



COMMUNICATIONS AUTHORITY OF KENYA

PROCEDURE

FOR

**LICENSING OF BROADCASTING SERVICE PROVIDERS UNDER THE NEW
REGULATORY FRAMEWORK**

1. INTRODUCTION

This procedure is intended to provide step by step approach to licensing broadcasting services under the new regulatory framework. Besides, it embraces the practicality of ensuring transparency in the licensing process by documenting every step required to obtain a broadcasting licence in Kenya. The procedure also provides for equitable distribution of broadcast frequencies /channels across the three tiers envisaged in the broadcasting market segment (public, commercial and community) as envisaged in the Act and the Kenya information and Communications (Broadcasting) Regulations.

The Authority shall identify available broadcast frequencies in the relevant broadcasting plan(s) and develop internal modalities of apportioning the spectrum for different licence categories.

2. COMMENCEMENT PROCESS OF LICENSING BROADCASTING SERVICES

1. Licensing of broadcasting services under the new regulatory framework shall commence in two folds;

- a) The principle of first come first served will apply to all broadcasting service licences which do not require assignment of the frequency resource (such as cable TV, subscription management, landing rights, etc.)
- b) Broadcasting services requiring frequency spectrum resource shall require the available frequencies to be first identified by the Authority; and then advertised publicly (in whole or in batches) for interested parties to apply for the licence(s). In this case, applications not responding to such adverts/notices shall not be considered.

2. For frequency based broadcasting services, the Authority shall publish the list of available frequencies / channels in at least one print media in Kenya and on the CA website informing interested applicants to apply for provision of the identified broadcasting service (s). Such publication shall be the trigger point for interested applicants to submit application for specific licenses within the timeframe specified.

3. The notice published shall provide the following information;

- a) The type of frequency/channel and location/site;
- b) The category of licence with regard to approved market structure (commercial, community, or public);
- c) The required power level whether it is high power or low power;
- d) Closing date for receiving applications for that particular notice
- e) And any such additional information deemed relevant.

4. The Authority shall publish a list of selected sites at different times depending on the Authority's assessment in line with its objective of diversity in electronic media .

3. LICENSING PROCEDURE

1. Application for each broadcast service licence and/or channel/frequency shall be done on a prescribed application forms and in line with the guidelines for application of commercial and community broadcasting services issued by the Authority. These application forms and guidelines are available on the Authority's website www.ca.go.ke for free download.
2. The Authority shall receive completed licence application form(s) and requisite supporting documents as may be stipulated on the prescribed application forms. The receiving officer shall check for completeness of the form(s) to ensure it meets the licensing requirements. The Authority shall maintain a register of the licence applications.
3. The officer shall then issue the applicant with a Payment Instruction Form, which the cashier will use to receive payment of the requisite application fees. Once payment is done, the Register with details of the application shall be updated.
4. The receiving officer shall forward the application and supporting documents to the next level officer for further scrutiny and confirmation that the application complies with all the requirements.
5. Prequalified applications shall be subjected to an evaluation process by a team of officers constituted for that purpose. Applications for same site or frequency/channel shall be evaluated jointly and where there are more applications than the frequency resource, the best shall be recommended. Where the evaluation team is convinced that all applications for a particular licence /channel/frequency do not meet the minimum criteria, they will not be under any obligation to recommend any for further approval. (In which case, a re-publication may be necessary at a future time). The Evaluation team shall prepare a report of their evaluation and present a summary to the Communications Licensing Committee (CLC) for further consideration.
6. The Communications Licensing Committee (CLC) shall deliberate on the applications based on the evaluation report and recommend /not recommend the application for award of a licence.
7. Following the outcome of the CLC, the Authority shall in accordance with the CLC decision perform the following tasks:
 - a. where the application is not recommended for award of a licence, official communication shall be prepared informing the Applicant of the reasons the application was not successful and the requirements for the applications to be processed further, if applicable; and
 - b. where the application is recommended for award of a licence, the process of gazetting the application shall be initiated
 - c. where CLC directs that the application be subjected to further processes prior to being recommended for licence award, the applicant shall be accordingly updated if necessary.

8. For approved applications, the Authority shall prepare a notification for publication the intent to licence in the Kenya Gazette. The notice shall run for a statutory period of 30 days.

9. The Authority shall communicate officially to the successful applicant notifying the applicant regarding the publication in the Kenya Gazette and the expiry date of the Gazette notice.

10. The Authority shall monitor applications on the Kenya Gazette for any representations/objections and also shall address any representations or objections. A copy of the representation (if any) shall be forwarded to the applicant for information and/or to provide clarifications on issues.

11. At the end of the gazette period, the Authority shall submit the license applications for consideration by the Board. The applicant may be invited to the Board's meeting to respond to the representations (if any) raised during the gazettement period and clarify on any other matters that the Board Committee may seek further clarifications regarding the application.

12. Following the Board outcome, the Authority shall in accordance with the Board directive initiate official communication informing the Applicant of the Board decision and:

- a) Where the application is approved, prepare official communication regarding licence offer informing the Applicant of the conditions of offer including the prerequisite fee(s) and the offer validity period; and
- b) Where the application is rejected, prepare official communication informing the Applicant of the reasons as to why the application was not successful and the requirements for the applications to be processed further, where applicable;

13. Once the applicant makes payment for the licence within the validity period of licence offer, the Authority shall prepare a draft licence stipulating the terms and conditions of the licence. The applicant shall be required to accept the offer before the next stage can proceed

14. The Authority shall issue a construction authorization permit valid for a specified period (6 -12 months) during which the licensee shall be expected to put up the relevant infrastructure for the approved broadcasting service and carry out the necessary tests.

15. Once the licensee notifies the Authority regarding completion of the set-up of the station, the Authority shall carry out an inspection of the facility as well as witness test transmissions and if satisfied, recommend issuance of the licence to the applicant. If dissatisfied with the construction, the Authority shall recommend to the applicant the specific issues that need to be addressed and the timeframe of revisiting the matter. In case the applicant fails to address the shortcomings within the specified timeframe, the licence offer shall be withdrawn and the applicant shall be dully informed.

16. The Authority shall issue the broadcasting license following successful inspection by the Authority.

17. One licence shall be issued for each approved broadcasting service. Annexed to this service licence shall be individual spectrum licences/channels (where spectrum/channel is required) issued for each site/location with respect to the approved terrestrial broadcasting service, and which must be kept in force by annual payment of the prescribed licence fees..

18. The details of the Applicant and licence shall be recorded in a Register of Licensees.
