



## ICT INFRASTRUCTURE SHARING RULE

Bhutan InfoComm and Media Authority  
Royal Government of Bhutan  
Thimphu: Bhutan



## Table of Content

1. Preliminary.....	1
2. General Provision for Infrastructure Sharing.....	3
3. Objective.....	3
4. Costing for sharing Infrastructure.....	3
5. Reference Offer (RO).....	4
6. Procedure for Infrastructure Sharing.....	4
7. Refusal of Access.....	5
8. Reservation of Capacity.....	5
9. Obligation while sharing infrastructure.....	5
10. Dispute resolution.....	6



## **1. PRELIMINARY**

### **1.1 Legal Basis**

In exercise of the powers conferred upon it under Section 66 of the *Bhutan Information, Communications and Media Act 2006* (“the Act”), the Bhutan InfoComm and Media Authority (“the Authority”) hereby issues these “ICT Infrastructure Sharing Rules” to encourage and ensure promotion of sharing of infrastructure between different ICT service providers for maximizing the use of existing resources and to reduce infrastructure duplication and cost. Such arrangement would also provide arrangements among service providers for sharing of the infrastructure to provide affordable ICT services.

### **1.2 Title and Commencement**

This Rules shall be called as the ICT Infrastructure Sharing Rules 2015 and shall come into effect on the 1<sup>st</sup> day of September 2015.

### **1.3 Scope of Application**

This Rules shall apply to all licensed service providers to remove uncertainty and create framework for better cooperation in infrastructure sharing. Infrastructure sharing includes requirement to lease out/ rent out / swapping infrastructure on a non-discriminatory basis to other service providers.

### **1.4 Amendment**

The Authority may revise or update this Rules from time to time as required to ensure its relevance; concurrency; needs; and changing national priorities, policies and industry trends. This Rule may be amended by the Authority with two third majority votes of the Members.

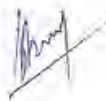
### **1.5 Interpretation**

The power to interpret these Rules shall vest with the Authority who may issue such instructions as may be necessary to give effect to and implement the provisions of this Rule.

### **1.6 Definitions**

For the purposes of these Rules, unless the context otherwise requires, the following words and terms shall have the following meanings:

- (i) *Act* means the Bhutan Information, Communications and Media Act 2006.
- (ii) *Authority* means Bhutan InfoComm and Media Authority, established pursuant to Section 18 of the Act.



- (iii) **Infrastructure** means the airtime and/or network facilities. It also includes passive infrastructure like tower, antenna, building space, ducts, electric supply, etc. and active infrastructure like bandwidth on any transmission system, Base Station Equipments excluding radio frequency transmitters and receivers pertaining to the carrier frequencies allocated to individual service providers.
- (iv) **Infrastructure Provider** – Means any licensed ICT operator who owns or is in control of a facility or infrastructure access to which another operator desires for purposes of collocation or infrastructure sharing.
- (v) **Infrastructure Seeker** – Means any licensed ICT operator desirous of collocating or sharing a facility or infrastructure owned or in the control of another telecommunications operator.
- (vi) **“Infrastructure Sharing”** means the joint use of telecommunication and broadcasting infrastructures and facilities by two or more operators.
- (vii) **Operator** means the ICT facility or/and ICT service providers licensed by the Authority as per the provision of the Act.
- (viii) **Passive infrastructure sharing** means sharing of non-electronic infrastructure and facility which includes sharing of premises /compound, buildings, shelters, towers/masts, power supply (commercial as well as other source of power) , grounding/earthing, air conditioning, security arrangement, poles, ducts, trenches, right of ways, in-house wiring, sub-loop ( wire/cable) and local-loop ( wire/cable)
- (ix) Words and expressions used in this Rules and not defined but defined in the Act and License Agreement shall have the same meaning as assigned to them in the Act and License Agreement.



## **2. GENERAL PROVISION FOR INFRASTRUCTURE SHARING**

- 2.1 The operator shall share passive infrastructures to other licensed operators on a "first-come, first serve" basis determined in accordance with the order in which the operator owning or having control over a facility/infrastructure receives requests for infrastructure sharing subject to the other provision of this Rules.
- 2.2 All operators shall publish on their websites detailed information of infrastructures available for sharing with other operators. The information shall include the indicative price and the location of such infrastructures as well as capacity available for sharing.
- 2.3 The operators shall enter into mutual agreement for sharing infrastructure and the agreement shall be in writing based on the principles of neutrality, transparency, non-discrimination and fair competition.
- 2.4 The copy of such agreement shall be submitted to the Authority within one month from the date of the agreement.
- 2.5 There shall be no obligation on licensed operator to develop new infrastructure whenever its capacity has reached saturation level.
- 2.6 Any ICT infrastructures funded by the Royal Government, either fully or partially, or through donor funding should be shared with all licensed service provider as per the provision of this Rule.

## **3: OBJECTIVES OF THIS RULES**

- 3.1 The primary object of this Rules is to:
  - (1) Ensure that the incidence of unnecessary duplication of passive infrastructure and backhaul is minimized or completely avoided;
  - (2) Promote fair competition by providing equal access to the Passive infrastructure and backhaul of licensed service providers, where applicable on mutually agreed terms;
  - (3) Minimise licensed service providers' capital and operational expenditure and to free more funds for investment in core network equipment and innovative new services.

## **4: COSTING FOR SHARING INFRASTRUCTURE**

- 4.1 Prices for infrastructure sharing shall be based on non-discriminatory, reasonable, and on the actual costs incurred.
- 4.2 Determination of the costs underlying prices shall be transparent and neutral. The operators shall be allowed to recover at least their direct incremental costs of sharing. Additional price components may be negotiated among the parties involved.





- 4.3 The cost for infrastructure sharing as well as collocation shall be unbundled. The operators requesting access shall only be required to pay for the service availed.
- 4.4 The cost of new infrastructure shall be shared among operators wanting to share such services in proportion to their use of such infrastructures.
- 4.5 The cost of increased capacity and re-location of infrastructure shall be shared among only those that benefits from such work.

#### **5: REFERENCE OFFER (RO)**

- 5.1 The operators shall have the rights to negotiate and agree on terms and conditions of collocation and Infrastructure sharing within the limits of an existing reference offer (RO) developed by each operator.
- 5.2 Such RO shall be required to be published on their website within sixty (60) days of issue of this Rule. The offer so published by the operators shall form the basis for all Infrastructure Sharing Agreements to be executed thereafter.
- 5.3 The published RO may undergo any change only with the prior approval of the Authority.
- 5.4 Infrastructure sharing agreements are required to be entered into by and between various operators based on the offer so published. By mutual agreement, the parties sharing may modify and/or add to the terms & conditions of the agreement.

#### **6: PROCEDURE FOR INFRASTRUCTURE SHARING**

- 6.1 The Infrastructure Seeker shall submit request to Infrastructure Provider, in writing, expressing the interest of sharing infrastructure.
- 6.2 Upon receipt of the request, the Infrastructure Provider shall respond to the Infrastructure Seeker in writing on the status of the request (either acceptance or rejection) within ten (10) working days from the receipt of such request. If the request is acceptable to the Infrastructure Provider, then the parties shall enter into negotiation.
- 6.3 In the event, if Infrastructure Provider fails to respond within the stipulated time-frame, the Infrastructure Seeker shall refer the matter to the Authority.
- 6.4 The negotiations for Infrastructure Sharing shall be done in utmost good faith and shall not:
  - (1) Obstruct, delay negotiations in resolving disputes.
  - (2) Refuse to provide information relevant to an agreement including information necessary to identify the facility needed.
  - (3) Refuse to designate proper representative to expedite negotiation.



- 6.5 In the event of any differences or disputes between the Infrastructure Provider and Infrastructure Seeker and failure to resolve the differences or disputes amicably among themselves, aggrieved party shall refer the matter to the Authority for resolution.

#### **7: REFUSAL OF ACCESS**

- 7.1 The Infrastructure Provider reserves the right to refuse an application for access only under any of the following circumstances;
- (1) Where the access provider does not have enough capacity;
  - (2) Where the grant of access is technically unfeasible;
  - (3) Where the request, if granted, will breach safety and reliability standards
- 7.2 The decision to refuse an application for infrastructure sharing shall be communicated in writing to the requesting operator specifying the reasons for such refusal.
- 7.3 An operator who is refused access may refer such refusal to the Authority and the Authority shall inquire into the decision refusing access.

#### **8: RESERVATION OF CAPACITY**

- 8.1 The Infrastructure Provider has a right to reserve capacity for planned provisions.
- 8.2 The right to reserve capacity as per section 8.1 shall not be exercised by the Infrastructure Provider to discriminate or pre-empt and or reserve more than fifty percent (50 %) of excess capacity.
- 8.3 Information and documentary evidence of the reservation and extent thereof held by the Infrastructure Provider shall be made available to Infrastructure Seekers on reasonable demand.

#### **9: OBLIGATIONS WHILE SHARING INFRASTRUCTURE**

- 9.1 While sharing, the Infrastructure Provider shall:
- (1) Assign the designated space for installing equipments on the tower;
  - (2) Allocate space to build shelter to house power supply and other equipments in the event such space is not being shared; and
  - (3) Share information on the date and timing of the maintenance of the infrastructure with the Infrastructure Seeker.



9.2 Before setting up the infrastructure, the Infrastructure Seeker shall share information with the Infrastructure Provider:

- (1) On the date and time for installing such equipment; and
- (2) Lay-out of the equipments

9.3 In the event while installing or carrying out maintenance work, any damage caused to the infrastructure shall be compensated by the party causing such damage.

## **10. DISPUTE RESOLUTION**

### **10.1 Resolution of Disputes between ICT Operators**

- (1) If the ICT operators are unable to resolve disputes in relation to or in connection with the provision of infrastructure sharing, shall submit the matter in writing to the Authority.
- (2) The Authority shall only resolve an Infrastructure Sharing dispute referred to in Section 10.1(1) where it is satisfied that the ICT operators have had reasonable opportunity to resolve the dispute and all attempts to resolve the dispute have failed.
- (3) The Authority shall decide on the dispute referred to in Section 10.1(1) as per the provision of the Act.
- (4) The appeal against the decision of the Authority shall be made to the Appellate Tribunal as per the provision of the Act.
- (5) The Authority shall maintain a register of all the decisions made on infrastructure sharing disputes.

### **10.2 Alternative Dispute Resolution**

- (1) Prior to initiating formal dispute resolution proceedings in accordance with this Rules , the Authority shall have the option of adopting alternative dispute resolution procedures between parties engaged in a dispute related to infrastructure sharing.
- (2) For the purpose of Section 10.2 (1), "alternative dispute resolution" refers to any method of settling disputes prior to or during, using the formal administrative procedures of settling disputes including but not limited to arbitration, mediation, early neutral evaluation and conciliation.