

FREQUENCY SPECTRUM (FEES AND PRICING, ETC.) REGULATIONS 2021



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19. Citation.

SCHEDULES

FIRST SCHEDULE

Licensing Areas

SECOND SCHEDULE

Pricing Formula

THIRD SCHEDULE

Renewal

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NIGERIAN COMMUNICATIONS ACT
(2003 No. 19)

FREQUENCY SPECTRUM (FEES AND PRICING, ETC.) REGULATIONS [2004/2021](#)

Commencement.

In exercise of the powers conferred on it by section 70 of the Nigerian Communications Act and of all other (powers enabling it in that behalf, the Nigerian Communications Commission, hereby make the following Regulations:

PART I — SCOPE AND OBJECTIVES

1. These Regulations shall cover the determination of all frequency spectrum fees for commercial activities in the telecommunications sector in Nigeria.
2. The objectives of these Regulations shall be to —
 - (a) establish a transparent, fair, competitive and non-discriminatory pricing structure that include, but not limited to, administrative assignments, auctions, beauty contest and other internationally accepted methods of bidding for the acquisition of frequency spectrum;
 - (b) standardise frequency spectrum fees and pricing system in order to promote uniformity, consistency and efficiency in spectrum management in Nigeria in conformity with international standards;
 - (c) ensure that the prices reflect the market value and are directly proportional to frequency spectrum size;
 - (d) promote efficiency and competition in the usage of frequency spectrum;
 - (e) facilitate access to frequency spectrum by simplifying and harmonising the electromagnetic wave spectrum pricing process; and
 - (f) to achieve government policy objectives of even development of telecommunications infrastructure across Nigeria and the universal service goals.
3. The Commission shall categorise the licence on frequency spectrum that are capable of being shared by several operatives on a simultaneous basis for which the Commission has power to grant under the Act.

PART II—LICENSING AREAS AND TIERS

4. As from the commencement of these Regulations, frequency spectrum pricing shall, in line with international best practices, be determined by empirical formula derived from market conditions and, where appropriate, competitive methods as may be determined by the Commission, from time to time.

5.—(1) Frequency spectrum shall be issued in accordance with the licensing areas corresponding to the States in the Federation or the Federal Capital Territory and categorised into tiers as specified in the First Schedule to these Regulations.

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(2) The Commission may, from time to time, review the categorisation of licensing areas into tiers as specified in the First Schedule to these Regulations.

6. Every frequency spectrum, other ~~that than~~ microwave frequency, shall be priced on a State by State basis subject to market potentials and economic activities.

PART III—FREQUENCY SPECTRUM LICENCES AND PERMITS

7.—(1) Frequency spectrum licences shall be classified as—

- (a) short-term permit with a tenure of 4 months; or
- (b) medium-term permit with a tenure of one year; or
- (c) long-term licence with a tenure of 5, 10 or 15 years.

(2) For the purposes of paragraphs (a) and (b) of this regulation, any frequency spectrum licence with a tenure of one year and below is classified as a permit.

~~(3) For the purpose of paragraph (c) of this regulation, any spectrum assigned administratively shall have a tenure not exceeding 5 years.~~

~~(a) determine the duration, terms and conditions of any frequency spectrum licence under these Regulations;~~

~~(b) depart from the above classification, and issue frequency spectrum licences to Operators or equipment manufactures/vendors for the purpose of conducting trials on non-commercial basis.~~

9.—(1) All frequency spectrum licences shall be subject to renewal upon payment of renewal fees and meeting other terms and conditions as may be determined, from time to time, by the Commission.

(2) Notwithstanding paragraph (1) of this regulation, any medium-term permit, other than those mentioned in regulation 10 of these Regulations, may be renewable with the approval of the Commission.

10.—(1) Any assignee of frequency spectrum or other operator, may elect to pay for frequency spectrum yearly or every five years; Provided that such frequency spectrum is not assigned through the process of an auction.

(2) Subject to paragraph (1) of this regulation, a licensee with not more than 7.5% of the revenue or any other factor as may be determined by the Commission from time to time, may elect to pay for frequency spectrum in no more than 3 (three) instalments within the first year of the assignment of the frequency spectrum.

(3) Where a frequency spectrum was assigned through an auction process, the payment for the frequency spectrum shall be made in accordance with the rules of such auction.

11. The fees payable by any operator shall be determined by a pricing formula as specified in the Second and Third Schedules to these Regulations.

12. Every operator ~~who that~~ is assigned frequency spectrum shall submit an annual report on the usage of the assigned frequency spectrum ~~allocated or assigned to him~~.

13.—(1) Every frequency spectrum ~~assigned~~allocated under these Regulations shall be utilised ~~or used~~ up within a period of one year or such other period of validity as the Commission may, from time to time, specify in the terms and conditions of assignment~~allocation~~.

(2) Any frequency spectrum licence not utilised in accordance with paragraph (1) of this regulation may be revoked by the Commission.

(3) Where a frequency spectrum licence is revoked under these Regulations for non-utilisation thereof, the licence fee paid for the ~~assignment/ allocation~~ shall not be refundable except with the express approval of the Commission.

PART IV—PRICING POLICY

14.—(1) The Commission shall adopt a pricing formula that reflects the economic value of frequency spectrum so as to encourage efficient usage and stimulate growth.

(2) The price of a frequency spectrum shall be directly proportional to the size of the frequency spectrum assigned.

(3) Without prejudice to paragraph (2) of this regulation, the price of frequency spectrum may vary subject to the frequency band; and the band price shall reflect the level of congestion, market demand, ~~and~~ the relative cost of deploying network infrastructures and other factors that may be determined by the Commission.

15. The fees payable for frequency spectrum shall be sufficient and adequate to encourage the optimal use of the frequency spectrum, and to cover the administrative cost of management of the frequency spectrum.

16.—(1) The fees payable for each category of frequency spectrum shall be as determined by the Commission using the pricing formula specified in the Second ~~and Third~~ Schedules to these Regulations.

(2) The price per MHz of frequency spectrum may be determined and published by the Commission every year and such fees may be reviewed, from time to time, by the Commission.

(3) The Commission may, from time to time, review the fees specified in the First Schedule to these Regulations, and when reviewed, the new unit price and rate shall apply only to—

- (a) new requests for frequency spectrum ~~assignment/ allocation~~ made after the commencement of fees ;
- (b) renewal of expired licences ; or
- (c) reinstatement of revoked licences.

PART V—MISCELLANEOUS

17. Regulations 11 and 12 of the Wireless Telegraphy Regulations are hereby consequently amended by these Regulations.

18. In these Regulations, unless the context otherwise requires—

“Act” means the Nigerian Communications Act 2003;

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

“Frequency spectrum” means a wide range of frequencies with different characteristics and applications;

“Nigeria” means the entire geographical land area, the territorial waters and air [space](#) limits of Nigeria and any area to which the provisions of the Act applies;

“ [Network Operator](#)” means a provider of telecommunication service duly licensed by the Commission and includes but not limited to a licensed carrier;

“Person” includes any individual or natural person, any firm, corporation, partnership, trust, limited liability company, joint venture, government entity or other entity recognised under any law for the time being in force;

“Radio Regulations” means the publication of the International Telecommunication Union (ITU) that delineates radio frequencies into bands and stipulates the services applicable;

“Telecommunications network infrastructure” includes any form of installation which ensures either the transmission or the transmission and routing of telecommunications signals and the associated exchange of the control and operational information between network termination points.

19. These Regulations may be cited as the Frequency Spectrum (Fees and Pricing, Etc.) Regulations 2021⁴.

—FIRST SCHEDULE *Regulation 5*

LICENSING AREAS

The entire geographical areas of Nigeria as defined in regulation 18 of these Regulations shall be classified into licensing areas as follows, that is—

Tier ————— *States*

<u>TIER</u>	<u>STATES</u>
<u>Tier 1</u>	<u>Lagos</u>
<u>Tier 2</u>	<u>Kano, Delta, FCT Abuja, Kaduna, Rivers</u>
<u>Tier 3</u>	<u>Abia, Anambra, Edo, Ogun, Oyo</u>
<u>Tier 4</u>	<u>Akwa Ibom, Bauchi, Benue, Borno, Cross River, Enugu, Imo, Kogi, Kwara, Niger, Ondo, Osun and Plateau</u>
<u>Tier 5</u>	<u>Adamawa, Bayelsa, Ebonyi, Ekiti, Gombe, Jigawa, Katsina, Kebbi, Nasarawa, Sokoto, Taraba, Yobe and Zamfara</u>

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SECOND SCHEDULE Regulations 11 and 16(1)

PRICING FORMULA FOR FREQUENCY SPECTRUM FOR LICENSING REGIONS

PART A—PRICING FORMULA OF FREQUENCY SPECTRUM USING BAND FACTOR AND TENURE

The price of spectrum for a licensing region will be calculated using the following formula, that is—

$$\text{Spectrum fee} = \frac{(U^1) \times (B) \times K_1 \times K_2 \text{ per state}}{\text{State}} \times (U^1) \times (B) \times (K_1) \times (K_2) \times (STI) \text{ per State}$$

WHERE:

$(U^1)_A$ = unit price of spectrum per MHz per annum adjusted for CPI

$$U^1 = \left(\frac{C}{100} \times B_p + B_p \right) \times Y_t$$

CPI = Consumer Price Index

B_p = Price at base year

Y_t = Spectrum assignment tenure

C = CPI (of current year) – CPI (of base year)

Where base year = Year of 1st assignment/ auction or year of last renewal of the current year = CPI 2004 (Nigerian CPI)

(B) = assigned bandwidth in MHz

(K_1) = band factor

(K_2) = duration of license or tenure

K_1 = Band Factor

1	for	3.5GHz Band
1.6	for	1.8/1.9GHz Band
1.4	for	800/900 MHz Band
1.2	for	2.0 - 2.5 GHz Band
0.33	for	10.5GHz Band
0.12	for	26GHz
0.5	for	5.0GHz

For Bands lower than 800 MHz or higher than 26 GHz, the factor, K, will be determined as the bands are assigned.

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$K_2 =$ Tenure Duration Factor

0.3	for	3 months
1	for	1 year licence
4	for	a 5 year licence (standard)
7.2	for	a 10 year licence
10.4	for	a 15 year licence

Duplex/Simplex For simplex channel, unit price per state will be half of equivalent duplex channel.

NB:

- A reduction of 10% of U^1 of Spectrum for all Standardized bands for small scale **Wireless Local Loop (WLL)** Operators across the five (5) Tiers should be implemented during invoicing.
- A reduction of 30% of U^1 of Spectrum for all Non-Standardized bands for small scale WLL Operators across the five (5) Tiers should be implemented during invoicing.

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$U =$ Unit price

PART B—UNIT PRICE PER MHz FOR EACH LICENSING REGION

TIER	LICENSING REGIONS	NEW UNIT PRICE per MHz Per Annum (₦)
Tier 1	Lagos	12,100,200
Tier 2	Kano, Delta, FCT Abuja, Kaduna, Rivers	6,050,100
Tier 3	Abia, Anambra, Edo, Ogun, Oyo	4,840,080
Tier 4	Akwa Ibom, Bauchi, Benue, Borno, Cross River, Enugu, Imo, Kogi, Kwara, Niger, Ondo, Osun and Plateau	2,420,040
Tier 5	Adamawa, Bayelsa, Ebonyi, Ekiti, Gombe, Jigawa, Katsina, Kebbi, Nasarawa, Sokoto, Taraba, Yobe and Zamfara	1,210,020

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$$\frac{2}{1} = 7 \text{ MHz}$$

$$\frac{4}{1} = 14 \text{ MHz}$$

$$\frac{8}{1} = 28 \text{ MHz}$$

$$\frac{16}{1} = 56 \text{ MHz}$$

N = Total Number of RF Channels (for N + 1 Systems)

All microwave frequencies are subject to renewal by 31st December of every year.

In order to harmonise the renewal date of all microwave frequencies, licences which expire before or after the 31st day of December shall be renewed for the remaining period up to 31st December and license fees payable shall be prorated for remaining period.

Microwave frequencies are not priced on State basis. Unit price is uniform throughout the Federation and subject to review, from time to time.

NB: A reduction of 10% of U^l of Microwave Frequency Spectrum for small scale WLL Operators should be implemented during invoicing.

Licensing Region _____ *Unit Price per MHz per Annum*

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THIRD SCHEDULE

RENEWALS FOR AUCTIONED SPECTRUM AND ADMINISTRATIVELY ASSIGNED ACCESS SPECTRUM

The spectrum pricing formula (which takes CPI into consideration) for renewal is therefore given below:

Spectrum Price Formula for renewal of auctioned Spectrum

$$= \left(\frac{C}{100} \times B_p + B_p \right) \times N$$

Where,

C = the percentage change in Nigeria Consumer Price Index (CPI) between base year (auction year) and current period.

B_p = Base price per year at auctioned year

N = Number of years for new license (tenure or duration)

NB: Administratively assigned Spectrum refers to Access Spectrum assigned to an Operator via administrative process with other Operators using same Spectrum acquired via auction process.

PART CD – PRICING FORMULA FOR MICROWAVE FREQUENCIES

MADE at Abuja this day of, 200420210.

PROF UMAR GARBA DANBATTI, FNSE, FRAES, FAEEng, FNIEEE

Executive Vice-Chairman

(This note does not form part of the above Regulations but is intended to explain its purport)

The Regulations, among other things, provide for the fees and pricing formula and policy for frequency spectrum ~~assignment~~ allocation and utilisation in Nigeria.

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