



**Communications
Commission
of Kenya**

GUIDELINES FOR

APPLICATION OF COMMERCIAL

BROADCASTING SERVICE LICENCE

CCK/SP-B/GUIDELINE-01
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NOT FOR SALE

GUIDELINES FOR APPLYING FOR A COMMERCIAL BROADCASTING LICENCE

INTRODUCTION

These guidelines are meant to assist applicants for the commercial broadcasting licences in fulfilling the criteria set for a complete and easily understandable application.

- When you apply for a commercial broadcast licence, the Communication Commission of Kenya will review your application to determine whether you can operate a viable media enterprise. This is why an applicant is asked to submit: financial, technical and administrative information.
- You are asked to use the appropriate application form provided, along with supporting documents and any additional information you may think is relevant to your application.

NOTE 1: All information will be treated as confidential.

- Check all your material against the requirements of the Act, regulations, the application form, and these guidelines.
- A non-refundable application fee must accompany the application once the application is confirmed to be complete. This must be paid in cash or by banker's cheque or such other manner as the Commission may prescribe.

Applicants are advised to read and familiarize themselves with the Kenya Information and Communications Act and Broadcasting Regulations before applying for the broadcasting service licence.

The Commission shall cause to advertise frequency spectrum in areas where this resource is available and access to it shall be carried out competitively.

1. GENERAL MATTERS

1.1 The Kenya Information and Communications Act, Cap 411A confers to the Commission powers to process application and issue licences to provide radio and television broadcasting services in Kenya.

1.2 This document is aimed at helping prospective applicants to know the procedures to be followed and requirements for obtaining a broadcasting licence.

1.3 Check all your material against the requirements of the Kenya Information and Communications Act, Cap 411A, the Regulations, the application form and these guidelines.

1.4 Section 5 provides detailed information on what the Commission expects from applicants seeking commercial broadcast licences and detailed requirements for making an application.

1.5 Section 6 is a checklist for all the documents expected from an applicant of commercial broadcasting licence.

1.6 Annex 1A is a format for programme segments.

1.7 Annex 1B is a format for programme structure.

1.8 Annex 2 is the Commission's evaluation criteria used for assessment of a commercial broadcast licence applications.

NOTE 2: Applicants must score 75% and above to qualify for consideration of the licence.

2 MARKET STRUCTURE

Section B: Broadcasting Market Fee Structure:					
The table below shows fees payable for various licences:					
	Broadcast Licence category	Licence Duration (Years)	Application Fee (KShs.) (payable when submitting application form)	Initial Licence Fee (KShs.) (payable after approval and before issuance of licence)	Annual Operating Fee (KShs.) (payable on/or before 1 st July of each year)
1	Public television broadcasting (non-commercial)	7	5,000/=	100,000/=	100,000/=
2	Public radio broadcasting (non-commercial)	5	5,000/=	50,000/=	50,000/=
3	Public television broadcasting (commercial)	7	10,000/=	200,000/=	0.5% of annual turnover or 100,000/= whichever is higher
4	Public radio	5	10,000/=	100,000/=	0.5% of annual

	broadcasting (commercial)				turnover or 100,000/= whichever is higher
5	Commercial free to air television	7	10,000/=	200,000/=	0.5% of annual turnover or 100,000/= whichever is higher
6	Commercial free to air radio	5	10,000/=	100,000/=	0.5% of annual turnover or 100,000/= whichever is higher
7	Cable subscription television	7	10,000/=	100,000/=	0.5% of annual turnover or 100,000/= whichever is higher
8	Community free to air television	4	1,000/=	30,000/=	30,000/=
9	Community free to air radio	3	1,000/=	15,000/=	15,000/=
10	Internet Protocol TV	5	10,000/=	100,000/=	0.5% of annual turnover or 100,000/= whichever is higher
11	Terrestrial subscription broadcasting	5	10,000/=	100,000/=	0.5% of annual turnover or 100,000/= whichever is higher
12	Satellite subscription broadcasting	7	10,000/=	200,000/=	0.5% of annual turnover or 100,000/= whichever is higher
13	Subscription Management Service	5	10,000/=	100,000/=	0.5% of annual turnover or 100,000/= whichever is higher
14	Digital Mobile	7	10,000/=	100,000/=	0.5% of annual

	television broadcasting				turnover or 100,000/= whichever is higher
15	Landing Rights broadcasting Service	N/A	10,000/=	USD \$12,500	N/A

Other fees

Licence transfer fee: KShs. 20,000/=

Licence renewal fee: Kshs.10,000/=

Change of name/ station identity fee: KShs. 10,000/=

NOTE 3:

Public Broadcasting

- KBC currently is the only designated public broadcaster
- provide diverse programming that promotes national identity, cohesion, culture and unity
- main channel for government to articulate its development agenda, information dissemination and education
- Mainly funded by exchequer but can also get funds by way of donations, grants
- May operate commercial TV/radio, but under same terms as commercial operators including account separation
- Hold in trust frequencies assigned to other government arms such as parliament

3 SUBMISSION OF APPLICATIONS

3.1 Which application forms should be completed

The table below shows which forms must be completed for each licence and who is eligible:

	Broadcast Licence category	Forms that must be completed	Separate Business Plan required?	Who is eligible
1	Public television broadcasting (non-commercial)	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-02	Yes	KBC only
2	Public radio broadcasting (non-commercial)	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-02	Yes	KBC only
3	Public television	CCK/F/SP-B/APL-00		KBC only

	broadcasting (commercial)	and CCK/F/SP-B/APL-02	Yes	
4	Public radio broadcasting (commercial)	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-02	Yes	KBC only
5	Commercial free to air television	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-02	Yes	Open, subject to availability of capacity on signal distributor network
6	Commercial free to air radio	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-02	Yes	Open, subject to availability of frequency resource
7	Cable subscription television	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-04	Yes	open
8	Community free to air television	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-03	Yes	Community broadcasters, subject to availability of capacity on signal distributor network
9	Community free to air radio	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-03	Yes	Community broadcasters, subject to availability of frequency resource
10	Internet Protocol TV/Radio	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-09	Yes	open
11	Terrestrial subscription broadcasting	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-06	Yes	Open, subject to availability of frequency resource
12	Satellite subscription broadcasting	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-10	Yes	open
13	Subscription Management Service	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-05	Yes	open
14	Digital Mobile television broadcasting	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-08	Yes	Open, subject to availability of capacity on signal distributor network
15	Landing Rights broadcasting Service	CCK/F/SP-B/APL-00 and CCK/F/SP-B/APL-07	Yes	Open to foreign entities not based in Kenya but whose spotbeams cover Kenya, but must appoint a locally licensed subscription management service provider

Applications for commercial broadcast licences must be:-

3.2 In the format prescribed in the appropriate application form and covering issues outlined in section 5 of these guidelines.

3.3 The application must be typed in letter quality type-face, printed and presented in an A4 format in English. It must also be bound, by comb or wire, between covers.

3.4 All pages should be clearly numbered. Two (2) copies of the application form and feasibility study should each be submitted.

3.5 The application must include;

- a) Letter of introduction,
- b) A copy of the certificate of registration of your company,
- c) Application form dully and correctly filled and
- d) A description of the project.

Attachments, such as technical diagrams, programme schedules and financial analysis tables must be attached appropriately.

4 OTHER CONDITIONS

4.1 The Commission shall consider the submission of an application as an indication of an applicant's willingness to accept the licence offer and the Conditions the Commission may prescribe.

4.2 The Commission is indemnified for any expenditures incurred by the applicant in preparing the application whether submitted or not, and whether successful or not.

5 PROCEDURES AND PROCESS

5.1 Broadcasting licence application process shall be two pronged:

5.1.1 For broadcasting services that require frequency resource, the Commission shall first cause to be published a list of the available frequencies of selected sites indicating the relevant conditions, eligibility criteria and deadline of receiving applications for the same. Any interested applicant meeting the criteria therein shall apply within a specified timeframe. Applications will only be received and acknowledged if received within the specified timeframe. Applications received outside the timeframe or when no advertisement has been made for the location/area shall be returned or not dealt with. Applicants should only submit application for a licence when the Commission advertises

the same. Etc. Thus, such advertisement will be advised by the the availability of frequency spectrum in the requested broadcasting area

5.1.2 Applications for licences for broadcast services that do not require assignment of frequencies will be received at any time and will be processed on first come first serve basis. This includes applications for licences such as cable TV broadcasting, DTH, etc. .

5.2 Received applications shall be scrutinised to establish whether they have all required attachments viz: receipt of application fee, duly filled application form, business plan, roll out plan, company registration, Information on technical proposal of the service to be provided, Information on the previous experience, company profile.

5.3 Applicants who do not comply shall be notified to submit appropriate required documents. Complied applicants shall be notified accordingly.

5.4 The Commission shall conduct detailed evaluations of the applications basing on pre-determined criteria as shown in Annex 2A & 2B.

5.5 The successful applicants recommended for licence award after the evaluation process shall be published in the Kenya Gazette and posted in the Commission's website to invite public comments.

5.6 The Evaluation team shall convene to assess public comments against the applications including interviewing the applicant if deemed necessary.

5.7 The Board shall consider recommendations for the grant of a licence(s) to a successful applicant(s).

5.8 Licenses shall be granted to successful applicants upon payment of appropriate initial licence fee and fulfilling the criteria set for each broadcasting service.

6 LICENCE APPLICATION

6.1 Who can apply for a Licence

6.1.1 Individuals applying for the licence may be Kenyan nationals, or

6.1.2 If it is a company applying for the licence, it must be partially or wholly owned and controlled by Kenyan nations, and

NOTE 4: If the applicant has not achieved 20% local shareholding, they should submit an affidavit sworn by at least a director or a major shareholder to

the effect that they will achieve the 20% threshold by the third year of operation.

Is/are original CR/12(s) provided and are 20% total shares allotted to Kenyans or has the applicant submitted an affidavit sworn by at least a director or a major shareholder to the effect that they will achieve the 20% threshold by the third year of operation?

6.2 Required Documents

- 6.2.1 Transmittal letter to the CCK Director General.
- 6.2.2 Completed application form.
- 6.2.3 Photocopy of receipts for application fees [An advice note for payment of application fee shall be issued upon confirmation that the application is complete].
- 6.2.4 Copy of Tax certificate from Kenya Revenue Authority where applicable.
- 6.2.5 Certified copy of list of directors.
- 6.2.6 Business plan – the following documents are required: - trading profit & loss schedule - projected balance sheet (years 1 & 2) - projected revenue schedule (establishment, operating and administrative) - projected cash flow schedule - loan repayment schedule - investment schedule;
- 6.2.7 Implementation plan and timetable;
- 6.2.8 Technical plan and documentation - service area map - propagation plan - equipment listing, including specifications;
- 6.2.9 *Programming Plan*;
- 6.2.10 Permits for programming use - letters of intent - signed contracts;
- 6.2.11 Certificate of Incorporation where applicable;
- 6.2.12 Articles of Association where applicable;
- 6.2.13 Memorandum of Association where applicable;

6.3 Receipt of Application

- 6.3.1 As an applicant, you are responsible for ensuring that you submit all the necessary documents. However, the Commission will verify, on receipt, that a complete package has been presented. If your application is missing any

documents, the Commission will immediately advise you what material needs to be provided before your application can be accepted and processed.

6.4 Presentation

- 6.4.1 Make sure that your documents are in the right order, secured firmly, and properly labelled.
- 6.4.2 The Commission will not attempt to guess the meanings of unmarked and/or ambiguous documents, including maps. The Commission also will not attempt to identify pages that are out of sequence.

6.5 Business Information

6.5.1 Ownership and Control

- 6.5.1.1 The composition of the major shareholding interest must be clearly stated. The nationality of the directors and principal shareholders must be provided, along with the stake of each individual in the company.
- 6.5.1.2 Clearly state who is the head of the company as well as the person responsible for the day to day operations.
- 6.5.1.3 If there is no company secretary, state who will be responsible for managing the company's official documentation and shareholding information.
- 6.5.1.4 The professional qualifications of the Chief Executive Officer must be provided. Please attach a résumé and copies of professional and academic certification.
- 6.5.1.5 Provide the same information for the Chief Technical Officer.

6.5.2 Staff

- 6.5.2.1 Explain the departmental structure of the planned operation, and the proposed reporting relationships within and between the areas specified including:
 - 6.5.2.1.1 Programming (including news and current affairs).
 - 6.5.2.1.2 Technical Financial General Administrative.
- 6.5.2.2 Provide detailed information on the professional record and qualifications of the persons who will head the departments, as well as the expected number and qualifications of staff.

6.6 Provision of Service

6.6.1 Implementation Plan

6.6.1.1 Provide a clear schedule of activities relating to the establishment of service.

Both actual and expected timeframes should be stated. For completeness, ensure that timeframes are given for all of the following:

6.6.1.1.1 Sourcing of funding;

6.6.1.1.2 Completion of property arrangements for an office and transmitter site(s);

6.6.1.1.3 Purchase/lease and delivery of equipment;

6.6.1.1.4 Installation of equipment;

6.6.1.1.5 Employment of staff;

6.6.1.1.6 Test transmissions;

6.6.1.1.7 Negotiations for programming;

6.6.1.1.8 Marketing;

6.6.1.1.9 Official start of broadcast.

6.6.2 Propagation Plan where Applicable

6.6.3 A diagram must be provided for every station applied for, showing the signal levels expected at various distances from this site. These distances should be represented by the half power points. Signal levels should be based on actual conditions present in the proposed area of coverage and must be quoted in micro volts per meter ($\mu\text{V/m}$).

6.6.4 In addition, the following information must be included on the individual propagation plans:

6.6.4.1 Antenna output in dBi

6.6.4.2 Half power points in dBm – (3dB from the antenna and each successive contour as necessary to cover the service area)

6.6.4.3 Minimum power at the boundary of the area being served in micro volts per meter ($\mu\text{V/m}$).

6.7 Programming

6.7.1 Clearly describe the format of programmes that will be offered throughout the broadcast week, e.g. news, magazines, talk shows, drama and request

programmes etc. Please note that broadcast licensees are required to transmit programmes for a minimum of eight hours a day.

- 6.7.2 Name the sources of your programming. Will programmes be bought or developed in-house? If so, make sure that you have stated the facilities and staffing required.
- 6.7.3 In the case of free-to-air, please explain what provisions have been put in place to ensure the rating and scheduling of programmes, as well as transmitting advisories as per the programme code — all of which are requirements of the Children's for programming.
- 6.7.4 If you plan to buy programming, you must attach letters of intent and/or agreements with the owners to use their material.

6.8 Financial

6.8.1 General

- 6.8.1.1 It is important that information is arranged in an orderly manner to facilitate easy understanding of your business plan.
- 6.8.1.2 Check all statements and calculations for accuracy.
- 6.8.1.3 Document all of your assumptions used to arrive at projected revenue and expenditure. Assumptions must be realistic.

6.8.2 Financing

- 6.8.2.1 With respect to the availability of funds, state clearly how the company will be financed.
- 6.8.2.2 This information should include the amount of money that shareholders will invest.
- 6.8.2.3 The business plan should show how any possible shortfall would be met if the capital were not adequate to operate the business.
- 6.8.2.4 If the company is to use debt capital, e.g. loans, to fund the shortfall, the loan terms must be stated and a commitment letter provided.

6.8.3 Revenue (where applicable)

- 6.8.3.1 When indicating projected revenue from production, state:
 - 6.8.3.1.1 The intended market.

6.8.3.2 When indicating projected income from advertising, state:

6.8.3.2.1 The intended market.

6.8.3.2.2 Proposed rate structure including costs for prime time and other time slots.

6.8.3.3 Give detailed information on other expected sources of revenue, such as agency fees from the subcontracting of staff for production projects, and/or rental of studios, equipment and other in-house facilities.

6.8.4 *Operating Costs*

6.8.4.1 The operating cost must be clearly outlined and as much documentation as possible should be given to support assumptions made in arriving at the costs.

6.8.4.2 It is important that the projected costs are consistent with the level of operation.

6.8.4.3 If the project is to be financed partly by debt capital, e.g. loans, the projected profit and loss statement should include the cost of interest and other charges.

6.8.5 *Cash Flow*

6.8.5.1 The cash flow proposed in the business plan must be consistent with expected revenue and projected expenses.

6.8.5.2 It must incorporate all loan proceeds and repayments (if any).

6.8.6 *Profit and Loss (where applicable)*

6.8.6.1 It is important to ensure that all the items included as expenses are genuine expense items.

6.8.6.2 In particular, the repayment of loan principal cannot be considered as an expense and therefore should not be included in the expense items.

6.8.7 *Balance Sheet*

6.8.7.1 The figures must be consistent with all other projections made. For example, if all equipment is not purchased in the first year of operation, the equipment purchased in subsequent years should not be included in the first year's projected balance sheet.

6.9 Other Information

- 6.9.1 Clearly explain how your media service will relate to your target broadcast market, providing as much documentation as possible to support your explanation.
- 6.9.2 Any other additional information that you think will be useful in the evaluation of your application should be provided.

7 CHECKLIST OF THE ATTACHED DOCUMENTS

This checklist will be used by the Commission officers to verify required documents that are mandatory for attachment to the application.

- 7.1 Transmittal letter to the Director General.
- 7.2 Fully completed and stamped application form.
- 7.3 Photocopy of receipt for application fees.
- 7.4 Information on ownership;
 - 7.4.1 Copy of ID of Kenya/passport;
 - 7.4.2 Copy of certificate of incorporation;
 - 7.4.3 Copy of articles of association;
 - 7.4.4 Certified copy of the list of directors;
 - 7.4.5 Tax compliance certificate where applicable; and
 - 7.4.6 If applicant is NGO; Copy of NGO certificate.
- 7.5 Business Plan for 3 years shall include;
 - 7.5.1 Investment schedule.
 - 7.5.2 Projected revenue schedule (establishment, operating & administrative).
 - 7.5.3 Projected profit & loss schedule
 - 7.5.4 Projected balance sheet.
 - 7.5.5 Loan repayment schedule; and
 - 7.5.6 Any other relevant information.
- 7.6 Technical Plan and documentation shall include;
 - 7.6.1 Type of technology chosen.

- 7.6.2 System topology and rollout.
- 7.6.3 Operation & maintenance strategy.
- 7.6.4 Propagation plan.
- 7.6.5 Service area map.
- 7.6.6 Billing information; and
- 7.6.7 Equipment listing (including specifications).

7.7 Implementation Plan and Timetable shall include;

- 7.7.1 Sourcing of funding.
- 7.7.2 Completion of property arrangements for an office and transmitter site(s).
- 7.7.3 Purchase/lease and delivery of equipment.
- 7.7.4 Installation of equipment.
- 7.7.5 Employment of staff.
- 7.7.6 Test transmissions.
- 7.7.7 Negotiations for programming.
- 7.7.8 Marketing plan; and
- 7.7.9 Official start of broadcast.

7.8 Programming Plan shall include;

- 7.8.1 Permits for programming use (letters of intent, signed contracts, etc).
- 7.8.2 Detailed programme schedule for one week.
- 7.8.3 Programme segments in Annex 1A; and
- 7.8.4 Programme structure in Annex 1B.

7.9 Detailed Organizational Structure shall include;

- 7.9.1 Composition of the major shareholding.
- 7.9.2 Operational structure.
- 7.9.3 Proof of qualifications of the applicant; and
- 7.9.4 Proof of qualifications of the managerial staff.

8. ANNEX 1A: PROGRAMME SEGMENTS

Programme Segments	Total Weekly (%)
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1	Commercial Programs	
2	Children Programs	
3	Music	
4	Sport	
5	Informative/political programs	
6	Marketing	
7	Educational Programs	
8	Other (please specify)	
	Total	100%

9. ANNEX 1B: PROGRAMME STRUCTURE

Programme Structure		Total Weekly (%)
1	Self produced Program	
	(a) Self Produced Production	
	(b) Coproduction	
	(c) Bought or owed Program	
2	Re-broadcasted program	
3	Exchanged program	
4	Other (Please Specify)	
	Total	100%

10. ANNEX 2A

Pre-qualification Stage

This is preliminary qualification stage for which a candidate is expected to score 100% before it is considered for the final evaluation. Any candidate who scores below 100% or gives falsified information will be disqualified. The criteria below will be used as an evaluation for the pre-qualifying applicants;

a. Pre-qualification Criteria.

Points

- i. Transmittal letter to the Director General..
- ii. Dully completed and stamped application form.
- iii. Photocopy of receipt for application fees;
- iv. Information on ownership INCLUDES;
 1. Copy of ID of Kenya/passport;
 2. Copy of certificate of incorporation;
 3. Copy of articles of association;
 4. Certified copy of the list of directors;
 5. If applicant is NGO; copy of NGO certificate.
- b. Compliance with all requirements stipulated in the General application form CCK/F/SP-B/APL-00 shall also be checked

11. ANNEX 2B

Final Evaluation

At this stage, applications will be evaluated on the basis of the under – mentioned criteria with the corresponding weights as given below. Only candidates who score 75% and above will be eligible for the award of a licence by the Commission

11.1 Business Plan for 3 years.

Points awarded

- i. Investment schedule;
- ii. Projected revenue schedule (establishment, operating & administrative);
- iii. Projected profit & loss schedule;
- iv. Projected balance sheet;
- v. Loan repayment schedule; and
- vi. Any other relevant information.

11.2 Technical Plan and documentation.

Points Awarded

- vii. Type of technology chosen;
- viii. System topology and rollout;
- ix. Operation & maintenance strategy;
- x. Propagation plan;
- xi. Service area map;
- xii. Billing information; and
- xiii. Equipment listing (including specifications).

11.3 Implementation Plan and Timetable.

Points awarded

- xiv. Sourcing of funding;
- xv. Completion of property arrangements for an office and transmitter site(s);
- xvi. Purchase/lease and delivery of equipment;
- xvii. Installation of equipment;
- xviii. Employment of staff;
- xix. Test transmissions;
- xx. Negotiations for programming;
- xxi. Marketing plan; and
- xxii. Official start of broadcast.

11.4 Programming Plan.

Points Awarded

- xxiii. Permits for programming use (letters of intent, signed contracts, etc);
- xxiv. Detailed programme schedule for one week;
- xxv. Programme segments in Annex 1A; and
- xxvi. Programme structure in Annex 1B.

11.5 Detailed Organizational Structure.

Points Awarded

- xxvii. Composition of the major shareholding;
- xxviii. Operational structure;
- xxix. Proof of qualifications of the applicant; and
- xxx. Proof of qualifications of the managerial staff.