

**GUIDELINES FOR MERGERS AND ACQUISITIONS OF  
NETWORK OPERATORS, FREQUENCY AUTHORISATION  
HOLDERS AND OTHER COMMUNICATION SERVICE PROVIDERS**



*This document outlines the processes to be adopted by the National Communications Authority in approving the sale, transfer, charge or other disposition of a significant interest in a network operator or frequency authorisation holder; assignment of a licence or frequency authorisation and a merger or acquisition of a network operator or frequency authorisation holder. The document is developed pursuant to Section 3(r) of the National Communications Authority Act, 2008, Act 769.*

**COMPILED BY THE NCA - 2019**

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## **LEGAL AND POLICY BACKGROUND TO THE GUIDELINES FOR MERGERS AND ACQUISITIONS (M & A)**

### **1.0 INTRODUCTION**

The National Communications Authority (NCA), since its establishment in 1996 by the National Communications Authority Act, 1996, Act 524 (now repealed), has not laid down any set of requirements and procedures for dealing with transfer of licences and frequency authorisations, sale or transfer of significant interest in a network operator or frequency authorisation holder, merger or acquisition of a network operator or frequency authorisation holder.

The rules regarding the above-mentioned subjects have not been well spelt out and articulated in a written document.

It is the Authority's objective to have a clear regulatory framework for the industry and investors in order to assist parties concerned to make informed decisions on merger and acquisition activities particularly as they relate to network operators.

The NCA has come out with these Guidelines for dealing with mergers or acquisitions of communication entities and other related matters.

The Guidelines are issued by the NCA in exercise of the powers conferred by Section 3(r) of the National Communications Authority Act, 2008, Act 769.

### **2.0 UNDERLYING PRINCIPLES OF THE GUIDELINES**

- 2.1 The Authority is mandated by Section 3(e) of the National Communications Act, 2008, Act 769 to ensure fair competition among Licensees, operators of communications networks and Service Providers of public communications.
- 2.2 The Authority considers competition policy as a means to enhance economic efficiency and free trade, thereby benefiting consumers.
- 2.3 The Authority, in carrying out its mandate, is minded to avoid a monopoly being created in the industry. The Authority seeks to identify and challenge

competitively harmful mergers while avoiding unnecessary interference with mergers that are either competitively beneficial or neutral.

### **3.0 OBJECTIVES OF THE GUIDELINES**

- 3.1 The Guidelines outline the legal requirements, policy considerations, practices and enforcement policy of the National Communications Authority with respect to transfer of shares, mergers or acquisition of a communication entity.
- 3.2 The Guidelines are intended to explain how the Authority will apply and enforce the provisions of Clause 22.2 of the Mobile Cellular Licence and the conditions of frequency authorisations issued by the NCA and in particular, to specify the matters that the Authority will take into account when deciding whether any merger or acquisition has or is likely to have:
  - a. The effect of substantially lessening competition in the telecommunications market and
  - b. A benefit to the public and this benefit outweighs any detriment to the public that is or is likely to be constituted by any such effect.
- 3.3 The Guidelines also set out the processes required for the sale, transfer, charge or other disposition of a significant interest in a Licensee, Frequency Authorisation holder.
- 3.4 The Authority will not depart from these Guidelines without providing reasons in writing for doing so.

### **4.0 SCOPE OF THE GUIDELINES**

- 4.1 The Guidelines cover the sale, transfer, charge, or other disposition of a significant interest in a Network Operator, Service Provider or Frequency Authorisation holder.
- 4.2 The Guidelines cover the merger or acquisition of a Service Provider or a Frequency Authorisation Holder.
- 4.3 The Guidelines cover the assignment or transfer of a licence or Frequency Authorisation from one communications entity to another.

- 4.4 The Guidelines apply to every Licensee, Frequency Authorisation holder of the Authority.
- 4.5 The Guidelines are to be read in conjunction with the Act, the EC Act, Regulations and any other statutory laws and regulations that may be issued by the Authority from time to time.
- 4.6 This document specifically aims to provide a guide to Licensees and Frequency Authorisation holders that wish to sell, transfer, charge, assign, dispose of any significant interest.
- 4.7 The Guidelines do not apply to value added service providers as in their case there is no need for the Authority's prior approval as provided in Regulation 60(2) of L.I. 1991 which states that the transfer of the business of a value added service provider is not subject to the consent of the Authority.

## **5.0 OVERVIEW OF THE LEGAL PROVISIONS**

- 5.1 Section 5 of the Electronic Communications Act 2008, Act 775, provides that:

(1) (b) A Network Operator shall not assign the licence without the prior approval of the Authority.

(2) A person who has a significant interest in a network operator or service provider shall not sell, transfer, charge or otherwise dispose of that interest or any part of that interest in the Network Operator or Service Provider unless notice is given to the Authority thirty days before the proposed transactions.

(3) A Network Operator or service provider shall not without first giving notice to the Authority

- (a) cause, permit or acquiesce in a sale, transfer, charge or other disposition of a significant interest,
- (b) issue or allot any shares or cause, permit or acquiesce in any other reorganisation of that Network Operator's or Service Provider's share capital that results in:
  - (i) a person acquiring a significant interest in that network operator or service provider, or

- (ii) a person who already owns or holds a significant interest in the Network Operator or Service Provider increasing or decreasing the size of that persons interest,
- (4) A person who acquires a significant interest in a Network Operator or Service Provider shall notify the Authority within fourteen days of the acquisition.
- (5) Despite this section, where a sale, transfer, charge or other disposition referred to in subsection (2) is as a result of an internal reorganisation of a Network Operator or Service Provider,
  - (a) the notification to the Authority under subsection (4) is not required, and
  - (b) the network operator or service provider shall, as soon as reasonably practicable, notify the Authority of the nature and extent of the sale, transfer, charge or other disposition

5.2 Section 10(1) (c), (2), (3) and (4) of the Electronic Communications Act 2008, Act 775 also stipulate as follows:

- (1) (c) A holder of a frequency authorisation shall not assign the frequency authorisation without the prior written approval of the Authority.
- (2) A person who has a significant interest in the holder of a frequency authorisation shall not sell, transfer, charge or otherwise dispose of that interest, or any part of that interest, unless that person gives the Authority at least thirty days' notice in writing before the proposed transaction
- (3) A holder of a frequency authorisation shall not without at least thirty days' notice to the Authority;
  - (a) cause, permit or acquiesce in a sale transfer, charge or other disposition of a significant interest in the holder, or
  - (b) issue or allot any shares or cause, permit or acquiesce in any other re organisation of its share capital that results in:
    - (i) a person acquiring a significant interest in the holder, or
    - (ii) a person who already has a significant interest in the holder, increasing or decreasing the size of that interest.
- (4) The written approval of the Authority is not required where a sale, transfer, charge or other disposition is the result of an internal re-organisation of a body

corporate and does not constitute ultimate transfer of control of a holder but the holder shall, as soon as is reasonably practicable, notify the Authority of the nature and extent of the sale, transfer, charge or other disposition.

- 5.3 The foregoing means that where the sale, transfer, charge or other disposition results in an ultimate transfer of control of a holder then there is the need for the Authority's prior written approval.

5.4 Definition of Significant Interest

**Section 101** of the Electronic Communications Act 2008, Act 775 defines "significant interest" as follows:

"Significant interest" in respect of a company, means a holding or interest in a company or a holding company by a person, either alone or with another person whether legally or equitably that entitles or enables the person, directly or indirectly;"

- 5.5 Article 2 (Definitions and Interpretation section) of the Mobile Cellular Operations Licence, defines "significant interest" as:

"Significant Interest" in respect of a company, means a holding or interest in the company or in any holding company of the company held or owned by a person, either alone or with any other person, whether legally or equitably, that entitles or enables the person, directly or indirectly –

- (a) To control twenty-five per cent (25%) or more of the voting rights of that company at a general meeting of the company, or
- (b) to a share of twenty-five per cent (25%) or more in dividends declared and paid by the company, or
- (c) to a share of twenty-five per cent (25%) or more in any distribution of the surplus assets of the company;

- 5.6 The Authority has by policy decision, rectified the incomplete definition of "significant interest" under the Electronic Communications Act, Act 775 of 2008 and prefers the definition under the Mobile Cellular Operations licences.

- 5.7 Mergers and Acquisitions of network operators or frequency authorisation holders would most likely create a situation where a significant interest would be transferred/allotted by one company and/or individual to another. Entities and/or individuals desirous of pursuing mergers and acquisitions could have to notify the NCA and obtain the relevant approvals for the transaction.
- 5.8 Sections 5 (5) and 10 (4) of the Act however provide that where the sale, transfer, charge or other disposition is the result of an internal re-organisation of a body corporate and does not constitute ultimate transfer of control of a holder, notification to the NCA within the prescribed period, and approval from the NCA is not required, but the holder shall as soon as is reasonably practicable, notify the Authority of the nature and extent of the sale, transfer, charge or other disposition.
- 5.9 Regulation 4 (2) of L.I. 1991 provides as follows:
- “In furtherance of the principles of fair competition and transparency in the operations of electronic communications, any transfer of shares, merger or acquisition of a communications entity shall be subject to the prior written approval of the Authority”.
- 5.10 It appears that Regulation 4(2) of L.I.1991 gives a blanket directive by requiring any transfer of shares, merger or acquisition of any communications entity to be subject to the prior written approval of the NCA.
- 5.11 Act 775 and the licenses issued to Service Providers dwell more on the acquisition of a significant interest before NCA notification and approval are sought. This should be taken as the true position of the law until any amendment to the Act is effected.
- 5.12 Section 5(1) (b) and 10 (1) (c) of EC Act, Act 775 provides that no operator or frequency authorisation holder shall assign a licence or frequency authorisation without the prior written approval of the Authority.
- 5.13 Assignment of the licence to any entity or individual means granting the whole of the unexpired term of the licence to that entity or individual. An acquisition of a network operator by a new entity translates into an assignment of the licence to the new entity. This requires the prior written approval of the Authority.



## **6.0 POLICY REASONS FOR THE AUTHORITY'S PRIOR WRITTEN APPROVAL**

6.1 The licence constitutes a contract between the Authority and the Licensee. The Authority undertakes a rigorous procedure before issuing a licence to an entity or individual. It is imperative that the Authority approve the new entity acquiring the unexpired term of the licence.

6.2 The Authority must establish the following requirements:

- a. Conduct a due diligence on the new entity, particularly its technical, financial capabilities, issues of Defaults & Delinquencies etc.
- b. Ensure that the new entity can deploy the service under the licence
- c. Ensure that the new entity will comply with the terms and conditions of the licence
- d. Ensure that the merger or acquisition will not substantially lessen competition in a market

6.3 Article 22.2 of the Mobile Cellular Licence provides that if in the Authority's opinion, any change in the Licensee's shareholding structure, (whether or not notified to the Authority pursuant to this condition), creates or has the potential of creating a monopoly or cross-ownership situation, the Authority shall, subject to specific prevailing legislation and/or regulations, take such steps as it deems necessary to prevent the situation including but not limited to issuance of directives to the Licensee and application of sanctions and/or fines against the Licensee in the event of default.

## **7.0 PROVISIONS OF THE COMPANIES ACT, 2019 (ACT 992)**

7.1 Companies and persons desirous of pursuing Mergers and Acquisitions shall comply with the requirements under the Companies Act, 2019 (Act 992). The relevant Sections of the Companies Act, 2019 (Act 992) in respect of Mergers & Acquisitions should be complied with in addition to the requirements under these Guidelines.

## **8.0 PROCEDURE FOR THE DISPOSITION OF A SIGNIFICANT INTEREST IN A LICENSEE OR FREQUENCY AUTHORISATION HOLDER**

- 8.1 Where a holder of a significant interest in a network operator, service provider or frequency authorisation holder wants to sell, transfer, charge otherwise dispose of significant interest to a new person or entity, the holder of the significant interest shall first seek the Authority's approval by applying for the Authority's prior approval.
- 8.2 The application shall be submitted by the holder of a significant interest in a network operator or service provider.
- 8.3 Where applications are signed by representatives of a holder of a significant interest, such representatives shall produce written proof that they are authorised to act

## **9.0 PROCEDURE FOR THE ASSIGNMENT/ TRANSFER OF A LICENCE OR FREQUENCY AUTHORISATION**

- 9.1 Where a Licensee or a frequency authorisation holder wants to assign its licence or frequency authorisation, the Licensee shall complete the NCA FORM AP21 and submit it to the Authority.
- 9.2 Every required information on the prospective assignee/transferor shall be provided by the Licensee or frequency authorisation holder.
- 9.3 Assignment/ transfer of a licence/frequency authorisation covers the unexpired term of the licence/authorisation to a new entity.
- 9.4 The date of validity of the assigned licences/frequency authorisation shall be as per the licence/authorisation.

## **10.0 MERGER OR ACQUISITION OF A COMMUNICATION ENTITY**

- 10.1 Most merger and acquisition activity does not raise competition concerns. They are normal business activities and they perform an important function in the efficient operation of the economy.
- 10.2 They allow entities to achieve efficiencies such as economies of scale, synergies and risk reading. However, in some cases a merger will have an anti-competitive

effect by changing the structure of the market in such a way to diminish the incentives to compete.

## **11 EVALUATION OF THE PROPOSED TRANSACTION**

- 11.1 The National Communications Authority shall be notified of any proposal for merger or acquisition in compliance with Sections 5 and 10 of the EC Act by the completion of NCA AP Form 20.
- 11.2 Where licence conditions dictate that the prior written approval of the Authority shall be sought, the network operator, service provider or frequency authorisation holder shall comply with the licence or authorisation conditions.
- 11.3 The analysis of any particular merger or acquisition will require consideration of the merger or acquisition against the particular facts of the case.
- 11.4 An assessment of a merger or acquisition for any anti-competitive effects requires:
- a. An identification of the relevant market
  - b. An assessment of whether the transaction has or is likely to have the effect of substantially lessening competition in that market.
  - c. The level of market concentration in a telecommunications market
  - d. The likelihood that the change would result in the Licensee being able to significantly and substantially increase prices of profit margins.
  - e. The dynamic characteristics of a telecommunications market, including growth, innovation, choice of technology product differentiation and value for money.
  - f. The likelihood that the change would result in the removal from a telecommunications market of a vigorous and effective competition.
  - g. The extent to which effective competition remains or would remain in a telecom market after the change.
  - h. The extent to which substitutes are available in the telecom market.

- i. protection of businesses and consumers against transactions that may harm competition

## **12.0 SUBSTANTIAL LESSENING OF COMPETITION TEST**

- 12.1 Competition is the process through which firms compete to win customers based on price, quality, service or any other dimension of competition. This includes innovation competition between firms to introduce demand-enhancing new products or cost-reducing production processes.
- 12.2 The substantial lessening of competition test exists to protect the competitive process. It is not focused on protecting individual firms.
- 12.3 The substantial lessening of competition test is a relative standard. The test is whether the merged firm's market power would increase relative to the merged firm's market power without the merger. That is has the firm's market power moved along the spectrum away from perfect competition towards a monopoly?
- 12.4 Market power is the ability to raise price profitably and sustainably above competitive levels.
- 12.5 A lessening of competition which includes a hindering and/or prevention of competition or an increase in market power may manifest in a number of ways including higher prices or reduced services.
- 12.6 Only a lessening of competition that is substantial is prohibited. A lessening of competition will be substantial if it is real, of substance or more than nominal. What constitutes a substantial lessening of competition is a matter of judgement and depends on the facts of each case.

## **13 REQUIREMENT ON MERGING OR ACQUIRING PARTIES**

- 13.1 The Authority shall obtain substantial information from the merging or acquiring parties. This information can take the form of documents, testimony or data and can consist of descriptions of competitively relevant conditions or reflect actual business conduct and decisions.
- 13.2 The business decisions taken by the merging or acquiring parties can be informative about industry conditions.

- 13.3 Explicit or implicit evidence that the merging or acquiring parties intend to raise prices, reduce output or capacity, reduce product quality or variety, withdraw products or delay their introduction, or curtail research and development efforts after the merger or explicit or implicit evidence that the ability to engage in such conduct motivated the merger can be highly informative in evaluating the likely effects of a merger.
- 13.4 The Merging Parties shall submit information on customer integration, employee integration and redundancy packages where the merger or acquisition will result in redundancies.

### **13 DUE DILIGENCE STAGE**

- 14.1 The Authority shall conduct due diligence on the new communication entity to ensure the following:
- a. that the new entity has complied with all legal requirements in respect of the Companies Act, 2019, Act 992
  - b. ensure that after the merger or acquisition or transfer of the licence to the entity, where applicable there still remains a minimum of 30% Ghanaian ownership in the resultant company.
  - c. ensure that the new communication entity will comply with all regulatory requirements. This could translate into the new communication entity signing a letter of commitment to abide by all legal and regulatory conditions as well as ITU Requirements.
  - d. ensure that the new entity is technically and financially capable to deploy and expand the service under the licence or frequency authorisation and pay all licence fees and/or frequency authorisation fees as they fall due.
  - e. ensure that in respect of a transfer of a broadcasting frequency authorisation, the transfer does not result in a concentration of media ownership in a single entity thereby limiting media pluralism. To this end no single entity shall be allowed to own more than three broadcasting stations in the same market.

- f. Licences/Authorisations held by the Merging Entities shall be merged and held by the Merged Entity.
- g. The date of expiry of the Licence/Authorisation to be held by the Merged Entity shall be the date of the latter date on the Licence/ Authorisation of the Merged Entities.

## **15 FEES AND CHARGES**

- 15.1 The Authority shall charge the approval fees for Mergers and Acquisitions as specified in its Schedule of Fees.
- 15.2 In addition to the approval fee, if the Licensee/Authorisation Holder holds a part of spectrum which has been assigned against the entry fee, the resultant merged entity at the time of merger shall pay to the Authority the differential between the entry fee and the market determined price of spectrum from the date of approval of such arrangements by the Authority on a pro-rata basis for the remaining period of validity of the licence/authorisation.
- 15.3 The spectrum usage charge as prescribed by the Authority from time to time on the total spectrum holding of the resultant entity shall also be payable.
- 15.4 All outstanding fees, charges and sanctions if any relating to the Licensee/ Authorisation Holder must be cleared by the merging parties before issuance of approval for the merger/acquisition.
- 15.5 All other outstanding regulatory obligations relating to the Licensee/ Authorisation Holder must be cleared by the merging parties before issuance of approval for the merger/acquisition.
- 15.6 The Authority shall allow a time period of six months for merger or acquisition of communication entities.

## **16 DEFINITIONS**

“Act” means the National Communications Authority Act, 2008, Act 769

“Authority” means the National Communications Authority established under the National Communications Authority Act, 2008, Act 769.

“EC Act” means the Electronic Communications Act, 2008, Act 775

“L.I. 1991” means the Electronic Communications Regulations, 2011, L.I. 1991

“Significant interest” in respect of a company, means a holding or interest in the company or in any holding company of the company held or owned by a person, either alone or with any other person, whether legally or equitably that entitles or enables the person, directly or indirectly-

- (a) to control twenty-five percent (25%) or more of the voting rights of that company at a general meeting of the company or
- b) to a share of twenty-five percent (25%) or more in dividends declared and paid by the company or
- C) to a share of twenty-five percent (25%) or more in nay distribution of the surplus assets of the company.

“Service Provider” has the same meaning as provided in the Electronic Communications Act, 2008, Act 775.



NCA FORM **AP021**

Payment Receipt No: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
MM / DD / YYYY

## APPLICATION FORM FOR TRANSFER OF LICENCE OR FREQUENCY AUTHORISATION

### Application Checklist

- ☐ A completed application form
- ☐ Cover Letter
- ☐ Copy of any recognized valid National ID of the contact person
- ☐ Letter of Commitment
- ☐ Any other Supporting Documents
- ☐ REASON FOR THE TRANSFER



## **B01 DETAILS OF LICENSEE /FREQUENCY AUTHORISATION HOLDER**

- a) Applicant's Name (Registered Business Name): \_\_\_\_\_  
\_\_\_\_\_
- b) Type of Organization
- a. Company ☐ Government ☐ Specify Unit/Agency: \_\_\_\_\_
- c) Physical Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d) Post Office Box: \_\_\_\_\_  
\_\_\_\_\_
- e) Email: \_\_\_\_\_
- f) Tel: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

## **B02 CONTACT PERSON'S DETAILS**

- a) First Name: \_\_\_\_\_
- b) Last Name: \_\_\_\_\_
- c) Identification Document: \_\_\_\_\_
- d) Identification Document No: \_\_\_\_\_
- e) Physical Address: \_\_\_\_\_  
\_\_\_\_\_
- f) Post Office Box: \_\_\_\_\_
- g) Email: \_\_\_\_\_
- h) Tel: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax: \_\_\_\_\_
- i) Position in Organization: \_\_\_\_\_

**B03    DETAILS OF TRANSFEREE**

A. Name Of Transferee

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B. INCORPORATION DOCUMENTS

C. BUSINESS PLAN

D. PROGRAMME PLAN

E. REASON FOR THE TRANSFER

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Name.....

Signature.....

Date.....

MM/DD/ YYYY

**B04 FOR OFFICE USE ONLY**

**a) RECOMMENDATION**

Application Recommended ☐ Application Not Recommended ☐

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Application Reviewed By

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

MM/DD/YYYY

Name: \_\_\_\_\_

**b) APPROVAL**

Approved ☐ Not Approved ☐

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

MM/DD/ YYYY

Name: \_\_\_\_\_

**DIRECTOR, REGULATORY ADMINISTRATION  
FOR: DIRECTOR GENERAL**

**NB: All fees are payable in Ghana Cedis**



# **APPLICATION FORM FOR MERGER AND ACQUISITION OF COMMUNICATIONS ENTITIES**

**NCA FORM AP20**



Payment Receipt No: .....(Please attach

Receipt)

Date: .....(Submission Date)

### BACKGROUND INFORMATION ON ENTITIES

*Before completing this form, please ensure that you have read and understood the explanatory notes. Comply with all the requirements listed for the application of this service. A copy of the explanatory notes may be found on our website: [www.nca.org.gh](http://www.nca.org.gh)*

	Item	Entity 1/Acquirer			Entity 2/Target		
1a	Name (Registered Business Name)						
1b	Type of Organization (please tick where applicable)	Private	Public	Other (please specify)	Private	Public	Other (please specify)
1c	Current Ownership or Shareholding Structure						
1d	Physical Address						
1e	P. O. Box:						
1f	E-mail Address						
1g	Official Telephone						
1h	No. of Employees (Permanent)						
1i	No. of Employees (Part-time/Casual)						
1j	No. of Employees (Expatriate)						

1k	Total Number of Subscriptions - Individual		
1l	Total Number of Subscriptions - Business		

## **B05 DETAILS OF COMMUNICATIONS SERVICE LICENCE/AUTHORISATION**

	<b>Item</b>	<b>Entity 1/Acquirer</b>	<b>Entity 2/Target</b>
2a	Type of Licence/Authorisation		
2b	Date of Licence/Authorisation		
2c	Duration of Licence/Authorisation		
2d	Expiry Date of Licence/Authorisation		
2e	Assigned Frequency/Spectrum - 1		
2f	Assigned Frequency/Spectrum - 2		
2g	Assigned Frequency/Spectrum - 3		

## **B06 APPROVED CONTACT PERSONS/REPRESENTATIVES**

	<b>Item</b>	<b>Entity 1/Acquirer</b>	<b>Entity 2/Target</b>
3a	Contact Person		
3b	First Name		
3c	Last Name		
3d	Position in Organization		
3e	Nationality		
3f	Identification Type		

3g	Identification No.		
3h	E-Mail		
3i	Business Telephone		
3j	Mobile Phone		

## **B07 DETAILS OF MERGED ENTITY**

	<b>Item</b>	<b>Entity</b>
4a	Proposed Name (if available)	
4b	Physical Address	
4c	P. O. Box	
4d	E-mail	
4e	Telephone	

## **B08 SUPPORTING DOCUMENTATION**

- A. Incorporation Documents
- B. List of Subsidiary Companies of each Merging Entity
- C. Copies of Annual Accounts for the last three years
- D. Authorisation Letter for Entity Representatives
- E. Details of the transaction between the merging entities (Terms & Conditions)
- F. Purpose and Rationale for Merger
- G. Proposed Ownership/Shareholding Structure
- H. Business Plan
- I. Programme Plan/Road Map
  - Network integration & spectrum usage
  - Numbering resources
  - Employee integration
  - Customer integration
  - Customer communication

## **B09 DECLARATION AND ENDORSEMENT**

The merging entities declare to the best of their knowledge and belief that the information given in this application is true, correct, and complete. They also declare that the supporting documents submitted with this Application Form are true and complete.

The application is thus signed by and on behalf of the entities by the duly authorised representative.

Item	Entity 1	Entity 2
Name		
Signature		
Date		

### Notes to Application Form

1. *The Application Form must be completed and signed by merging parties and three copies submitted.*
2. *There should be a joint Cover Letter from the merging entities.*
3. *In addition, the Application Form should come with separate Commitment Letters from each merging party, committing to the merger process. The Commitment Letter should be signed by the Chairman of the Board of Directors.*
4. *National IDs should be valid at the time of submission of the Application Form. IDs to be used are:*
  - a. *Driving Licence*
  - b. *Passport*
  - c. *Voter's ID Card*
  - d. *National Identification Card*
5. *Payment is to be made by Bankers' draft to the National Communications Authority. Note that payment is non-refundable.*
  - a. *The Application Form is to be accompanied with Certified True Copies of the Business Incorporation Documents. Merging Entities are required to indicate the Type of Company; Government Entity or Private Organisation. In the case of private companies, applicants are required to indicate further the type of Incorporation of the entity.*
6. *Three (3) Certified True Copies of the Annual Reports of each of the Merging Entities are to be submitted.*
7. *Each Merging Entity is required to submit a letter authorising nominated individuals to be their representatives and giving them the power of attorney to sign the Application Form on their behalf. Their duly nominated representative will also be the main contact persons in respect of all proceedings related to the Merger.*



8. *The document covering the terms and conditions of the transaction should be included in the submission to the Authority.*
9. *The Purpose and Rationale for the Merger should highlight the main issues leading up to the merger and the intended benefits of the transaction.*
10. *It will be required for the merging entities to submit the Proposed Ownership/Shareholding Structure.*
11. *The Business Plan should include the:*
  - a. *Proposed Organisational Structure of proposed merged entity (include educational and technical background as well as experience of key personnel such as CEO/Managing Director, Chief Technology Officer, Chief Information Officer, Chief Financial Officer, Chief Marketing Officer, etc as may be applicable)*
  - b. *Forecasted Financial Statements for the first three (3) years of operation, to include:*
    - i. *Income Statement*
    - ii. *Balance Sheet*
    - iii. *Cash flow Statement*
12. *The Programme Plan/Road Map required should be SMART and be:*
  - a. *Detailed as much as possible*
  - b. *Practicable*
  - c. *Indicate areas of potential challenges*
  - d. *Indicate excess resources which merged entity may consider giving up.*
13. *Entities are required to list in full all assigned Spectrum and Frequencies.*
14. *Entities are required to list in full all assigned blocks of Numbers*
15. *The Employee Integration plan should include the proposed management of the merged entity, potential job cuts, compensation plan for redundant staff, etc*
16. *The Customer integration plan should state the strategy to bring customers of the merging parties unto one platform. Also it should include measures put in place to sustain all the services and tariff plans that existing customers of each party in the merger has subscribed to. Any variations of existing subscriptions must be indicated with the accompanying mitigation plan.*

## DEFINITIONS

### B01 BACKGROUND INFORMATION ON MERGING ENTITIES

1a	Name (Registered Business Name)	Registered name of the entity at the Registrar General's Department
1b	<b>Type of Organization</b>	
	Company	A limited liability entity
	Government	An entity established by a statutory enactment.
1c	Current Ownership or Shareholding Structure	Details of the amount of shares owned by all shareholders. In the case of a public company, details of shareholders with a minimum of 5% shares should be provided.
1d	Physical Address	Physical location of the registered office of the entity
1e	P. O. Box:	Postal address of the entity
1f	Email Address	Email address of the authorized representative of the entity
1g	Official Telephone	Telephone number of the entity or the authorized representative
1h	No. of Employees (Permanent)	Total number of individuals currently employed permanently by the entity
1i	No. of Employees (Part-time/Casual)	Total number of individuals currently employed on part-time or contract basis by the entity
1j	No. of Employees (Expatriate)	Total number of foreigners currently employed by the entity
1k	Total Number of Subscribers – Individual	Total number of non-business subscribers
1l	Total Number of Subscribers - Business	Total number of business subscribers

## **B02    DETAILS OF COMMUNICATIONS SERVICE LICENCE/AUTHORISATION**

2a	Type of Licence/Authorisation	The type of Licence(s) or Authorisation(s) issued to the entity by the National Communications Authority.
2b	Date of Licence/Authorisation	The effective date(s) of the Licence(s)/Authorisation(s) issued to the entity by the National Communications Authority
2c	Duration of Licence/Authorisation	The duration of the Licence(s)/Authorisation(s) issued to the entity by the National Communications Authority
2d	Expiry Date of Licence/Authorisation	The expiry date(s) of the Licence(s)/Authorisation(s) issued to the entity by the National Communications Authority
2e	Assigned Frequency/Spectrum - 1	The frequency assignment and the bandwidth (frequency for the radio access network).
2f	Assigned Frequency/Spectrum - 2	The frequency assignment and the bandwidth (frequency for the radio access network).
2g	Assigned Frequency/Spectrum - 3	The frequency assignment and the bandwidth (frequency for the radio access network).



### Application Checklist

- ☐ A Completed Application Form
- ☐ Cover Letter<sup>2</sup>
- ☐ Letter of Commitment<sup>3</sup>
- ☐ Copy of Valid National ID of the Contact Persons
  
- ☐ Supporting Documents (See Section B05)
  - a. Incorporation Documents
  - b. List of Subsidiary Companies of each Merging Entity
  - c. Copies of Annual Accounts for the last three years
  - d. Authorisation Letter for Entity Representatives (Power of Attorney)
  - e. Details of the transaction between the merging entities (Terms & Conditions)
  - f. Purpose and Rationale for Merger
  - g. Proposed Ownership/Shareholding Structure
  - h. Business Plan for the proposed new entity
  - i. Programme Plan/Road Map
    - i. Network integration & Spectrum Usage
    - ii. Numbering Resources Management
    - iii. Employee integration
    - iv. Customer integration
    - v. Customer communication

**FOR OFFICE USE ONLY**

**RECOMMENDATION**

Application Recommended ☐      Application Not Recommended ☐

Remarks:

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**Application Reviewed By (Chair of Review Committee):**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

DD / MM / YYYY

**Supervised By:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

DD / MM / YYYY

**Director General:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

DD / MM / YYYY

**c) DECISION**

Application Approved ☐      Application Declined ☐

**d) REASON FOR THE DECLINE**

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

DD / MM / YYYY

Name: \_\_\_\_\_