive legal frameworks that address the primary regulatory concerns associated with data centres, particularly regarding the collection, storage, and use of personal data. This makes additional licensing obligations unnecessary, as the Data Protection Commissioner already performs the role of regulatory oversight: •Data Protection and Security: The Data Protection Act provides robust safeguards for personal data, ensuring accountability and compliance by data controllers and processors, including those	centre operators given the high capital expenditure and long repayment timelines which characterise the sector. •Focuses on creating an enabling environment for investment, innovation, and growth.	

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				utilizing data centre services. This legislation mandates stringent requirements for data protection, including the principles of data minimization, purpose limitation, and data security. Data controllers and processors are required to implement appropriate technical and organizational measures to protect personal data against unauthorized access, loss, or destruction. This existing legal framework already addresses the core concerns that additional licensing requirements aim to cover. Introducing further licensing obligations, such as ASP or NFP-T3 licenses, would result in several negative consequences including: 1. Regulatory Redundancy: The additional licensing requirements would duplicate existing obligations under the Data Protection Act, leading to unnecessary regulatory overlap. This redundancy would not enhance data protection or security but would instead create confusion, uncertainty and inefficiencies for data centre operators as well as regulators. 2. Increased Compliance Costs: Data centre operators would face increased compliance costs due to the need to adhere to multiple regulatory frameworks. These costs will include legal fees, administrative expenses, and the implementation of additional compliance measures. Such		

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				financial burdens will deter investment and innovation in the data centre sector. 3. Potential for Regulatory Arbitrage: The imposition of redundant licensing requirements will encourage data centre operators to seek more favourable regulatory environments in neighbouring countries. This will result in a loss of investment, employment and economic opportunities for Kenya, undermining its goal of becoming a regional digital hub. 3. Potential Impacts on Investment and Sector Growth Licensing data centres under the proposed framework will have unintended consequences that hinder Kenya's aspirations to become a regional digital hub: • Increased Costs and Regulatory Burden: Licensing obligations and associated fees will increase operational costs, making it less attractive for local and international investors to establish or expand data centre operations in Kenya. • Reduced Competitiveness: In the highly competitive data centre market, global investors prioritize jurisdictions with clear, streamlined, and investment-friendly regulatory environments. Neighbouring markets with less onerous requirements may become preferred destinations. Additionally, licensed ASP companies will be less positive about placing their infrastructure in the premises of another ASP		

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				licensee and this may lead to more fragmentation and as a result less scale in the country. •Negative Signal to Existing Operators: Current data centre operators may deprioritize expansion plans or reduce investments if the regulatory environment becomes more burdensome, unclear and uncertain. This would slow the development of critical infrastructure needed to support Kenya's growing demand for digital services. Instead of imposing ASP or NFP-T3 licensing requirements on data centres, we propose the following: i. Define Data Centres as Critical Infrastructure: Recognise data centres as essential infrastructure and establish guidelines specific to their operations without categorizing them as telecommunications providers. This recognition would underscore the importance of data centres in enabling and supporting the digital economy and ensure that regulatory measures are tailored to their unique operational needs. By defining data centres as critical infrastructure, Kenya can prioritize their development and maintenance, ensuring they receive the necessary support and protection. ii. Focus on Collaboration and Self-Regulation: Encourage collaboration between the Communications Authority and		

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				data centre operators to address regulatory concerns through self-regulatory standards and industry best practices. This collaborative approach would allow for the development of flexible and adaptive regulatory frameworks that can evolve with technological advancements. By leveraging the expertise of industry stakeholders, Kenya can ensure that regulatory measures are practical, effective, and aligned with global standards. Self-regulation can also foster a culture of compliance and continuous improvement within the industry. 1.Promote Investment Through Incentives: Consider tax breaks, grants, or other incentives to encourage the development of data centre infrastructure, aligning with Kenya's goals of fostering a vibrant digital economy. Financial incentives can significantly reduce the initial capital expenditure required for establishing data centres, making Kenya a more attractive destination for both local and international investors. Additionally, incentives can stimulate innovation and competition within the sector, leading to the development of cutting-edge facilities and services. By promoting investment through incentives, Kenya can accelerate the growth of its digital infrastructure and enhance its position as a regional technology hub.		

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156.	Daniel Mutembei	KO Associates LLP	H.1	There are no specifications on types/levels/capacity of data centres which fall within the scope of the licensing. The Review should provide a definition of what constitutes a data centre. For purposes of the Regulations, a data center is not defined.	Failing to define what is being considered a data centre will leave room for ambiguity. Further, this may lead to smaller enterprises or enterprises that have data centre-adjacent roles or facilities being required to get licensing.	This is noted. We however wish to point out that the licence categories under the ULF are not defined in the Regulations, but in the market structure. The following is the definition of a Data Centre for purposes of the ULF. **Data center:** is a dedicated facility that hosts infrastructure to support critical information systems, networks, services, and processes, including but not limited to storage, processing, analysis, and management of data for individuals, businesses and government. **Commercial Data Centre:** A data centre designed to support third-party business operations. Commercial Data Centre operators shall be subject to licensing. **Private Data Centre:** A data centre designed to support internal/enterprise operations. Private Data Centre operators shall not be subject to licensing, as long as they do not provide facilities or services to the public that require licensing under the Act.
157.	Daniel Mutembei	KO Associates LLP	71.1 & 71.2	The Review should include of other types of data centres that do not fall into the 2 classifications provided ("fully fledged data centers" and "collocation data centres") Data centres differ and can be classified according to: 1) whether they are used by an entity for internal usage only (enterprise)or as a service to other entities (collocation) 2) Their size, scale & capabilities 3) Institutionally recognized tier models which consider the data	The 2 classifications of data centres provided are broad and loosely defined. They also not cover all types of existing data centres, and do not represent the full capabilities of data centres that could be built. It is essential to have a proper and well-researched classification framework in place as different data centres would require different levels of safety requirements, zoning, environmental checks, data protection and cybersecurity demands, etc. The 2-pronged classification provided might create confusion by possibly including centres that would ordinarily not	We clarify as follows:- Clause 71 details the current practice of establishing Data Centres in Kenya and is by no means an attempt to classify Data Centres. The commercial Data Centres envisioned to be licensed are those that are integral to the provision of public information and communication services. The 2020 ICT policy guidelines seek to encourage Kenyan businesses and County governments to share Data infrastructure to minimise network duplication, among other objectives. Considering ULF's technology and service neutral approach, the Authority proposes

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				centre's expected uptime and reliability 4) How they utilise cloud technology The Review should be cognizant of the classifications as a matter of best practice, keeping up with international standards and leaving room for growth in the industry.	require the provided oversight (such as offices) or excluding centres that are not envisioned and therefore stifling growth.	to licence commercial Data Centres as NFP-T2 to actualize this provision.
158.	Daniel Mutembei	KO Associates LLP	**H. 2.**	The Authority should consider conducting and publishing comprehensive market research on data centres in Kenya to precede any licensing regime. A tailored regulatory framework that reflects the unique role of data centres—distinct from traditional telco regulations—would better support their operations while ensuring accountability. The licensing framework for data centres should have considerations such as promoting self-regulation and reporting mechanisms, which are missing in the proposed Review.	It could reduce flexibility and innovation if licensing is misaligned with market needs or technological trends. The licensing framework proposed, and tiered only into two categories, is unrepresentative of the capabilities of data centers. A sector-specific study and resultant regulations will ensure that there are clear and transparent guidelines and standards for data centres that promote growth in the industry while upholding industry standards.	This is noted. The Authority undertakes market studies from time to time to inform and improve various regulatory interventions. A market study including the segment of Data Centres will be considered alongside other emerging issues in our future studies. With respect to the proposal of self-regulation, it is the Authority's view that Kenya's Data Centre market is not yet ready for self-regulation. The natural tendency is to move from regulation to self-regulation. Please also take note that the National ICT Policy Guidelines ,2020 envisages the development of guidelines for Data Centres and this shall be developed as a follow up to licensing.
159.	Daniel Mutembei	KO Associates LLP	72	Data centre licensing requirements should include standards and requirements for environmental considerations such as waste heat management, grid efficiency, power usage efficiency, environmental impact assessments, etc.	Data centres take up considerable energy and can have negative environmental impacts. It is important to safeguard the environment and surrounding population by introducing sustainability and safety guidelines for data centres, and such standards are not included in the existing NFP and ASP licenses which the Review adopts. This is also in line with best practice jurisdictions such as the European Union (EU) and Singapore.	This is noted and appreciated The Authority is in the process of developing a comprehensive framework on Environmental Sustainability, aspects of which may eventually be included in the relevant licences.
160.	Daniel Mutembei	KO Associates LLP	75	The Review should preclude small scale/startup data centres from licensing for a period of time.	Licensing requirements, particularly for smaller players or startups, may discourage new entrants from establishing data centres due to the financial burden. This could stifle innovation and growth in the sector.	This is not adopted . The new proposal by the Authority to permit the deployment of data centers under NFP -T2 categories

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161.	Daniel Mutembei	KO Associates LLP	77	The Review should provide a comprehensive licensing Framework for data centres to ensure that there is no need for multiple licenses.	Operators may face delays and increased administrative burdens in obtaining the necessary licenses.	This is noted. It is the Authority's view that the Telecommunications market structure provides a comprehensive framework that suits the needs of the market by providing for various services including Data Centre services. We wish to clarify that Data Centre operators will not be required to hold multiple licences, as they will now only be required to hold NFP-T2 licence
162.	Daniel Mutembei	KO Associates LLP	78	The Review should provide tiered fees based on the scale of operations.	The licensing framework might favour large, well-established players who can absorb the costs and comply with requirements, potentially leading to reduced competition and monopolistic tendencies	The tiered fees structure is implied by the type of licence that will be required by a data centre operator based on the number of counties the operator intends to build their facilities in. The Authority is mandated to address issues of competition and has mechanisms in place to ensure that competition is natural in the sector.
163.	Fiona Asonga	TESPOK	Clause 75	We endorse that this only apply to commercial data centers, however we still request a definition of a data center and a private vs commercial data center. If licensing must kick in, we propose that: - Delete "commercial" from "commercial data centres" - Refer to proposals below, on paragraphs 76 and 77.	Need a definition of a data center in terms of size/scope and whether that includes POPs for Cloud Services for example? If a data center is for one's own use, a license should not be necessary. Clarify that if an entity hosts their data center within another licensed entity's data center, then the licensed entity's license would cover all the other data centers in their data center. The provision of a physical facility where organisations store and collocate their devices does not in itself require licensing. Rather, it is how the data in those devices connects to devices outside of the facility that would be subject to licensing – and that need not and is in many instances not provided by the Data Centre operator themselves. In Singapore for instance, there are requirements to apply to build a data centre but not a licensing requirement on operating it unless get into connectivity and such telecommunication arena as part of the service; the emphasis is on quality of the facility and on being alive to data protection law regime. The framework that already exists should suffices, being:	This is noted and the definition of Data Centre is as provided below. A data center is a dedicated facility that hosts infrastructure to support critical information systems, networks, services, and processes, including, but not limited to, storage, processing, analysis, and management of data for individuals, businesses, and government. **Commercial Data Centre:** A data centre designed to support third-party business operations. Commercial Data Centre operators shall be subject to licensing. **Private Data Centre:** A data centre designed to support internal/enterprise operations. Private Data Centre operators shall not be subject to licensing, if they do not provide facilities or services to the public that require licensing under the Act. Any entity that provides commercial Data Centre services shall require a licence regardless of the location of their systems in the country.

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					-Certifications on the quality of the physical facility and operations, such as Uptime & ISO - Being subject to data protection laws both local and international -Being subject to environmental considerations on alternative energy sources.	Whereas CA's mandate is to regulate the ICT sector, it is important to note that other government agencies have mandates over different issues, such as Data protection and environmental management.
164.	Fiona Asonga	TESPOK	Paragraph 76	Delete the words "It is not envisaged that data operators will have physical facilities in multiple counties. As such" from the statement so that it starts from "We propose that where a data centre establishes....". Consider adding the words "has and uses its existing or" before the word "establishes". Add a statement at the end of the paragraph, as follows: A data centre operator which solely uses other communication infrastructure of other providers (and not its own) to facilitate connectivity for the data centre users will not be subject to this NFP-T3 licensing requirement and instead shall be subject to the ASP licensing requirement. The data centre operator shall ensure that it only uses infrastructure of the appropriate NFP licensee as applicable based on the geographical coverage of the infrastructure used."	The statement is incorrect. It is possible for and there are in fact operators with data centre facilities in more than one county. For that reason, an NFP-T3 license would then be for an operator provided each data centre they establish within Kenya meets the requirements. Further, in line with the proposal and justification at paragraph 76, NFP-T3 licensing would apply for operators who themselves provide connectivity as a bundled product with the data centre facilities, not for those who solely use other providers for the connectivity aspect facilitating the data centre users. This is to clarify that the requirement would also be for any data centre operator with such existing communication infrastructure of its own which it uses for the data centre operations as a bundled product – not just one that establishes such infrastructure after the taking effect of a revised structure with this the NFP-T3 requirement. This is to supplement and provide context for the provision at paragraph 76 where ASP (as opposed to NFP-T3) applicability is defined.	This is not adopted. However, the Authority has taken note of the Feedback by respondents on the applicability of the ASP license for Data Centres and therefore proposes to license Data Centres, regardless of the Data Centre type, under the NFP-Tx category. Consequently, clauses 77 is deleted and clauses 76 and 78 are amended as follows: Clause 76: *Data Centres shall be provided under the relevant NFPT2 licence category depending on the number of locations that the entity will have a physical presence.* Clause 78: *The proposed regulatory fees for data centres will align with that of the relevant NFP-Tx as per the current market structure.*
165.	Fiona Asonga	TESPOK	Clause 78	Need to define the scope of revenue to be covered by the commercial data center operators or revenue from services generated in the commercial data center operators (which cannot be easily measured).	ASP and NFP T3 license fees for data centers would only cover the data center operator's revenue, not the revenue generated through the data center as cloud-based services are delivered globally and with multiple services from different locations.	This is noted. We further clarify that licensed Data Centre operators will be billed based on the prevailing fee schedule for the NFP-Tx licences or the proposed NFP-T4 fee structure. The revenues that shall be subject to the computation of licence fees shall be those derived from the provision of Data Centre services by the licensed entity (regardless of the number of

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				Add a statement as follows: Licensing (and attendant fees) will apply to an operator not per facility.	This is to clarify that the licensing sits with the operator, so that an operator that establishes another facility need not seek further licensing. Its compliance reporting and annual fees would in any case as a matter of course reflect the expanded facilities, operations, and revenues thereof.	facilities they have deployed) and not the revenues made or generated by their customers. It shall be the licensee's responsibility to clearly differentiate the various revenues earned from their operations in their annual financial statements.
166.	Ian Siako	Safaricom	It is not envisaged that the data center operators will have physical facilities in multiple counties. As such, we propose that where a data center operator establishes communication infrastructure- terrestrial and/or non-terrestrial connectivity- to the facility to facilitate ease of connectivity by users of this data center, then they will be required to obtain an NFP-T3 Licence.	Propose deletion in entirety and amendment as below: It is envisaged that some data centre operators in the country have physical facilities in more than one county. As such we propose that all data centre facilities within the Republic of Kenya should be licensed as NFP-T2. Existing NFP-T1 should be exempted from this requirement.	The original concept of data centers was to store data for government, learning & research institution, non-governmental entities and corporate entities. However, due to the evolution within the communication sector, data centers have taken up new roles including: 1. Hosting hyperscalers, NFP-T1. OTT entities, Fintechs 2. International gateways; host major international transit routes and 3. Hosting of submarine cable landing services, among others. The above roles, traditionally reserved for the NFP-T1 and PTTs, have led to the erosion of the NFP-T1 revenues while conversely boosting the data center operators' revenues. All existing NFP-T1 switching centers are ideally data centers that should not require separate licenses to operate.	This is not adopted. However, the Authority has taken note of the Feedback by respondents on the applicability of the ASP license for Data Centres and therefore proposes to license Data Centres, regardless of the Data Centre type, under the NFP-T2 category. Consequently, clauses 77 is deleted and clauses 76 and 78 are amended as follows: Clause 76: *Data Centres shall be provided under the relevant NFP-T2 licence category depending on the number of locations that the entity will have a physical presence.* Clause 78: *The proposed regulatory fees for data centres will align with that of the relevant NFP-T2 as per the current market structure.*
167.	Ganson Lewela	Airtel	H.3. Proposals	We propose that Data Centres should not be subjected to Licensing.	Data Centres mainly comprise provision of Floor space, Rack space, continuous and maintained Power supply and Colling Systems for the equipment installed in the Data Centres. Data Centres is therefore not a connectivity service. Connectivity to and from Data Centres is currently handled by NFP-T1,2 &3 while patching of cable can be undertaken by the various licensed technical personnel.	This is not adopted It is recognised that Data Centres support critical information infrastructure in the digital ecosystem which necessitates regulatory oversight. Kenya's National ICT policy guidelines, 2020, provides that the government will promote, encourage and license private sector investment in neutral data centres by companies incorporated for that purpose; Further, adopting cloud services as envisaged in Kenya's Cloud Policy is expected to lead to increased investment opportunities for Data

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						Centers. The policy has mandated all entities to prioritize cloud-based solutions when making ICT investments (procurement of hardware, software, renewal of existing software licenses, revamping existing ICT infrastructure including Data Centers). This prioritization aims to achieve the following key objectives: i. To accelerate adoption of green cloud computing technology ii. To reduce Total Cost of Ownership of ICT infrastructure iii. To ensure robust Cybersecurity measures on data hosted on cloud. iv. To enable collaboration and interoperability among entities. v. To promote Data Residency and Sovereignty. The proposed licencing of Data centres, which is informed by the increasing use and provision of cloud services in the country, is aimed at achieving the under listed objectives among others: 1. Protecting investors' interests by ensuring that disputes that arise between Data Centres and their customers, some of whom maybe be licensed entities, may be resolved in a manner that does not result in interruption of services to the parties, thereby creating a trusted environment; 2. Ensuring that Data centres put in place elaborate measures to protect end users of the services provided through their Data centres and their partners; 3. Introduce regulatory oversight to ensure that services not permitted under the Kenyan law are not provided 4. Ensuring certain standards are met for uptime failover protocols and redundancy ensures a high level of reliability in the Data Centre ecosystem. The Authority is of the view that licensing Data centres in Kenya to achieve the objectives above, will not constitute a barrier but make Kenya a

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						preferred investment destination for providers of cloud services to Kenya and the region.
168.	Miriam Maina	LTK	Paragraph 75	We recommend that no licensing apply for data centre operators, and to that end delete the references to licensing of data centres currently. If licensing must kick in, we propose that: Delete "commercial" from "commercial data centres" Refer to proposals below, on paragraphs 76 and 77.	The provision of a physical facility where organisations store and collocate their devices does not in itself require licensing. Rather, it is how the data in those devices connects to devices outside of the facility that would be subject to licensing – and that need not and is in many instances not provided by the Data Centre operator themselves. In Singapore for instance, there are requirements to apply to build a data centre but not a licensing requirement on operating it unless get into connectivity and such telecommunication arena as part of the service; the emphasis is on quality of the facility and on being alive to data protection law regime. The framework that already exists therefore already suffices, being: - Certifications on the quality of the physical facility and operations, such as UpTime & ISO - Being subject to data protection laws both local and international -Being subject to environmental considerations on alternative energy sources "Commercial" suggests that there are non-commercial data centres; alternatively, define what is meant by commercial data centres, ensuring not to occasion unfair practice/advantage Refer to justification below, on paragraphs 76 and 77	These proposals are not adopted. However, the Authority has taken note of the Feedback from respondents on the applicability of the ASP license for Data Centres and therefore proposes to license Data Centres, regardless of the Data Centre type, under the NFP-Tx category. Consequently, clauses 77 is deleted and clauses 76 and 78 are amended as follows: Clause 76: *Data Centres shall be provided under the relevant NFP-T2licence category depending on the number of locations that the entity will have a physical presence.* Clause 78: *The proposed regulatory fees for data centres will align with that of the relevant NFP-T2 as per the current market structure.* The definition of Data Centre is as provided below:- A data center is a dedicated facility that hosts infrastructure to support critical information systems, networks, services, and processes, including, but not limited to, storage, processing, analysis, and management of data for individuals, businesses, and government. **Commercial Data Centre:** A data centre designed to support third-party business operations. Commercial Data Centre operators shall be subject to licensing. **Private Data Centre:** A data centre designed to support internal/enterprise operations. Private Data Centre operators shall not be subject to licensing, as long as they do not provide facilities or services to the public that require licensing under the Act.
169.	Miriam Maina	LTK	Paragraph 76	Delete the words "It is not envisaged that data operators will have physical facilities in multiple counties. As such" from the statement so that it starts from "We propose that where a data centre establishes....". Consider adding the words "has and uses its	The statement is incorrect. It is possible for and there are in fact operators with data centre facilities in more than one county. For that reason, an NFP-T3 license would then be for an operator provided each data centre they establish within Kenya meets the requirements. Further, in line with the proposal and justification at paragraph 76,	

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				existing or" before the word "establishes". Add a statement at the end of the paragraph, as follows: A data centre operator which solely uses other communication infrastructure of other providers (and not its own) to facilitate connectivity for the data centre users will not be subject to this NFP-T3 licensing requirement and instead shall be subject to the ASP licensing requirement. The data centre operator shall ensure that it only uses infrastructure of the appropriate NFP licensee as applicable based on the geographical coverage of the infrastructure used."	NFP-T3 licensing would apply for operators who themselves provide connectivity as a bundled product with the data centre facilities, not for those who solely use other providers for the connectivity aspect facilitating the data centre users. This is to clarify that the requirement would also be for any data centre operator with such existing communication infrastructure of its own which it uses for the data centre operations as a bundled product – not just one that establishes such infrastructure after the taking effect of a revised structure with this the NFP-T3 requirement. This is to supplement and provide context for the provision at paragraph 76 where ASP (as opposed to NFP-T3) applicability is defined.	Any entity that provides commercial Data Centre services shall require a licence regardless of the location of their systems in the country.
170.	Miriam Maina	LTK	Paragraph 78	Add a statement as follows: Licensing (and attendant fees) will apply to an operator not per facility.	This is to clarify that the licensing sits with the operator, so that an operator that establishes another facility need not seek further licensing. Its compliance reporting and annual fees would in any case as a matter of course reflect the expanded facilities, operations and revenues thereof.	This is noted. We clarify that licensed Data Centre operators will be billed based on the prevailing fee schedule for the NFP-Tx licences or the proposed NFP-T4 fee structure. Billing will be applicable to the licensed services. The Authority takes cognisance of the fact that some the current commercial Data Centres operating in the country are operated by NFP-T1and T2 licence holders and none of commercial Data Centres is operated by any NFP-T3 licence holder. NFP-T2 licence holders will not be required to obtain separate licensing in order to operate Data Centres. However, holders of NFP-T3 licences that wish to operate Commercial Data Centres in more than 3 counties will be required to upgrade to NFP-T2.

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171.	Susan Mbatia	iColo	H: DATA CENTRES.	1. Understanding the Role of Data Centres in the Digital Ecosystem Data centres have the potential to serve as foundational infrastructure for Kenya's digital economy, enabling data storage, cloud services, and digital applications if they are able to provide such services at a price that spurs rather than disincentivises their use. It is crucial to understand the role data centres and data centre providers play in the ecosystem and to distinguish their functions from those of telecommunications operators or application service providers, specifically: Carrier-Neutral Data Centres: These facilities provide space, power, cooling, and physical security for colocated servers. Carrier-neutral means that data centres allow interconnection between many interconnection providers and colocation customers. Carrier-neutral data centres are not tied to any one service provider (telecommunications, ISP, or other), providing diversity and flexibility for the client seeking service, aligning with the technology and service neutrality principles underlying the Authority's Unified Licensing Framework. In some cases, they may offer servers for clients' use or certain on-site services, but even when offering such services, data centre providers do not manage, transmit, or own the data stored on these servers. Data centres only provide the physical	Proposed Alternative Approach Rather than imposing ASP or NFP-T3 licensing requirements on data centres, we propose a more targeted and facilitative approach: 1. Define Data Centres as Critical Infrastructure: Recognise data centres as essential infrastructure and establish guidelines specific to their operations without categorizing them as telecommunications providers. This recognition would underscore the importance of data centres in enabling and supporting the digital economy and ensure that regulatory measures are tailored to their unique operational needs. By defining data centres as critical infrastructure, Kenya can prioritize their development and maintenance, ensuring they receive the necessary support and protection.	This is noted Refer to response to row number Several other government agencies have different mandates over different issues, which may inevitably result in multiple licenses being issued. It is recognised that Data Centres support critical information infrastructure in the digital ecosystem which necessitates regulatory oversight. Kenya's National ICT policy guidelines, 2020, provides that the government will promote, encourage and license private sector investment in neutral data centres by companies incorporated for that purpose; Further, it is expected that adoption of cloud services as envisaged in Kenya's Cloud Policy will lead to increased investment opportunities for Data Centers. The policy has mandated all entities to prioritize cloud-based solutions when making ICT investments (procurement of hardware, software, renewal of existing software licenses, revamping existing ICT infrastructure including Data Centers). This prioritization aims to achieve the following key objectives: i. To accelerate adoption of green cloud computing technology ii. To reduce Total Cost of Ownership of ICT infrastructure iii. To ensure robust Cybersecurity measures on data hosted on cloud. iv. To enable collaboration and interoperability among entities. v. To promote Data Residency and Sovereignty. The proposed licencing of Data centres, which is informed by the increasing use and provision of cloud services in the country, is aimed at achieving the under listed objectives among others: 1. Protecting investors' interests by ensuring that disputes that arise between Data Centres

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				infrastructure while the ownership, storage, transmission, and use of the data are under the control of the clients who utilize the data centre space. No Telecommunications Function: Data centres do not provide telecommunications services or technology. Their role is limited to enabling customers to manage their own data and applications through the provision of physical infrastructure. Colocation customers in data centres are in fact dependent on telecommunications service providers (who would need to be separately licensed by the Authority) for connectivity for their servers hosted in a carrier-neutral data centre. Unlike telecommunications providers, data centres do not engage in the transmission of data or the provision of communication services. Their role is limited to enabling customers to manage their own data and applications, and their customers must manage their own telecommunications, data and applications services and contract with licensed service providers to satisfy these requirements. As a result, imposing licensing requirements designed for telecommunications service providers would inaccurately categorize the activities of data centres, leading to significant regulatory mismatches. By subjecting data centres to the same licensing requirements as telecommunications providers,		and their customers, some of whom maybe be licensed entities, may be resolved in a manner that does not result in interruption of services to the parties, thereby creating a trusted environment; 2. Ensuring that Data centres put in place elaborate measures to protect end users of the services provided through their Data centres and their partners; 3. Introduce regulatory oversight to ensure that services not permitted under the Kenyan law are not provided 4. Ensuring certain standards are met of uptime failover protocols and redundancy ensuring high level of reliability in the Data Centre ecosystem. It is the view of the Authority that the licensing of Data centres in Kenya in order to achieve the aforementioned objectives will not constitute a barrier but make Kenya a preferred investment destination for providers of cloud services to Kenya and the region.

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				the regulatory framework would fail to recognize the fundamental differences in their operations. This misclassification could result in several adverse outcomes: 1. Inappropriate Regulatory Burden: Data centres would be required to comply with regulations that are irrelevant to their core functions, leading to unnecessary administrative and financial burdens. This will divert resources away from critical infrastructure investments and innovation. 2. Operational Inefficiencies: The imposition of telecommunications-specific regulations on data centres will create operational inefficiencies. For example, data centres might be forced to implement compliance measures that are designed for communication networks, which do not align with- and have no relevance for their operational realities. 3. Market Distortion: Treating data centres as telecommunications providers in Kenya will distort the market by creating an uneven playing field. Data centres in Kenya will face regulatory hurdles that their international counterparts do not, making Kenya a less attractive destination for data centre investments. 4. Stifling Innovation: The additional regulatory burden will stifle innovation within the data centre sector. Operators may become more risk-averse,		

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				focusing on compliance rather than exploring new technologies and services that could enhance their offerings and contribute to the digital economy. In summary, the proposed licensing requirements will not only misclassify the activities of data centres but also introduce regulatory mismatches that will materially hinder the growth and development of Kenya's digital infrastructure.		
172.	Susan Mbatia	iColo	H: DATA CENTRES.	2. **Existing Regulatory Frameworks Already Address Key Concerns** Kenya already has comprehensive legal frameworks that address the primary regulatory concerns associated with data centres, particularly regarding the collection, storage, and use of personal data. This makes additional licensing obligations unnecessary, as the Data Protection Commissioner already performs the role of regulatory oversight:	2. Focus on Collaboration and Self-Regulation: Encourage collaboration between the Communications Authority and data centre operators to address regulatory concerns through self-regulatory standards and industry best practices. This collaborative approach would allow for the development of flexible and adaptive regulatory frameworks that can evolve with technological advancements. By leveraging the expertise of industry stakeholders, Kenya can ensure that regulatory measures are practical, effective, and aligned with global standards. Self-regulation can also foster a culture of	

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				· Data Protection and Security: The Data Protection Act provides robust safeguards for personal data, ensuring accountability and compliance by data controllers and processors, including those utilizing data centre services. This legislation mandates stringent requirements for data protection, including the principles of data minimization, purpose limitation, and data security. Data controllers and processors are required to implement appropriate technical and organizational measures to protect personal data against unauthorized access, loss, or destruction. This existing legal framework already addresses the core concerns that additional licensing requirements aim to cover. Introducing further licensing obligations, such as ASP or NFP-T3 licenses, would result in several negative consequences including: 1. Regulatory Redundancy: The additional licensing requirements would duplicate existing obligations under the Data Protection Act, leading to unnecessary regulatory overlap. This redundancy would not enhance data protection or security but would instead create confusion, uncertainty and inefficiencies for data centre operators as well as regulators. 2. Increased Compliance Costs: Data centre operators would face increased compliance costs due to the need to adhere to multiple regulatory frameworks. These	compliance and continuous improvement within the industry.	

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				costs will include legal fees, administrative expenses, and the implementation of additional compliance measures. Such financial burdens will deter investment and innovation in the data centre sector. 3. Potential for Regulatory Arbitrage: The imposition of redundant licensing requirements will encourage data centre operators to seek more favourable regulatory environments in neighbouring countries. This will result in a loss of investment, employment and economic opportunities for Kenya, undermining its goal of becoming a regional digital hub.		
173.	Susan Mbatia iColo	iColo	H: DATA CENTRES.	**3. Potential Impacts on Investment and Sector Growth** Licensing data centres under the proposed framework will have unintended consequences that hinder Kenya's aspirations to become a regional digital hub: Increased Costs and Regulatory Burden: Licensing obligations and associated fees will increase operational costs, making it less attractive for local and international investors to establish or expand data centre operations in Kenya. Reduced Competitiveness: In the highly competitive data centre market, global investors prioritize jurisdictions with clear, streamlined, and investment-friendly regulatory environments. Neighbouring markets with less	3. Promote Investment Through Incentives: Consider tax breaks, grants, or other incentives to encourage the development of data centre infrastructure, aligning with Kenya's goals of fostering a vibrant digital economy. Financial incentives can significantly reduce the initial capital expenditure required for establishing data centres, making Kenya a more attractive destination for both local and international investors. Additionally, incentives can stimulate innovation and competition within the sector, leading to the development of cutting-edge facilities and services. By promoting investment through incentives, Kenya can accelerate the growth of its digital infrastructure and enhance its position as a regional technology hub.	

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				onerous requirements may become preferred destinations. Negative Signal to Existing Operators: Current data centre operators may deprioritize expansion plans or reduce investments if the regulatory environment becomes more burdensome, unclear and uncertain. This would slow the development of critical infrastructure needed to support Kenya's growing demand for digital services.		
174.	Susan Mbatia iColo	iColo	H: DATA CENTRES.	4. Alignment with International Best Practices Globally, carrier-neutral data centres are not generally subject to licensing as telecommunications operators or application service providers. Leading markets instead focus on: · Establishing Clear Operational, Safety and Environmental Standards: Countries with thriving data centre industries prioritize the establishment of clear and robust operational, safety and environmental standards. These standards ensure that data centres operate efficiently and safely, protecting both the infrastructure and the data stored within as well as minimising their impact on the environment. By focusing on these operational aspects, regulators can ensure that data centres provide reliable and secure services without imposing unnecessary licensing burdens.	This alternative approach would provide the necessary regulatory clarity and oversight without imposing burdensome obligations that could stifle investment and growth. It would also align Kenya's regulatory framework with international best practices, ensuring that the country remains competitive in the global market. 6. Conclusion We strongly believe that Kenya's ambitions to become a regional leader in digital infrastructure can be best achieved through a balanced regulatory framework that: · Recognises the unique role of data centres as infrastructure providers. · Avoids unnecessary licensing obligations that misclassify their activities. · Maintains a clear and predictable regulatory and fiscal environment for data centre operators given the high capital expenditure and long repayment timelines which characterise the sector. · Focuses on creating an enabling environment for investment, innovation, and growth.	

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				· Ensuring Compliance with Data Protection and Cybersecurity Laws: Leading markets emphasize the importance of compliance with data protection and cybersecurity laws. These laws are designed to protect the privacy and security of data, ensuring that data centres implement appropriate measures to safeguard against breaches and cyber threats. By enforcing stringent data protection regulations, countries can build trust with users and businesses, encouraging the use of data centre services while maintaining high standards of data security. · Promoting Infrastructure Investment through Incentives: Rather than imposing regulatory hurdles, successful markets promote infrastructure investment through various incentives. These incentives may include tax breaks, grants, and subsidies, and also a predictable and clear regulatory landscape aimed at encouraging the development and expansion of data centre facilities. By creating a favourable investment climate, countries can attract both local and international investors, fostering growth and innovation in the data centre sector. Kenya has the potential to strengthen its position as a leader in the African data centre market. Aligning its regulatory framework with international best practices will enhance its competitiveness and attract global players to invest in the country.		

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				By adopting a regulatory approach that focuses on operational, safety and environmental standards, data protection, and investment incentives, Kenya can create an environment that supports the growth of its digital infrastructure. Moreover, aligning with international best practices will ensure that Kenya remains competitive in the global market. Investors and businesses often look for jurisdictions with clear, predictable, and business-friendly regulatory environments. By avoiding unnecessary licensing requirements and instead focusing on creating a supportive regulatory framework, Kenya can signal its commitment to fostering a vibrant and innovative digital economy.		
175.	Micheal Murungi	Google	H, H.2, H.3-Data Centres	1. We recommend that amendments should be made to the Public Consultation Document to the effect that the NFP T-3 and ASP licensing requirements should not apply to the two licensing scenarios contemplated in the document, in particular where the facilities and services are provided for purely B2B purposes. 2.We also propose that the regulatory licensing requirements should not apply where a service provider leases the network connectivity from a third party for a service provider's private network (emphasis added - the	1.The amendments propose balancing innovation with compliance to avoid stifling growth. Regulating data centre effectively requires adherence to global standards, fostering security, efficiency, and environmental responsibility. Aligning with international best practices ensures data center operators meet technical and legal requirements while promoting investment, innovation, and trust in the digital economy. 2. The current and proposed licensing framework for data centres do not take into account the peculiarities of data centers generally.	We wish to clarify that the Data Centre operator exercises significant control over their clients' access to physical infrastructure, network resources and data within the Data Centre on account of the facilitation they provide to entities that are collocated in the facility. The intention is to ensure that all players in the communications landscape, including Data Centres, are subject to regulatory oversight. The Authority has taken note of the Feedback by respondents on the applicability of the ASP license for Data Centres and therefore proposes to license Data Centres, regardless of the Data Centre type, under the NFP-T2 category. Consequently, clauses 77 is deleted and clauses 76 and 78 are amended as follows: Clause 76: *Data Centres shall be provided under the relevant NFP-T2 licence category depending*

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				leasing itself currently does not and should not require licensing). 3. We propose that the CA should be able to grant exemptions to certain entities in relation to the apparent requirement to obtain either an NFP-Tier 3 licence or an ASP licence, giving regard to the NFP-Tier 3 licence and ASP licence terms and conditions and the services/activities in relation to which they are issued. In this regard, the Public Consultation Document should be amended to clarify that the ASP licence structure is inapplicable to a host of services regularly offered through data Centres.		*on the number of locations that the entity will have a physical presence.* Clause 78: *The proposed regulatory fees for data centres will align with that of the relevant NFP-T2 as per the current market structure.* Data Centres are being considered based on the role they play in facilitating the provision of critical information infrastructure in the same manner that tower companies are regulated. The framework does not propose the licensing of any entity on account of its leasing capacity from a licensed service provider but proposes the licensing of entities that provide commercial Data Centre services. No commercial Data Centre operator regardless of scope or size shall be exempt from licensing.
176.	Pressy Akinyi	American Chamber of Commerce	Sections H.1 - H.3	The Review conflates cloud and data center infrastructures. Data centers in article 71.2 refer to facilities that offer colocation services - providing space, energy, cooling, and connectivity for enterprises or cloud providers to host their own servers. In contrast, data centers in article 71.1 refer to cloud infrastructure and services - the physical data center, racks, servers, GPUs, and associated suite of cloud storage, compute, database, and other services.	We request clarity in terms of the definition of "data centers" and the intended regulatory scope—whether it applies to colocation facilities, cloud infrastructure, or both. A well-defined scope will help ensure regulatory clarity, avoid unnecessary compliance burdens, and support continued investment in Kenya's digital ecosystem.	This is noted and the definition of Data Centre is as provided below:- **Data center:** is a dedicated facility that hosts infrastructure to support critical information systems, networks, services, and processes, including but not limited to storage, processing, analysis, and management of data for individuals, businesses and government. **Commercial Data Centre:** A data centre designed to support third-party business operations. Commercial Data Centre operators shall be subject to l icensing. **Private Data Centre:** A data centre designed to support internal/enterprise operations. Private Data Centre operators shall not be subject to licensing, as long as they do not provide facilities or services to the public that require licensing under the Act.
177.	Pressy Akinyi	American Chamber of Commerce	Proposed Scope of Licensing	There is need for greater clarity on whether the proposed licensing framework is intended to apply to data centers as a whole or only to the networking products and connectivity used by data centers. This distinction is important, as data center-specific regulations could introduce additional	We respectfully oppose any licensing requirements for colocation data centers or cloud services, as there is no clear evidence of market failure necessitating such regulation. Implementing such measures could introduce unnecessary compliance burdens, potentially discouraging cloud investment and hindering business growth in Kenya. The Communications Authority	

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				compliance requirements that may inadvertently discourage cloud infrastructure investment and impact businesses that rely on cloud services in Kenya. If the proposal seeks to license entire data centers, it would be helpful to understand the underlying rationale, particularly in the absence of evidence of market failure or competition risks that would warrant such regulation. Aligning with global best practices has enabled the growth of cloud computing without undue regulatory constraints, and any new measures should be carefully considered to ensure they support innovation, competition, and economic growth. If the intention is to license only the networking and connectivity used by data centers, further clarification on which specific connectivity products fall within the scope would be valuable. Data centers typically connect to internet service providers through retail broadband services or by deploying their own dark fiber infrastructure. Given that the regulatory treatment of these options may differ, clearer guidance would help ensure that licensing requirements are proportionate, practical, and aligned with industry needs.	would benefit from further engagement with industry stakeholders to better understand the various connectivity options used by data centers. Any licensing requirements should be narrowly focused on specific regulated networking products rather than extending to broader data center or cloud services, ensuring a balanced approach that supports continued investment and innovation. We further propose that if a licensing framework is deemed necessary, it would be helpful to clarify that it applies only to data centers that provide services to unaffiliated third parties, rather than broadly covering all data centers. This would ensure regulatory clarity while maintaining an open and competitive market.	Any entity that provides commercial Data Centre services shall require a licence regardless of the location of their systems in the country. Kenya's National ICT policy guidelines, 2020, provides that the government will promote, encourage and license private sector investment in neutral data centres by companies incorporated for that purpose:- Further, it is expected that adoption of cloud services as envisaged in Kenya's Cloud Policy will lead to increased investment opportunities for Data Centers. The policy has mandated all entities to prioritize cloud-based solutions when making ICT investments (procurement of hardware, software, renewal of existing software licenses, revamping existing ICT infrastructure including Data Centers). This prioritization aims to achieve the following key objectives: i) To accelerate adoption of green cloud computing technology. ii) To reduce Total Cost of Ownership of ICT infrastructure. iii) To ensure robust Cybersecurity measures on data hosted on cloud. iv) To enable collaboration and interoperability among entities. v) To promote Data Residency and Sovereignty. The proposed licencing of Data centres, which is informed by the increasing use and provision of cloud services in the country, is aimed at achieving the under listed objectives among others: i) Protecting investors' interests by ensuring that disputes that arise between Data Centres and their customers, some of whom maybe be licensed entities, may be resolved in a manner that does not result in interruption of services to the parties, thereby creating a trusted environment; ii) Ensuring that Data centres put in place elaborate measures to protect end users

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						of the services provided through their Data centres and their partners; iii) Introduce regulatory oversight to ensure that services not permitted under the Kenyan law are not provided iv) Ensuring certain standards are met of uptime failover protocols and redundancy ensuring high level of reliability in the Data Centre ecosystem. It is the view of the Authority that the licensing of Data centres in Kenya in order to achieve the aforementioned objectives will not constitute a barrier but make Kenya a preferred investment destination for providers of cloud services to Kenya and the region. Additionally, it is best practice across the globe for National Regulatory Authorities to put in place regulatory interventions that mitigate market failure.
GENERAL COMMENTS						
178.	Eric Ndungu	Kenya Network Information Centre (KeNIC)	Telecommunications Market Structure under the unified licensing framework. Dot Ke Subdomain Name Registrar Service Provider	KeNIC is the registry licensed by the Communications Authority (CA) to manage and administer Kenya's Country Code Top-Level Domain (ccTLD), ".KE." Our primary mandate is to promote the adoption and growth of '.KE' domains. In response to the growing global demand for online brand protection, particularly in markets like the USA, Europe, and Asia, the global market has seen a rise in applications from international domain registrars. These registrars are interested in listing ".KE" domains on their platforms to help international brands protect their intellectual property from cyber squatters. However, it's important to note that these registrars do not intend to operate within Kenya; rather, they aim to	The global domain market is competitive, with many countries actively promoting their ccTLDs for international use. By modernizing the regulatory framework and introducing this license, KeNIC can position .KE as a prime domain for global online brand protection. This move would enhance KeNIC's competitiveness, ensuring that .KE remains relevant and sought-after as businesses around the world expand their online presence. Facilitating Innovation and Domain Creativity: The ability to register creative domain hacks such as "stri.ke" (strike) or "earthqua.ke" (earthquake) would not only appeal to global brands but also foster innovation within the domain industry. These unique and memorable domain names have the potential to become iconic online assets, contributing to the broader digital landscape. By opening up .KE to international markets, we encourage	This is adopted We clarify that the 30 per cent local equity requirement previously required for foreign firms was repealed in 2023 and is therefore no longer applicable. The application forms will be amended to provide for appropriate foreign company registration documents including proof of registration as sub-domain registrar in the country of domicile. The applicant will be required, through a suitable framework to be developed, to satisfy chain of trust requirements.

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				sell .KE domains to registrants based in their respective countries. Currently, due to stringent licensing requirements under the unified licensing framework CA/F/LCS/TL7.1, KeNIC is unable to expand the uptake of .KE domains internationally. To address this challenge, we propose the introduction of the International Dot KE Subdomain Name Registrar Service Provider License, which would include the following adjustments: Remove the requirement for a minimum of 30% local shareholding by a Kenyan citizen. Accept International Business Name/Registration Certificates certified by a notary, in addition to the current BRS requirements. Accept International Tax Compliance Certificates, including those from authorities outside of Kenya, such as KRA. By making these changes, we anticipate a significant increase in the uptake of .KE domains, particularly in untapped international markets. This would position ".KE" as a premium domain extension for global brand protection while also opening the door to creative domain hacks, such as "stri.ke" (strike) or "earthqua.ke" (earthquake), which have universal appeal.	creativity and offer companies new opportunities to develop and protect their online brands in innovative ways.	

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				We believe that these adjustments will foster greater international recognition and growth of the .KE domain.		
179.	Fiona Asonga	TESPOK	No Section	The proposed market structure has left out the Community Networks. Is there a place where these are to be captured? Because it is not clear.	Community Networks are part of the ecosystem, and it is important that they be considered in the structure.	The CNSP, E-CSP, BPO, Private VSAT, dot.ke sub-domain name registrar licence categories were not considered for review and hence did not appear in the public consultation paper. Please note that these categories have not been expunged from the market structure. It is proposed that an annual operating fee of Kshs 3,000/- be applicable for BPO Licences without a Licence term limit, while those that are capped at 10 years will not attract annual fees. The BPO Licence will be enhanced with additional conditions, including customer care, among others.
180.	Fiona Asonga	TESPOK	Paragraph 79	Implementation of revised telecommunications market structure to be at least one year from the date of taking into effect of the revised structure if proceeds – and in any case is not earlier than 1 July 2026 (thus 2026/2027). Implementation of the revised telecommunications market structure FY2025/2026 Should be revised to FY 2026/2027	This would allow for more time to meet license requirements once the market sensitisation has been done This is to give impacted stakeholders sufficient opportunity to plan accordingly, including in their budgets, where new licensing requirements may be kicking in and to comply with the license application process.	This is noted and appreciated. A suitable transition plan will be shared with the industry players taking into consideration new as well as existing players.
181.	Miriam Maina	LTK	Paragraph 79	Implementation of the revised telecommunications market structure to be at least one year from the date of taking into effect of the revised structure if proceeds – and in any case is not earlier than 1 July 2026 (thus 2026/2027).	This is to give impacted stakeholders sufficient opportunity to plan accordingly, including in their budgets, where new licensing requirements may be kicking in and to comply with the license application process.	
182.	Ganson Lewela	Airtel	New	We propose reviewing all the License Terms and Conditions for the various License Categories in accordance with the revised Telecoms Licensing structure.	A review of the Telecommunications Market structure cannot be complete without a review of the associated License terms and conditions. This will ensure that the rights and obligations of the various License types are clearly stated and specified to ensure predictability and transparency for existing Licensees and	This is noted. The Authority will also develop licences for the new proposed licence categories.

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					those planning to invest in the various licenses.	
183.	Ganson Lewela	Airtel	New	We propose that the License Term for NFP-T1 be set at 25 years. This should be specified in the Telecommunications Market structure as it informs investment decisions.	Considering that NFP-T1s rely on expensive IMT frequency Spectrum and that it takes longer to get returns from this investment and required network infrastructure due to equipment technology evolution, 25 Years will be a reasonable duration to attract investments in the short and long term while taking advantage of spectrum refarming and technology changes.	This is not adopted. It is important to note that the Mobile Licences were issued for 25 years, which was divided into an initial term of 15 years renewable for a further 10 years, subject to satisfactory performance. This recognized the need to review a Licensee's performance to assess its continued suitability to hold a strategic national resource. Those operators whose performance was satisfactory and met the compliance requirements continued holding the spectrum for the remaining 10 years of the 25-year Licence term. Upon review of licence conditions in 2016, the provisions on renewal of licenses for a further 10 years was varied to provide for perpetual renewal upon satisfactory performance at the end of each 15-year term. This implies that the argument advanced for a continuous 25-year licence term in order to recoup investments is not justifiable unless a licensee is planning to fail. Considering that additional spectrum may be assigned from time to time depending on need and availability, the argument that a longer licence term is required in order to recoup investment would imply that each additional frequency assignment would restart a new 25-year operating licence term which negates the provision for periodic reviews to confirm satisfactory performance, which review is carried out in the public interest in line with the Authority's mandate. The Authority proposes, therefore, to maintain the term of the NFP-T1 Licence at 15 years regardless of the length of the term a frequency Licence. The assignment of frequencies will be done in such a way that the payments for the spectrum issued mid-stream in the course of an

No	Name	Organisation	Reference to Structure	Comment / Proposal	Justification	Authority's Response
						operating Licence is handled in the manner described here below. • Introduction of a condition in the Licence that provides for prorating of fees for Spectrum issued mid-stream during the term of the operating Licence: ⇒ Assignee pays for initial portion of the term of the frequency Licence; ⇒ Payment of the remaining portion (**albeit discounted to reflect present value**) of the frequency Licence term to facilitate renewal of the operating Licence; ⇒ If Licensee fails, or expresses inability to pay remaining portion of the spectrum fees during Licence renewal, then Spectrum reverts to the Authority • Local firms that qualify for 10-year payment plan for Initial spectrum Licence fees will only enjoy this: ⇒ if the first portion payable upon prorating reaches the threshold set in the Act, i.e., Kshs 1 billion; ⇒ on renewal of the operating Licence and the second proportion reaches the threshold specified in the Act, i.e., Kshs 1 billion;
184.	Ganson Lewela	Airtel	A.3. Proposals	We note that the framework has not specified the IMT frequency spectrum access rights for the NFP-T1. We propose the structure should clearly specify that the IMT frequency spectrum rights remain with the NFP-T1 Licensees subject to payment of requisite spectrum acquisition fees. We therefore propose an additional proposal as follows: - "A.3.17 (B). /In regard to IMT frequency spectrum acquisition rights, this will be limited to NFP-	MNOs have been pivotal in enabling access to mobile communications to over 96% of the Kenyan population. This was facilitated by the design of the ULF framework, in which NFP-T1s were guaranteed nationwide access to the IMT frequency spectrum subject to fee payment. This is a key component of the framework, and NFP-T1S' right to access the IMT frequency spectrum must be protected to secure current and future investments made by MNOs in the Country.	With regard to the framework not specifying the IMT frequency spectrum access rights for the NFP-T1, we clarify that the NFP-T1, CNSP, E-CSP, BPO, Private VSAT, dot.ke sub-domain name registrar licence categories were not considered under this review. Please note that these categories have not been expunged from the market structure nor varied in anyway. It is proposed that an annual operating fee of Kshs 3,000/- be applicable for BPO Licences without a Licence term limit, while those that are capped at 10 years will not attract annual fees. The BPO Licence will be enhanced with additional conditions, including customer care, among others.

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				T1 Licensees subject to payment of the required fees."		The above notwithstanding, the Authority has considered your proposal to specify that the IMT frequency spectrum rights be reserved for NFP-T1 Licensees and has not adopted it. We clarify that whereas NFP-T1 licensees have had access to national resources including IMT spectrum, the Authority may avail some IMT spectrum on shared basis to support Industry verticals and Private Networks in line with international best practice and the Authority's Spectrum Management Guidelines, 2020, and the 5G Roadmap 2022, which provide for spectrum sharing in terms of time or location.
185.	Amr Ashour	Eutelsat Group	Miscellaneous:	Eutelsat Group would further like to seek clarification on the regulatory treatment of maritime and aeronautical ESIMs as the proposed framework does not contain any licensing conditions applicable to this type of FSS application. Eutelsat Group would like to kindly suggest CA to allow the free circulation of visiting ESIMs through a license exemption approach for ESIMs installed on foreign-registered vessels or aircraft in transit or passing Kenya territories. Further, Eutelsat Group is of the view that no Landing Rights should be applicable for the provision of services by ESIMs on foreign-registered aircraft and vessels merely transiting the territory of Kenya or visiting for a short period of time. Eutelsat Group further supports the introduction of non-objection approach for such type of terminals, whereby the network operator in use or the services	Internationally, it is *customary* for administrations to exempt foreign visiting *terminals* on vessels and aircraft from local licensing if (i) they hold the necessary authorizations from their flag country, (ii) they operate on a non-interference basis and (iii) they do not require connection to a local network. This approach facilitates seamless global operations and is supported by international frameworks. Reference is made to ATU-R Recommendation 005-0, which supports the free circulation of ESIMs onboard passing aircraft and vessels, based on the principle of mutual recognition of authorizations issued by other countries. Eutelsat Group would also like to refer to the recent regulatory proposals made by S. Africa and Zambia, suggesting the adoption of a license-exemption regime for maritime and aeronautical ESIMs, temporarily visiting their territories. In this respect, we kindly ask CA to consider aligning its licensing framework with international best practices to facilitate smoother ESIM services operations and encourage expanding existing satellite technologies. It is advisable to avoid	This not adopted We clarify that the terminals onboard the vessels are not subject to licencing, however, they will be required to notify civil/maritime Authorities in Kenya of their use of ESIMs. We further wish to clarify that satellite operators that provide onboard communication services (except emergency and radio navigation services) to all vessels in/or transiting the territory of Kenya will be required to obtain Landing Rights Authorisation.

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				provider or the platform operator can notify the regulator for the purpose of obtaining a non-objection.	creating complexities that hinder the deployment of ESIM services, potentially affecting the quality and availability of connectivity for users.	
186.	Timothy Mwangi			Cost of Business Entry	The cost associated with starting a telecommunications business in Kenya is already high. Adding to this, expensive licensing fees significantly hinder entrepreneurship and innovation in the sector. This can lead to a less competitive market, which ultimately affects service quality and consumer prices.	This is noted. The Authority has introduced new licences targeting Micro, Small and Medium Size enterprises whose regulatory fees are sufficiently low in our view. Whereas the licensing process is not within the scope of this market structure review, the Authority periodically reviews internal process to ensure improved service delivery.
187.	Timothy Mwangi			Complexity and Cost of Licensing:	The current licensing structure appears overly complex and costly, which might deter new market entrants and stifle innovation. The process should be streamlined to encourage competition and growth in the sector.	
188.	Timothy Mwangi			Privacy Concerns:	With the expansion of digital services, there is an increasing need for robust privacy protections. The current licensing framework does not adequately address privacy concerns, which could lead to the misuse of consumer data. There should be clear regulations that ensure privacy standards are met, protecting consumers while supporting business operations.	This issue is outside the scope of the review of market structure. However, data privacy concerns are adequately covered under the Data Protection Act which the licensees are required to comply with. Additionally, the Authority has provisions in the licence conditions that address privacy and confidentiality.
189.	Timothy Mwangi			Local Equity Participation:	The requirement for local equity participation, while beneficial for national economic interests, can act as a barrier for foreign investment. This might limit the technological advancements and capital that could be brought into Kenya by international firms.	We clarify that the 30 per cent local equity requirement previously required for foreign firms was repealed in 2023 and is therefore no longer applicable.
190.	Timothy Mwangi			Clarity and Scope of Licenses:	There is often a lack of clarity regarding what each license permits, leading to inefficiencies and potential legal issues for service providers. A clearer delineation of license scopes is necessary to prevent over-regulation or under-regulation.	This is noted.
191.	Kenneth wenzel			• Building on the need for a formal MVNO structure, there is also a growing case for establishing a parallel licensing	• **Absence of a Formal MVNO/MVNA Framework:** Kenya	The proposal is noted and appreciated. We wish to indicate that the Authority currently issues ASP licences to entities wishing to provide

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				path for MVNAs. Introducing a fit-for-purpose MVNA regime could stimulate further competition by allowing specialised wholesalers to aggregate traffic for multiple MVNOs, leverage economies of scale, and offer innovative retail propositions. • I would be grateful for confirmation of whether a dedicated MVNA licence is envisaged; if this is not currently the case, establishing such a licence could prove advantageous – not only to enable new forms of digital inclusion, but also by placing a clear obligation on Tier 1 providers to supply wholesale services equivalent to those extended to MVNOs.	lacks a defined typology, reference offers, pricing methodology, or onboarding timelines for MVNO access, leading to regulatory uncertainty and negotiation asymmetry. • Ex-ante regulation is a forward-looking regulatory approach commonly applied in markets characterised by high concentration and the presence of dominant players with significant market power (SMP). Its primary purpose is to **proactively prevent anti-competitive behaviour** and to **create a level playing field** for new entrants like MVNOs and MVNAs. • In the absence of such safeguards, dominant Mobile Network Operators (MNOs) may have strong incentives—and the practical means—to delay or block entry by MVNOs, effectively controlling who can compete in the retail market. In Kenya, this risk is particularly visible in the requirement that MVNO applicants submit a **Letter of Intent** from a host operator as part of their licensing process. This gatekeeping mechanism gives established MNOs broad discretion to **refuse market entry** and undermines the spirit of competition and innovation.	MVNO services licences MVNO's has in place a framework for the licensing of MVNO's. In this regard MVNO's are licensed under the ASP licence. With regard to your comment that the Authority does not have in place a formal MVNO framework, please take note that the provisions required to support MVNO business such as pricing and onboarding timelines are envisaged under the draft infrastructure sharing regulations that are currently under consideration by parliamentary committee on delegated legislation. You may therefore consider submitting your proposals to the parliamentary committee for consideration should an opportunity availed itself. With reference to your proposal on the licensing of MVNA's, the Authority proposes to licence MVNAs and MVNEs under the ASP licence. Additionally, any other variant of MVNO will be duly considered and licensed in the appropriate category in line with the current ULF market structure, which is averse to service-specific licences. The Authority will make necessary changes to appropriate licence conditions to support foregoing and obligate Mobile Network Operators to carry any MVNO license holder on reasonable and non-discriminatory terms. This implies that going forward the Authority will not require applicants (MVNE, MVNA, MVNO) to submit proof of spare capacity from any MNO. Finally, the Authority will enhance the above provisions by developing suitable guidelines to supplement any shortcomings that may be noted in the infrastructure regulations.

New Proposal						
No	**Name**	**Organisation**	**Reference to Structure**	**Comment / Proposal**	**Justification**	
192.	Communications Authority of Kenya (CA)	CA	All sections	Introduction of fees for the transfer of Licences from a current holder to another entity. It is proposed that a levy/transfer fee of 100% of the Initial License Fees be charged on all Licence transfers.	The processing of applications for Licence transfer is subject to the full raft of checks undertaken by the Authority.	Comments on this proposal are invited from stakeholders and the public.