



GENERAL NOTICE NO. 1, 2021 CONSULTATION DOCUMENT IN TERMS OF SECTION 32 OF THE ESWATINI COMMUNICATIONS COMMISSION ACT, 2013: ACTIVE INFRASTRUCTURE SHARING AND NATIONAL ROAMING GUIDELINES - INVITATION FOR WRITTEN REPRESENTATIONS

The Eswatini Communications Commission, hereinafter referred to as the Commission, has drafted the Active Infrastructure Sharing and National Roaming Guidelines for consultation in accordance with Section 32 of the ESCCOM ACT, 2013. The provisions of Section 32 of the ESCCOM Act, 2013, allow for stakeholders and interested persons to make comments on proposed consultations of the Commission.

The public is hereby invited to submit their written presentations on the Consultation Document on Active Infrastructure Sharing and National Roaming Guidelines published herewith by the Commission. A copy of the Guidelines is available on the Commission's website at www.esccom.org.sz and at the Commission's offices at Mbabane Office Park 4th floor, North Wing Mhlambanyatsi Road.

Written representations with regard to the document must be submitted to the Commission no later than 17h00 on 30th May 2021 by post to Eswatini Communications Commission, P.O. Box 7811 Mbabane, hand delivered or electronically to info@esccom.org.sz.



CONSULTATION DOCUMENT

Subject: Draft Mobile Network Operator Active Infrastructure Sharing and National Roaming Guidelines, 2021

Number: 001/2021

Application: Individual Electronic Communications Network Licence Holders

Objective: To Promote Affordable and Sustainable Quality of Active Infrastructure and National Roaming Services in Eswatini

Effective Date: 2021

Introduction and Background

1. (1) Infrastructure sharing regulatory principles and processes are generally provided for in the Electronic Communications (Facilities Sharing) Regulations, 2016.

(2) While the Facilities Sharing Regulations, 2016 provide a comprehensive framework on the key principles relevant for electronic communications infrastructure, they are largely focused, as evidenced in the definition for 'facilities' in the Regulations, on 'passive' elements of network infrastructure.

(3) With a view to cater for the requirements for active infrastructure sharing principles in the regulatory framework, the Commission undertook an exercise and issued an Inquiry Document on Active Infrastructure Sharing on the 30th June 2020 to solicit input on a regulatory framework that will provide certainty on infrastructure sharing holistically to include facilities leasing, and other matters relevant to access to broadband services within the country;

(4) The summary findings of the consultation and inquiry process were to the effect that there is a need to review the regulatory framework to include 'active' network infrastructure elements;

(5) The development of the Active Infrastructure Sharing Guidelines, 2021, is the first step in this direction, to be followed with recommendations to the Ministry of Information, Communication and Technology (MICT) for the review of the Facilities Sharing Regulations;

(6) These Guidelines are applicable to active infrastructure and national roaming for Mobile Network Operators (MNOs)

(7) In this regard, the Commission is issuing the Mobile Active Infrastructure Sharing Guidelines for public consultation as required by Section 32 of the ESCCOM Act, 2013. Written representations may be forwarded to info@esccom.org.sz or submitted at the Commission's offices not later than 30th May 2021

PART I
PRELIMINARY PROVISIONS

Citation and commencement

2. (1) These Guidelines may be cited as the Active Infrastructure Sharing and National Roaming Guidelines, 2021;
- (2) These Guidelines shall come into force on the date of publication.

Interpretation

3. In these Guidelines, unless the context otherwise requires –
“**the EC Act**” means the Electronic Communications Act of 2013;

“**the ESCCOM Act**” means the Eswatini Communications Act of 2013;

“**Active Infrastructure or Facilities**” means the components on the active layer of a Telecommunications Network, including but not limited to: associated antennae, mobile switching centre, backhaul connectivity to a Telecommunications Operator’s Network, radio access nodes, and other requisite equipment associated civil and electrical works required to provide applicable services by such Telecommunications Operators;

“**Active Infrastructure Sharing**” means the sharing of the active layer of the Telecommunications Network. This entails the amenable sharing of the intelligence in the network embodied in the associated antennae, mobile switching centre, backhaul connectivity to a Telecommunications Operator’s Network, radio access nodes, other requisite equipment associated civil and electrical works required to provide applicable services by such Telecommunications Operators and any other active network components as may be added by the Commission from time to time. Active infrastructure sharing is to be administered without an attendant risk of lessening competition through any of or all of the following kinds of architecture with varying degrees of sharing:

- Multi Operator Radio Access Network (MORAN) – in which only equipment is shared and,
- Multi Operator Core Network (MOCN) services – in which both spectrum and equipment are shared

“**Collocation**” means the physical space at which more than one licensee install their electronic communications infrastructure along with, on the same floor or in the same premises as other licensees’ electronic communications infrastructure, and in some cases, interconnects to other licensees’;

“Commission” means the Eswatini Communications Commission established under the Act;

“Facilities” means infrastructures amenable to sharing without an attendant risk of lessening of competition and includes, but is not limited to –

- (a) rights of way;
- (b) masts;
- (c) poles;
- (d) antenna mast and tower structures;
- (e) ducts;
- (f) trenches;
- (g) space in buildings;
- (h) electric power (public or private source); and
- (i) any other infrastructure as may be added by the Commission from time to time;

“Facilities Sharing” means facilities-leasing and sharing, collocation active infrastructure;

“Hosted Operator” means the Operator with which a subscriber has a direct contractual relationship for access to and use of mobile services;

“Host Operator” is an Operator on whose system or network a subscriber roams by means of roaming arrangements by the Hosted Operator.

“Infrastructure Provider” means any licensed telecommunications operator who owns or is in control of facility or infrastructure to which another operator desires to enter into an agreement for the purposes of active infrastructure sharing;

“Infrastructure Seeker” means any licensed telecommunications operator desirous of entering into an agreement with other telecommunications operator(s) who own or is in control of telecommunication’s infrastructure and facility for the purpose of collocation or active infrastructure sharing;

“international telecommunications union” means the United Nations specialised agency for information and communications technologies – ICTs;

“the Kingdom” means the Kingdom of Eswatini;

“Mobile Telecommunications services” mean Communications services provided to end users by licensed Operators that are interconnected with the public switched network which enables the Operator to reuse frequencies and accomplish seamless handoff of end user calls. This includes making and receiving voice calls,

sending and receiving SMS messages, sending and receiving data, or access to other electronic Communications services;

“National Roaming” means the ability for a mobile subscriber to automatically make and receive voice calls, send and receive data, or access other services, when travelling outside the geographical coverage area of their subscribed network provider, or when experiencing poor quality of service from their subscribed network provider;

“Operator” means a person licensed under the Act to provide mobile telecommunications services in Eswatini, including National Telecommunications Operators and Public Service Provider (voice and data);

“Public switched network” means collection of interconnected public telecommunication networks that deliver switched telecommunication services, whether by wire or radio, to the public;

“Reference Offer” means a document setting out the standards of services and facilities that the infrastructure provider proposes to offer or its offering;

“Roaming” means the ability for a mobile subscriber of one Operator to automatically use facilities of another Operator with which the subscriber does not have a direct service provision or financial contract/arrangement for mobile services;

“Retail Charges” means prices charged to the end user of a roaming service;

“Roaming Customer” means a customer of a terrestrial mobile communications services, by means of a mobile network situated in the Kingdom, whose contract or arrangement with his/her subscribed network provider permits the use of a mobile telephone or other device to make or to receive calls, to send or receive SMS, or to use packet switched data communications or any other electronic communication service on a visited network by means of arrangement between the subscribed network provider and the operator of the visited network;

“SMS” means short messaging service;

“Standard Price List” means a document listing standard price list specifications for infrastructure and services offered by the infrastructure provider;

“Telecommunication” means the emission, transmission or reception through the agency of electricity or electromagnetism of any sounds, signals, signs, writing, images or intelligence of any nature by wire, radio,

optical or other electromagnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception;

“Telecommunications Service” means a service consisting of the conveyance or reception of any sounds, signs, signals, writing or images by wire, optical or other electronically guided media systems whether or not the signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other process by any means in the course of their transmission, emission or reception;

“Visited Network” means a terrestrial public mobile communications network situated within the Kingdom permitting a roaming customer to make or receive calls, to send or receive SMS messages or to use packet switched data communications, by means of arrangements with the home network;

“Would-be host Operator” is an Operator to whom a request is made for roaming arrangements.

Objectives of the Guidelines

4. (1) The primary object of these Guidelines is to establish a framework within which Infrastructure Providers and Infrastructure Seekers can negotiate active infrastructure sharing and National Roaming agreements. The Commission further aims to encourage investment in high-performance networks for all citizens of Eswatini through promoting infrastructure-based competition.

(2) These guidelines further seek to ensure that all infrastructure sharing and roaming agreements between the operators in Eswatini takes place on a fair, transparent and economically efficient basis, for the benefit of consumers, operators and the overall economy.

(3) The objectives of these guidelines are to:

- a) improve the resilience of mobile telecommunications networks and services for improvement in quality of telecommunications services in Eswatini;
- b) promote competition among operators;
- c) encourage active infrastructure sharing;
- d) promote the availability of seamless nationwide access by consumers to mobile services in Eswatini; and
- e) promote innovation and investment to facilitate the development of related telecommunications markets.

Purpose

5. The purpose of these Guidelines is to –
 - (1) Facilitate the conclusion of active infrastructure sharing and roaming agreements by stipulating:
 - a. agreement principles
 - b. business rules, time frames and procedures to be followed by parties; and
the procedures for the submission review and filing of agreements.
 - (2) Provide for the requirements for the sharing of active network infrastructure and roaming ;
 - (3) Maximize the use of network facilities including, but not limited to, network capacity and capabilities, base station sites, backbone, etc;
 - (4) Reduce duplication of infrastructure, promoting a more environmentally friendly network landscape in Eswatini;
 - (5) Promote investment for network facilities where adequate provision has been made;
 - (6) Promote the availability of wide range high quality, efficient, cost effective and competitive telecommunication services for end users;
 - (7) Promote product and technology innovation;
 - (8) Create an efficient and competitive mobile telecommunications environment; and
 - (9) Expand on the purpose and objectives of the Facilities Sharing Regulations

PART II INFRASTRUCTURE SHARING

Requests for access to Infrastructure

6. (1) A request for access to electronic communications infrastructure shall be made to the infrastructure provider in writing and shall include –
- a. the date of the request;
 - b. the technical requirements of electronic communications infrastructure seekers and physical parameters;
 - c. the location of the infrastructure it requests access to, where applicable; and
 - d. the type of electronic communications infrastructure requested.
- (2) An infrastructure provider shall respond to a request to lease active infrastructure within thirty (30) days of receipt of the request stating –
- (a) its minimum requirements for entering into the active infrastructure sharing agreement or;
 - (b) its reasons why the request cannot be accommodated, which reasons shall be limited to the consideration that –
 - (i) based on the information provided, infrastructure-sharing would threaten the integrity of the providing carrier's network;
 - (ii) it is not technically feasible, as can be demonstrated by the infrastructure provider to the Commission, or
 - (iii) it would prevent the providing carrier from fulfilling its own reasonably anticipated requirements for use of the infrastructure.
- (3) The parties shall finalise the active infrastructure sharing agreement within three (3) months from the date of request provided that the parties may agree on a longer period, which period shall not exceed sixty (60) days.

Technical feasibility

7. (1) A request shall be deemed technically feasible if it meets the following minimum requirements -
- (a) the network meets the technical parameters of the requesting party's network at the time the request is made; and
 - (b) offering facilities to the infrastructure seeker will not have a negative effect on the infrastructure provider's physical network, network elements or capacity.
- (2) Any dispute relating to the technical feasibility shall be determined by the Commission on a case by case basis.

PART III
PRINCIPLES FOR ACTIVE INFRASTRUCTURE SHARING

Application of Electronic Communication (Facilities Sharing) Regulations, 2016

8. In addition to the principles highlighted below, the Electronic Communications (Facilities Sharing) Regulations, 2016 remain applicable to all arrangements on active infrastructure sharing. These principles include:
- a) reference offer and standard price list
 - b) quality of service and standards
 - c) service level parameters
 - d) confidentiality
 - e) non-discrimination
 - f) transparency
 - g) penalties
 - h) dispute resolution; and
 - i) appeals

Procedure for Active Infrastructure Sharing

9. (1) An Infrastructure Seeker shall submit a request to an Infrastructure Provider, expressing its interest in entering into an Active Infrastructure Sharing arrangement.
- (2) All negotiations for active infrastructure sharing must be done to the mutual benefit of both parties involved. The infrastructure provider shall not:
- a) Obstruct or delay negotiations;
 - b) Refuse to provide information relevant to an agreement including information necessary to identify the facility needed;
 - c) Refuse to designate proper representative to expedite negotiation
- (3) An Infrastructure Provider shall reserve the right to refuse an application for Active Infrastructure Sharing on grounds of;
- a) insufficient capacity,
 - b) network incompatibility
 - c) Safety and reliability, and
- (4) An Infrastructure Provider has the right to reserve not more than 25% (twenty five percent) of spare capacity for its short term or emergency need.

- (5) The period to respond (either acceptance or rejection) by the Infrastructure Provider to any request for Active Infrastructure Sharing shall be a maximum of 30 (thirty) days.
- (6) The timeframe for negotiation and conclusion of the technical, legal and commercial aspects of the agreement shall not exceed 2 (two) months from the date of receiving the request.
- (7) Where the Infrastructure Seeker does not receive any response from the Infrastructure Provider within 15 (fifteen) working days of request, the Infrastructure Seeker shall refer the matter to the Commission.
- (8) Parties are expected to notify the Commission upon finalization of negotiations, and submit the agreement to the Commission within 15 (fifteen) days for review and approval, prior to registration.
- (9) The Infrastructure Seeker cannot sub-lease/rent out the shared infrastructure to a third party.
- (10) In the event any dispute between the Infrastructure Provider and Infrastructure Seeker cannot be resolved amicably, the aggrieved party shall refer the matter to the Commission for resolution. All notices escalating the disputes should be made in writing to the Commission.

Technical Considerations

- 10.(1) Subject to the provisions of these Guidelines, all Operators shall make available the following network elements for active sharing to all licensed telecommunications operators:
 - a) Core Network;
 - b) Radio Access Network;
 - c) Intelligent Network (IN);
 - d) Transmission Network;
- (2) All available technologies shall be sharable.
- (3) Technology exclusivity is subject to approval by the Commission.
- (4) The technical considerations for sharing shall be bilateral, non-discriminatory, and may be either reciprocal or non-reciprocal.
- (5) Based on an agreed sharing scheme and technical complexity/outlay, the Infrastructure Provider and the Infrastructure Seeker shall determine a reasonable timeframe to demonstrate capacity/readiness.

- (6) The following documents and regulatory frameworks shall be taken into consideration during the negotiation of the technical aspects of the Active Infrastructure Sharing:
 - a) Electronic Communications Act;
 - b) Electronic Communications (Facilities Sharing) Regulations; and
 - c) Interconnection Regulations.
- (7) The number of Active Infrastructure Sharing partners that can be accommodated per active sharing options shall be based on existing capacity and technological capability.
- (8) Every MNO interested in sharing its active infrastructure shall have in place a Reference Offer which shall be subject to approval and publication by the Commission.

Operational and Maintenance Considerations

11. *Fault Management*

- (1) The Infrastructure Seeker and Infrastructure Provider shall agree on a fault resolution and escalation procedure.
- (2) The Infrastructure Provider shall be responsible for clearing all faults associated with the network element(s) it is sharing, except where such fault is attributable to the Infrastructure Seeker's interface, in which case the Infrastructure Seeker shall be responsible for resolving such faults.

Network Availability

- (3) The Infrastructure Provider shall make every effort to ensure the Infrastructure Seeker enjoys the same level of availability as its own customers and maintain such level as contained in the Quality of Service Regulations, 2016.

Quality of Service and Experience

- (4) The Infrastructure Provider shall offer the same quality of service to the Infrastructure Seeker on the network element(s) being shared.
- (5) The Infrastructure Provider shall ensure it meets all quality of service requirements under the Quality of Service Regulations and other relevant legal frameworks.
- (6) The Infrastructure Provider shall be responsible for any infraction due to non-compliance with quality of service requirements on the network element(s) being shared.

Service level parameters

2. (1) The Infrastructure Provider and Seeker shall agree on not only the description of the facilities to be shared, but include in their negotiations the expected service levels and parameters by which the services are measured, as well as remedial procedures and eligible penalties.

Neutrality, Transparency and Non-discrimination

3. (1) The Commission shall in reviewing active infrastructure sharing agreements ensure that the terms on which infrastructure sharing is offered are in compliance with the principles of neutrality, transparency, non-discrimination and fair-competition.

General penalty

4. Any party to an infrastructure sharing agreement, who contravenes any provisions of these Guidelines commits an offence and shall be liable to be dealt with in accordance with the provisions of Section 42 of the ESCCOM Act.

PART IV

NATIONAL ROAMING PRINCIPLES AND REQUIREMENTS

Roaming Arrangements

12. (1) A Hosted Operator requesting for national roaming services shall forward a duly completed Roaming Request Form A, contained under Schedule 3 of these Guidelines, to the Roaming Provider and the Commission.
 - (2) Duly authorised MNOs shall request and negotiate national roaming agreements with each other on terms that are mutually beneficial, just, commercially reasonable and non-discriminatory.
 - (3) Roaming agreements shall not be conditioned on reciprocity or exclusivity.
 - (4) The Host Operator shall confirm receipt of a roaming request with the Hosted Operator within fifteen (15) calendar days of receipt thereof. Upon determining that the roaming request is reasonable and pursuant to these Guidelines, such negotiations on roaming arrangements shall commence and be completed within thirty (30) calendar days from the date of receipt of the roaming request.
 - (5) Subsequent to subsection (3) above, the Roaming Provider shall notify the Roaming Seeker and the Commission of its acceptance by completing and sharing the relevant section of the Response to the Roaming Request Form B contained under Schedule 3 of these Guidelines. There after;

- b. Parties shall enter into a Non-Disclosure Agreement and commence negotiations of the terms of the National Roaming Agreement.
- c. Parties shall ensure that the National Roaming Agreement is submitted to the Commission for review and approval, prior to registration, within fifteen (15) calendar days of execution by parties.
- d. If within fifteen (15) calendar days from the date of submission the Commission does not act on the National Roaming Agreement, such shall be deemed approved and registered.

(6) Such roaming agreements shall apply to each of the Host Operator's currently deployed networks and any future networks. This is inclusive of all spectrum bands and generations of technologies used by the Host Operator to provide mobile telecommunications services to its own subscribers.

(7) The roaming agreements also shall apply to all the geographic areas within the Kingdom, where the Roaming Provider has cellular mobile network footprint or coverage, provided the Roaming Provider does have international roaming services in such specified areas.

Rejection of the Roaming Request

13. (1) The Host Operator shall, within thirty (30) calendar days of receipt of the roaming request, notify the Facilities Seeker and the Commission of its refusal of the request, by completing the relevant section of the Response to Roaming Request Form B contained under Schedule 3 of these Guidelines and furnish reasons together with supporting evidence for its refusal.

(2) A Host Operator shall reserve the right to refuse an application for National Roaming on grounds of:

- a) Insufficient capacity;
- b) Network or technology incompatibility;
- c) Non-payment by the Facilities Seeker or indebtedness for other services such as interconnection and shared infrastructure; and
- d) Unavailability of the required mobile services.

(3) The Host Operator shall bear the responsibility to prove the existence of any of the grounds listed under subsection (2) above.

(4) If the Facilities seeker deems the grounds on which the Host Operator refused a request for roaming unjust or unreasonable for whatever reason, the Facilities Seeker has the right to object such refusal.

(5) The Facilities Seeker shall, through writing, notify the Commission of such objection, with reasons and if necessary provide evidence to support the objection herein.

(6) If the Commission accedes to the Facilities seeker objection, the Commission shall instruct the Roaming Provider to respond to the request for roaming with an offer to enter into a roaming agreement within fifteen (15) days of receipt of the Commission's direction.

Applicable Information for Roaming Request

14.(1) Subject to these Guidelines, all MNOs shall maintain a compendium that shall be availed to any other operator that expresses an interest in roaming agreements. This compendium shall comprise:

- a. Information required by the Roaming Seeker for consideration of a request for roaming agreements, including but not limited to technical data, engineering information, network requirements, and other relevant information deemed imperative to formulate a roaming agreement.
- b. Information to orientate the prospect Hosted Operator in preparing a request for roaming agreements including, but not limited to:
 - (i) information on geographical areas covered by the Host Operator;
 - (ii) technical technologies and characteristics of voice, data and SMS services; and
 - (iii) security requirements and confidentiality of proprietary information, inclusive of standards and measure to be complied with by both Host and Hosted Operators to ensure network integrity and safety standards.

(2) The Host Operator reserves the right to limit the information availed to the Hosted Operator to only which is necessary and does not infringe on the Host Operator's privacy and confidentiality.

(3) The Would-be Host Operator shall not seek to obtain information of commercial nature of the services of the Hosted Operator while a roaming request by the Hosted Operator is underway, other than for the purpose of verification that the roaming request shall not be used for purposes other than the provision of mobile telecommunications services.

(4) The Would-be Host Operator shall timeously and promptly inform the Host Operator of any additional information required in respect of a roaming request underway in not more than fifteen (15) calendar days from receipt of a request.

National Roaming Charges

15.(1) The Commission may set a price cap for Roaming charges which shall be cost oriented.

- (2) Guided by the price cap set by the Commission, the Host and Hosted Operators shall mutually agree on the charges of national roaming among each other. In a case where either or both the Host and Hosted Operators fail to reach an agreement on such charges, either operator may refer the dispute to the Commission for resolution as per subsection (27).

National Roaming Billing

16. (1) The generation of Call Data Records (CDRs) shall be in accordance with the internationally accepted GSM Association format to facilitate the billing of National Roaming Services. The CDRs shall be collected and rated by the Host Operator, and forwarded to the Hosted Operator within the file transfer timelines stipulated by GSMA to enable monthly billing of usage, fraud detection and usage monitoring.

(2) The Host and Hosted Operators shall share such information as signalling protocol(s) used in their Intelligent Networks (IN) to enable real time billing services, and fraud control.

National Roaming Agreements Regulatory Supervision

17. (1) Pursuant to subsection 19 (4) above, the Host and Hosted Operators shall file roaming agreements with the Commission within fifteen (15) working days from signing, for the purposes of ensuring compliance with the law, regulations, these Guidelines and any other binding regulatory requirements.

(2) Upon reviewing the roaming agreement, the Commission may require the Host and Hosted Operators to amend any terms and conditions stipulated therein found to be anticompetitive, illegal, or adverse to any of the involved parties as well as consumers.

(3) The Commission may issue a directive for amendment of agreements to accommodate updates in the regulatory and legal environment, Government policy, technology, markets and competition, national security requirements and or any other reason deemed necessary by the Commission.

(4) The review and approval by the Commission is aimed at seeking the prevention of anticompetitive practices or consequences and protect interest of consumers in respect of matters such as quality of service, access to services and tariffs.

(5) The Host and Hosted Operators may amend their roaming agreements from time to time but must submit the changes to the Commission for approval within fifteen (15) calendar days upon their signature.

(6) The Host and Hosted Operators are prohibited from terminating or suspending the roaming agreement for any given reason without prior approval

of the Commission, unless this is mutually agreed by both parties. In case of mutual agreement to terminate or suspend, the Host and Hosted Operators shall inform the Commission within seven (7) calendar days of such a decision, for approval. The parties shall not effect their mutual decision before the Commission approves the same.

(7) In case the Host Operator encounters an incidental failure or breakdown on its network which results interruption, blockage or any impairment of the roaming agreements and is unable to obtain prior consent from the Commission on occurrence and update the Commission on action to be taken and undertaken to restore service, it shall notify the Hosted Operator immediately and within two (2) hours, the Commission.

(8) The Commission may inspect the facilities or request any information, from the Host and Hosted Operators from time to time that its deems relevant for the purpose of monitoring and ensuring compliance with the Act, the regulations, license terms and conditions, and these Guidelines.

(9) Each operator shall be obliged to comply with such inspections or requests by the Commission for information in the manner set out by the Commission.

Quality of Service

18. (1) MNOs shall ensure that the Quality of Service provided to a Roaming Consumer does not differ from the quality of the service provided to the operator's own subscribers services. The quality of service standards shall remain applicable in all national roaming agreements.

Trigger for Roaming

19. (1) Roaming shall be triggered on a subscriber's mobile phone where there is;

- c. Loss of Service;
- d. Lack of Service; and/or
- e. Poor Quality of Service

Dispute Resolution

20. (1) The Commission shall adjudicate all National Roaming disputes referred on a case by case basis.

(2) Where a dispute arises during negotiation, the Host and Hosted Operator may refer the dispute to the Commission for determination whose decision shall be binding.

(3) Should a roaming agreement not be confirmed upon the stipulated thirty (30) calendar days as per subsection 19(3) above or not be referred for any

interim agreement, the matter shall be submitted to the Commission for determination.

(4) Where failure to agree on a roaming agreement is referred to the Commission as a dispute or if the Commission on its own accord decides to intervene at any given time, the decision of the Commission or the results of the evaluation and determination shall be final and binding. This may include imposing a roaming agreement between the Host and Hosted Operators, or imposing particular terms and conditions on both parties, or requiring the Host and Hosted Operators to undertake specific steps in order to conclude a roaming agreement.

Stakeholder Responsibilities

21. (1) Host Operator and the Would-be Host Operator

- a. When a presumptively reasonable roaming request is made, the Host Operator to whom the request is made has a duty to respond to the request and avoid undue delay on the negotiations regarding that request.
- b. The Host Operator shall not alter the technical characteristics of the mobile services in such a way to make them differ from the technical characteristics of the same services provided to its subscribers unless otherwise agreed under the roaming agreement.

(2) Hosted Operator

- a. The Hosted Operator shall promptly honour all payment dues prescribed in the roaming agreement and approved by the Commission.

Enforcement and Remedial Measures

22. (1) Any operator that fails to comply with the requirements and obligations contained in these Guidelines or fails to submit information as required to be submitted by these Guidelines, shall be guilty of contravening the EC Act and subject to be dealt with under Section 42 of the ESCCOM Act..

(2) Remedial action by the Commission in respect of such contravention may include but not limited to:

- a. issuance of written warning with a deadline for compliance by the respective operator;
- b. imposing fine in accordance with the Act;
- c. take any other measure the Commission deems as reasonable in the circumstances.

Amendment

23. These guidelines shall be reviewed regularly to ensure continued relevance and revised to accommodate developments in the industry.

SCHEDULE 1

MISCELLANEOUS TERMS AND CONDITIONS FOR INFRASTRUCTURE SHARING AGREEMENTS BETWEEN AN INFRASTRUCTURE PROVIDER AND INFRASTRUCTURE SEEKER

a. Miscellaneous

An infrastructure sharing agreement shall make provision the following, except where not relevant to the infrastructure sharing services in question –

- i. definition of terms and abbreviations;
- ii. the technical scope of electronic communications infrastructure sharing which includes:
 1. a description of the purpose of the electronic communications facilities leasing;
 2. a description of the infrastructure proposed to be leased;
 3. a description of the technical specifications of the infrastructure;
 4. mechanisms for changes to the purpose, technical scope and specifications of the infrastructure being leased; and
 5. a description of the location of electronic communication infrastructure.
- iii. Infrastructure sharing and collocation, which includes –
 1. availability;
 2. infrastructure sharing and collocation procedures;
 3. security procedures and requirements;
 4. supplementary services required, such as power supply; and
 5. physical access to facilities.
- iv. approval from all relevant authorities;
- v. date of coming into operation of agreement;
- vi. termination of agreement covering –
 1. grounds of termination; and
 2. termination procedures.
- vii. dispute resolution and arbitration procedures including contractual dispute resolution procedures.

SCHEDULE 2
ACTIVE INFRASTRUCTURE SHARING FORM

Request for Active Infrastructure Sharing (to be filled by the Infrastructure Seeker)

1. Details of Infrastructure Seeker:

a. Name of the Licensee/Company:

b. Licence Number and Date of Issue/Renewal:

c. Type(s) of Telecommunication Services Provided by the Infrastructure Seeker:

2. Details of Infrastructure Provider:

a. Name of the Licensee/Company:

b. License Number and Date of Issue/Renewal:

c. Type(s) of Telecommunication Services Provided by the Infrastructure Provider:

3. Details of Active Infrastructure requested to be shared:

SI. No	ITEMS	DESCRIPTION
1.	Reference Number of Request	
2	Type of Infrastructure (s)	
3	Location / Address of the Infrastructure	
4	Duration of Sharing	
5	Purpose of Sharing the Infrastructure	
6	Date of Request by the Infrastructure Seeker	
7	Last Date of Approval / Rejection By The Infrastructure Provider	
8	Last Date of Negotiation	

9	Inspection or Survey of the Infrastructure and facilities if Required by the Infrastructure Seeker	Yes / No
10	Any Other Information	

Authorized Signature of the Infrastructure Provider

SCHEDULE 3
NATIONAL ROAMING REQUEST FORM A

Request for Roaming (To be completed by Hosted Operator)

1. Details of Hosted Operator:

a. Name of the Licensee:

b. Licence Number and Date of Issue/Renewal:

c. Type(s) of Telecommunication Services Provided by the Hosted Operator:

2. Details of the Roaming Request:

Sl. No	ITEMS	UNIT	DESCRIPTION
1	Reference Number of Request		
2	Type of Service	Voice Only	
		Data Only	
		Data and Voice	
		All Services	
3	Purpose of Request	Lack of Service (State Service Data or Voice, 2G, 3G, 4G)	
		Lack of Infrastructure	
		Loss of Services (Back Up)	
4	Coverage Area	National	
		Regional	
		Cluster	
5	12 Month Traffic Forecast		
6	Date of Request		
7	Any Other Information		

Authorized Signature of the Infrastructure Provider

SCHEDULE 3
NATIONAL ROAMING REQUEST FORM B

RESPONSE TO ROAMING REQUEST FORM B

Approval / Rejection of Roaming Request (To be completed by the Roaming Provider)

1. Details of Roaming Provider:

- a. Name of the Licensee:
- b. Licence Number and Date of Issue/Renewal:
- c. Type(s) of Telecommunication Services Provided by the Roaming Provider:

2. Details of Hosted Operator:

- a. Name of the Licensee:
- b. Licence Number and Date of Issue/Renewal:
- c. Type(s) of Telecommunication Services Provided by the Hosted Operator:

3. Details of Approval by the Roaming Provider:

Sl. No	ITEMS	UNIT	DESCRIPTION
1	Reference Number of Request		
2	Type of Service	Voice Only	
		Data Only	
		Data and Voice	
		All Services	
3	Purpose of Request	Lack of Service (State Service Data or Voice, 2G, 3G, 4G)	
		Lack of Infrastructure	

		Loss of Services (Back Up)	
4	Coverage Area	National	
		Regional	
		Cluster	
5	Duration of Roaming		
6	Date of Roaming Request Received		
7	Date NDA Forwarded		
8	Date signed received		
9	Date DATA exchange commenced		
10	Date Negotiation commenced		
11	AnyOther Information		

4. Details of Rejection by the Roaming Provider:

Sl. No	ITEMS	DESCRIPTION
1	Reference Number of Hosted Operator's Request	
2	Reference Number of Rejection	
3	Type of Service	
4	Purpose of Service	

5	Coverage of Service	
6	Reasons of Rejection	
7	Any Other Information	

Authorized Signature of the Infrastructure Provider