

AUCTION FOR RADIO FREQUENCY SPECTRUM 703-788 MHz AND 790-862 MHz

RESPONSE TO COMMENTS RECEIVED IN RE SPECTRUM AUCTION REQUEST TO BID DOCUMENT

On 17 February 2023, the Authority published a notice that it intends to award the radio frequencies **703-733 MHz paired with 758-788 MHz** and **791-821 MHz paired with 832-862 MHz** on a competitive basis by means of a spectrum auction. The public was requested to submit written comments on the Request to Bid Document by 3 March 2023. Below is a summary of all comments received and the Authority's response to the comments:

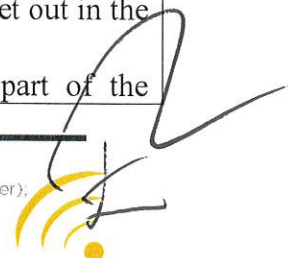
No.	Comment	Response from the Authority
1	During the Stakeholder Engagement on 18 November 2022 entitled Reaching Universal Access to telecommunications services through the allocation of 700 MHz and 800 MHz spectrum bands it was discussed and agreed that spectrum will be allocated based on the submission of a business plan ("beauty contest") and the special conditions agreed between the operator to meet the requirements and this investment, coupled with the application fee and annual spectrum fee is a sufficient return on the asset provided by the Authority.	<ul style="list-style-type: none"> The spectrum will be assigned through a spectrum auction as discussed at the stakeholder engagement of 18 November 2022 and set out on page 8 of the Request to Bid document. The business case as presented by the Bidder should comply with the provisions of sections 7 and 10.4 (d) of the Request to Bid document. The auction process will involve the evaluation of the business case submitted against set criteria with different weightings. The application fee, and the reserve spectrum fees for different lots will be set out in the bidding document.
2	<p>The manner in which the bid is currently drafted allows the operator's to only bid on one lot containing the high value spectrum and the unsuccessful bidders will have to pay the same premium price for the lower value spectrum. We state the assumption with the way in which the following sentence on page 9 of the Bid Document reads:</p> <p>"the Authority reserves the right to assign an alternative lot if a bidder is not successful for a specific lot, or if the lot bid for is assigned to another bidder. A bidder will be afforded an opportunity to consider and accept or</p>	<ul style="list-style-type: none"> All three lots offer spectrum that can be equally utilised for the provision of broadband services on a national basis. All Bidders can bid for any lot of their choosing based on their business decision in respect of the value the Bidder attaches to a specific lot in meeting their business objectives. Each bidder is however, only restricted to bid for one lot. The first part of the spectrum auction will be based on the technical evaluation of the business case submitted by participating Bidders against set criteria as set out in the bidding document. The outcome of the second part of the

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	<p>reject the alternative lot assigned.”</p> <p>What happens if all the bidders make an offer on the same lot? Or, there are no bids in another lot?</p>	<p>auction will be solely determined by the price offered by the Bidder in terms of spectrum fees.</p>
3	<p>The beauty contest/business plan route as agreed upon at the stakeholder be followed and that the winner of the beauty contest be allowed to choose their spectrum block and pay the price allocated to the lot in advance by the Authority on an appropriated fee system.</p>	<ul style="list-style-type: none"> The business plan route will indeed be followed and Bidders will be required to indicate their preferred lot on their respective application forms.
4	<p>The Regulator is proposing to auction the following three lots:</p> <ul style="list-style-type: none"> Lot a: 703-723 MHz paired with 758-778 MHz Lot B: 723-733 MHz paired with 778-788 MHz and 791-801 MHz paired with 832-842 MHz Lot C: 801-821 MHz paired with 842-862 MHz <p>The spectrum will be assigned contiguously in two blocks of 4x 5 MHz (20 MHz) indicated as Lot A and Lot C above and one block will be assigned non-contiguously in two blocks of 2x 5 MHz (10 MHz each) indicated as Lot B. Spectrum may be renewed upon submission of a renewal application to be submitted 6 months prior to expiry.</p> <p>Licensees are only allowed to bid for one Lot, should the be unsuccessful with that lot, another lot of the Regulator’s choosing. The Licensee herewith proposes that Licensees be afforded two or three options of their preferred Lots, in order of preference</p>	<ul style="list-style-type: none"> A Bidder will only be assigned one lot. As indicated above, Bidders will be required to indicate alternative lots (in order of preference), which may be considered for assignment should they not be assigned their first option.
5	<p>The spectrum to be allocated in Lot B is 10 MHz and the other Lots are 20 MHz each, however, it seems the reserve price for all three lots is the same. The Licensee due to the NBC transmitters in Lot B and the lower assignment it would be best for Lot B to be priced lower.</p>	<ul style="list-style-type: none"> Lot B comprises of 10 MHz in the 800 MHz band and 10 MHz in the 700 MHz, thus amounting to 20 MHz, which is the same amount of spectrum as contained in Lots A and C. Taking into account the comments received, the Authority concluded that the utilisation of spectrum offered under Lots A and B is limited due to the sharing of spectrum with the Namibia Broadcasting

		<p>Corporation (NBC).</p> <ul style="list-style-type: none"> To this end, the Authority agrees that the price of these Lots must be lower, considering the sharing factor with the NBC. This limitation is reflected in the reserve prices for Lots A and B.
6	<p>The Regulator has set a minimum downlink data speed of not less than 20 Mbps. The minimum recommended speed would only be able to serve limited customers due to shared services. Bandwidth i.e. 20 MHz can theoretically supply 150 Mbps. Modulation Coding Scheme (MCS) depends on channel quality and defines how many bits can be carried by a single Resource Block (RB). In some rural application the MCS can be low, as such will influence cell throughput. Higher order MIMO (multiple-input, multiple-output) technologies like 4T4R can improve throughput but it comes at an extremely high cost).</p> <p>The required 20 Mbps exceeds the requirements set in the Broadband Policy. The regulator to clarify perhaps the 20 Mbps was intended as 2 Mbps.</p>	<ul style="list-style-type: none"> The Broadband Policy does not cap data speed at 2 Mbps but specify it as a minimum requirement. The main objective of this spectrum allocation is to improve access to quality telecommunications services and ensure meaningful connectivity to consumers. The technologies to be deployed, namely 4G and 5G, offers a wide array of applications and use cases that requires a minimum downlink data speed of not less than 20 Mbps to ensure an acceptable quality of service offered to the consumers and health and education facilities. Bidders intending to take part in this auction are also required to provide a 5G use case over and above the provision of broadband services aimed at the health, education or agricultural sector as set out in section 8.1 of the Request to Bid document. As per data submitted to the Authority, operators currently achieve in the excess of 21 Mbps for 4G services on average. Therefore it is not an unreasonable burden for Bidders to provide meaningful connectivity to all Namibians on a national basis at 20 Mbps. Consequently, the minimum downlink speed on 20 Mbps in the Request to Bid document is correct.
7	<p>The 700 MHz spectrum band still has NBC transmitters operating at Gibeon (762 MHz), Shamvura (786 MHz), Andara (754 MHz) and Nkurenkuru (730 MHz) until 30 June 2024. The sharing of spectrum in the abovementioned areas will cause interference because of the technology used (analogue transmitters). These NBC transmitters were supposed to be terminated in June 2015, however same</p>	<ul style="list-style-type: none"> NBC will conclude the migration from the 700 MHz spectrum band before 30 June 2024. The limitation on the national use of the spectrum under Lots A and B will be reflected in the lower reserve prices set for these lots. It is a business decision to be made by the Bidder whether to submit a bid for Lot B and plan its network accordingly to rollout out services in areas

	<p>has remained.</p> <p>Licensees to be assigned the Lot B spectrum will be placed at a disadvantage as they would not be able to utilise the spectrum to its maximum capacity.</p>	<p>affected by the NBC transmitters after 30 June 2024.</p>
8.	<p>In terms of section 22 of the Communications Act, the Authority has nine possible sources of income. Proceeds from an auction is one of the nine elements. The proposed auction process creates the impression that the Authority want to make all its revenue from the one source-spectrum auctions. The high cost of the spectrum does not promote opportunities for competition and serving underdeveloped communities.</p> <p>The Authority's Spectrum Assignment Strategy 2022-2024 sets out the following key objectives for the management of spectrum –</p> <p style="padding-left: 40px;">Set fees for spectrum use through an appropriate fee system that support the activities of the Authority in a sustainable manner and ensure efficient use of spectrum.</p> <p>Kindly provide a sample calculation of the fee structure set out in part 7.5 to indicate how the lot amount must be paid in addition to the annual spectrum licence fees as <i>Gazetted</i>.</p>	<ul style="list-style-type: none"> • The following fees will be paid for the high value spectrum to be assigned: <ul style="list-style-type: none"> a) Application fee b) For years 2-10, the annual fees will be the same as determined by round 2 of the spectrum auction. • There will be no other fees payable.
9	<p>The Bidding document does not provide for a minimum reserve price, however the payment terms advise that the licence fee for the 1st year upon award of the spectrum licence to the successful bidder will amount to NAD 5,589,000.00. The spectrum fees payable for years 2-10 will be calculated in accordance with the Regulations setting out Fees for Spectrum Licences, Certificates and Examinations as published in the Government Gazette from time to time.</p> <p>The Licensee would like confirmation that the minimum reserve price would be NAD 5,859,000.00. In addition, should the licensee bid NAD 7,000,000.00 how</p>	<ul style="list-style-type: none"> • The reserve price is stipulated in the bidding document under section 6.

	would this amount be calculated over the 10 year period.	
10	The application fee to participate in the bid to be reduced to N\$ 6,000.00 which is the maximum amount that can be charged for bid documents in terms of the Public Procurement Regulations published in Government Notice 47 of 2017	<ul style="list-style-type: none"> The Authority grants rights for the use of spectrum resources in terms of the Communications Act, No. 8 of 2009. The provisions of the Public Procurement Act, No. 15 of 2015, and its supporting regulations regarding the granting of any rights, do not prevail over the provisions of the Communications Act, 2009. Please see section 3(2) of the Public Procurement Act, 2015, and sections 99(1) and 101(2) of the Communications Act, 2009.
11	Spectrum is to be assigned for a period of 10 years, however, at the end of the licence terms licensees are to apply to the Regulator for the renewal of the licence. The Licensee is concerned of the licence period in that, if the Regulator were not to renew the licence, what are the procedures after that. How would customers being services under the spectrum be assisted or treated, would the Regulator simply disconnect licensees, kindly provide clarity.	<ul style="list-style-type: none"> After the initial period of ten (10) years, the license will be renewed for the same period in terms of the procedure set out under regulation 13 of the Regulations Prescribing Procedures Regarding Application for, and Amendment, Renewal, Transfer and Cancellation of Spectrum Licences, 2019.
12	In terms of the Bidding Document, Licensees are required to coordinate with neighbouring countries within the coordination zones, the Regulator to clarify whether licensees will be required to coordinate such coordination. It is best for such coordination to be carried out by the Regulators, as is in other countries like South Africa and Botswana	<ul style="list-style-type: none"> The Authority is responsible for the coordination process with neighbouring countries. To this end the Authority will provide the necessary clarification in the final Request to Bid document.
13	The Bidding Document indicates 7 regions without 80% 4G coverage, however the Licensees' coverage maps indicated only three regions without 80% 4G coverage though the same hasn't been incorporated	<ul style="list-style-type: none"> The Authority's UAS Study of 2022, identified seven (7) underserved regions. The Authority's UAS Study of 2022, identified seven (7) underserved regions. Therefore, the required business cases should propose coverage for those regions. The Study is available at www.cran.na/publications/
14	The beauty contest based on the business plan must include a weighted preference to new entrants and the more desired spectrum must be made available to new entrants instead to existing dominant players to make room for real competition	<ul style="list-style-type: none"> A licensee will not be allocated more than one lot. This ensures that spectrum is available for other participating licensees, including new entrants. In addition to ensuring increased coverage in order to meet developmental

	in the market.	objectives, the other main objective of this process is to ensure effective competition in the market.
15	The business plan submitted for the beauty contest is based on an evaluation sheet which becomes publicly available after the winner has been identified which indicates a weighted preference for new entrants, in what sense the business plan promotes competition, the size of the investment made to use the spectrum, existing spectrum held by the applicants, size of the established customer base and similar evaluation criteria to make the contest fair.	<ul style="list-style-type: none"> • This is correct. The criteria for evaluation has been incorporated in the bid document.
16	The requirement of independent verification of funds required under 8.1 (h)(ii)(iii) be removed, as this creates another cost to bidding and the right financial statements submitted are sufficient proof of means.	<ul style="list-style-type: none"> • The Authority agrees with this comment, and licensees will only be required to submit the Audited Financial Statements for the most recent period.
17	8.2.1 be expanded to include confidentiality of the information between the Authority and the operator. At the moment the part covers confidentiality between the operators only.	<ul style="list-style-type: none"> • Information submitted by the licensees will be treated as confidential, provided the operator has complied with the provisions of section 28 of the Communications Act, and will not be shared with other licensees or the public. • Operators are however invited to note that the outcome of the contest (i.e. the fact that an award has been made to the operator) and the rollout and coverage obligations will be made public.


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