

Press statement by Mr. Francis Wangusi, Ag. CCK Director General, on the review of licence and frequency spectrum fees, issued on 6th October 2011 at the CCK Boardroom

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Introduction

It will be appreciated that the ICT sector in Kenya has undergone fundamental and dramatic change since liberalization 12 years ago. From an industry hitherto characterized by a monopolistic market, inefficiency, under-investment, stunted growth and unmet demand for services, the ICT sector in Kenya has come of age and is now defined by competition, investment, dynamism, and exponential growth. The sector has, over the last 12 years, grown to become one of the key drivers of the Kenyan economy, generating an annual average of close to 20,000 direct jobs, and global recognition for creativity and innovations.

As the country's ICT sector regulator, the Communications Commission of Kenya (CCK) takes pride in having been at the centre of the tremendous achievements realized so far in this strategic industry.

To sustain this dynamism and lay the foundation for the sector's future growth, particularly in stimulating ICT infrastructure development in under-served and un-served areas, continuous monitoring and evaluation are necessary in order to institute the requisite regulatory interventions and adjustments. The interventions are also meant to facilitate important public policy issues including attainment of universal service, affordability, and user security. One of the key areas where regulatory adjustment is necessary at this point in time is in the review of the various regulatory fees.

Broadly speaking, regulatory fees are either service or resource based (e.g. type approval and frequency spectrum fees) on the one hand or operating licence fees on the other. Operating licence fees are made up of initial and annual fees. The annual operating fees, essentially meant to defray general regulatory service costs incurred by the Commission, is largely based on 0.5% of an operator's annual gross turnover with smaller players in each market segment paying a pre-determined flat rate amount. Initial licence fees on the other hand are used, among others, to control market entry by ensuring that only serious players enter the market. Proceeds from the initial licence fees are normally forwarded to the Treasury.

I am pleased to announce that the CCK Board has approved a review of a wide range of regulatory fees, including frequency charges. The revised regulatory fees shall take effect from 1st July 2012.

What has exactly changed?

In respect to **frequency fees**, the changes that have been instituted are as follows:

- (i) Mobile wireless access (used by mobile operators)

The current methodology for mobile wireless access has been changed so that fees for the 1st 10,000 transmitters go down by 25%. This reduction is progressively increased to 50% for the next 30,000 transmitters, and 75% for the remaining transmitters. Frequency fees for this category have gone down by an average 41%. This review is expected to give an incentive to operators to expand their networks and hence become more efficient in the use of the assigned spectrum.

(ii) Fixed links (used to interconnect the base stations)

The frequency band factors for fixed links have been varied in order to reduce the applicable frequency fees. In addition, a geographical zone factor of 50% has been introduced in order to encourage rollout in areas with low density of radio systems namely North West, Northern, and North Eastern parts of Kenya. Frequency fees for fixed links have been reduced by an average of 24%. This review is expected to give an incentive to operators to expand their networks to all parts of the country.

(iii) Fixed Wireless Access (used for data networks)

The formula for fixed links has been modified so that the fees will be charged at the rate of 100% of the current fees for the first 50 transmitters, 75% for the next 50 transmitters, and 50% for the remaining number of transmitters. In addition, a minimum fee of KShs. 240,000/= for every assigned one (1) MHz frequency pair has been introduced in order to discourage ineffective and inefficient utilization of spectrum by operators. Frequency fees of fixed wireless access have been reduced by an average of 18%.

(iv) Broadcasting Stations

For broadcasting stations, a new formula that is simpler than the current one has been introduced. The new formulae will eliminate the use of data that may not be readily available. The new formula has maintained the current frequency fees but has provided lower rates for community and public broadcasters.

Additionally, a geographical zone factor of 50% has been introduced for areas with low density of radio systems namely North West, Northern, and North Eastern parts of Kenya.

(v) Satellite Stations

A simpler formula has been developed that eliminates use of data that may not be readily available. The new formula has been derived in a way that maintains the current frequency fees contribution from satellite stations.

(vi) Licence application and annual operating fees

In respect to commercial **licence application fees** and **annual operating fees**, a downward review has been instituted in virtually all market segments. This is meant to encourage market entry for start ups and SMEs, and promote compliance in respect to type approval of communications equipment.

The highlights of application and annual operating fees are as follows:

- (i) Currently the Commission charges Kshs10,000 for commercial licence applications. These fees have been revised by 50% to stand at Kshs5,000 to make it easier for investors to apply for licences.
- (ii) To lower the market entry fees particularly for start ups and SMEs, a general downward review of the initial licence fees has been instituted for the telecoms sector. A modest initial licence fee for all market segments of the postal/courier sub-sector has been introduced for harmonization purposes. At the same time, the initial licence fee for the Public Postal Licensee has gone down from USD50,000 to Kshs1,000,000.
- (iii) To encourage growth in the industry and to ensure that end-users enjoy competitive prices for ICT services, the annual operating fees for commercial operators will now be computed at 0.4% of the Gross Annual Turnover down from the current 0.5%. For certain categories of licensees, the current flat rate of the annual operating fees shall be retained.
- (iv) To encourage smaller vendors and contractors to seek type approval for equipment meant for sale to end users, type approval fees have been reduced by an average of 80%. The reduction of type approval fees is expected to increase the rate of compliance in the market and reduction in the incidence of sale of non-type approved equipment in the market.

Rationale for the review

The review of the fees is informed by the following considerations:

1. The current regulatory fees structure was adopted in year 2000, and there has not been any general review since then. The few minor tariff reviews undertaken so far have tended to target particular areas only. It has, therefore, become necessary to undertake an-all inclusive review of the fee structure in order to align the regulatory fee regime with the significant changes that have taken place in the past decade.
2. The review has been underlined by the need to stimulate infrastructure investment and development in the un-served and underserved areas and thus fast-track the attainment of universal access among other public policy considerations. Reduction in frequency fees is expected to encourage operators to invest in infrastructure development in the rural areas, and facilitate the roll out of facilities necessary to meet other public policy requirements such as subscriber registration, elimination of sub-standard handsets, and blacklisting of stolen handsets. Service operators are also expected to pass on this benefit to end users, thus making communications services more affordable to a bigger proportion of Kenyans.

3. The review has also been undertaken to encourage efficient utilization of assigned frequency resources. The new frequency fee regime will give an incentive to operators to expand their networks and hence encourage service provider to be more efficient in the use of the assigned spectrum. In addition, it will serve to discourage hoarding of spectrum, and compel operators who are not using frequencies to surrender the spectrum to the Commission.
4. The review of regulatory fees is also aimed at aligning the fee structure with what is happening in other jurisdictions in the region. In addition, the review is expected to make Kenya's ICT market more conducive to more private investment.

As I conclude, I wish to note here that the Commission, shall going forward, be reviewing the regulatory fees every three years to sustain the vibrancy that has now become the hallmark of the local ICT sector. It is our hope that the industry will take advantage of the revised fee structure to expand services to the under-served and un-served parts of the country as well as facilitate other public policy requirements such as those touching on security so that all Kenyans can have access to universal, secure and efficient ICT services. I also wish to call on service operators to pass on the benefit of lower regulatory fees to end users, and thus make communications services more affordable to a bigger proportion of Kenyans.

Thank you for your attention.

Francis W. Wangusi
Ag. DIRECTOR GENERAL

ANNEX

NEW LICENSING AND OPERATING FEES WITH EFFECT FROM 1ST JULY 2012

TABLE 1: APPLICATION FEES		
	Current Application Fees (KES)	New Application Fees (KES) w.e.f. 1st July 2012
i. Commercial Operating License	10,000	5,000
ii. Private Operating Licence	1,000	1,000

TABLE 2: INITIAL LICENSE FEES

Licence Category	Current License Fees (KES)	Initial Fees	New Initial License Fees (KES) w.e.f. 1st July 2012
A. Telecom Operators			
i. NFP T1	15,000,000		15,000,000
ii. NFP T2	15,000,000		15,000,000
iii. NFP T3	200,000		200,000
iv. Submarine Cable Landing License	15,000,000		15,000,000
v. International Gateway License	15,000,000		15,000,000
vi. ASP	100,000		100,000
vii. CSP	100,000		100,000

TABLE 2: INITIAL LICENSE FEES

Licence Category	Current License Fees (KES)	Initial Fees	New Initial License Fees (KES) w.e.f. 1st July 2012
B. Postal/Courier Operators			
i. Public Postal Licensee	USD 50,000		1,000,000
ii. International operator	N/A		200,000
iii. International In-bound operators	N/A		50,000
iv. Regional Operator	N/A		50,000
v. Intra-country Operator	N/A		30,000
vi. Intra-city Operator	N/A		20,000
vii. Document Exchange Operator	N/A		10,000
C. Others			
viii. Telecom Equipment Contractors	15,000		7,500
ix. Telecom Technical Personnel	2,000		1,000
x. Private VSAT operated through a VSAT Hub licensed in Kenya	No fee		No fee
xi. Private VSAT operated through foreign VSAT Hub	No fee		No fee
xii. Private VSAT for Research	No Fee		No Fee
i. Private VSAT for Education	No Fee		No Fee
ii. GMPCS Landing Rights Authorization	US \$ 12,500		US \$ 12,500
iii. Business Process Outsourcing Authorization	10,000		10,000

TABLE 3: ANNUAL OPERATING FEES

A. Telecom Operators		
Licence Category	Current Annual Operating Fees	New Annual Operating Fees w.e.f. 1st July 2012
(Basis)	(0.5% of GAT or the figure below in KES whichever is higher)	(0.4% of GAT or the figure below in KES whichever is higher)

TABLE 3: ANNUAL OPERATING FEES

a) NFP T1	5,000,000	4,000,000.00
b) NFP T2	1,000,000	800,000.00
c) NFP T3	200,000	160,000.00
d) Submarine Cable Landing License	5,000,000	4,000,000.00
e) International Gateway License	1,000,000	800,000.00
f) ASP	100,000	80,000.00
g) CSP	100,000	80,000.00
B. Postal/Courier Operators		
Licence Category	Current Annual Operating Fees	New Annual Operating Fees w.e.f. 1st July 2012
(Basis)	(0.5% of GAT or the figure below in KES whichever is Less)	(0.4% of GAT or the figure below in KES whichever is higher)
a) Public Postal Licensee	3,750,000	1,000,000
b) International operator	450,000	200,000
c) International In-bound operators	75,000	50,000
d) Regional Operator	93,750	50,000
e) Intra-country Operator	60,000	30,000
f) Intra-city Operator	37,500	20,000
g) Document Exchange Operator	22,500	10,000
C. Others		
Licence Category	Current Annual Operating Fees	New Annual Operating Fees w.e.f. 1st July 2012
a) Telecom Technical	KES 500	KES 500
b) Telecom Equipment Contractors	KES 6,000	KES 3,000
c) Operated through VSAT Hub licensed in Kenya	KES 6,000 per terminal	No fees
d) Private VSAT operated through foreign VSAT Hub	KES 200,000 per terminal	KES 100,000 per terminal
a) Private VSAT for Research	KES 200,000 per terminal	No fees

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b)	Private VSAT for Education	No fees	No fees
c)	GMPCS Landing Rights Authorization	No fees	No fees
d)	Business Process Outsourcing Authorization	No fees	No fees
e)	Telecommunications Vendor	No fees	No fees
f)	Communications Services Centre (eg cyber cafe, tele-bureau etc)	No fees	No fees
g)	Satellite Phone	KES 1,000	No fees
D. Legacy licenses (those yet to migrate to Unified Licensing Framework) - No Change			
	(Basis)	(0.5% of GAT or the figure below in KES whichever is higher)	(0.5% of GAT or the figure below in KES whichever is higher)
a)	Data Carrier Network Operators (DCNOs)	1,000,000	1,000,000
b)	Public Data Network Operators	500,000	500,000
c)	Local Loop Operators (LLOs)	200,000	200,000
d)	Internet Service Providers (ISPs)	100,000 flat rate	100,000 flat rate
e)	Premium Rate Service Providers (PRSPs)	100,000 flat rate	100,000 flat rate
f)	Other Value Added Service Providers	100,000 flat rate	100,000 flat rate

TABLE 4: TYPE APPROVAL FEES AND OTHER RELATED SERVICES

A: TYPE APPROVAL FEES

Equipment Type	Description	Current Fees (KES)		New Fees (KES) w.e.f. 1 st July 2012	
		Type approval of equipment for <i>individual use</i> .	Type approval of equipment for <i>marketing purposes</i>	Type approval of equipment for <i>individual use</i> .	Type approval of equipment for purposes of <i>marketing</i> .
a) Telephony Instrument	Ordinary	1,000	10,000	500	2,000
	Executive	1500	15,000		
	Cordless	1500	15,000		
b) Telephony Terminals	2 line Executive	2000	20,000	1,000	4,000
	Cordless with Executive telephone.	2000	20,000		
	Intelligent executive telephone	3,000	30,000		
	Private Payphone	1500	15,000		
	Public Payphone	4000	40,000		

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c) Facsimile Transceiver	Without Integral answering/ recording facility	2,000	20,000		
	With integral answering/ recording facility	2,400	24,000		
d) Teleprinter	All types	1500	15,000		
e) Answering systems	Answering machine	800	8,000		
	Ordinary Answer Phone	1400	14,000		
	Executive Answer phone.	2000	20,000		
f) Data terminals, PADs & MUXs, Set Top Boxes	All types	1800	18,000		

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g) Data Modems *router/data switch	Data only	1500	15,000		
	Data/fax/voice	2,000	20,000		
h) Radio Communications	HF/VHF/UHF For use in private radio networks.	3,000	30,000	1,000	4,000
	HF/VHF/UHF for use in public radio networks.	3,000	30,000		
	Radio alarm transmitter.	2000	20,000		
	Citizen band	500	5000		
	Amateur	3,000	30,000		

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i) Paging systems	Wide area Paging transmitter.	3,000	30,000		
	Pager receiver unit for use in wide area paging networks.	1,500	15,000		
	On site paging transmitter.	2,000	20,000		
	Pager receiver unit for use in on-site paging systems	1,500	15,000		
j) Broadcast transmitters	Radio broadcast Transmitters	40,000	40,000	5,000	20,000
	Television Broadcast Transmitters	40,000	40,000		

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	Studio-to-Transmitter Link (STL)	25000	25000		
	Community Radio	4,000	4,000	2,500	10,000
k) Integrated Answer/Recording facility.	All types (NB. Mark up loaded to secretarial sets with this facility).	400	4,000	500	2,000
l) Subscriber's Private Meter	All types	800	8,000		
m) Call barring units	All types	800	8,000		
n) Bureau meters /Public Call office monitors	All types	1,000	12,000		
o) Cellular Telephones	GSM, CDMA.	4,000	40,000	1,000	4,000

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		Type approval of equipment for <i>individual use.</i>	Type approval of equipment for <i>marketing purposes</i>	Type approval of equipment for <i>individual use.</i>	Type approval of equipment for purposes of <i>marketing.</i>
p) Cellular/Fixed Wireless Systems	Base Station System	40000	40000	5,000	20,000
	Transmission System	25000	25000	2,500	10,000
	Network Management System	100000	100000	5,000	20,000
q) Fixed Wireless Local Loop Terminals, WiMAX terminals	All types	3,000	30,000	1,000	4,000
r) VOIP Network Equipment: E1 interface cards, VoIP gateways, IP terminals	All types	60,000	60,000	5,000	20,000

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		Type approval of equipment for <i>individual use</i> .	Type approval of equipment for <i>marketing purposes</i>	Type approval of equipment for <i>individual use</i> .	Type approval of equipment for purposes of <i>marketing</i> .
s) Low power terminals	All types	2,300	23,000	1,000	4,000
t) Satellite Earth Terminals	VSATS	10,000	40,000	2,500	10,000
	GMPCS (with ITU Mark of Conformity)			No fees	No fees
	GMPCS (with no ITU Mark of Conformity)			1,000	4,000
u) PBX	Including PMBXs, PABXs, VOICE MESSAGING SYSTEMS, SBSs, Media Convergence servers etc	Various	Various	2,500	10,000

TABLE 4 CONT': TYPE APPROVAL FEES AND OTHER RELATED SERVICES

B: FEES FOR OTHER RELATED SERVICES

Current Fees	New fees w.e.f. 1st July 2012
v) General Information Services List of Type Approved equipment Ksh. 50 per equipment type	No fees
w) Technical Information: Technical specifications Kshs. 200 per equipment type	No fees
Miscellaneous services	
x) Exhibition/Demonstration of equipment/System:	
<ul style="list-style-type: none"> ▪ Registered vendor: <ul style="list-style-type: none"> ▪ Kshs. 1,000 first day 	No fees
<ul style="list-style-type: none"> ▪ Kshs. 500 each consecutive day 	No fees
<ul style="list-style-type: none"> ▪ Non-registered vendor: <ul style="list-style-type: none"> ▪ Kshs. 2,000 first day 	No fees
<ul style="list-style-type: none"> ▪ Kshs. 1,000 each consecutive day 	No fees
y) Copy of Type Approval certificate/ Ksh. 250	No fees
z) Letter of no objection to import equipment - Kshs. 250	No fees