



# **Rules and Regulations on sharing of ICT Infrastructure**

འབྲུག་བཅོམ་འཕུལ་འཁོར་ལོ་ལྷན་ཁག་གི་འཕུལ་འཁོར་ལོ་ལྷན་ཁག་།  
**Bhutan InfoComm and Media Authority**  
**Royal Government of Bhutan**

First edition 2015  
Second edition 2019

Copyright © BICMA  
All rights reserved

**All inquiries should be addressed to:**

Bhutan InfoComm & Media Authority  
Post Box No. 1072  
Thimphu: Bhutan

## Contents

Chapter 1: Preliminary .....	1
1.1 Legal Basis.....	1
1.2 Title and Commencement.....	1
1.3 Scope of Application .....	1
1.4 Amendment.....	1
1.5 Repeal .....	1
1.6 Interpretation.....	1
1.7 Definitions .....	1
Chapter 2: General Provision .....	3
2.1 Objective.....	3
2.2 Sharing of Infrastructure.....	3
2.3 Cost of sharing infrastructure .....	3
Chapter 3: Reference Offer .....	5
Chapter 4: Procedure for infrastructure sharing.....	5
4.1 Procedure for sharing.....	5
4.2 Refusal of Access .....	6
4.3 Reservation of capacity.....	6
4.4 Obligations.....	6
4.6 Dispute Resolution.....	7

# Chapter 1: Preliminary

## 1.1 Legal Basis

These Rules and Regulations are issued as per section 51(4) of the Information, Communications and Media Act of Bhutan 2018 (“the Act”) by the Bhutan InfoComm and Media Authority (“the Authority”) to encourage and ensure promotion of sharing of infrastructure between the ICT service providers for maximizing the use of existing resources and to reduce infrastructure duplication and cost.

## 1.2 Title and Commencement

These Rules and Regulations shall be called as the Rules and Regulations on sharing of ICT Infrastructure and shall come into force on the 1<sup>st</sup> day of July, 2019 corresponding to the 29<sup>th</sup> day of the fourth month of the Bhutanese Earth Female Pig Year.

## 1.3 Scope of Application

These Rules and Regulations shall apply to all licensed service providers to create framework for better cooperation in infrastructure sharing.

## 1.4 Amendment

Amendment to these Rules and Regulations shall be made according to the needs and changes in national priorities, policies and industry trends. The amendment of these Rules and Regulation, by way of addition, variation or repeal may be effected by the Authority as and when required.

## 1.5 Repeal

With the commencement of these Rules and Regulations, the ICT Infrastructure Sharing Rules 2015 are repealed.

## 1.6 Interpretation

The power to interpret these Rules and Regulations shall be vested with the Authority who may issue such instruction as may be necessary to give effect to and carry out the provisions of these Rules and Regulations.

## 1.7 Definitions

In addition to the following terms, or unless the context requires otherwise, the words and terms used in these Rules and Regulations shall have the same meaning as assigned in the Act:

**Authority** means Bhutan InfoComm and Media Authority, established as per the provision of the Information, Communications and Media Act of Bhutan 2018.

**Infrastructure** means the airtime and/or network facilities of a licensed service provider. It also includes passive infrastructure like tower, antenna, building space, ducts, electric supply, etc. and active infrastructure like bandwidth on any transmission system, Base Station Equipments excluding radio frequency transmitters and receivers pertaining to the carrier frequencies allocated to individual service providers.

**Infrastructure Provider** means any licensed service provider who owns or is in control of an infrastructure amenable to sharing.

**Infrastructure Seeker** means any licensed service provider desirous of entering into an agreement with an infrastructure provider for the purpose of sharing infrastructure.

**Infrastructure Sharing** means the joint use of ICT infrastructures by two or more service providers.

**Operator** means the ICT facility or/and ICT service providers licensed by the Authority as per the provision of the Act.

**Passive infrastructure sharing** means sharing of non-electronic infrastructure and civil engineering elements which includes sharing of premises /compound, buildings, shelters, towers/masts, power supply (commercial as well as other source of power) , grounding/earthing, air conditioning, security arrangement, poles, ducts, trenches, right of ways, in-house wiring, sub-loop ( wire/cable) and local-loop ( wire/cable).

## **Chapter 2: General Provision**

### **2.1 Objective**

The objective of infrastructure sharing is to:

- a) Ensure that the incidence of unnecessary duplication of infrastructure and backhaul is minimized or completely avoided;
- b) Promote fair competition by providing equal access to the infrastructure and backhaul of licensed service providers, where applicable on mutually agreed terms;
- c) Minimise licensed service providers' capital and operational expenditure and to free more funds for investment in core network equipment and innovative new services;
- d) Minimise proliferation of infrastructure to promote and preserve an aesthetic environment.

### **2.2 Sharing of Infrastructure**

2.1.1 The licensed service provider shall share passive infrastructures with other licensed service provider on a "first-come, first serve" basis, determined in accordance with the order in which the request for sharing of infrastructure is received.

2.1.2 The service provider shall publish on their websites detailed information of infrastructures available for sharing with other service providers. The information shall include the indicative price and the location of such infrastructures as well as capacity available for sharing.

2.1.3 The service providers shall enter into a written agreement for sharing infrastructure based on the principles of neutrality, transparency, non-discrimination and fair competition. The copy of the agreement shall be submitted to the Authority within one month from the date of signing of the agreement.

2.1.4 Any ICT infrastructures funded by the Royal Government, either fully or partially, or through donor funding shall be shared with other service providers as per the provision of these Rules and Regulations.

### **2.3 Cost of sharing infrastructure**

2.3.1 The cost of sharing infrastructure shall be transparent, neutral, non-discriminatory and based on the actual cost.

2.3.2 The licensed service provider shall be allowed to recover their direct incremental costs of sharing. Any additional price components associated with sharing may be negotiated among the parties involved.

- 2.3.3 The costs for infrastructure sharing as well as collocation shall be unbundled. The service provider requesting access shall only be required to pay for the service availed.
- 2.3.4 The cost of new infrastructure intended for sharing shall be shared among the parties desirous of sharing in proportion to their use of such infrastructures.
- 2.3.5 In the event of a need to increase the capacity or re-locate the existing infrastructure being shared, then such costs shall be shared among the concerned parties.

### **Chapter 3: Reference Offer**

- 3.1.1 The service provider shall develop and publish the Reference Offer (RO) for infrastructure sharing on their website within sixty (60) days from the issuance of these Rules and Regulations. The RO shall form the basis for all Infrastructure Sharing Agreements to be executed thereafter.
- 3.1.2 The service provider shall have the right to negotiate and agree on terms and conditions of collocation or Infrastructure sharing within the limits of an existing RO developed by the service provider.
- 3.1.3 Infrastructure sharing agreements are required to be entered into by and between various service providers based on the RO published through mutual agreement. The parties may modify or add to the terms and conditions of the agreement based on mutual agreement.

### **Chapter 4: Procedure for infrastructure sharing**

#### **4.1 Procedure for sharing**

- 4.1.1 The Infrastructure Seeker shall submit request to Infrastructure Provider, in writing, expressing the interest of sharing infrastructure.
- 4.1.2 Upon receipt of the request, the Infrastructure Provider shall respond to the Infrastructure Seeker in writing on the status of the request (either acceptance or rejection) within ten (10) working days from the receipt of such request. If the request is acceptable to the Infrastructure Provider, then the parties shall enter into negotiation.
- 4.1.3 In the event, if Infrastructure Provider fails to respond within the stipulated time-frame, the Infrastructure Seeker shall refer the matter to the Authority.
- 4.1.4 The Infrastructure Provider shall not:
  - a) Obstruct or delay negotiations.
  - b) Refuse to provide information relevant to an agreement including information necessary to identify the facility needed.
- 4.1.5 In the event of any differences or disputes between the Infrastructure Provider and Infrastructure Seeker and failure to resolve the differences or disputes amicably among themselves, aggrieved party shall refer the matter to the Authority for resolution.



## **4.2 Refusal of Access**

4.2.1 The Infrastructure Provider reserves the right to refuse an application for sharing infrastructure only under the following circumstances:

- a) Inadequate capacity
- b) Technically not feasible
- c) Pose threat to safety

4.2.2 The decision to refuse an application for infrastructure sharing shall be communicated in writing to the Infrastructure Seeker specifying the reasons for such refusal.

4.2.3 The Infrastructure Seeker who is refused sharing may refer such refusal to the Authority.

## **4.3 Reservation of capacity**

4.3.1 The Infrastructure Provider shall have the right to reserve capacity on existing infrastructures for planned activities based on documentary evidence.

4.3.2 The right to reserve capacity as per sub-section 4.3.1 shall not be exercised by the Infrastructure Provider to discriminate between service providers or reserve infrastructure for unplanned activities.

## **4.4 Obligations**

4.4.1 While sharing, the Infrastructure Provider shall:

- a) Assign the designated space for installing equipment on the tower.
- b) Allocate space to build shelter to house power supply and other equipment in the event such space is not being shared.

4.4.2 Before setting up the infrastructure, the Infrastructure Seeker shall share the following information:

- a) The date and time for installation.
- b) Lay-out of the infrastructure.

4.4.3 Share information on the date and timing of the maintenance of the infrastructure.

4.4.4 Damage caused to infrastructure during installation or maintenance shall be borne by the concerned party causing such damage.

#### **4.6 Dispute Resolution**

- 4.6.1 Any disputes associated with infrastructure sharing shall be resolved mutually in accordance with the agreement drawn up between the parties.
- 4.6.2 In the event of disagreement, the aggrieved party shall refer the matter to the Authority.
- 4.6.3 The Authority shall maintain a record of the decisions made on disputes arising out of infrastructure sharing.

