



PROPOSED LICENSING FRAMEWORK FOR DATA CENTRES

SEPTEMBER 2026

Consultation Version

ABBREVIATIONS

AOL – Annual Operating Licence

CA – Communications Authority of Kenya

FY – Financial Year

ICT – Information and Communications Technology

KICA – Kenya Information and Communications Act

KSh – Kenya Shilling

NFP – Network Facilities Provider

ULF – Unified Licensing Framework

USF – Universal Service Fund



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Executive Summary

This consultation document proposes a standalone licence category for co-location data centre operators rather than placing co-location data centres under the Network Facilities Provider -Tier 2 licence category. This proposal recognises that co-location data centres provide hosting, colocation, power, cooling, storage and computing infrastructure, and do not provide telecommunications services directly to end users. A separate licence category would give the Authority appropriate regulatory visibility over critical digital infrastructure while avoiding the over-application of Network Facilities Provider (NFP) licensing requirements. Stakeholders and the public are invited to provide inputs and comments on the proposal.



BACKGROUND

1. The Communications Authority of Kenya (the Authority) was established in 1999 under the Kenya Information and Communications Act, 1998. The Authority regulates Kenya's Information and Communications Technology (ICT) sector, including broadcasting, cybersecurity, multimedia, telecommunications, electronic commerce (e-commerce), and postal and courier services. It promotes the development of these subsectors through licensing, competition management, frequency and numbering resource management, and ICT consumer protection.
2. The Authority licenses telecommunications systems and services in accordance with section 24(1) of the Kenya Information and Communications Act, 1998, which provides that: "No person shall operate a telecommunication system or provide any telecommunication services except in accordance with a valid licence granted under this Act."
3. The ICT Sector Policy Guidelines, 2020, direct government agencies to promote, encourage and license private sector investment in carrier neutral data centres by companies incorporated for that purpose.
4. The Authority's 2023–2027 Strategic Plan identifies the promotion of meaningful connectivity to ICT services as a key result area. This objective includes ensuring efficient ICT markets and fostering competition through targeted regulatory interventions. The proposed standalone licence category for data centres is therefore aligned with the attainment of this strategic objective.
5. The Authority has established a telecommunications market structure and application requirements, which are instruments that provide market access to the regulated telecommunication industry in Kenya.
6. The current telecommunications market structure, which was revised in April 2026, is based on technology and service neutrality principles. This approach was considered critical towards simplifying and facilitating market entry by minimizing regulatory requirements and processes for evolving and dynamic technologies.
7. Under the current telecommunications market structure, co-location data centre operators are licensed under the Network Facilities Provider (NFP) – Tier 2 (NFP-T2) licence category. Whereas this categorisation was designed to give the Authority visibility over data centre operations, it has also placed data centres within a licensing class designed primarily for entities that establish and operate telecommunications network facilities across the country.

A. Co-location Data Centre Operators

A.1. Need for Licensing

8. The National ICT policy guidelines, 2020, promote infrastructure sharing as a principle of prudent management of capital-intensive projects, noting that Data Centres will be deployed nationally and regionally. The policy requires the Authority to license and oversee such operators, including Data Centres. It also specifically states: ***“The government will promote, encourage and license private sector investment in neutral data centres by companies incorporated for that purpose”.***

A.2. Current Status

9. Data centres are critical to the digital economy since they host systems that enable internet access, financial services, healthcare, e-government, agriculture, and education platforms that Kenya has identified as central to its Vision 2030 and Digital Economy Blueprint commitments.
10. Co-location Data Centres Operators are currently licensed under the Network Facilities Provider (NFP) – Tier 2 (NFP-T2) licence category.

A.3. Considerations

11. Data centres provide co-location, power, and cooling services, and do not transmit signals, assign or use spectrum, or provide subscriber-facing services.
12. The proposed change from NFP level to a standalone licensing category for co-location data centre operations will enhance the country’s competitive edge compared to regional peers, hence attract investments.
13. The proposed licensing framework will enable the required Regulatory oversight over co-location data centre operations that host critical facilities/infrastructure for entities who provide ICT services licensed by the Authority.

A.4. Proposals

14. The proposed framework is a standalone **Data Centre licence category** as data centres host computational power, storage, and applications necessary to support an enterprise business, and do not transmit signals, assign or use spectrum, or provide subscriber-facing services.
15. The proposed licensing framework will enable the required regulatory visibility on the operations of colocation data centres in Kenya that host systems that are critical in the development of the digital economy in the country, including facilities for entities who provide services that are licensed by the Authority.

16. The proposed regulatory fees and License terms for these categories are:

- a. Application fees – KShs.5,000
- b. Initial fees - KShs.100,000
- c. Annual Operating License fees - KShs. 80,000 or 0.4 per cent of the Annual Gross turnover, whichever is higher.
- d. License Term – 15 years

17. Entities that have Network Facility Provider (NFP) or Application Service Provider (ASP) licences shall be permitted to establish and operate data centres without the need for a data centre licence.

A.5. USF fees

18. USF fees will be handled as provided for in the law (section 84 J (3) KICA Cap 411A). Currently, USF fee is charged at the rate of 0.5% of the Annual Gross Revenue with respect to licensed services.

B. ROADMAP

19. The proposed roadmap for implementation of the proposed licensing framework for data centres is as detailed in Table 1 below:

S. No.	Activity	Proposed target
1.	Proposed licensing framework for data centres	FY2026/2027
2.	Public consultation process	FY2026/2027
3.	Finalization of the licensing framework for data centres	FY2026/2027
4.	Consequential Revision of the telecommunications market structure	FY2026/2027
5.	Implementation of the licensing framework for data centres	FY2027/2028