

DRAFT REPORT OF THE 2nd MEETING OF EACO TASK FORCE
HARMONISATION OF CONVERGED/UNIFIED LICENSING FRAMEWORK

1.0. INTRODUCTION

At the 18th Congress of the East African Communications Organisations (EACO) held in Kigali, Rwanda on 27th May 2011 it was decided that a Task force comprising of member states be formed to prepare a harmonised licensing framework.

The 19th Congress of EACO extended the taskforce period and subsequently the 1st meeting of 3rd – 5th December 2012, held in Nairobi, Kenya.

2.0. ATTENDANCE

The meeting was attended by delegates from each of the EACO member countries.

3.0. AGENDA

The meeting agenda was as follows:

1. Opening of the meeting
2. Election of the Bureau
3. Adoption of Agenda
4. Adoption of the work programme
5. Review of the Terms of Reference and the 19th EACO Congress draft report
6. Presentations/Discussions
 - i. Objectives Of A Converged Licencing Framework and The Transition Challenges
 - ii. Each Country's Converged Licensing Status, Experience And Challenges Faced By Each
 - iii. Common Strategies For The Management Of Existing Licensing Towards CLF
 - iv. Recommendations for the EACO Member States To Harmonize The Regional Licensing Frameworks
 - v. Sharing Of Information And Experiences On Managing The Transition From Legacy To The Converged Licensing Framework
 - vi. Drafting Of Proposed Guidelines For A Harmonized Converged Licensing Frameworks In The Region
 - vii. Discuss And Propose A Harmonized Broadband Licensing Fees
7. Report Writing

8. Approval of the Report
9. A.O.B.

4.0. ELECTION OF THE BUREAU

Considering that the meeting was a continuation of the same taskforce assignment, it was agreed that the status quo holds. Therefore, the bureau is constituted by the following members:

- | | | |
|-----------------------------|--------------|----------------------------|
| 1. Ms. Marie Chantal Gakima | RURA/Rwanda | Ag. Chairperson |
| 2. Mr. Alexis Sinarinzi | ARCT/Burundi | 1 st Rapporteur |
| 3. Mr. Victor Maina | CCK/Kenya | 2 nd Rapporteur |

5.0. ADOPTION OF AGENDA AND WORKING PROGRAM

The agenda and the working program were adopted with some amendments as shown in Annex I.

6.0. REVIEW OF THE TERMS OF REFERENCE AND THE 19TH EACO CONGRESS DRAFT REPORT

The Terms of reference of the Task Force remained as follows:

- 6.1. To collect information on the existing licensing frameworks in the Member states;
- 6.2. To review the existing licensing frameworks;
- 6.3. To develop comprehensive guidelines on harmonised converged/unified licensing frameworks;
- 6.4. To develop common strategies for the management of the transition from existing licensing regime to converged /unified licensing frameworks; and
- 6.5. To harmonise broadband licensing fees

7.0. DELIBERATIONS

7.1. Objectives of a unified/converged licencing framework and the transition challenges

The objective was to overcome the issues brought about by the convergence of technologies whereby different networks carry similar kinds of services or alternatively ability to provide a range of services over a single network. The legacy licensing framework which is technology and service specific may hinder the development of the sector therefore the urgency to migrate to converged/unified licensing framework.

7.2. Each Country’s Converged Licensing Status, Experience And Challenges Faced By Each

The meeting was informed that Uganda¹ has developed a streamlined technology/neutral licensing regime that was implemented in 2007 with 3 licence categories. Rwanda² is in the process of introducing a converged licensing framework with four licence categories whereas Burundi³ plans to introduce unified licensing framework with two licence categories. An updated summary of the information on the EAC licensing frameworks is indicated in Table 1 below:

Table 1: Summary of licensing frameworks in EAC Member States

COUNTRY	KENYA	TANZANIA	RWANDA	BURUNDI	UGANDA
Relevant laws	Kenya Information and Communications Act Chapter 411A	The Electronic and Postal Communications Act, 2010 and the Electronic and Postal Communications (Licensing) Regulations, 2011	ICT Bill (in the Parliament)	Draft electronic communications law	- Uganda Communications Act CAP 105 - Uganda Communications Regulatory Authority Bill (waiting for Presidential Assent) - Electronic Media Act
License/Authorisation	Description	Description	Description	Description	Description
Network Facility	A licence is issued for construction and operation of any form of communications infrastructure (active & passive) within the country.	A licence is issued for construction, maintenance and making available electronic communications facilities, like fixed	A licensee is issued for ownership and management of electronic communications infrastructure for providing basic	An authorisation is issued for construction and/or exploitation of national and international public networks.	- Public infrastructure Provider (PIP – Voice & Data) -

¹ The Uganda Communications Regulatory Authority Bill is awaiting presidential assent to legally merge the broadcasting and telecom regulatory authority.

² The Rwandan Parliament is currently discussing a bill which amongst other issues, introduces issuance of converged licences.

³ The Burundian Cabinet is currently discussing a bill in this same regard.

COUNTRY	KENYA	TANZANIA	RWANDA	BURUNDI	UGANDA
	<p>Separate licences are issued for:</p> <ul style="list-style-type: none"> • Satellite based communications – issued with International Gateway Licence and • Undersea cable based communications – issued with a Sub-Marine Cable Landing Licence 	<p>links, radio communications transmitters, satellite station, submarine cable, fibre /copper cable, towers, switches etc, to other licensed operators on commercial basis. This type of licence is provided in the following 4 segments:</p> <ul style="list-style-type: none"> - International - National (all regionals) - Regional - District <p>For international and national segments, these can be provided under one licence with different fees & rollout plans.</p>	<p>connectivity and bandwidth to support a variety of applications;</p>		
<i>Networks Services</i>	Included in network facilities above	A licence is issued to operate and maintain public electronic communications	A licence is issued to operate electronic communications networks;	Included in the Authorisation above.	- Public Service Provider (PSP – Two types: i) Capacity Resale

COUNTRY	KENYA	TANZANIA	RWANDA	BURUNDI	UGANDA
		networks using any technology of their choice.			Services ii) Voice & Data Providers
<i>Application Services</i>	A licence is issued to provide all forms of application services to end users using network facilities of NFPs; e.g. voice, internet etc	A licence is issued for provision of electronic communications services to end users by means of one or more network services but does not include services provided solely on customer side of the network boundary. Examples of these services include internet services providers, messaging services, financial services (such as mobile banking), gaming services, video conference, virtual applications, closed user groups and payphone services.	A licence is issued for resale or procurement of services from Network Service Providers for providing particular functions such as voice services, data services, Internet access services, IP telephony, and other transmission services. The Application Service Licensee does not own network infrastructure nor operate network;	Permission is given on notification to provide: <ul style="list-style-type: none"> ➤ Electronic communications service provider using third party networks (comprising internet) ➤ Value added service 	General Authorization (e.g. public payphones etc)

COUNTRY	KENYA	TANZANIA	RWANDA	BURUNDI	UGANDA
<i>Content Services</i>	A licence is issued to provide all forms of content services to end users e.g. money transfer services, electronic gaming etc	A licence is issued for provision of services offered for speech or other sound, data, text or images whether still or moving, except where transmitted in private communications. e.g. broadcasting services such as Television broadcasting (Free to Air), Radio services (Free to Air), Subscription broadcasting (terrestrial), Subscription broadcasting (satellite), Subscription broadcasting (other technologies), support services (terrestrial), support services (satellite).	A licence, which is a special subset of applications service, is issued for the provision of broadcasting services e.g. traditional broadcast services through Satellite Broadcasting, Terrestrial Free to Air Television, Terrestrial Radio Broadcasting, online publishing and information services and other electronic media.	Managed by a different regulator (National Council for Communications)	Technical and Content are currently issued together as a Broadcasters Licence. However, there is a proposal by UCC to separate the two and issue a Content Service Provider Licence

7.3. Common Strategies For The Management Of Existing Licensing Towards C/ULF

The meeting identified common strategies for the management of the transition from existing licensing regime to converged /unified licensing frameworks. This includes but not limited to the following strategies:

- i. Creation of policy
- ii. Creation of legal framework i.e. statutes and regulations
- iii. Engagement of stakeholders in dialogue to aid their understanding and adoption of the new licensing framework
- iv. Flexible migration terms including feasible timeframe for migration
- v. Incentive regulation through waiving of new regulatory fees and longer licence duration
- vi. Feasible migration for existing licenses

7.4. Recommendations for the EACO Member States To Harmonize The Regional Licensing Frameworks

In order to have a harmonized licensing framework in the region, the taskforce considered the following recommendations as the minimum requirements for its successful implementation.

Table 2: Recommendations on Harmonizing the Licensing Frameworks

	Recommendation	Rationale	Responsibility/ Actor(s)
1.	Establishment of an enabling and desirable legal and regulatory framework that takes into account convergence;	- Legal backing that puts into place converged/unified licensing framework	i. Government ii. Regulatory Authority
2.	Determining the licence categories and their description within the converged/unified framework;	- To establish market/ investments certainty - To promote competition - To offer flexibility in technologies, services and markets	i. Regulatory Authority
3.	Timeframe for migration;	- To provide an acceptable timeframe for existing licensees to migrate to converged/unified licensing framework - To ensure smooth transition to the converged/unified licensing framework	i. Regulator ii. Existing Licensees
4.	Provide regulatory incentives for migration;	- To encourage existing licensees to migrate	Regulators
5.	Reviewing the framework within 3 years time in tandem with sector developments;	- To accommodate the technological advancement in the sector and also license terms and conditions	Government/Regulators/ Operators

7.5. Drafting Of Proposed Guidelines for a harmonized Unified/Converged Licensing Frameworks in the Region

The taskforce deliberated on the matter and came up with proposed guidelines for consideration by the Congress. It was also noted that there was a discrepancy in the member state's understanding with respect to the number of licence categories to be involved with unified/converging licensing frameworks.

Furthermore, it is yet to be clear to the members as to which licence categories should be unified and their scope.

As a result, the taskforce proposes the attached guidelines for a harmonized converged/unified licensing framework (Annex II)

7.6. Discuss And Propose Harmonized Broadband Licensing Fees

The taskforce found that there was no country licensing broadband on its own. Consequently, it was concluded that indeed broadband technologies and services fit well in the converged/unified licensing frameworks due to inherent service and technology neutrality.

The taskforce therefore finds no need to harmonize broadband licensing fees as none exist in the region.

8.0. VENUE OF THE NEXT MEETING

The taskforce still has several pending issues that are yet to be concluded including but not limited to the development of comprehensive guidelines and harmonization of licensing fees. It was therefore agreed that members will review them online before the 2nd meeting. It was proposed that the next meeting be held in Bujumbura, Burundi either in **February/April 2013.**

9.0. VOTE OF THANKS

On behalf of the delegates, Ms. Fortunata Mdachi gave a vote of thanks to the administration of Kenya for hosting the meeting and for their hospitality.

10.0. CLOSING OF THE MEETING

In the closing remarks, the Acting Chairman of the Task Force, Ms. Marie Chantal Gakima, thanked the participants for their commitment to the taskforce. She encouraged continued collaboration and sharing of information within the East African Community.

The Acting Chairman therefore declared the meeting closed at 16:20hrs on 5th December 2012.

Annex I

AGENDA FOR THE EACO HARMONIZATION OF CONVERGED LICENCING/UNIFIED FRAMEWORK TASKFORCE MEETING IN NAIROBI, KENYA, 3RD TO 5TH DECEMBER. 2012

DAY 1		
TIME	PROGRAM	ACTION BY:
09:00-09:30	Registration	ALL
09:30-10:00	Welcome remarks by DG	CCK
10:00-10:10	Adoption of Agenda	ALL
10:10-10:20	Introduction of delegations	ALL
10:20-10:25	Election of Bureau	ALL
10:25-10:40	Overview on Objectives of A Converged Licencing Framework and the Transition Challenges	Chair HCLF Taskforce
10:40-11.00	Presentation of the previous taskforce meeting report and recommendations by the last EACO Congress on HCLF	Ms Marie Chantal GAKIMA, RURA

11:00-11:30	HEALTH BREAK	ALL
11:30-12:00	Presentation on each country's Converged Licensing status, experience and challenges faced by each	Burundi representative
12:00-12:30	Presentation on each country's Converged Licensing status, experience and challenges faced by each	Rwanda representative
13:30-14:30	LUNCH BREAK	
	Presentation on each country's Converged Licensing status, experience and challenges faced by each	Uganda representative
	Presentation on each country's Converged Licensing status, experience and challenges faced by each	Tanzania representative
	Presentation on each country's Converged Licensing status, experience and challenges faced by each	Kenya representative
14:30-15:30	Develop common Strategy for	Chair

	the Management of existing Licensing towards CLF	HCLF Taskforce
15:30-16:00	Discussions and wrap up	Chair HCLF Taskforce
16:00-16:15	HEALTH BREAK	ALL
DAY 2		
TIME	PROGRAM	ACTION BY:
09:00-10:30	Discussions and make Recommendations for the EACO member States to harmonize the Regional Licensing Frameworks	Group discussions led by RURA
10:30-11:00	HEALTH BREAK	ALL
11:00-12:00	Sharing of Information and experiences on Managing the Transition from Legacy to the Converged Licensing framework	Group discussions led by TCRA
12:00-12:30	Drafting of proposed guidelines for a harmonized Converged Licensing Frameworks in the Region	Group discussions to be led by UCC
		ALL

12:30-13:30	LUNCH BREAK	
13:30-14:30	Drafting of proposed guidelines for a harmonized Converged Licensing Frameworks in the Region	Group discussions to be led by UCC
14:30-15:30	Discuss and Propose a Harmonized Broadband Licensing fees	Group discussions led by CCK
15:30 – 16:00	c	Lead person: Chair
16:00 – 16:15	HEALTH BREAK	ALL
DAY 3		
TIME	PROGRAM	ACTION BY:
09:00-10:30	Report writing	Lead person: Rapporteurs
10:30-11:00	HEALTH BREAK	
11:00-12:00	Approval of the Report	Lead person: Rapporteurs
12:00 – 12:30	Agree on DATE and VENUE for the next Meeting and Closure	ARCT

12;30-13;30	LUNCH BREAK	ALL
13:30 Onwards	BON VOYAGE	ALL

Annex II

DRAFT

GUIDELINES ON HARMONISED CONVERGED/UNIFIED LICENSING FRAMEWORKS

1.0 Scope

These Guidelines are expected to cover the following;

- 1.1 Procedure in which National Regulatory Authority (NRA) is required to issue license under CLF/UNIFIED FRAMEWORKS/Unified frameworks.
- 1.2 Manner in which operators in East Africa can migrate in CLF/UNIFIED FRAMEWORKS.

2.0 Objectives of these Guidelines

- 2.1 To guide NRAs in migrating in CLF/UNIFIED FRAMEWORKS/Unified frameworks.
- 2.2 To NRAs on categories of licenses under CLF/UNIFIED FRAMEWORKS.
- 2.3 To enhance technology and service neutrality.

3.0. Licence Categories

NRAs are encouraged to issue licences under the following categories:

1. Network Facilities: A license for ownership, management, construction, maintenance and making available electronic information infrastructure for providing basic connectivity and band width to support applications.

Network Services:

2. Applications Services: License for provision or re-sale of electronic communication services such as voice, data, internet, messaging services, financial services (mobile banking services), gaming (including lotteries) services and other value added services.

3. Content Services:

- License for provision of broadcast services such as TV and radio

- Licence for provision of multimedia services

4.0 Terms and Conditions for licences under CLF/UNIFIED FRAMEWORKS

should include the following:

1. Scope of the licence

Reference to the law in respective jurisdictions, authorising grant of license with specific reference to the type of services to be provided and roll out plan.

2. Duration and renewal

The number of years in which a licensee is authorised to provide services. Application for renewal shall be made one year prior to expiry of the license.

3. Shareholding

Licensee shareholding structure to be provided as an Appendix to license. Licensee to comply with any ownership requirements in the respective jurisdictions.

4. Payment of regulatory fees

Payment of application fee, initial license fees, annual fees, and any other regulatory fees to be made as required by respective jurisdictions.

5. Provision of Services

Provision of services to be provided in accordance with the requirements of the relevant law and applicable recommendations of the ITU and cognisance of the regional and international standards.

6. Modification of licence

Terms and Conditions of the license to be modified in accordance with the law.

7. Non discriminatory interconnection

Interconnection agreements where applicable shall be made without discrimination on any basis.

8. Suspension/Cancellation for breach of conditions

Where there is material breach of license conditions, suspension or cancellation of license shall be imposed.

9. Type approval in conformity with regulatory standards

Licensee to comply with type approval requirements where applicable.

10. Quality of Service

Licensee to comply with quality of services requirements.

11. Accounting Requirements

Licensee to comply with requirements on:

- (i) Maintaining financial records in accordance with good accounting practices
- (ii) Submitting to the authority on an annual basis annual reports and audited financial statements.

12. Universal service obligations

Licensee to comply with universal service obligations as provided in respective jurisdictions.

13. Dispute resolution

Licensee to comply with dispute resolution mechanisms in respective jurisdictions.

14. Transfer of licence

Licensee shall transfer license subject to approval by the respective regulatory authority.

15. Compliance with the law

Licensee shall comply with provisions of the law in their respective jurisdictions.

16. Requirement to submit any information to the NRAs

Licensee shall be required to submit any information as will be directed by the National Regulatory Authority.

17. Compliance with regional, international conventions and regulations

Licensee shall comply with provisions of regional, international conventions and regulations addressing telecommunications/ICT issues.

18. Privacy & Confidentiality of customer information

The Licensee shall not disclose any information about any of its customers to any third party except to the extent that such information is required:-

- (i) for the purposes of debt collection by the Licensee from the customer concerned;
- (ii) for statistical or research purpose provided the information is in such a way that it does not link to a particular customer;
- (iii) by the Licensee's auditors for the purpose of auditing the Licensee's accounts;
- (iv) by the Licensee's attorney(s) in connection with any potential, threatened or actual litigation between the Licensee and the customer concerned;
- (v) by the Authority for the purpose of performing its functions under the Acts;
- (vi) by an order of the court in respect of legal proceedings between the customer and another party pending in court.

19. Capacity building – Human Resource Development

Licensee shall submit to the NRA Human Resource Development outlining strategies towards empowerment of its local staff.

20. Submission of roll out plans

Licensee shall submit to NRA roll out plan(s) indicating the type of service/facility, a plan/time frame and area to be provided. The roll out plan shall be attached as an Appendix to the license and may be modified to accommodate new services and technology.

21. Performance Bond/ Bank Guarantee

Where applicable Licensee shall submit to the NRA performance bond/ bank guarantee.

22. Spectrum assignment if applicable

Licensee shall comply with conditions of frequency assignment as provided in the frequency user license granted by the NRA.

23. Safety and Environment obligations

Licensee to comply with safety and environment obligations in respective jurisdictions.

5.0. Obligations of Regulators in CLF/UNIFIED FRAMEWORKS

In introducing CLF in their jurisdictions, National Regulatory Authorities shall:

- (i) Carry out consultative meetings with stakeholders on the licensing frameworks;
- (ii) Grant time frame of at least 12 months for migrating into CLF;
- (iii) Provide incentive regulations in terms of exemption of application fees or any other measures to encourage licensees to migrate into the CLF.

For the purpose of accommodating technology and service neutrality, operators may update their roll out plans annually so as to be authorised to provide new services.

6.0. Review of Guidelines

These Guidelines may be revised by EACO from time to time. _____

Issued thisDecember 2012