



Rules and Regulations on ICT Facilities and Services in Bhutan

འབྲུག་བཅའ་དོན་བརྒྱུད་འབྲེལ་དང་བཅའ་བརྒྱུད་དབང་འཛིན།
BHUTAN INFOCOMM AND MEDIA AUTHORITY
ROYAL GOVERNMENT OF BHUTAN
THIMPHU, BHUTAN

First edition 2008
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
1.7 Interpretation	1
1.6 Rules of Construction.....	1
1.8 Definitions.....	1
Chapter 2: General Provisions	3
2. 1 Requirement of Licence	3
2.2 Type of ICT Licence	3
2.3 Eligibility of Licence.....	5
2.4 License Application and Procedure.....	5
Chapter 3: Licence Duration and Fees	6
3.1 Duration of the licence	6
3.2 License Fees	6
Chapter 4: Renewal, Modification and Transfer of Licence	7
4.1 Renewal of License	7
4.2 Modification of the License	7
4.3 Transfer of Licence	7
Chapter 5: Offences, Penalties and Appeals.....	8
5.1 Offences and Penalties	8
5.2 Appeals.....	8
Annexure 1: Description of ICT facility licence	9
Annexure 2: Description of ICT Service licence.....	10
Annexure 3: Licensing requirements.....	11
Annexure 4: Guideline for the preparation of detail project report –DPR by the applicant.....	12
Annexure 5: Application procedure for establishment of Telecommunication International Gateway	15

Chapter 1: Preliminary

1.1 Legal basis

These Rules and Regulations are issued as per Sections 90 to 118 of the Information, Communications and Media Act of Bhutan 2018 (“the Act”) by the Bhutan InfoComm and Media Authority (“the Authority”) for granting licences for the establishment of ICT facilities and Services in Bhutan.

1.2 Title and Commencement

These Rules and Regulations shall be called as Rules and Regulations on ICT facilities and Services in Bhutan and shall come into force on the 1st day of July, 2019 corresponding to the 29th day of the fourth month of the Bhutanese Earth Female Pig Year.

1.3. Scope of Application

These Rules and Regulations shall apply to Bhutanese individuals for establishment of ICT Facilities or provision of ICT Services.

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 Regulations 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 Rules on the Provision of ICT Facilities and ICT Services 2008 are repealed.

1.7 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.

1.6 Rules of Construction

In this Rules and Regulations, unless the context indicates otherwise, the masculine gender shall include the feminine gender and the singular shall include the plural and vice versa.

1.8. 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:

Alternative Dispute Resolution Centre means the Bhutan Alternative Dispute Resolution Centre established as per the Alternative Dispute Resolution Act 2013.

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

Adjusted Gross Revenue is defined as the Licensee's annual gross revenue from Licensed Services minus payments made by the Licensee for interconnection and other inter-operator services that are acquired by the Licensee in connection with the provision of the Licensed Services.

Business Process Outsourcing means the process of hiring another company to handle its business activities through the use of ICT.

Commercial Operation means the use of an ICT Facility by a Licensee to provide an ICT Service to any other person or Licensee, with or without charging a fee for that service.

Communication System means facilities, equipment or components which are used for the emission, transmission or reception of messages by any wire, cable, radio, wireless, microwave, laser, satellite, optical or other electromagnetic system; provided the facilities, equipment or components are located in Bhutan.

Multi Service Operator means a television Content Provider who acquires multiple Cable television content, re-process and then distributes to the Local Cable Operator.

ICT Facility means any facility or apparatus that is used or is capable of being used principally for, or in connection with, the provision of ICT services, and includes a transmission facility as well as any or all of the following facilities, fixed links and cables, computer facilities; pay-phone/communication facilities; radio communication transmitter, receivers and links; satellite earth stations, towers and poles; and ducts and pits used in conjunction with other facilities as may be prescribed by the rules, unless stated, an ICT facility relates to a public ICT facility.

ICT Service means any or all of the following services: telecommunications services, such as public telephony, telegraphy, facsimile, cellular telephony, and pay-phone/communication services; broadcasting services like satellite broadcasting, broadcasting distribution (cable television), mobile satellite, subscription broadcasting, and terrestrial free-to-air television and radio broadcasting, information technology services, such as Internet service, web-casting, e-mail and any other electronic service; Internet Protocol (IP) telephony; digital library and commercial information services; network-based information and related specialised professional services provided by electronic means, public-switched data and any other similar service, and includes such other services as may be prescribed by the rules; unless otherwise stated, an ICT service relates to a public ICT service.

Telecommunication means any transmission, emission or reception of signals, writing, images, data and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic system.

Chapter 2: General Provisions

2.1 Requirement of Licence

- 2.1.1 As per section 90 of the Act, any person who intends to establish ICT facility or provide ICT service in the country shall apply for ICT Facility based license or ICT service based license to the Authority as per the format prescribed in Annexure 4 or 5 of this Rules and Regulations.
- 2.1.2 A person shall not own or operate an ICT facility or provide any ICT service or value-added service without obtaining licence from the Authority.
- 2.1.3 Any ICT facility established or equipment installed by a person for the sole purpose of personal, private or internal organization use are exempted from obtaining a licence, provided such equipment does not:
- (a) Interfere with the operation of licenced ICT facility or ICT service, or
 - (b) Amount to using spectrum identified for allocation to the licenced ICT facility or ICT service provider.
- 2.1.4 The Authority has the right to determine and issue a consolidated licence where several licences or other authorizations are necessary to be obtained by a single licensee under various provisions of the Act.
- 2.1.5 All licenses granted under this Rules and Regulations shall be non-exclusive and non-transferable unless approved by the Authority.
- 2.1.6 Every applicant for a licence to establish ICT facility or provisioning of ICT service shall disclose to the Authority the following information:
- (a) The name and addresses of the persons holding shares or ownership or other beneficial interests therein.
 - (b) Financial information and business plan relevant to the application.
 - (c) Infrastructures and technological deployment, and
 - (d) Any other information as determined by the Authority.

2.2 Type of ICT Licence

2.2.1 The Authority shall issue three different types of ICT licences as follows:

- (a) **ICT Facility Licence:** A licence to establish ICT facilities as defined above. The list of ICT facilities are provided in **Annexure 1** of this Rules and Regulations.

(b) **ICT Service Licence:** A licence for provisioning of ICT services as defined above. The list of ICT services are provided in **Annexure 2** of this Rules and Regulations.

(c) **Consolidated Licence:** A licence to establish ICT facilities as well as provide ICT services.

2.2.2 The ICT Facility based license shall include:

(a) Public switched telephone facilities, whether fixed, wireless or cellular, using either packet or circuit based switching or routing techniques.

(b) Communication Systems and networks used for interconnection.

(c) Cable facilities, cables and cable landing points, whether underground or on land, which originate on, or terminate on, or traverse the territory of Bhutan.

(d) Communication Systems incorporating orbiting or geo-stationary satellites, including Very Small Aperture Transmission (VSAT) satellites.

(e) Fibre cable systems including the dark fibre or any other unlit fibre, and

(f) The international gateways.

2.2.3 The ICT Service based license shall include:

(a) Communication Services

(i) All forms of wholesale communication services or any other form of supply of communication system capacity, whether as interconnection services or as airtime to the subscribers;

(ii) All forms of retail communication services involving the transmission to and from subscribers of signals over communication systems, including the domestic and international transmission of voice, data, facsimile, moving image or still image messages, regardless of the method of transmission; and

(iii) All forms of providing (including selling, leasing, renting, donating, etc.) dark or unlit fibre;

(b) Television services:

(i) All forms of satellite and terrestrial television broadcasting services;

(ii) All forms of television content distributed through cable, satellite or wireless technology; and

(iii) All forms of streaming videos and television content over the internet.

(c) Sound broadcasting services:

(i) All forms of sound broadcasting such as FM, AM and SW system.

(d) Internet services:

(i) Any data services including internet bandwidth services (wholesale and retail).

2.3 Eligibility of Licence

- 2.3.1 Any eligible Bhutanese citizen provided that the applicant does not hold majority share in any other ICT facilities and service licence.
- 2.3.2 Any person holding majority share in any ICT facility and service licence shall not be eligible for more than five (5) percent shares in the subsequent ICT facility and service licence.
- 2.3.3 The Authority shall determine the majority share holding of the applicant based on the size of the investment and type of market of the company.

2.4 License Application and Procedure

- 2.4.1 The application for ICT Facility and ICT Service based license shall be submitted to the Authority along with a detail project proposal as per the format prescribed in the Annexure 4 of these Rules and Regulations.
- 2.4.2 After the receipt of the proposal, the Authority shall fix date, time and venue for the applicant to make presentation to the Authority.
- 2.4.3 The Authority shall, either reject the proposal or seek additional information in the event if the information submitted is found to be insufficient.
- 2.4.4 The Authority shall intimate the decision in writing to the applicant within seven (7) working days after the presentation to the Authority.
- 2.4.5 The Authority shall where necessary, before granting a licence, take into account whether the:
 - (a) Applicant possess the technical and financial requirements necessary for obtaining the licence,
 - (b) Applicant is “fit and proper person” to be granted a licence.

- (c) Interests of subscribers, purchasers and other users of ICT facilities or ICT services are protected,
- (d) Competition among providers of ICT facilities or ICT services are promoted,
- (e) National and public interest are safeguarded.

Chapter 3: Licence Duration and Fees

3.1 Duration of the licence

3.1.1 A licence granted as per the provision of this Rules and Regulations shall be for the period specified below:

- (a) Five (5) years for ICT services.
- (b) Ten (10) years for ICT facility.
- (c) Fifteen (15) years for consolidated ICT services

3.2 License Fees

3.2.1 The License fees for ICT facility and ICT service licenses shall comprise of an initial fee and annual regulatory fee.

3.2.2 The initial licence fee shall be:

- (a) Ngultrum ten thousand (Nu.10,000.00) for ICT Service licenses.
- (b) Ngultrum hundred thousand (Nu.100,000.00) for ICT Facility licenses.

3.2.3 An annual regulatory fee of one percent (1%) on the Adjusted Gross Revenue (AGR) shall be charged. However, this fee shall be applicable only if the Authority becomes financially autonomous.

Chapter 4: Renewal, Modification and Transfer of Licence

4.1 Renewal of License

- 4.1.1 All licenses shall be renewed before the expiry of its term upon payment of renewal fee equivalent to the initial licence fee.
- 4.1.2 The Authority may not renew the licence if the licensee has engaged in the conduct that materially contravenes or contravened the Act, Rules, Directives issued by the Authority, or any condition of the licence terms and conditions. The Authority shall convey its decision in writing within ten working days of its intention not to renew the licence.
- 4.1.3 A penalty of Ngultrum fifty (Nu. 50) per day shall be levied for failing to renew the licence after its expiry.

4.2 Modification of the License

- 4.2.1 The modification of the license shall only be made by the Authority:
- (a) Where the Authority and the Licensee, by agreement in writing, agree to modify the licence, or
 - (b) On the recommendation of the Ministry based on the national interest and security of the country.
- 4.2.2 In the event of Section 4.2.1(b) above, the Authority shall give to the licensee a written notice that:
- (a) Sets out the proposed modification.
 - (b) State the reasons for the proposed amendment.
 - (c) Invite the licensee to show cause within thirty (30) days why the licence should not be modified.
- 4.2.3 The Authority may modify the licence if, after considering and having regard to all the representations made within thirty (30) days. The modification shall only be:
- (a) In the manner set out in the notice, or
 - (b) Some other manner consistent with the representations.

4.3 Transfer of Licence

- 4.3.1 A person wanting to transfer the licence shall apply to the Authority in writing.
- 4.3.2 The Authority may approve an application for the transfer of licence provided the proposed transferee meets all the regulatory requirements.

Chapter 5: Offences, Penalties and Appeals

5.1 Offences and Penalties

- 5.1.1 Any person who owns and operates any ICT facility or ICT services without valid license shall be guilty of an offence of misdemeanour.
- 5.1.2 Any person involved in effecting any purported transfer of a licence other than in accordance with Section 4.3 of these Rules and Regulations shall be liable for petty misdemeanour.
- 5.1.3 Any person who contravenes any provision of the Act, Rules and Regulations, licence terms and conditions and the directives for which no penalty is specifically provided shall be guilty of an offence, which shall be a petty misdemeanour.

5.2 Appeals

- 5.2.1 Any appeal against the decision of the Authority shall be made to the Alternative Dispute Resolution Center within ten (10) working days as per section 67 of the Act.
- 5.2.2 While appealing against the decision of the Authority, the Licensee shall bear all the expenses incurred by Authority including registration fee payable to the Alternative Dispute Resolution Centre.

Annexure 1: Description of ICT facility licence

The detailed list of installation which requires ICT Facility license includes but not limited to the following;

Category	Facility nature	Description
Public Switched Telephone Network	Fixed Wire line	A fixed wired network facility which provides access to ICT telephony services to residential and or business subscribers,
	Fixed Wireless	A wireless network (other than cellular mobile) which provides access to ICT telephony services to residential and or business subscribers,
	Mobile Network	Any facilities and installation that are required to provide cellular mobile services to the subscribers,
	Fibre cable installation (Domestic and International)	Whether “lit” or “unlit”
	Satellite Communications network	Any space satellite objects, satellite communication ground stations and also other ground terminal equipment including the VSAT terminals,
Broadcasting Network	Broadcast network	Any television and radio network installations,

Annexure 2: Description of ICT Service licence

Category	Service nature	Description
Telephony	Fixed Telephony Services	Any telephony services provided through the fixed wired or wireless network
	Mobile telephony Services	Any telephony services which is provided through cellular network
	Resale of Telephony	Telephony services which includes those services sometime referred to as calling card services or virtual network providers
	Internet telephony	Telephony services which includes the voice over internet.
Television Broadcasting	Public Service Television broadcasting	Any radio, television and other electronic media outlets whose primary mission is public service
	Private Television broadcasting	Any television station which are privately owned corporate media, as opposed to state sponsorship.
	Subscription Television Broadcasting	The distribution of broadcasting content which is referred to as “cable broadcasting” or wireless cable broadcasting”.
Sound Broadcasting	FM radio services	The sound broadcasting over FM radio technology
Internet Services	Internet service providers	A company that provides subscribers with access to the Internet.
	Business process Outsourcing (BPO)	Data centres, Call centres etc

Annexure 3: Licensing requirements

Licensing Category	Requirements
ICT Facility Based Licence	<p>The applicant must submit comprehensive business plan (detail project report) that will include but not limited to:</p> <ul style="list-style-type: none"> • Company information: the management including shareholders, technical and business management capacity. • Type of Infrastructure to be built including network plan • Network roll-out plan • Target customers and pricing • Financial capacity supported by proof of funding from a financial institute.
ICT Service Based Licence	<p>The applicant must submit comprehensive business plan (detail project report) that will include but not limited to:</p> <ul style="list-style-type: none"> • Company information: the management including shareholders, technical and business management capacity • Type of services and applications to be offered along with roll-out plan • Network to be used including evidence of discussion with the Licence ICT Facility Provider • Target customers and pricing of the services • Financial capacity supported by proof of funding from a financial institute

Annexure 4: Guideline for the preparation of detail project report –DPR by the applicant

The detail project report must include the following information:

(a) Organisation and Corporate information

- i. Details of the applicant: Name of the applying individual/ group of individual or company, contact telephone number, facsimile number, e-mail address, and name and designation of a contact person within the application's organization.
- ii. Details of the shareholders including their profile.
- iii. Comprehensive curriculum vitae of the applicant including details of the applicant's current activities.
- iv. Name of the proposed organization (company).

(b) Project Management and Implementation Plan

- i Location of the International gateway and its interconnection plan with other service provider.
- ii Implementation and management plan including implementation schedule in Gantt chart.
- iii Management strategy and its future plan for first three years.

(c) Financial Information and Business Plan

The financial information should include:

- i. Projected capital and operating expenditure.
- ii. A breakdown of the proposed capital expenditure and working capital requirements for the first five years of operation.
- iii. Documentary evidence to prove that the applicant has the financial capacity to meet the capital investment required in carrying out the activity proposed including the proposed source of funds.

The Business Plan information should include:

- i. Comprehensive business plan.

- ii. Projected volume of business, indicative prices for the services and market share for the first five years of operation.
- iii. The forecast internal rate of return and payback period of the investment.
- iv. The segment of the market (specific geographical area) that the applicant will target.
- v. Distribution, marketing and promotion strategy.
- vi. The service roll-out for the next five years including description of the activities that will take place in a given time framework such as pre-commencement and post commencement of services.

(c) Infrastructure and Technologies

The infrastructure and technology details should include:

- (a) Details of the proposed technology used for delivery of services.
- (b) Details of Location of the facility to host the servers (For Internet services only).
- (c) Detail on the Internet backbone connectivity (For internet services only).
- (d) Details on transmission including the location of transmission and geographical coverage.
- (e) Type of infrastructure that would be shared with other facility/ service providers.
- (f) **Network Configuration:** Refer to the overall infrastructure and the components of the networks to enable the provision of the services. This should include, where relevant the network management capabilities, routing plan, transmission plan, signalling plan and diversity plans.
- (g) **Network coverage:** The planned locations and technical details of stations, exchanges, radio base station sites and other equipment to be installed and frequency spectrum to be used.
- (h) **Service Coverage, Capacity and Improvement:** The planned geographical coverage of the network upon launch of services and the network capacity expansion plans for the first 5 years of operation; and commitments for improvements to infrastructure facilities for the next 5 years.
- (i) **Network Interconnection:** Technical proposals for interconnections with existing network of the licensed service providers the interconnection configuration, point of interconnection interface requirements and diversity arrangements.
- (j) **Network Code of Practice, Security and Protection:** Network performance with an indication of the minimum standards and details of network security, IT/system security

and physical network protection.

- (k) **Network technologies:** Technologies employed for the systems to deliver services with the rationale for the choice of technologies selected.

d) An Impact Report

An impact analysis report on the following subject:

- i. How the applicant's operations will benefit/impact the development of the ICT services.
- ii. Strategies that will be employed to compete effectively in the Bhutanese ICT sector.
- iii. Details of any initiatives that would be undertaken towards sharing of infrastructures.

Annexure 5: Application procedure for establishment of Telecommunication International Gateway

1. Application Procedures

The application must be submitted the following documents along with detail project report (DPR) in the format mentioned below.

- Copy of the Citizen ID Card
- Security Clearance

2. Information required for licence application

To facilitate easy assessment of the application, the applicant shall submit DPR in the following format and order of information:

2.1 Organization, Corporate information and experience

- i) Name of the applying individual/ group of individual or company, contact telephone number, facsimile number, e-mail address, and name and designation of a contact person within the application's organization.
- ii) Comprehensive curriculum vitae of the applicant including details of the applicant's current activities.
- iii) Name of the organization (company) proposed.
- iv) Detailed information on the proposed company, its corporate and shareholding structure.
- v) Detail information on its experience/knowledge of the company or its shareholders, directors, employees, partners in the field of telecommunications business including its Management, Financing and marketing.
- vi) Diagrammatic representation of the management reporting structure as well as general organization chart indicating the distribution of function within the organization.

2.2 Project Management and Implementation Plan

The applicant shall submit detail information on:

- i) Location of the International gateway and its interconnection plan with other service provider.
- ii) Implementation and management plan including implementation schedule in Gantt chart.
- iii) Management strategy and its future plan for first three years.

2.3 Infrastructure and Technologies

Among other information, infrastructure and technology details should include:

- i) Detail block diagram of system network with descriptions.
- ii) Technical system configuration including technical specification of the major equipments.
- iii) Network connectivity with other service providers.
- iv) Quality of Service Obligation fulfilment plan including Monitoring and compliance detail.
- v) System arrangement to identify, block and eliminate illegal traffic.
- vi) Network security including risk identification and risk respond strategy and plan.

2.4 Financial Information and Business Plan

The financial information should include:

- (i) Projected operating and capital expenditure.
- (ii) A breakdown of the proposed capital expenditure and working capital requirements for the first five years of operation.
- (iii) Sufficient documentary evidence to prove that the applicant has the financial capacity to meet the capital investment required in carrying out the activity proposed. Additionally, include details of proposed financing structure including proposed source of funds.
- (iv) Financing from the foreign sources shall be a cause for rejecting an application.

Among other things, Business Plan information should include:

- (i) Comprehensive business plan including service (internet) expansion plan, in phase-wise, to all 20 Dzongkhags.
- (ii) Projected volume of business, indicative prices for the services and market share for the first five years of operation.
- (iii) Projected profit and loss account including details of revenue (the method of calculation should be clearly outlined), balance sheet and budgeted cash flow statements, showing the amount of capital to be invested on an annual basis for five years. All assumptions used (asset depreciations policies, annual increase/decrease in operation expenditure) shall be clearly explained.
- (iv) The forecast internal rate of return and payback period of the investment.
- (v) The segment of the market that the applicant will target (e.g. specific geographical area, activity, viewership or other service providers).
- (vi) Distribution, marketing and promotion strategy.

2.5 An Impact Report

An impact analysis report on the following subject must also be submitted:

- a) How the applicant's operations will benefit/impact the country, people and ICT sector.
- b) Strategies that will be employed to compete effectively in the Bhutanese ICT sector.
- c) Details of any initiatives that would be undertaken towards sharing of infrastructure