



INFORMATION MEMORANDUM

LICENSING THE 700 MHz BAND (Channels 54 – 69 i.e.698 - 806 MHz)

April 15, 2013

...Shaping Your Future with Wireless...

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IMPORTANT NOTICE

This Information Memorandum ("**Memorandum**") has been prepared by the Spectrum Management Authority (SMA) in collaboration with the ICT Division within the Ministry of Science, Technology, Energy and Mining (MSTEM), the Office of Utilities Regulation (OUR) and the Fair Trading Commission (FTC) in connection with the proposed award of Spectrum Licences in the 700 MHz frequency band by auction.

This Memorandum is for information purposes only. It is made available on the express understanding that it will be used for the sole purpose of assisting the recipient of this Memorandum in deciding whether it wishes to proceed with a further investigation of possible participation in the Award Process. This Memorandum is not intended to form any part of the basis of any investment decision or other evaluation or any decision to participate in the Award Process, and should not be considered as a recommendation by the SMA or its advisers to any recipient of this Memorandum to participate in the Award Process. Each recipient of this Memorandum must make its own independent assessment of the potential value of a licence after making such investigation as it may deem necessary in order to determine whether to participate in the Award Process. All information contained in this Memorandum is subject to updating and amendment.

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This Memorandum is available on the SMA's website at www.sma.gov.jm, and on the website of the MSTEM at <http://www.mstem.gov.jm>. In the event of any discrepancy between different versions, the latest published version on the SMA's website is definitive.

Following the issue of this Memorandum, the SMA reserves the right to make available additional relevant information through the publication of further documentation. All requests for information will be handled in accordance with the Access to Information Act, 2000.

The SMA will publish in whole or in part, questions received from recipients of this Memorandum and the answers provided. The identity of those asking the questions will not be published and requests for confidentiality of subject material will be considered in accordance with the need for transparency in the conduct of the Award Process. It will be the responsibility of each interested party to check the SMA website for updates.

INFORMATION MEMORANDUM FOR LICENCES IN THE 700 MHz BAND

1.0 BACKGROUND

The Ultra High Frequency Television (UHF TV) band covers a range of channels from 14 – 69, with the upper portion of the band, channels 52 (698 MHz) – 69 (806 MHz), referred to as the 700 MHz band. Internationally, the 700 MHz band was previously used for analog television broadcasting, however at the International Telecommunications Union's (ITU) World Radiocommunication Conference 2007 (WRC-07), the decision was for the band to be allocated for both mobile broadband wireless services and International Mobile Telecommunications - Advanced (IMT-Advanced).

Unlike most other countries, in Jamaica the band is immediately available to be re-allocated in conformance with the guidelines of the ITU's Frequency Allocation Table and in the national interest. Currently the band is "clean" and "clear" without any activity, which confirms its availability for assignment.

The reallocation of the band will provide enhanced flexibility and network-rollout efficiency, whilst promoting the growth and rapid development of communications technologies and services. This is in keeping with global trends and is consistent with the policy objectives of the Government of Jamaica (GOJ) to promote increased competition and also to provide all Jamaicans with access to ubiquitous communications connections.

Internationally, countries have been reallocating the use of the 700 MHz band and assigning the band through auction to facilitate increasing demand for other services, including wireless broadband services and the emerging "fourth-generation" (4G) cellular technologies, such as Long Term Evolution (LTE). The technical characteristics of the band make it ideal for the offering of such services. Based on the foregoing, the SMA made a recommendation to the Minister with responsibility for telecommunications for the reallocation of the band for the provision of wireless broadband and emerging technologies.

Further to Cabinet Decision No. 11/13, dated March 18, 2013, regarding the 700 MHz band (channels 52 (698 MHz) – 69 (806 MHz)), the Cabinet approved the licensing of the upper portion of the UHF TV band, to accommodate mobile broadband wireless services, by way of an auction and license fees.

1.1 Objectives of the Auction

Recognizing the inter-relatedness between demand, competitiveness, and innovation within the telecommunications industry, and in particular its impact on the development of a country, the Minister with portfolio responsibility for telecommunications sought Cabinet's approval in order to satisfy the demand for lower band spectrum, to facilitate

the rollout of new technologies and services and increase competition through a new entrant. Hence, the GOJ determined that an auction be used as the mechanism to award the spectrum and that the process be guided by the following objectives:-

- Greater diversity and competition in the market;
- The provision of ubiquitous access to mobile broadband services in Jamaica;
- An optimal return for the spectrum band asset;
- The development and advancement of the country's telecommunications capability and infrastructure, in a way which will serve as a catalyst for increased commercial activity; and
- The creation of an educated and knowledge based society capable of leveraging the cumulative benefits of telecommunications and ICT to achieve global competitiveness.

It is envisaged that all stakeholders will benefit significantly with the successful attainment of these objectives.

1.2 Purpose of the Memorandum

The information provided herein are for those parties considering bidding for a licence to provide mobile broadband services to the public utilizing the 700 MHz band in Jamaica. It is being issued by the SMA, in collaboration with the ICT Division within the MSTEM, the OUR and the FTC, primarily to solicit comments and to outline the Policy, Regulatory and Technical considerations underpinning the auctioning of the 700 MHz band.

Key terms used in the Memorandum are clarified in the Glossary of Terms.

COMMENTS AND REQUESTS FOR CLARIFICATION

All comments and requests for clarification in relation to the Memorandum must be addressed in writing to:

**The Auction Manager
C/O Spectrum Management Authority
13-19 Harbour Street
Kingston
spectrumauction@sma.gov.jm**

The deadline for submission of questions is **April 29, 2013**.

2.0 TELECOMMUNICATIONS POLICY CONSIDERATIONS¹

2.1 General Introduction

Jamaica is the largest English speaking island in the Caribbean with a land mass of 4,411 square miles (10,981 square kilometres). It has a population of over 2.7 million (2011) of which approximately 53.9% live in the urban areas. The country's labour force was estimated at 1.26 million in 2012 and its unemployment rate for 2012 was approximately 13.7%. The rural communities experience the highest rates of unemployment. Service sectors (tourism, financial, ICT etc.) accounted for 60% of the country's GDP in 2010. Other areas of economic activity are manufacturing, mining and export of bauxite and alumina and the production of a range of domestic and export crops. Jamaica's Gross National Income per capita of US\$4,750 (2010) places it at the low end of the 'upper middle income' group according to the World Bank's classification. Jamaica had a real GDP growth rate of -0.8% in 2010. Although Jamaica has experienced a low growth rate in recent years, the country has made significant progress in a number of key social indicators and is ranked 79th on the United Nations Development Programme's Human Development Index. Jamaica is also on target to achieve most of the Millennium Development Goals by 2015.

2.2 Present situation/context

Market Developments

The telecommunications sector, which is regulated primarily by the OUR with responsibility for regulating services and the SMA with responsibility for managing the radio frequency spectrum, was liberalized in April 2000 with the promulgation of a new Telecommunications Act. The first segments to be liberalized were the Mobile and Internet segments. Since liberalization, the telecommunications sector has been the fastest growing sector in Jamaica. Data from the Planning Institute of Jamaica (PIOJ) reveal that approximately US\$80.9 million per annum or 12% of total Foreign Direct Investment (FDI) is spent on ICT related infrastructure. The country's ICT exports include value-added products such as computer-assisted designs at the high end to call centres at the low end.

Prior to August 2011, the Jamaican mobile landscape was one of the most vibrant in the Caribbean with three (3) mobile providers: the incumbent, Cable & Wireless Jamaica Ltd (t/a LIME), Digicel (Jamaica) Ltd. (t/a Digicel) and Oceanic Digital Jamaica Ltd (t/a Claro). The three players provided services to an estimated subscriber base of 3.14 million. In August 2011, the number of players in the mobile market was reduced to two (2) with the acquisition of Claro by Digicel. Currently, the country boasts a mobile penetration rate of 116.38%.²

¹ www.itu.int/net/ITU-D/CDS/gq/generic/asp.../gq_file_download.aspx?..

² It should be noted that this penetration rate is reflective of consumers having more than one (1) mobile subscription and could also include data SIM cards.

Unlike the case of the mobile segment, the penetration rate in the fixed segment is very low. The number of fixed lines peaked in 2001 when it reached 501,302. Since then, with the exception of 2003, there has been a downward trend in the number of fixed lines, and at the close of the first quarter of 2011, fixed line subscriptions stood at 282,634. As at the same date the fixed penetration rate was just under 11%. There are three (3) operators in the fixed segment of the market: LIME (the incumbent) which provides both wired and wireless fixed services; Columbus Communications Ltd. (t/a FLOW) which provides wireless services via its cable network; and Digicel which provides fixed wireless services.

The Internet segment lags behind the mobile and the fixed segments. As at the end of 2011 there were over 87 licensed ISPs, of which less than 10% were operational. The main providers are: LIME providing services via dial-up, ADSL (Asymmetric Digital Subscriber Line) and mobile broadband; Digicel providing services via mobile broadband and WiMAX (Worldwide Interoperability for Microwave Access); and FLOW providing services via cable modem. A 2011 Study by the Telecommunications Policy and Management Programme at the Mona School of Business revealed that the ICT sector is characterized by relatively low adoption and user rates with respect to computers and the Internet in general.³ This they found was due mainly to the high prices for computers and Internet access. Only 15.6% of the population had access to the Internet at home compared to the corresponding global figure of 30%. The country's fixed broadband penetration rate is just over 3%.

Policy Developments

Policy developments in the last three (3) years have pinned the island's economic development prospects to the development of the ICT sector. Two (2) of the fifteen (15) national outcomes in Jamaica's National Development Plan (Vision 2030) speak directly to the ICT Sector; Outcome No. 11 refers to a technology-enabled society and Outcome No. 12 refers to an internationally competitive ICT sector. In addition to these direct linkages, ICTs have been identified as an enabling factor in the achievement of the other thirteen (13) national outcomes. In the same document, the Government commits to the development of "an advanced private-sector driven ICT industry that achieves sustained global competitiveness and enhances the productivity of our goods and services producing sectors".⁴

The ICT Policy tabled in April 2011 provides for "the enhancement of ICT infrastructure to include high capacity networks noting that access to same would stimulate and facilitate entrepreneurship and improve the provision of public and private e-services, as well as allow for interconnection to international networks".⁵ The main goals of the ICT Policy are:

³ Telecommunications Policy and Management Programme (2011) Caribbean ICT Indicators and Broadband Survey.

⁴ Planning Institute of Jamaica (2009), Vision 2030 Jamaica - National Development Plan, [http://www.vision2030.gov.jm/Portals/0/NDP/Vision%202030%20Jamaica%20NDP%20Full%20No%20Cover%20\(web\).pdf](http://www.vision2030.gov.jm/Portals/0/NDP/Vision%202030%20Jamaica%20NDP%20Full%20No%20Cover%20(web).pdf)

⁵ Government of Jamaica, (2011) Information and Communications Technology (ICT) Policy. http://www.jis.gov.jm/pdf/GOJ_ICTPOLICY_March2011.pdf

- i. Improved National Productivity: ICTs will be utilized to increase overall efficiency and productivity;
- ii. Increased Local and International Investments: The establishment of world-class high capacity ICT infrastructure and services across the island will facilitate increased investments in the country; and
- iii. Support for all sectors: The Government is committed to the use of ICT as a key enabler to develop all sectors, with a focus on the creation of, a knowledge based society.⁶

In keeping with the sector strategy to create an appropriate policy and regulatory environment conducive to investments in ICT and network development, the amendments to the Telecommunications Act in May 2012 provided for the enhancement of investment and competition in the telecommunications industry by mandating two (2) critical elements, viz., Infrastructure Sharing and Number Portability which has been considered the last barriers to competition in a liberalized telecommunications market. Further, activities have started towards the establishment of a converged standalone ICT Regulator.

1. Infrastructure Sharing

The sharing of telecommunications infrastructure is expected to reduce the cost of investment which will ultimately redound to the consumers of telecommunications services. It will afford new entrants the opportunity to accelerate service expansion, and, in addition to the cost savings, will limit the aesthetic deterioration of the country's landscape and reduce the environmental footprint of the telecommunications sector.

The OUR has initiated consultation on the development of Rules and modalities for infrastructure sharing, based on section 29A of the amended Telecommunications Act. This process should establish rules on costs by the end of September 2013.

2. Number Portability

Number portability enables subscribers of publicly available telephone services to change their service provider whilst keeping their existing telephone number. Its purpose is to foster consumer choice and effective competition by enabling subscribers to switch between providers without the costs and inconvenience of changing their telephone number.

Pursuant to section 37 of the amended Telecommunications Act and in consultation with the OUR, the MSTEM is directing the process for the drafting of Rules to establish the basic requirements and conditions for the implementation and operation of number portability in Jamaica. An interim industry working group has been established to guide

⁶ Ibid

the process pending promulgation of the rules. This process is ongoing and should see the substantial progress on number portability implementation before the end of this fiscal year, that is, March 31, 2014.

3. Converged Standalone ICT Regulator

The ICT Regulator will be required to adopt and adhere to rules and procedures which facilitate the highest standard of procedural efficiency, transparency and responsiveness to technological changes and to incorporate the following objectives:-

- To promote a high standard of performance and responsiveness in administration in order to increase efficiency and enhance competitiveness within the ICT sector.
- To ensure that the administration of the regulatory mandate is effected through policies and procedures which are transparent and effective.
- To simplify the licensing processes to promote growth and encourage investment.

2.3 The Regulatory Environment

(a) Spectrum Management Authority

Spectrum management in Jamaica, like many other countries, has evolved over the years moving towards a more modern approach, which involves managing the spectrum as a scarce and valuable resource.

The SMA was established in concordance with Jamaica's international commitments to the World Trade Organization's (WTO) telecommunications agreement and the policy objectives enunciated by the GOJ with respect to the telecommunications sector. The WTO's telecommunications agreement suggests that the spectrum management function be carried out by an independent entity. The agreement states that "The regulatory body is separate from and not accountable to any supplier of basic telecommunications services". Among the main policy initiatives of the GOJ with respect to the telecommunications sector is to provide "a regulatory environment that is responsive, accountable and socially sensitive to the needs of the public, to investors and to emerging technologies". Against this background, the Telecommunications Act, 2000 as amended, Part IV, sections 20-26 details the legislative framework for the management of the radio frequency spectrum, including the establishment of the SMA.

The SMA became operational in April 2001. The SMA's management of the spectrum entails:

- Managing access to the radio frequency spectrum through band planning, frequency assignment and licensing.
- Monitoring compliance with licensing agreements to protect all legal spectrum users.
- Identifying, investigating and assisting in resolving interference problems.
- Identifying and eliminating illegal use of the spectrum.
- Representing Jamaica's interests in spectrum related matters internationally.

(b) Office of Utilities Regulation

The OUR is a multi-sector regulatory agency that was established in 1995 through the Office of Utilities Regulation Act (the OUR Act). Section 4(1) of the OUR Act prescribes the functions of the OUR as to:

- regulate the provision of prescribed utility services by licensees or specified organizations;
- receive and process applications for a licence to provide a prescribed utility service and make such recommendations to the Minister in relation to the application as the OUR considers necessary or desirable;
- conduct such research as it thinks necessary or desirable for the purposes of the performance of its functions under the OUR Act;
- advise the responsible Minister on such matters relating to the prescribed utility service as it thinks fit or as may be requested by that Minister; and
- carry out, subject to section 8A, on its own initiative or at the request of any person, such investigations in relation to the provision of prescribed utility services as will enable it to determine whether the interests of consumers are adequately protected.

Further, section 4(3) of the OUR Act, provides that the OUR in the performance of its functions under its Act, can undertake such measures as it considers necessary or desirable to:

- encourage competition in the provision of prescribed utility services;
- protect the interests of consumers in relation to the supply of a prescribed utility service;
- encourage the development and use of indigenous resources;
- promote and encourage the development of modern and efficient utility services; and
- enquire into the nature and extent of the prescribed utility services provided by a licensee or specified organization.

The Telecommunications Act empowers the OUR to receive and process applications for licences, as well as, to develop rules and make determinations on various matters relating to the regulation of the telecommunications sector. These include interconnection, facilities sharing, dispute resolution, competitive safeguards and the declaration of dominance.

(c) Fair Trading Commission

The FTC is the administrative body responsible for implementing the Fair Competition Act (FCA). The functions of the FTC include the following:

- carrying out, on its own initiative or at the request of the Minister or any other person, investigations in relation to the conduct of business in Jamaica in connection with matters falling within the provisions of the FCA;
- advising the Minister on matters relating to the operation of the FCA;

- making available to businesses and consumers, general information with respect to their rights and obligations under the FCA;
- undertaking studies and publicizing reports and information regarding matters affecting the interests of consumers; and
- co-operating with and assisting any Government Ministry or Agency as well as associations in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the FCA.

The FTC has the power to carry out investigations in relation to the conduct of business in Jamaica to determine if any enterprise is engaging in practices that are in contravention of the FCA. The FCA contains two (2) broad categories of prohibitions - those dealing with anti-competitive behaviour and those dealing with consumer protection. With regard to anti-competitive behaviour, the FCA prohibits abuse of a dominant position and agreements that substantially lessen competition. In relation to telecommunications services, section 5 of the Telecommunications Act, 2000, requires that the OUR refer to the FTC matters that fall within the functions of the FTC or are of substantial competitive significance.

2.4 Governance and Management

(a) Spectrum Management Authority

Spectrum management is governed internationally according to the Rules and Regulations of the ITU. Locally, spectrum management activities are guided by the Radio and Telegraph Control Act, 1973 and the Telecommunications Act, 2000 and amendments thereto, as well as, the policies enunciated by the Government with respect to telecommunications.

At the institutional level the SMA is an agency of the MSTEM and is governed by a Board of Directors appointed by the Minister. The SMA as an advisory body to the Minister, advises on any matter referred to it by the Minister, and is accountable to the Minister through the Board of Directors.

(b) Office of Utilities Regulation

As previously indicated, the OUR was established to regulate the operations of utility companies. Operations began in January 1997 and are governed by the OUR Act and the Telecommunications Act, 2000 as well as the policies enunciated by the Government with respect to telecommunications.

The Director General is the head of the OUR and together with the Deputy Directors General comprise the Office. The Director General is appointed by the Governor General, while the Deputy Directors General are appointed by the Prime Minister. The Office is similar to a board of directors and meets regularly to make decisions on regulatory and administrative matters.

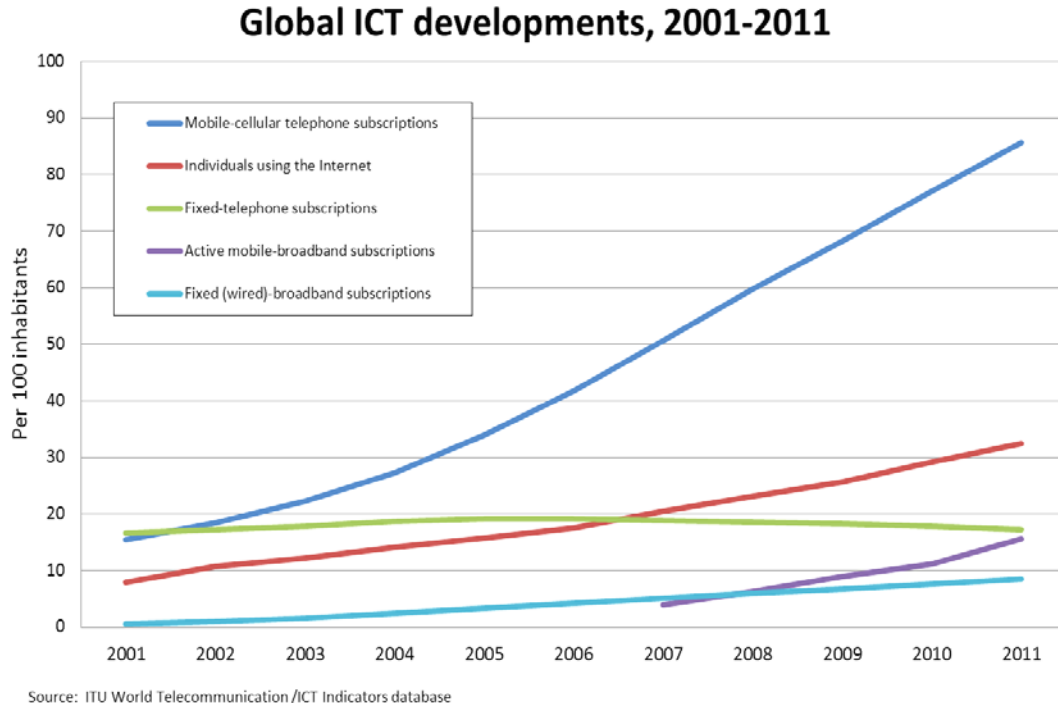
(c) Fair Trading Commission

The FTC was established by the FCA which was promulgated in 1993. At the institutional level the FTC is an agency of the Ministry of Industry, Investment and Commerce and the members of the Commission, who are appointed by the Minister, provide oversight with respect to policy. The Executive Director, who is an *ex officio* member of the Commission, is responsible for the daily operations of the Commission.

2.5 Current Operating Environment

(a) International

The international trend continues to be towards wireless and away from wired means of communication. According to the ITU, while the average penetration level of mobile broadband services was 5.4 subscriptions per 100 inhabitants in developing countries as at 2012, it is 10 times higher in the developed world, at 51.1 per 100 inhabitants⁷. This is a result of ongoing deployment of higher speed 3G mobile broadband networks such as WIMAX and more recently HSPA+ (Evolved High-Speed Packet Access) and LTE systems. In response, some countries have taken measures such as spectrum refarming and the licensing of 3G services, to further accelerate the growth of mobile broadband penetration. These measures have been complemented at the industry level by a move towards developing next generation 4G systems (IMT-Advanced).



⁷ http://www.itu.int/dms_pub/itu-d/opb/reg/D-REG-TTR.12-2010-SUM-PDF-E.pdf

(b) Local

Based on a number of international indices, Jamaica is still recognized as being amongst the top countries in the region (Latin America and the Caribbean) with respect to telecommunications penetration. However, whilst performance with respect to, *inter alia*, mobile and internet subscribers, affordability and institutional efficiency were favourable, Jamaica was found to be lagging with respect to the number of personal computers and the level of broadband subscribers. Therefore, with full penetration achieved in the voice telephony market, the Government has turned its attention to achieving the same with respect to wireless broadband data as broadband household penetration is still relatively modest in Jamaica.

The status of Jamaica's broadband market⁸:-

Fixed Wired

- Number of households with Internet access in 2010 was 102,023
- Number of households with a computer in 2011 was 264,042
- Number of internet users in 2011 was 866,651
- Fixed broadband internet subscription in 2011 was 118,259
- Average users range in age from fifteen to thirty-four (15 to 34)

Mobile Cellular Broadband

- Mobile cellular broadband subscriptions per 100 inhabitants in 2010 was 7.85%
- Cellular subscription for 2011 was 2,945,395
- Number of households with a mobile cellular phone in 2011 was 828,599
- Ratio of mobile cellular subscriptions to fixed telephone lines in 2011 was 11:1

Additionally, the country has continued to experience significant investment in the telecommunications sector. Together with the potential of 4G through WiMAX and LTE, the mobile broadband sector is likely to become a major revenue driver in coming years.

3.0 SPECTRUM PACKAGING

3.1 The Package

With the convergence of technology, spectrum may be used for a variety of applications including voice, data (broadband internet access) and video (multimedia). Additionally, recent developments with respect to mobile wireless broadband services and the emerging 4G cellular technologies, such as LTE, have brought about an increase in demand for the spectrum and in particular low band spectrum.

⁸ ITU Telecommunication/ICT Indicators database

The primary objective in packaging the spectrum is to ensure the most efficient use of the spectrum in the deployment of mobile broadband and/or IMT- Advanced (4G), while taking account of future services and spectrum requirements for these services.

The SMA proposes to package the 108 MHz of available spectrum in discrete 6 MHz blocks which can accommodate both Time Division Duplex (TDD) and Frequency Division Duplex (FDD) technologies. The SMA proposes to allot 48 MHz of spectrum in the 700 MHz band for commercial use in two (2) paired 12 MHz blocks.

Based on the side band emission requirements specified in the Third Generation Partnership Project (3GPP) standard for IMT-Advanced, there will not be any spectrum allocation for guard bands, to provide separation between operators using adjacent frequency bands.

In the interest of encouraging the development of a competitive mobile market and to preclude spectrum hoarding in Jamaica, two (2) initiatives are being contemplated. These are (1) the imposition of an aggregate spectrum cap and (2) the imposition of an in-band spectrum cap. The goal is to enable competition and prevent operators from gaining positions which they might use in an anti-competitive manner.

(a) Spectrum Caps

With respect to the spectrum caps, this represents the maximum amount of spectrum that may be held by any one party in total, and for the auction. **The proposed aggregate cap is 80 MHz and the proposed 700 MHz band cap is 2 x 12 MHz respectively.**

In the event an incumbent wishes to acquire additional spectrum above the established cap, the incumbent may only do so if it relinquishes other spectrum with similar technical characteristics (i.e. low band for low band or high band for high band). Such incumbent would only be required to relinquish spectrum if it takes part in the licensing process and is a successful Applicant/Bidder. Where frequencies are to be relinquished in accordance with a cap it is proposed that the pro-rated value of the spectrum being relinquished is offset against the spectrum price to be paid by the Successful Bidder. The pro-rated value would be based on the licensing fee paid at the time of acquisition of the spectrum being relinquished and the validity period remaining on the Spectrum Licence.

Note: The Minister, in consultation with the SMA reserves the right to vary these caps as necessary to ensure an efficient outcome and eligible Bidders will be advised accordingly.

(b) Package Details

Band 17:

- ▶ The entire block 1 i.e. 2 paired blocks of 12 MHz at 704-716 MHz and 734-746 MHz.

Band 13

- ▶ The entire block 2 i.e. 2 paired blocks of 12 MHz at 746- 758 MHz and 776-788 MHz.

Incentive package for new entrants:

All successful new entrants that acquire 2x12 MHz of spectrum will be entitled to the following:-

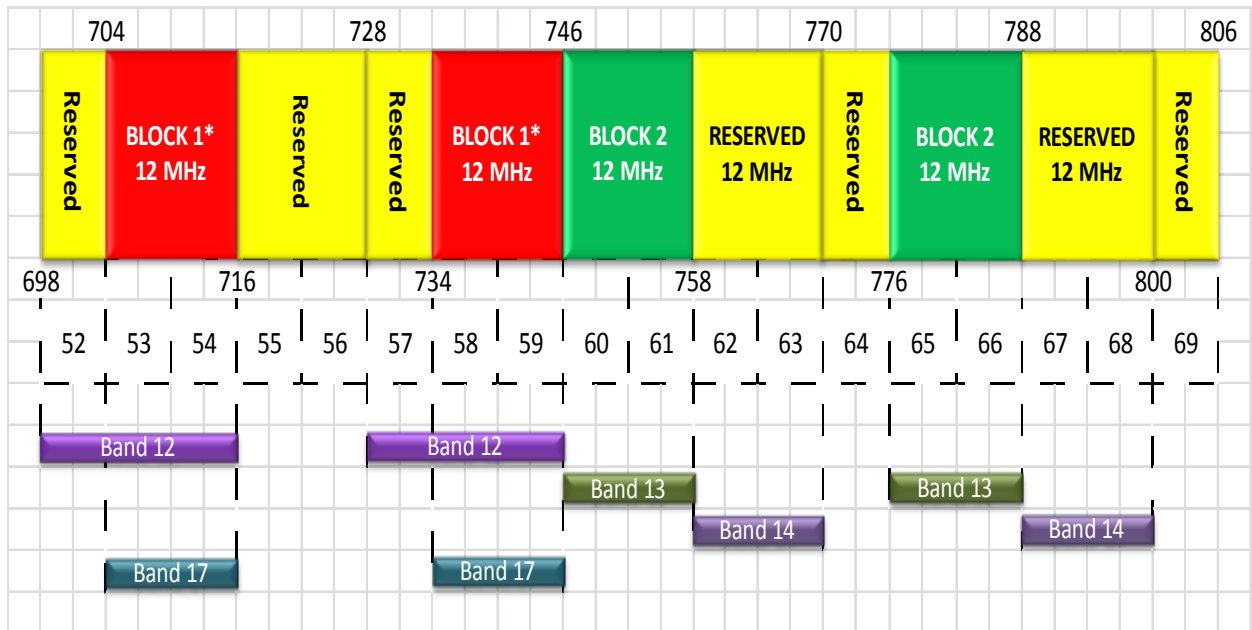
- ▶ 2x5 MHz in the 1800 or 1900 MHz band for the period of fifteen (15) years which is exempted from the payment of Spectrum Licence fees;
- ▶ Backhaul frequencies for reasonable rollout (i.e. 40%) for a period of two (2) years after which time Spectrum Licences Fees will be applicable.

However, in relation to the above mentioned incentives, Spectrum Regulatory Fees will be applicable on an annual basis from the grant of licence.

- ▶ The option of accepting the award of a fibre optic cable licence (if the technical requirements are satisfied) with an extended rollout provision of three (3) years.

It is proposed that band 14 (i.e. block 4) not be made available for licensing at this time. However, this decision is subject to change based on market interest.

See Appendix 1 for a Graphical Representation of the spectrum packaging.



The Spectrum Licences will be, within certain limitations, technology neutral.

3.2 Spectrum Co-ordination

Licensees will be required to co-ordinate their spectrum use to ensure that their respective operations do not create harmful interference to the operations of other licensees. The SMA will play the role of facilitator only where licensees are unable to successfully co-ordinate their operations.

3.3 Interference Management

Any equipment installed, maintained and used by the Licensee throughout the tenure of the Spectrum Licence shall conform to the required international standards and specifications for such equipment. Any new radio equipment being introduced to Jamaica for the first time must obtain Type Approval Authorization from the SMA.

Licensees must perform their own analysis of potential interference scenarios. Where equipment is co-located or located close to other equipment, the Licensees will be required to enter into their own negotiations with third parties.

3.4 Band Clearance

The SMA has confirmed that the frequencies being offered for auction are available and clear of other users and will continue to enforce the rules to ensure that all licensed operators neither cause, nor are affected by interference to/from other spectrum users.

3.5 Spectrum Allocation for Network Backhaul

The auction is for the 700 MHz spectrum. Access to additional spectrum for the purposes of, *inter alia*, transmission and backhaul falls under the terms of a separate licensing process save and except for successful new entrants **as mentioned in section 3.1**. In addition, the licensing of such spectrum will attract separate Spectrum Licence and Regulatory fees. Information on the process and conditions for such additional licensing are available from the SMA.

4.0 THE SPECTRUM LICENCES

The Spectrum Licence awarded to the Successful Bidder will give the Licensee the right to use the spectrum to offer mobile broadband services to the public in Jamaica via radio transmitting and receiving stations and/or radio apparatus, subject to the terms and conditions of the Licence. The Spectrum Licence will not mandate the technology to be used.

4.1 Frequency Ranges

Each Spectrum Licence will entitle the Licensee to use the frequencies that are awarded to it in accordance with the Award Process (see section 5.0).

4.2 Term, Revocation and Suspension

The Spectrum Licence shall commence upon the full payment of the licence fee. The term of the Spectrum Licence shall be fifteen (15) years and is renewable in accordance with the Telecommunications Act, 2000 as amended. Operators will be expected to use the spectrum in an efficient manner. The Spectrum Licence is not saleable or divisible in whole or in part. The Spectrum Licence is transferable only subject to approval of the Minister with portfolio responsibility for telecommunications, as outlined in section 23A(7) of the Telecommunications Act.

The Spectrum Licence may be suspended or revoked under the following circumstances:

- 1) At the request of, or with the consent of the Licensee,
- 2) Non-payment of the relevant fees,
- 3) Breach of any of the terms of the Licence, and
- 4) Breach of any of the laws or regulations as per the Telecommunications Act, 2000, any other Act, or any declaration signed as a part of this process.

4.3 Spectrum Licence Fees

Users of the spectrum are required to pay Spectrum Licence fees unless otherwise exempted.

In respect of each Spectrum Licence to be granted via the auction, the Spectrum Licence Fee for the initial period of fifteen (15) years will be determined through the Award Process. This will be a one-time payment due at the end of the auction process **as indicated in section 5.4.**

At the end of the Initial Term (15 years), the Minister, in consultation with the SMA, shall determine the parameters for renewal and determine the applicable fees to be paid by the Licensee to facilitate the renewal of the Spectrum Licence for another period.

4.4 Spectrum Regulatory Fees

Licensees who acquire Spectrum Licences in the auction shall pay annual Regulatory Fees effective one (1) year after the award of Spectrum Licence onwards. Such Regulatory Fees will be proportional to the spectrum licensed. Notwithstanding the tenure of the licence, it shall become invalid if the annual Regulatory Fees are not paid to the SMA. It is important to note that the SMA reserves the right to review these fees at periodic junctures in order to ensure that said fees are reasonable and contribute proportionately to the normal operating costs of the SMA pursuant to section 26 of the Telecommunications Act, 2000.

4.5 Roll out, Coverage and Service Obligations

The launch of commercial services shall be no later than eighteen (18) months after the Spectrum Licence Award for incumbents and twenty-four (24) months for a new entrant.

The Spectrum Licence will have a “use or lose” obligation and the SMA reserves the right to review the usage of the spectrum to ensure compliance with the terms of the Spectrum Licence. Applicants will be subject to roll out and coverage obligations as follows:-

Incumbents

- At least 50% population coverage within 18 months;
- At least 90% population coverage within 48 months.

New entrant

- At least 30% population coverage within 24 months;
- At least 90% population coverage within 60 months.

4.6 Radio Equipment: Technical Conditions

The Spectrum Licence will contain the minimum necessary restrictions on the permitted use of the spectrum to manage the risk of harmful interference and to ensure compliance with the SMA’s duties as managers of the spectrum. Successful Applicants will be required to submit technical details for proposed radio communication equipment to the SMA for review and approval. A schedule of technical information will be prepared and appended to the Spectrum Licence awarded.

4.7 Access and Inspection

Licensees will be required to permit persons authorized by the SMA, that is, staff or authorized agents, to have access to and to examine and test the radio equipment specified in the Spectrum Licence at all reasonable times. The purpose would be to ensure that the radio equipment is being used in accordance with the conditions of the Licence.

4.8 Modification, Restriction and Closedown

The SMA shall require the radio equipment in use or any part of it to be modified, restricted, or temporarily or permanently closed down if,

- A Licensee has breached the terms of its Licence; and/or
- The use of the radio equipment is or may be causing or contributing to interference to the operation of other licensed or authorized spectrum users.

5.0 THE AWARD PROCESS

This section will outline the process from Invitation to Grant of Licence, including the auction process to determine the successful Bidders. The Award Process will follow four (4) stages:-

Stage 1 – Invitation

Stage 2 – Prequalification

Stage 3 – Auction

Stage 4 – Grant of Licence

Applicants/Bidders will be responsible for all costs incurred by them in relation to this Auction/Licensing process.

5.1 Stage 1 – Invitation

Following the issue of and receipt of questions and comments related to this Memorandum, the SMA will formally issue a Request for Bids via Public Notice and postings on various web-sites including the SMA and the MSTEM websites.

Applicants must submit a written application under sealed cover to the SMA in order to be considered for participation in the auction. Applications are to be received no later than the date stated in the invitation and will be opened on the date stated in the invitation.

The application must be signed by an authorized signatory. If a person who has signed the application is not an authorized signatory, but is acting on behalf of an Applicant (in the case of a foreign Applicant) a power of attorney for such authorization shall be submitted with the application.

The provisions of section 7 of the Telecommunications Act, 2000 as amended shall apply with full force and effect to all information disclosed by Applicants in response to the Request for Bids. Respondents to the Request for Bids will be deemed to have consented in writing to the disclosure of confidential information to all persons legitimately engaged in the auction and licensing process.

5.2 Stage 2 – Pre-Qualification

The prequalification criteria represent the requirements to be met by any organization seeking approval to participate in the 700 MHz spectrum auction. All Applicants will be required to confirm that they meet the qualification criteria as outlined in their application as follows:

1. An Applicant must satisfy the requirements of the Telecommunications Act, 2000, and must hold or be eligible to become the holder of a Carrier or a Service Provider Licence as detailed under Part III of the Telecommunications Act, 2000. *Details of the Application requirements are set out in Appendix 1 attached hereto.*
2. Approved Bidders shall be required to be independent of each other as per section 11(6) of the Telecommunications Act, 2000. Applicants must highlight any direct or indirect cross-ownership of 5% or more in any other entity applying for a Spectrum Licence in this award process.

3. Applicants will be required to pay an ‘Intention to Bid Deposit’ of **US\$3.0M** and Applicants for Band 13 will be required to pay an ‘Intention to Bid Deposit’ of **US\$2.7M**. The ‘Intention to Bid Deposit’ is the commitment from the Applicant to pay at least the reserve price for the Spectrum Licence as specified and to participate in the auction. Failure to meet these obligations may result in the forfeiture of the ‘Intention to Bid Deposit’, at the sole discretion of the SMA.

Applicants who have been unsuccessful will be likewise informed and their ‘Intention to Bid Deposit’ returned to them without interest.

4. The SMA may reject an application from an Applicant or bar a Bidder from participating in the auction for, among other reasons, the following:
 - if the application arrived after the deadline for submission,
 - if the application is incomplete,
 - if the application contains incorrect information.

The SMA reserves the right to request additional information and/or clarification based on an Applicant’s submission. Applicants are required to comply with all such reasonable requests.

Applicants will be informed in writing by the date specified in the Request for Bids if they have been successful in their application to compete in the auction stage of the licensing process by meeting the pre-qualification criteria. These Applicants will be called Approved Bidders.

5.2.1 Application Requirements

All Applicants for a Wireless Broadband Spectrum Licence will be required to provide information including but not limited to:

1. COMPANY DATA

Certified Copies of relevant documents of incorporation for relevant jurisdiction, viz:

- ▶ ***For incorporation of Jamaican companies which took effect prior to February 2004:***
 - Certificate of Incorporation
 - Memorandum of Association
 - Articles of Association
- ▶ ***For incorporation of Jamaican companies which took effect subsequent to February 2004:***
 - Certification of Incorporation
 - Articles of Incorporation
- Other particulars of Applicant, including -
 - (a) address of company’s registered office,

- (b) name of principal applicant (must be a Director of the Company) and contact details including telephone and fax numbers as well as e-mail address(es),
 - (c) name of company's Technical Officer and contact details including telephone and fax numbers as well as e-mail address(es).
- A detailed list of the shareholders inclusive of the absolute and percentage value of shareholdings and organizational chart showing the relationship between the shareholders and any connected person.
 - A detailed list of all current and former Directors of the Company, including dates and positions.
 - Certificate of Good Standing from the Companies Office of Jamaica or equivalent in other jurisdiction.
 - Completed Declaration of Applicant Form witnessed in the presence of a Justice of the Peace or Notary Public.
 - Intention to Bid Deposit.

2. LEGAL AND REGULATORY

- Copies of the relevant applications or licences issued pursuant to the Telecommunications Act, 2000 pertaining to the provision of wireless broadband and mobile services in Jamaica that is, Domestic Carrier, Domestic Service Provider Licence, Domestic Mobile Service Provider Licence and Domestic Mobile Carrier Licence.
- List of all telecommunications licences, permits or authorizations issued to the company or its associated companies stating clearly the relevant jurisdiction for each and the validity period of the licence or authorization.
- List of all applications pending for telecommunications licences, permits or authorizations made by the company or its connected companies, indicating the respective jurisdiction for each.
- Details of all suits, criminal proceedings, actions or administrative proceedings past or present to which the company or its associated companies have been implicated.

3. TECHNICAL DATA

- The amount of spectrum required.
- Successful Bidders shall be required to provide network/site details, such as radio equipment specifications, which will form a part of the Schedule of the Licence.

4. BUSINESS AND FINANCIAL DATA

- A Business Plan, including but not limited to the following information:
 - ▶ the proposed service(s) to be offered,
 - ▶ the projected subscriber base for each service for each year of expected rollout (i.e. five (5) years in the case of a new entrant and four (4) years in the case of an incumbent),
 - ▶ the proposed roll out plan detailing the percentage population coverage after each year of expected rollout (the information provided will be a condition of the Licence to be granted),
 - ▶ sufficient data and information to support the projections made above,
 - ▶ the anticipated capital expenditure and the proposal for financing the project, and
 - ▶ the period from the granting of the Spectrum Licence to the commencement of service(s).

- Applicants **must**:
 - ▶ Provide a copy of the last annual independently audited financial statements as well as the most recent unaudited financial statements (an officer of the company must attest to the validity of the unaudited statements). If none is available, the Applicant must submit information stating the reason for its unavailability.

 - ▶ Demonstrate that it has the financial resources to construct and operate the network for the first two (2) years of operation under the Licence and must provide information or verification of its creditworthiness, available capital, and source of financing including, if applicable, a lender's statement of commitment to providing a specified sum.

 - ▶ Provide information on whether the Applicant, any of its Directors or shareholders or any connected person has ever been bankrupt or been associated with a company that has become bankrupt or insolvent.

 - ▶ Provide detailed information indicating whether the Applicant or any connected person of the Applicant is currently engaged in bankruptcy proceedings.

 - ▶ Indicate whether the Applicant or any connected person currently holds a licence or authorization to operate a telecommunications network in other countries (details should include list of countries as well as the number of years the Applicant has engaged in operating telecommunications network(s).

 - ▶ Provide a **Bank Guarantee or bond** in the amount of **50% of the proposed bid**. The Bank Guarantee or bond to be valid for sixty (60) days.

Note: Three (3) copies of the proposal must be submitted. One marked "Original" with all the original documentation and the others marked "Copy".

5.3 Stage 3 – The Auction (Rules and Design)

The auction is an administrative selection process for the assignment of Licences to the highest Bidder(s). The rules and design were developed consistent with the objectives of the GOJ articulated herein.

5.3.1 Auction Rules

The auction rules are based on the following principles:

1. The process must be conducted in a fair, open and transparent manner. All parties participating in the auction are expected to conduct themselves in the same manner.
2. The SMA reserves the right to exclude parties that do not or have not conducted themselves in this way.

5.3.2 Prohibition of Collusion

Approved Bidders are prohibited from co-operating, collaborating, colluding, discussing or negotiating settlement agreements or other such similar agreements and/or arrangements related to the Spectrum Licences being auctioned or relating to the post-auction market structure. Any such agreements and/or arrangements shall be reviewable *ab initio* by the FTC pursuant to the provisions of the FCA; and all Approved Bidders and/or parties hereby recognize, acknowledge and submit to the jurisdiction of the FCA with respect to such agreements and/or arrangements.

Approved Bidders will note that they will be required to submit a declaration certifying that it has not entered and will not enter into any agreements or arrangements of any kind with any competitor regarding the amount to be bid, the amount of spectrum being bid for, or bidding strategies. For the avoidance of doubt, the word competitor means any entity other than the Approved Bidder or connected persons which could potentially be a Bidder in this auction based on qualifications, abilities or experience.

Approved Bidders who engage in this behaviour will risk exclusion from the Award process, loss of 'Intention to Bid Deposit' or revocation of Spectrum Licence, if this has already been granted.

5.3.3 Connected Persons

Where two or more Approved Bidders are deemed to be connected as defined by section 11(6) of the Telecommunications Act, 2000 only one entity may participate in the auction. Persons shall be treated as connected with a given person ("L") and the person with them if:-

- a) a holding company or the subsidiary of L;
- b) any company of which L has control;
- c) any company of which L and persons connected with L together have control; or

- d) any company which together with L constitute a group.

Section 151 of the Companies Act, 2004, establishes the definition accepted for the purposes of this auction of holding company and subsidiary. Specifically, it states that a company shall be deemed to be a subsidiary of another if:-

“(a) that other either-

- (i) is a member of it and controls the composition of its board of directors; or
- (ii) holds more than half in value of its equity share capital; or

(b) the first mentioned company is a subsidiary of any company which is that other's subsidiary.”

Approved Bidders which are connected shall, as requested by the SMA, indicate which Approved Bidder is to participate in the auction. If this request is not complied with, neither of the connected persons may participate in the auction. If, during the auction, it becomes known to the SMA that an Approved Bidder has submitted incorrect information about circumstances related to connected persons, the SMA may bar this party from further participation in the auction.

5.3.4 Anti-Competitive Behaviour

Approved Bidders shall not be permitted to enter into any ‘agreement’ as defined within the FCA, with any persons, enterprises, organizations, associations or such other entities that would restrict or influence the ability of other Bidders to plan, build or operate their networks under the Spectrum Licence. Any such agreements shall be reviewable *ab initio* by the FTC pursuant to the provisions of the FCA; and all Approved Bidders and/or parties herein hereby recognize, acknowledge and submit to the jurisdiction of the FTC with respect to such agreements and/or arrangements.

5.3.5 Late Bid Arrival

Late bid submissions will not be accepted.

5.3.6 Change in Circumstance and Application Withdrawal Policy

Any changes to an Approved Bidder’s circumstances during the process must be communicated in writing to the SMA at the earliest possible opportunity. An application to participate in the licensing process cannot be withdrawn once the Applicant has been deemed an Approved Bidder.

5.3.7 Auction Design

The SMA has taken account of the various auction methodologies, namely

- Multiple Round Ascending Bids
- Sealed Bids

- Hybrid (combination of the foregoing)

The SMA proposes to use a **sealed bid single round process** following the pre-qualification of Bidders. Approved Bidders will be required to submit only one bid in a sealed envelope to be opened on the date stated in the Request for Bids.

- All bids will be opened and verified by the SMA's Internal Auditor and the Bidder's representative.
- Bidders will be provided with confirmation of their final submission. There will be no opportunity to submit an increased bid offer other than to resolve a tie.
- If there are two or more equal bids, a subsequent sealed bid single round will take place between the tied bids.
- If there are less than the required numbers of approved Bidders, the SMA reserves the right to abort the process.
- Bidders will be advised whether they have been successful and the final bids will be made public. This will mark the end of the auction process.
- Successful Bidders will be given the opportunity to select from the spectrum packages in order of preference based on their final bid values. The Successful Bidder with the highest bid will be given first choice.
- Successful Bidders will automatically be deemed to have been awarded provisional Spectrum Licences. The balance of all Spectrum Licence fees shall be paid to the SMA within fifteen (15) business days from the award of the provisional Spectrum Licences.

It is important to note that the SMA reserves the rights to make necessary and reasonable adjustments to the process in the overall interest of achieving a fair and transparent outcome.

5.3.8 Reserve Price

In establishing a reserve price, the GOJ considered the following issues:

1. The price should be low enough in order to encourage multiple players in the market.
2. The price should be sufficiently high in order to ensure a "reasonable" payment for the licence.

Based on the above considerations and the packaging of the spectrum indicated earlier the GOJ has determined a reserve price as follows:

Band 17: **Reserve Price** = US\$45.0M for a fifteen (15) year licence.

Band 13: **Reserve Price** = US\$40.0M for a fifteen (15) year licence.

5.3.9 Return and Use of Bank Guarantee

SMA will as soon as possible return the Bank Guarantee to the Applicants who are not accepted as Bidders in the auction.

Bank Guarantees will be returned to the Bidders (by courier to the address stated in the application) which did not win any frequency blocks as soon as possible after the auction has been concluded.

Bank Guarantees from winning bidders will be returned after the auction amount has been paid to the SMA. If a winning bidder does not pay on time the SMA will exercise the bidder's Bank Guarantee.

5.3.10 Administrative Oversight of Process

The SMA will appoint an Administrator who will have responsibility for the management of the bidding process. The auction will also be overseen by the Office of Contractor General (OCG). The OCG is the agency responsible for, *inter alia*, monitoring the award and implementation of contracts, licences, permits, concessions and the divestment of government assets.

5.3.11 Unforeseen Events

If unforeseen events have a major impact on the auction, the SMA may temporarily or entirely interrupt the auction. Under such circumstances, the SMA is entitled to, when appropriate,

- resume the auction at the phase when it was interrupted, *or*
- declare the auction to be invalid and restart the auction from the beginning or from a specific point.

Should an unforeseen event occur, the SMA intends to resume the auction with as little disruption or as few delays as possible. Examples of events viewed by the SMA as unforeseen include but are not limited to natural or other disasters that affect the SMA or the Bidders. The list of unforeseen events is not exhaustive and the SMA shall make a sole determination of such events.

5.3.12 Unsold Spectrum

Any spectrum not awarded on completion of this process may be awarded at a future date in a manner to be determined by the Minister in consultation with the SMA.

5.4 Stage 4 – Grant of Licence

When the auction has been concluded, the SMA shall publish the names of the winning Bidders for each frequency block and the amounts of the winning bids. An invoice for the auction amount will be sent to the winning Bidder after the auction. This invoice is to be paid within fifteen (15) days from the date of receipt of invoice.

The SMA shall assign the Spectrum Licence(s) to the winning Bidder(s) for each frequency block as soon as payment is received.

Successful Bidders shall be expected to adhere to the Terms and Conditions of the Spectrum Licence granted.

The Licensee shall ensure at all times that all the directions of the SMA are adhered to.

6.0 TIMETABLE

In order to provide Applicants with sufficient information to facilitate business planning, the following indicative timetable of key events up to the issue of the Request for Bids is set out below.

Activity	Timeline
Issue Information Memorandum (IM) – via Ministry and SMA website and hardcopy in office.	April 15, 2013
Deadline for submission of questions on IM.	April 29, 2013
Deadline for publication of answers (on website). Questions/Answers will be posted anonymously.	May 8, 2013
Public Consultation	May 15, 2013
Issue Request for Bids/RFP	May 22, 2013

The timetable for the auction will be indicated in the Request for Bids.

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 13-19 Harbour Street
 Kingston
 Tel: (876) 967-7948/948-7800
 Fax: (876) 922-4093
 Website: <http://www.sma.gov.jm>

GLOSSARY OF TERMS

Auction: A bidding procedure where the price (bid) the bidder is willing to pay for each frequency block is decisive. This procedure pertains to the frequency blocks in accordance with Section 3.

Authorized Persons: Persons whom the Bidder has provided with authority to participate, either jointly or severally, in any way in the auction on behalf of the Bidder

Bid: A binding offer from a bidder to pay an amount in exchange for a certain frequency block included in the auction.

Bidder: A party who has submitted an application to the SMA and has qualified to bid in the Awards process, based on the established prequalification criteria.

Frequency Division Duplex: With this technology, radio transmitters operate at different frequencies, with the uplink and downlink being separated allowing the radiocommunications stations to be able to send and receive information at the same time.

Intention to Bid Deposit: A sum to be paid on application for a Spectrum Licence to be awarded through the auction process.

Paired Blocks: Two blocks of frequencies, each specified by a lower and an upper frequency limit, where one block of frequency is entirely in the lower section of the band, while the other is entirely in the upper section of the band.

Regulatory Fees: Annual fees payable to the SMA by all spectrum users to cover the annual operating costs of the SMA, as per section 26 of the Telecommunications Act, 2000.

Reserve Price: The minimum price that a successful bidder will be required to pay, as specified in section 5.3.10

Sealed Bid: The auction methodology whereby each eligible bidder will submit one offer for a specified amount of spectrum up to the spectrum cap indicated.

Spectrum Licence Fee: The amount paid by spectrum users for the use of frequencies within the radio frequency spectrum. In the case of the auction, the fee is paid on completion by the successful bidder(s).

Successful Bidders: Successful Bidders are those Bidders who progress from the auction stage into the grant stage.

Winning bid: The standing highest bid pertaining to a frequency block of spectrum.

APPENDIX 1 – OUR Licence Application

- ▶ Application Procedures for Telecommunications Licences
- ▶ Application Requirements for Telecommunications Licences
- ▶ Application Form for Telecommunications Licences
- ▶ Verification Form

**OFFICE OF UTILITIES REGULATION
TELECOMMUNICATIONS ACT, 2000**

PROCEDURES FOR PROCESSING APPLICATIONS FOR LICENCES

The Telecommunications Act, 2000 (The Act) pursuant to Part III provides for the Office of Utilities Regulation (the Office) to receive and process applications for a licence and to make recommendations to the Minister in relation to such applications. These procedures set out the process by which the Office will solicit and process applications for licences and provide recommendation to the responsible Minister for issuance of licences under the Act.

INITIATING THE LICENSING PROCESS

The licensing process is initiated when the Minister with portfolio responsibility for Telecommunications, issues a directive pursuant to the Act, specifying the number and type of licences to be issued. To date, Ministerial Directives have been issued with the following effect:

TYPE OF LICENCE ISSUED	NO. OF LICENCES TO BE
Data Service Provider	100
Domestic Carrier	unlimited
Domestic Voice Service Provider	unlimited
⁹ Free Trade Zone Carrier	equal to number of spectrum licences
¹⁰ Free Trade Zone Service Provider	1000
International Carrier	unlimited
International Service Provider	unlimited
International Voice Service Provider	unlimited
Internet Service Provider	100
Internet Service Provider/Subscriber	
Television Operator	unlimited
International Submarine Cable Facility	as specified in each Directive

APPLICATION FORMS

Application forms and supporting documentation may be collected from:-

Office of Utilities Regulation
3rd Floor,
PCJ Resource Centre,
36 Trafalgar Road,
Kingston 10
Jamaica

⁹ No Longer Offered

¹⁰ No Longer Offered

Digital copies of the relevant application forms may also be downloaded from the Office's website at www.our.org.jm, or by arrangement, the Office will dispatch by courier at applicant's cost.

COMPLETION AND SUBMISSION OF APPLICATIONS

- All applications should be submitted with the prescribed fees to the OUR. A receipt evidencing delivery of application will be given for each application submitted to the OUR.
- Receipts will be mailed by ordinary post to applicants who submit applications by registered post.
- Where applicable, applications are received by the OUR on a continuing basis.
- All applications and supporting material should be submitted in English. Each application must state that it is being submitted pursuant to an invitation.
- Applicants must submit no fewer than **three (3)** copies of each application and **one (1)** copy each of the supporting documentation. The Office reserves the right to request additional copies of applications and supporting documentation.
- Additional information may be requested by the OUR or submitted by the applicant in respect of any application at any time before making its recommendations to the Minister.
- With the exceptions applications for International Submarine Cable Facility licence and such other classes of licence as may be determined by the responsible Minister and the fees for which are determined at the issuance of a directive, each application must be accompanied by a non-refundable application fee of JA\$65,000. A separate fee is payable in respect of each application. This payment shall be made by cash, certified cheque or bank draft made payable to the Office of Utilities Regulation.
- Applicants should note the disclosure requirements of the Telecommunications Act, 2000 and any Rules and Regulations made pursuant to this Act. The OUR strongly recommends that applicants rely on independent legal advice in preparing applications and prior to their submission to the Office.
- Applicants are required to notify the Office of any change to the information submitted with the application. Notification should be done within fifteen (15) working days after the deadline for the submission of applications.
- Applicants are required to meet all costs arising from (a) the preparation and submission of applications, (b) providing any additional information requested and (c) the processing of each application including responding to public

comments and attending at, and making submissions to the Office concerning these applications. The Office, the Office of the Prime Minister and the Government of Jamaica will not accept responsibility or liability for such costs, regardless of whether a licence is granted.

PROCESSING OF APPLICATIONS

- The Act requires that Applicants for licences be published in a national newspaper and interested parties allowed 30 days for submitting comments to the OUR.
- All applications and supporting documentation become the property of the OUR upon submission. The OUR reserves the right, subject to the relevant and applicable confidentiality provisions of the legislation, to make public the names of corporate entities which have submitted applications as well as such information about the contents of the applications as it deems appropriate. Members of the public and other interested parties will have the right to inspect all applications and supporting documentation and to submit comments to the OUR.
- All supporting material submitted with individual applications which may contain sensitive/confidential information concerning business or commercial or financial affairs should be submitted along with the application in a sealed envelope marked "**Confidential Information**". Where the OUR proposes to disclose any such information, it will give the Applicant reasonable notice and an opportunity to make representations to the OUR before the Office makes a final decision on disclosure of such information.
- An evaluation of the Application is conducted by the OUR to determine eligibility for the issuance of a licence. The OUR reserves the right to conduct further discussions with, and request further and better particulars from the applicants if necessary.
- Applicants should be prepared to send a representative(s) to the offices of the OUR to discuss their applications and supporting documentation, if requested by the OUR.

RECOMMENDATIONS OF LICENCES

- The Office shall prepare a report setting out its recommendation for acceptance or rejection of each application. This report is submitted to the Minister for his consideration. Copies of this Report will be made available to each Applicant upon request.

ISSUANCE OF LICENCES

- Pursuant to the Act, the Minister may upon receipt of a recommendation from the Office, either grant the licence, refer the recommendation back to the Office for further consideration; or refuse to grant the licence. In the event of a refusal the Minister shall as soon as practicable give written reasons for such refusal.
- Licences granted by the Minister are issued by personnel in the Minister's Office. The Office shall maintain a register of all applications for licences and all licences granted pursuant to the Act, in electronic form.

**GENERAL TERMS AND CONDITIONS OF LICENCES
PURSUANT TO THE TELECOMMUNICATIONS ACT, 2000**

The following categories of licenses are currently being offered under the Telecommunications Act, 2000.

CARRIER LICENCE

The Licensee is authorized to own and operate the facilities specified in the application and detailed in the licence

SERVICE PROVIDER LICENCE

The Licensee is authorized to provide services specified in the application and detailed in the licence.

Application Requirements for Telecommunications Licences

All Applicants for a Telecommunication Licence will be required to provide information including but not limited to:

1. COMPANY DATA

Certified Copies of relevant documents of incorporation for relevant jurisdiction, viz:

- ▶ *For incorporation of Jamaican companies which took effect prior to February 2004:*
 - Certificate of Incorporation
 - Memorandum of Association
 - Articles of Association

- ▶ *For incorporation of Jamaican companies which took effect subsequent to February 2004:*
 - Certification of Incorporation
 - Articles of Incorporation

- Other particulars of applicant, including –
 - (a) address of company's registered office,
 - (b) name of principal applicant (must be a Director of the Company) and contact details including telephone & fax numbers as well as e-mail address,
 - (c) names, businesses, addresses and dates of appointment of the directors, the chief executive officer and the company secretary.

- A detailed list of the addresses and country of domicile and shareholdings of all shareholders holding more than 10% of any class of shares in the company. Contact information including telephone number, facsimile number and email addresses.

- Name and address of any person or organization acting on behalf of the applicant (contact in Jamaica). Contact information including telephone number, facsimile number and email addresses.

- Name and contact information of the Company's auditors.

- If the applicant has been incorporated for longer than eighteen months, attach the audited financial statement for period ending not later than one year prior to the date of this application.

- Details of the network or service.

- Completed Declaration of Applicant Form.

- Where the directors of the applicant company reside outside of Jamaica, each such director must submit a police record with the application.

FORM 1

THE TELECOMMUNICATIONS ACT

The Telecommunications (Forms) Regulations, 2000

APPLICATION FOR CARRIER OR SERVICE PROVIDER LICENCE

(under section 13)

Please specify type of licence being applied for:

- Service Provider Licence
- Carrier Licence

SECTION A: PARTICULARS OF APPLICANT

1(a) Name of

applicant:.....

(b) Address of

applicant:.....

2. Where applicant is a company -

(a) country and date of incorporation and registration:

.....

(b) registration number:

.....

(c) address of registered office:

.....

(d) share capital:

par value	authorized
(J\$)	issued
	(number)

(number)

preference

shares.....

ordinary

shares.....

- Set out in an attachment the names, businesses, addresses and dates of appointment of the directors, the chief executive officer and the company secretary.

- *Set out in an attachment the names, addresses and country of domicile and shareholdings of all shareholders holding more than 10% of any class of shares in the company.*
- *Attach certified copies of memorandum of association, articles of association and certificate of incorporation.*

3. Applicant's postal address (if different):

.....

4. Telephone No.: Facsimile No.:

E-mail

address:.....

5. Name and address of any person or organization acting on behalf of the applicant (contact in Jamaica):

Name:

.....

Address:

.....

Telephone No.: Facsimile No.:

E-mail

address:.....

6. Applicant's bank or financial institutions:

Name:

.....

Address:

.....

Telephone No.: Facsimile No.:

E-mail

address:.....

7. Applicant's auditor:

Name:

.....

Address:

.....

Telephone No.: Facsimile No.:

.....

E-mail

address:.....

SECTION B: HISTORY OF APPLICANT

Please tick the appropriate box. If "YES" give particulars.

1. Has the applicant ever applied for a licence or registration under any Act in Jamaica and been refused?

YES NO

.....

.....

2. Has the applicant ever been licensed under the Telecommunications Act or the Radio and Telegraph Control Act?

YES NO

.....

.....

3. If the answer to question 2 is YES, has any such licence been revoked?

YES NO

.....

.....

4. Has any connected person previously been granted a licence under the Telecommunications Act which was revoked?

YES NO

.....

.....

Note: for the definition of "connected person", see section 11(6) of the Telecommunications Act.

5. Is the applicant the holder of a telecommunications licence in any other country?

YES NO

.....

.....

6. Has the applicant or any connected person been refused a licence mentioned in question 5 above, or has such licence been revoked?

YES NO

.....

.....

7. Has the applicant operated under or carried on business under any name other than the name shown on this application?

YES NO

.....

.....

8. Has the applicant ever -

(a) been the defendant or respondent in any proceedings in any court in any jurisdiction in any part of the world involving fraud?

YES NO

.....

.....

(b) at any time declared bankruptcy or made voluntary assignment in bankruptcy?

YES NO

.....

.....

If YES, in addition to giving particulars, attach certified copy of discharge.

SECTION C: FINANCIAL INFORMATION

If the applicant has been incorporated for longer than eighteen months, attach an audited financial statement for period ending not later than one year prior to the date of this application.

Please tick the appropriate box. If "YES" give particulars.

Is there any person or company whose name is not disclosed above who has any financial interest in the applicant, either beneficially or otherwise?

YES NO

.....
.....

SECTION D: OFFENCES

Please tick the appropriate box. If "YES" give particulars.

1. Has the applicant, or any director or executive officer of the applicant, ever pleaded guilty or been found guilty under any law of Jamaica or any other country of any offence involving dishonesty, fraud or theft?

YES NO

.....
.....

2. Has the applicant, or any director or executive officer of the applicant, ever been convicted of any criminal offence not mentioned in paragraph 1?

YES NO

.....
.....

3. Is the applicant, or any director or executive officer of the applicant, currently the subject of a charge or indictment under any law of Jamaica or any other country for contravention of any law or for any conduct of the type described in paragraph 1 or 2?

YES NO

.....

.....

SECTION E: CIVIL PROCEEDINGS

Please tick the appropriate box. If "YES" give particulars.

- 1. Has any claim been made successfully in any civil matter before a court or other tribunal in Jamaica or any other country which was based in whole or in part on fraud, theft, deceit or misrepresentation or similar conduct against -

(a) the applicant?

YES NO

.....
.....

(b) any director of the applicant?

YES NO

.....
.....

(c) any executive officer of the applicant?

YES NO

.....
.....

- 2. Is there any claim pending in any civil matter before a court or other tribunal in Jamaica or any other country against the applicant, or any director or executive officer of the applicant, which is based in whole or in part on fraud, theft, deceit or misrepresentation or similar conduct?

YES NO

.....
.....

SECTION F: DETAILS OF NETWORK OR SERVICE

- 1. Provide a precise description of the Network or Service for which the licence application is made. Include (as applicable) a description of the technical and operational

systems configuration, how the network or service systems will be connected with the facilities or services of other carriers or service providers, and the operation of the proposed services, for example the dialing procedures or call set up arrangements. (Use continuation sheet if necessary).

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2. Attach a schematic diagram showing the network and facilities configuration and other associated customers' telecommunication equipment used to provide the specified services. The diagram should include the parties connected with and the transition media for connection, e.g. switched or leased circuits.

SECTION G: DECLARATION OF APPLICANT

I,
.....declare
/for
(name of applicant)
and on behalf of
.....
(name of company, if applicable)
that -

1. I am/..... is not disqualified
(name of company)
from being granted a licence by reason of any legal impediment. I possess the technical qualifications to fully perform the obligations imposed by the licence. I satisfy the financial requirements for the construction and operation of the facility

or provision or service to which this applications relates.

2. I am/..... is a fit and

(name of company)

proper person to be granted a licence.

3. All information submitted in support of this application is true and correct. I understand that a recommendation for approval from the Office of the Utilities Regulation in respect of this application is based on information as declared herein. I understand that, if I knowingly make any false statement in this application, any licence granted pursuant to this application may be revoked.

4. I/..... undertake(s) to

(name of company)

comply with the provisions of the Telecommunications Act relating to the type of facility or specified service to which this application relates, including -

- (a) interconnection obligations;
- (b) universal service obligations;
- (c) licence limitations; and
- (d) network expansion requirements.

.....
Signature of applicant

.....
Date

**OUR APPLICANT VERIFICATION FORM
ADDENDUM NO. 2 TO LICENCE APPLICATION**

Please print or type when completing Form

Name of Entity: _____
 Address of Registered Office: _____
 Telephone: _____ Telefax: _____ Email: _____

Full Name of Current Shareholders			Address	Share-holding	Date of Birth			Place of Birth			National ID	TRN	Nation-ality
Surname	First	Middle Initial			D	M	Y	Parish	District	Other			

Name of Directors		Middle Initial	Address	Share-holding	Date of Birth			Place of Birth			National ID	TRN	Nation-ality
Surname	First				D	M	Y	Parish	District	Other			

Name of Verifying Officer: _____

 Secretary

 Print Name

 Managing Director / General Manager

 Print Name

Public Liability companies need not record shareholdings of less than 10%

For OUR use only

Approval: The Application has been approved by:

 Signature

 Print Name