



ETHIOPIAN COMMUNICATIONS AUTHORITY

**TELECOMMUNICATIONS
INFRASTRUCTURE SHARING AND COLLOCATION
DIRECTIVE**

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TELECOMMUNICATIONS

INFRASTRUCTURE SHARING AND COLLOCATION DIRECTIVE

WHEREAS, Article 6 (2) of the Communications Service Proclamation No. 1148/2019 (the “Proclamation”), confers on the Ethiopian Communications Authority (the “Authority”), the power to implement policies for communications services in Ethiopia;

WHEREAS, Article 44(5) of the Proclamation grants to the Authority the power to issue directives for the provision of collocation space, including standard technical and commercial terms;

WHEREAS, Article 44(10) of the Proclamation gives power to the Authority to prescribe directives for the sharing of infrastructure, including standard technical and commercial terms;

WHEREAS, Article 54(2) of the Proclamation confers on the Authority the power to issue directives for implementation of the Proclamation and Regulations issued pursuant to the Proclamation;

NOW THEREFORE, the Authority hereby issues this Telecommunications Infrastructure Sharing and Collocation Directive.

PART I

SHORT TITLE, DEFINITIONS, OBJECTIVE, AND SCOPE OF APPLICATION

1. Short Title

This Directive shall be referred to as the “Telecommunications Infrastructure Sharing and Collocation Directive No. 7/2020.”

2. Definitions

Words and phrases used in this Directive shall have the meaning and application given to them in Communications Service Proclamation No. 1148/2019. In this Directive, unless the context otherwise requires:

- 1) **“Infrastructure Sharing and Collocation Provider”** means a Telecommunications Operator that provides collocation space or infrastructure sharing services to another Telecommunications Operator.
- 2) **“Infrastructure Sharing and Collocation Seeker”** means a Telecommunications Operator seeking to acquire, or acquiring, collocation space or infrastructure sharing services from an infrastructure sharing and collocation provider.
- 3) **“Infrastructure Sharing and Collocation Services”** means services provided by one Telecommunications Operator to another, for collocation purposes or infrastructure sharing and encompass various kinds of collocation and infrastructure sharing arrangements, where an infrastructure sharing and collocation seeker compensates an infrastructure sharing and collocation provider, for the right to use or make use

of, network equipment, systems, facilities, premises, or infrastructure, belonging to, or controlled by, an infrastructure sharing and collocation provider. Annex A provides a list and definitions of some of these services.

- 4) **“Active Infrastructure”** means the elements or components on the active layer of a Telecommunications Network, including, but not limited to, antennas, switches, servers, databases, radio access nodes, and transmission equipment.
- 5) **“Authority”** means the Ethiopian Communications Authority established under the Communications Service Proclamation No. 1148/2019.
- 6) **“Collocation”** means the placement of network equipment or systems which are used for service provision by a Telecommunications Operator together with network equipment or systems installed at premises controlled by another Telecommunications Operator at a technically feasible location on the basis of agreement reached between them.
- 7) **“Infrastructure Sharing”** means various kinds of arrangements to share an infrastructure sharing and collocation provider’s active and passive infrastructure, including, but not limited to, the sharing of network elements, systems, equipment, facilities, premises or rights of way, with an infrastructure sharing and collocation seeker, subject to an agreement between the parties.
- 8) **“Interconnection Services”** means services provided by one Telecommunications Operator to another, for the purpose of achieving interconnection of their Telecommunications Networks.
- 9) **“Passive Infrastructure”** means infrastructure that is not part of the active layer of a Telecommunications Network, including but not limited to, sites, buildings, shelters, towers, masts, poles, ducts, trenches, electric power supply, and air conditioning.
- 10) **“Reference Infrastructure Sharing Offer (RISO)”** means a standard form infrastructure sharing and collocation agreement, which describes the relevant services offered broken down into components, and the associated terms and conditions, including charges.
- 11) **“Requested Operator”** means a Telecommunications Operator that has received a request for infrastructure sharing and collocation services from another Telecommunications Operator.
- 12) **“Requesting Operator”** means a Telecommunications Operator that is requesting infrastructure sharing and collocation Services from another Telecommunications Operator.
- 13) **“Retail Telecommunications Service”** means a Telecommunications Service that is provided directly to the public but not to another Telecommunications Operator.

3. **Objectives**

The main objectives of this Directive are to:

- 1) Provide a framework to govern infrastructure sharing and collocation agreements;
- 2) Provide clarity on the rules and procedures the Authority shall follow to regulate infrastructure sharing and collocation, in accordance with Article 44 of the Proclamation;
- 3) Minimize the cost of network deployment;
- 4) Protect the environment by reducing the proliferation of towers and facilities installation thereby not changing the aesthetics of the country's landscape;
- 5) Enhance competition amongst Telecommunications Operators in a cooperative environment;
- 6) Maximize use of network infrastructure including but not limited to network capacity and capabilities, base station sites, backbone, towers and reduce duplication of investment for network facilities;
- 7) Ensure that the economic advantages derivable from the sharing of infrastructure are harnessed for the overall benefit of all telecommunication stakeholders;
- 8) Encourage operators to pursue a cost-oriented policy with the added effect of a reduction in the tariffs chargeable to consumers; and,
- 9) Enable the Authority to coordinate and cooperate with other government Institutions involved in infrastructure deployment and /or installation

4. Scope of Application

This Directive shall apply to all Telecommunications Operators in the Federal Democratic Republic of Ethiopia.

PART II ROLE OF THE AUTHORITY

5. Role of the Authority

- 1) The Authority shall:
 - a) Endeavor to facilitate the provision of infrastructure sharing and collocation services amongst Telecommunications Operators;
 - b) Regulate the provision of infrastructure sharing and collocation Services;
 - c) Provide a high degree of certainty on the rules governing the provision of infrastructure sharing and collocation services between Telecommunications Operators;
 - d) Intervene to determine the terms of the agreement in accordance with Articles 44 (4) and 44 (9) of the Proclamation when parties are unable to reach an agreement for infrastructure sharing and collocation services; and,

- e) At all times, reserve the right to examine incidence of infrastructure sharing and collocation to ensure consistency with the relevant license(s) and reduce the risk of a lessening of competition.
- 2) The Authority may:
- a) Intervene at its own discretion, or if requested by a party to an infrastructure sharing and collocation agreement, to determine whether the infrastructure sharing and collocation charges or compensation are lawful, in accordance with Article 45 of the Proclamation, or any applicable Directive adopted by the Authority;
 - b) Intervene at its own discretion, or at the request of a party to an agreement, to resolve an infrastructure sharing and collocation agreement dispute in accordance with the mechanism provided in the dispute resolution mechanism in this Directive and the Authority's Dispute Resolution Directive;
 - c) Coordinate with other government bodies to facilitate the planning, construction, and sharing, of infrastructure for the provision of Telecommunications Services; and,
 - d) From time to time, determine the list of infrastructures that can be shared.

PART III
GENERAL PRINCIPLES

6. General Infrastructure Sharing and Collocation Principles

All agreements for infrastructure sharing and collocation services shall be consistent with the principles of transparency, non-discrimination, and lawful tariffs.

1) Transparency:

- a) The Authority's processes in reaching decisions related to infrastructure sharing and collocation service matters shall be open and transparent.
- b) A Telecommunications Operator that the Authority has determined to have significant market power ("SMP") in one or more markets for the provision of infrastructure sharing and/or collocation services, shall publish a Reference Infrastructure Sharing Offer ("RISO") approved by the Authority.
- c) The Authority shall publish an approved RISO on its website and a Requested Operator shall make it available to a Requesting Operator free of charge.

2) Non-discrimination:

The non-discrimination principle requires that the terms and conditions for the provision of infrastructure sharing and collocation services, shall be comparable to how an infrastructure sharing and collocation provider supplies those same infrastructure sharing and collocation services to itself, or to any other operator.

3) Lawful Charges:

Charges shall be transparent, non-discriminatory, justifiable, and reasonable.

PART IV
COLLOCATION AND INFRASTRUCTURE SHARING PROCEDURES

7. Rights and Obligations

- 1) All Telecommunications Operators have the right to request infrastructure sharing and/or collocation services to any Telecommunications Operator and the Requested and Requesting Operators shall seek to negotiate the terms of an agreement for such services in good faith,.
- 2) A Requested Operator that the Authority has determined to have SMP in a relevant market for infrastructure sharing and/or collocation services, has the obligation to negotiate an agreement for such services in good faith with a Requesting Operator.
- 3) A Requested Operator shall reserve the right to decline an application for infrastructure sharing and/or collocation on the following reasonable grounds of:
 - a) Insufficient capacity or space;
 - b) Safety, reliability, incompatibility of facilities;
 - c) Integrity and security of the public telecommunications network and service; and,
 - d) Not economically or technically feasible.

8. Good Faith Negotiations

- 1) Agreements for infrastructure sharing and/or collocation services shall be negotiated in good faith between the operators involved, and where disagreements arise, the parties shall use reasonable endeavors to resolve all disputes relating to infrastructure sharing and collocation Services.
- 2) Negotiations in good faith implies that each negotiating party shall not:
 - a) Intentionally mislead the other party;
 - b) Force or coerce the other party into making an agreement that it would not otherwise have made; and,
 - c) Intentionally obstruct negotiations.
- 3) The following actions shall be regarded as a breach of the principle of negotiating in good faith:
 - a) Failure to provide the other operator with all relevant information on a timely basis;
 - b) Demand to sign non-disclosure agreements that are coercive or unnecessarily broad or restrictive;

- c) Refusal to allow the insertion of clauses in an agreement that permits future amendments;
- d) Attempt to tie terms and conditions contained in the agreement to the resolution of other unrelated issues;
- e) Actions that are intended to delay negotiations, including, but not limited to, consistent refusal to designate a representative with the authority to make binding commitments; and,
- f) Other actions that may be deemed breaches of the principle of negotiating in good faith as determined by the Authority, from time to time.

9. Requesting Infrastructure Sharing and/or Collocation Services

- 1) When a Telecommunications Operator makes a request for infrastructure sharing and/or collocation services to another operator, the Requesting Operator shall make such request as follows:
 - a) In writing to the Requested Operator;
 - b) Include sufficient information in relation to the kind of infrastructure sharing and/or collocation service requested, including, but not limited to, the suggested date for commencement of negotiations, the date for which the infrastructure sharing and/or collocation service is required, and technical specifications; and,
 - c) Inform the Authority in writing about the request within five (5) working days.
- 2) Within fifteen (15) working days of receiving such request, the Requested Operator shall inform the Requesting Operator in writing, if it is able to:
 - a) Commence negotiations related to the request for infrastructure sharing and/or collocation on the proposed date;
 - b) Supply the form of infrastructure sharing and/or collocation service requested; and,
 - c) Provide the infrastructure sharing and/or collocation service within the time frame requested by the Requesting Operator.
- 3) Where the Requested Operator has informed the Requesting Operator that it is able to provide the requested infrastructure sharing and/or collocation service, it shall provide a copy of an approved RISO, if available, and initiate negotiations not later than fifteen (15) working days after receipt of the infrastructure sharing and/or collocation service request.
- 4) The Requested and Requesting Operators shall negotiate in good faith and use their best efforts to complete negotiations and execute an infrastructure sharing and collocation agreement not later than thirty (30) working days after initiating negotiations, or within a reasonable timeframe agreed by both parties.
- 5) The Requested and Requesting Operators shall ensure that the conditioning of facilities and premises required to put into effect the infrastructure sharing and

collocation agreement are completed not later than sixty (60) working days after the execution of the infrastructure sharing and collocation agreement, or within a reasonable timeframe agreed by both parties.

- 6) A request for infrastructure sharing and/or collocation services shall be refused only on reasonable grounds set out in Article 8 (3) of this Directive and shall be justified in writing by the Requested Operator, no later than fifteen (15) working days after receiving a request for infrastructure sharing and/or collocation services.
- 7) A copy of a refusal of a request for infrastructure sharing and/or collocation services, shall be filed with the Authority by the Requested Operator, not later than seven (7) working days after the refusal has been submitted to the Requesting Operator.
- 8) Pursuant to Articles 44 (4) and 44 (9) of the Proclamation, where the Authority has determined that the Requested Operator holds SMP in a relevant market for a requested infrastructure sharing and/or collocation service, and the parties fail to reach an agreement within a reasonable timeframe, either party may appeal to the Authority, or the Authority may intervene on its own instance, to make a binding ruling pursuant to Articles 34, and 36-38 of the Proclamation, or in accordance with the Authority's Dispute Resolution Directive.

PART V

INFRASTRUCTURE SHARING AND COLLOCATION AGREEMENTS

10. Infrastructure Sharing and Collocation Agreements

- 1) All infrastructure sharing and collocation agreements shall be made in writing and shall:
 - a) Be in accordance with the principles set out in Article 7 of this Directive;
 - b) Comply with the terms and conditions of the licenses of both parties;
 - c) Conform to generally accepted industry standards and standards adopted by the Authority; and,
 - d) Be consistent with the Proclamation, this Directive, or any applicable Directive adopted by the Authority.
- 2) An infrastructure sharing and collocation agreement shall not directly or indirectly, prohibit, or frustrate the provision of a Telecommunications Service that the Requesting Operator is lawfully able to provide.

11. Filing of Infrastructure Sharing and Collocation Agreements

- 1) An infrastructure sharing and collocation provider, which the Authority has determined to hold SMP in a relevant market for infrastructure sharing and collocation services, shall file a copy of an infrastructure sharing and collocation agreement with the Authority, not later than seven (7) working days from the date of the execution of such agreement.

- 2) The Authority at its own discretion, may request from either party, additional information which it deems necessary to evaluate the terms and conditions in a filed infrastructure sharing and collocation agreement.
- 3) The Authority may publish on its website the filed infrastructure sharing and collocation agreements, paying due regard to the confidentiality of commercially sensitive information of both parties, and shall use its reasonable efforts to protect the confidentiality of such information.

12. Amendment of Infrastructure Sharing and Collocation Agreements

- 1) The parties to a filed infrastructure sharing and collocation agreement, may amend or modify such agreement by mutual accord. The modified agreement shall be filed with the Authority not later than seven (7) working days from the date of the execution of such modification.
- 2) If parties to an infrastructure sharing and collocation agreement filed with the Authority in accordance with Sub-Article (1) of this Article fail to agree on the terms and conditions for amending such agreement, the Authority may intervene at the request of either party, or at its own discretion, to set such terms in accordance with the Authority's Dispute Resolution Directive.

13. Termination of An Infrastructure Sharing and Collocation Agreement

- 1) The termination of an infrastructure sharing and collocation agreement shall be strictly in accordance with the terms in such agreement.
- 2) If a party to an infrastructure sharing and collocation agreement, filed with the Authority, intends to terminate such agreement, it shall give not less than a sixty (60)-day written notice to the other party, specifying the grounds for termination, and where there is breach, the operator providing the notice shall give the other party not less than thirty (30) working days to remedy the alleged breach, and if the party in breach, fails to remedy such breach within that period, it may then terminate the agreement, or seek the Authority's intervention in accordance with the Authority's Dispute Resolution Directive.
- 3) An infrastructure sharing and collocation seeker which is a party to an infrastructure sharing and collocation agreement that has been terminated, may seek the Authority's intervention, if the infrastructure sharing and collocation provider has been determined by the Authority to hold SMP in a relevant market for the infrastructure sharing and/or collocation services supplied. In such case, the Authority may intervene in accordance with the the Authority's Dispute Resolution Directive.
- 4) If an infrastructure sharing and collocation provider that holds SMP in a relevant market for infrastructure sharing and collocation services, terminates an infrastructure sharing and collocation agreement, it shall notify the Authority in writing not later than seven (7) working days after the termination of such agreement, and provide a copy of the notice of termination.

14. Reference Infrastructure Sharing Offer (RISO)

- 1) A RISO shall adhere to, and incorporate the general principles for infrastructure sharing and collocation agreements in Article 6 of this Directive, and the provisions set forth in this Directive.
- 2) All Telecommunications Operators which the Authority has determined to have SMP in one or more markets for infrastructure sharing and/or collocation services shall file a RISO with the Authority for approval. A RISO shall be filed not later than sixty (60) days after being directed to do so by the Authority.
- 3) The Authority shall have not more than sixty (60) working days to review a proposed RISO and decide whether it shall approve it for publication, or intervene to change the terms and conditions of a proposed RISO. If the Authority does not reject the request for approval, or intervene to change the proposed RISO within the sixty (60)-working days period, a proposed RISO shall be deemed approved.
- 4) An approved RISO remains in effect until a modified RISO is approved, unless otherwise determined by the Authority. An approved RISO shall be published on the Authority's website.
- 5) An infrastructure sharing and/or collocation provider with an approved RISO shall file an amended RISO with the Authority for approval.
- 6) The Authority shall, within thirty (30) working days, review a modified RISO and decide whether it shall approve it for publication. If the Authority does not reject the request for approval, or does not intervene to change a modified RISO within the thirty (30)-day period, a modified RISO shall be deemed approved.
- 7) The Authority may intervene to modify the terms and conditions of a filed, or approved RISO, at discretion, or following a request from a Telecommunications Operator, if:
 - a) A RISO or any provision thereof, is inconsistent with provisions in the Proclamation, this Directive, or any applicable Directive adopted by the Authority, or,
 - b) The Authority considers that it is in the public interest for it to intervene.
- 8) If the Authority decides to intervene to modify a filed, or approved RISO, it shall determine the appropriate modifications in a transparent manner, in accordance with Articles 36 and 37 of the Proclamation, and adhere to the following procedure:
 - a) Issue a Public Notice, informing interested parties that it is initiating a regulatory proceeding to amend a RISO. The Notice shall be accompanied by a clear statement indicating which provision in the RISO, and why, is either:
 - i. Inconsistent with provisions in the Proclamation;
 - ii. Inconsistent with provisions in this Directive;

- iii. Inconsistent with provisions in any applicable Directive adopted by the Authority; or,
 - iv. Not in the public interest.
 - b) The said statements in Sub-Article 15(9) of this Directive shall include the proposed modification and provide a justification for such modification.
 - c) The Authority shall give interested parties not less than twenty-one (21) working days to respond and comment on the proposed changes.
 - d) After receiving comments from interested parties, the Authority shall have not more than twenty-one (21) working days to respond to the comments received, and either:
 - i). Provide a response addressing each comment and issue a final determination; or,
 - ii). Provide a response addressing each comment, modify the proposed changes if needed, and allow interested parties to submit comments again using the same time frame as in the first round, before issuing a final determination.
 - e) The Authority may, at its own discretion, allow more than two rounds of revisions and comments from interested parties before issuing a final determination.
 - f) During the regulatory proceeding, the Authority shall publish its responses to comments received and its final decision on its website.
 - g) To the extent that information provided by interested parties to the Authority during the course of this proceeding are confidential, the Authority shall use its reasonable efforts to protect the confidentiality of such information.
- 9) A RISO shall include detailed terms and conditions of the infrastructure sharing and/or collocation services provided, the technical standards, as well as standards for safety and security to be implemented by the provider of infrastructure sharing and collocation services.
- 10) A RISO shall include provisions on how to modify the terms and conditions of service.
- 11) A RISO shall include at least the following sections:
- a) Framework agreement;
 - b) Description of infrastructure sharing and collocation services offered and related terms and conditions;
 - c) Detailed terms and conditions for access to facilities or physical infrastructure belonging or controlled by the infrastructure sharing and collocation provider, including the standards for safety and security implemented by the infrastructure sharing and collocation provider;

- d) Operational procedures including service provisioning, planning, and maintenance procedures;
- e) Commercial aspects including charges, payments, billing procedures, and terms and conditions;
- f) Service level agreement;
- g) Provisions for sharing information on size or capacity of facilities, including the amount of space available for collocation or infrastructure sharing, as well as technical specifications for ancillary services or facilities; and,
- h) Provisions for amendment procedures including how infrastructure sharing and collocation seekers will be informed about proposed changes to the terms and condition of the infrastructure sharing and collocation services, and timeframe for such changes.

PART VI

CHARGES AND COSTS FOR COLLOCATION AND INFRASTRUCTURE SHARING

15. Charges for Infrastructure Sharing and Collocation Services

- 1) Telecommunications Operators shall not offer more favorable rates to affiliate companies to the prejudice of other infrastructure sharing and collocation seekers.
- 2) Telecommunications Operators shall offer infrastructure sharing and collocation services at reasonable rates which are not less favorable than those provided by the infrastructure provider to itself.
- 3) Charges for infrastructure sharing and collocation services shall:
 - a) Be in accordance with the principles set out in Article 6 of this Directive;
 - b) Be sufficiently unbundled to ensure that a Requesting Operator is not required to pay for access to infrastructure not strictly required for the services requested; and,
 - c) Be lawful in accordance with Article 45 of the Proclamation, and any applicable Directive adopted by the Authority.
- 4) Charges for infrastructure sharing and collocation services shall distinguish and separately account for:
 - a) Fixed, one-off charges for the establishment and implementation of collocation or an infrastructure sharing arrangement;
 - b) Periodic rental charges for on-going use of network infrastructure or facilities; and,
 - c) Variable charges for supplementary services.
- 5) Where the Authority has determined that an infrastructure sharing and/or collocation provider holds SMP in a relevant market for infrastructure sharing and

collocation services, the infrastructure sharing and collocation provider shall file its infrastructure sharing and collocation service tariffs with the Authority for approval.

- 6) Pursuant to Article 45 (4) of the Proclamation, the Authority may direct an infrastructure sharing and collocation provider to delay the effectiveness of any tariff filed pursuant to Sub-Article 3 of this Article, until the Authority has approved said tariff.
- 7) Within thirty (30) working days from the receipt of a request for approval of infrastructure sharing and collocation services tariffs pursuant to Sub-Article 3 of this Article, the Authority shall respond in writing, and either:
 - a) Approve the filed tariffs, or
 - b) Not approve the filed tariffs, or
 - c) Announce its intention to initiate a regulatory proceeding to review and ensure that those tariffs are lawful in accordance with Article 46 of the Proclamation, and the procedures established in Articles 35 through 38 of the Proclamation, or any applicable Directive adopted by the Authority.
- 8) If the Authority does not respond to a request for approval of such tariffs within the thirty (30)-day period, such tariffs shall be deemed approved.
- 9) Notwithstanding any provision in Sub-Articles 1-6 of this Article, the Authority, at its discretion, and at any time, may initiate a proceeding to review and ensure the lawfulness of any tariff for infrastructure sharing and collocation services, in accordance with Article 46 of the Proclamation, this Directive, or any applicable Directive adopted by the Authority.
- 10) Pursuant to Article 45 of the Proclamation, the Authority may adopt Directives establishing standards and procedures by which it shall determine the lawfulness of tariffs, and set infrastructure sharing and collocation service charges.

16. Accounting Separation

- 1) Where the Authority has determined that an infrastructure sharing and collocation provider has SMP in a relevant market for infrastructure sharing and collocation services, and the infrastructure sharing and collocation provider, also provides Retail Telecommunications Services, the infrastructure sharing and collocation provider shall keep separate accounts, as if the infrastructure sharing and collocation services were in fact carried out by a legally independent company, so as to identify all elements of cost and revenue attributable to such services.
- 2) The Authority may, at its own discretion, adopt directives prescribing how the account separation referred to in Sub-Article 1 of this Article shall be implemented.

PART VII
ALLOCATION, RESERVATION OF CAPACITY, AVAILABILITY OF ACCESS

17. Allocation and Reservation of Capacity

- 1) Requests for infrastructure sharing and collocation services shall be considered and granted by an infrastructure sharing and collocation provider on a first-come first-served basis.
- 2) A Telecommunications Operator installing or constructing its own new network infrastructure or facilities, including but not limited to, masts, poles, towers, ducts, trenches, dark fiber, buildings and sites, must reserve at least 50% of its total available space or capacity, for collocation and infrastructure sharing, with infrastructure sharing and collocation seekers. That reserved capacity or space for sharing, shall be allocated in the following manner, unless otherwise directed by the Authority:
 - a) The first infrastructure sharing and collocation seeker shall be allocated no more than fifty percent (50%) of the reserved capacity or space for sharing;
 - b) All subsequent infrastructure sharing and collocation seekers may use any or all, of the remaining reserved capacity or space.
- 3) When one or more Telecommunications Operators joins an infrastructure sharing and collocation provider in the installation or construction of new network infrastructure, the participating operators shall reserve at least twenty percent (20%) of the joint total available space or capacity, for sharing with infrastructure sharing and collocation seekers outside the participating operators' group, unless otherwise directed by the Authority.
- 4) Where an infrastructure sharing and collocation provider has capacity or space for sharing with infrastructure sharing and collocation seekers that has been either, unallocated to an infrastructure sharing and collocation seeker, or if allocated, unused for a period of not less than three (3) years since it was allocated or reserved, the infrastructure sharing and collocation provider may re-allocate this residual capacity to itself, any infrastructure sharing and collocation seeker with allocated space or capacity, or both, unless otherwise directed by the Authority.

18. Obligation to Safeguard Availability of Access to New Infrastructure

- 1) When planning and constructing new network infrastructure or facilities, all Telecommunications Operators shall take into account, to a reasonable extent, the demand for collocation and infrastructure sharing that exists, or that may exist, following the expansion, or construction, of new network infrastructure or facilities. This new infrastructure shall be planned and constructed to facilitate collocation and infrastructure sharing with infrastructure sharing and collocation seekers, in accordance with this Directive.
- 2) A Telecommunications Operator that plans to install or construct new network infrastructure or facilities, should share its development plans with such

Telecommunications Operators as can reasonably be expected to require access to such network infrastructure and facilities in the future.

- 3) No Telecommunications Operator shall install cables, equipment, or other facilities that do not correspond to the current or foreseeable needs for servicing its customers, and which, as a result of undue space utilization, prevent or limit collocation and the sharing of infrastructure with current, or potential infrastructure sharing and collocation seekers.
- 4) Where an infrastructure sharing and collocation provider, plans to alter, expand, or move network infrastructure components, or facilities, that are subject to an infrastructure sharing and collocation agreement, the infrastructure sharing and collocation provider shall give no less than a one hundred and twenty (120)-day written notice to the parties of such agreement, specifying the proposed changes along with a plan to mitigate disruptions to the infrastructure sharing and collocation services provided to the infrastructure sharing and collocation seekers.

PART VIII
FORBEARANCE

19. Request for Forbearance

- 1) Notwithstanding any provision in this Directive, an infrastructure sharing and collocation provider may request the Authority forbearance from a specific obligation in this Directive if:
 - a) The Authority has not determined that the infrastructure sharing and/or collocation provider has SMP in a relevant market for infrastructure sharing and/or collocation services; or
 - b) The infrastructure sharing and/or collocation provider considers that, although the Authority had determined it has SMP in a relevant market for infrastructure sharing and/or collocation services, changes in competition in the relevant market had eliminated any market power it may have had before; or
 - c) The infrastructure sharing and collocation provider considers that, although the Authority had determined it has SMP in a relevant market for infrastructure sharing and/or collocation services, the specific conditions of competition in a certain geographic area, warrants forbearance from those obligations in that geographic area; or
 - d) The conditions in a particular network infrastructure component or facility, makes compliance with a specific obligation in this Directive, impractical or unfeasible.
- 2) An infrastructure sharing and collocation provider requesting forbearance to the Authority shall do so in writing and specifying which obligation, and from which Article of this Directive, it is requesting forbearance.

- 3) The Authority, after receiving a written request for forbearance, shall respond in not less than thirty (30) working days, indicating whether:
 - a) The request is denied, providing a reasonable explanation for such denial;
 - b) It requires more information to evaluate the request; or,
 - c) It has decided to intervene to make a binding ruling in accordance with the procedure established in Articles 34 and 36 through 38 of the Proclamation.
- 4) Where the Authority grants an infrastructure sharing and collocation provider forbearance from a specific obligation in this Directive, such forbearance shall be granted for not longer than five (5) years, after which the infrastructure sharing and collocation provider may re-apply for forbearance.

PART IX
COLLOCATION

20. Collocation as an Element of Interconnection

- 1) Collocation shall constitute part of the negotiations for interconnection and be governed by provisions of the Telecommunications Network Interconnection Directive.
- 2) Every major operator, especially dominant operators as may be determined by the Authority, should include in their RISO an offer for the facilities available for collocation, including a price list for the different components of collocation.
- 3) An operator that seeks interconnecting with another operator is at liberty to choose the type of collocation suitable for its operation.
- 4) Where a request is made for physical collocation but such collocation is not deemed feasible, virtual collocation should be offered by the interconnection providing operator.
- 5) Where virtual collocation is not feasible, remote collocation should be offered in its stead.
- 6) A request for remote collocation shall not be rejected on any grounds including requests for remote collocation shall not be refused on grounds of insufficient capacity, safety considerations, reliability or other general engineering considerations.
- 7) Save as may be specifically excluded, the terms and conditions of collocation are in general to be governed by the same rules as infrastructure sharing.

PART X
PUBLICATION

21. Publication of Infrastructure Information by the Authority

- 1) The Authority shall, from time to time, publish or ensure that there is published, adequate and up-to-date information, on network infrastructure and facilities, that belong to, or are controlled by, infrastructure sharing and collocation providers with SMP in one or more relevant markets for infrastructure sharing and collocation services.
- 2) Where the Authority has determined that an infrastructure sharing and/or collocation provider holds SMP in one or more relevant markets for infrastructure sharing and/or collocation services, the infrastructure sharing and/or collocation provider shall provide the Authority information about its facilities and infrastructure that is either:
 - a) Currently being shared with infrastructure sharing and/or collocation seekers; or,
 - b) Potentially available for sharing.
 - c) Such information in Sub-Article (2) of this Article may include, but not be limited to, current space or capacity shared with infrastructure sharing and collocation seekers, and reserved space or capacity potentially available for sharing.
- 3) Following a written request by the Authority, an infrastructure sharing and collocation provider shall furnish the information referred to in Sub-Article (2) of this Article within thirty (30) working days of such request.
- 4) The Authority may, at its own instance, publish on its website, the information received from infrastructure sharing and collocation providers about facilities and infrastructure currently shared or potentially available for sharing.
- 5) Notwithstanding any provision in Sub-Articles (1) through (4) of this Article, all Telecommunications Operators shall furnish the Authority, upon request, a detailed inventory of all towers and masts, owned or controlled by such operator. Such inventory shall include at a minimum, the following information about each tower or mast:
 - a) Location of tower providing GPS coordinates;
 - b) Type of tower structure, including information related to lattice, monopole, guyed, etc.;
 - c) Material of tower;
 - d) Height above ground;
 - e) Maximum load;
 - f) Site specification, including information on the area in square feet, and other characteristics;

- g) Power access, including information related to grids, generators, etc.;
 - h) Current usage such as tower load, number of antennas, square feet occupied by equipment, etc.; and,
 - i) Current spare capacity.
- 6) Prior to commencement of construction of any new tower or mast, a Telecommunications Operator shall furnish the Authority the information set out in Sub-Article (5) of this Article in connection to the proposed new tower or towers, and shall, within thirty (30) working days from the completion of construction, notify the Authority confirming that the information remains accurate.
- 7) The Authority shall establish and maintain a database with the information received from Telecommunications Operators in accordance with Sub-Articles (5) and (6) of this Article, and shall provide a copy of said database to any Telecommunications Operator within fifteen (15) working days following a written request.
- 8) The Authority may, at its own discretion, publish on its website, the database containing the information received from Telecommunications Operators, related to their towers and masts, in accordance to Sub-Articles (5) and (6) of this Article.

PART XI

DISPUTE RESOLUTION

22. Collocation and Infrastructure Sharing Dispute Resolution

- 1) Where the Authority has determined that a Requested Operator holds SMP in a relevant market for an infrastructure sharing and collocation service requested, any dispute between Telecommunications Operators as to the reasonableness of a request for infrastructure sharing and collocation services, or if parties fail to reach an agreement, or fail to implement an infrastructure sharing and collocation agreement, may be referred to the Authority by either party, for resolution.
- 2) Following a written request to intervene, the Authority shall respond to the requesting party, no later than thirty (30) working days after receiving such request, whether it:
- a) Requires additional information from the parties involved before deciding whether to intervene or not;
 - b) Has decided not to intervene and provide a written response with a justification for not intervening; or,
 - c) Has decided to intervene in accordance with the procedures established in the Authority's Dispute Resolution Directive.
- 3) Any dispute between Telecommunications Operators as to the reasonableness of a request for infrastructure sharing and/or collocation services, or if parties fail to reach an agreement, or fail to implement an infrastructure sharing and/or

collocation agreement, may be referred to the Authority by either party for resolution.

- 4) Following a written request to intervene, the Authority shall respond to the requesting party, not later than thirty (30) working days after receiving such request, whether it:
 - a) Requires additional information from the parties involved before deciding whether to intervene or not; or
 - b) Has decided not to intervene and provide a written response with a justification for not intervening; or,
 - c) Has decided to intervene in accordance with the procedures established in the Authority's Dispute Resolution Directive.
- 5) A party to an infrastructure sharing and/or collocation agreement that considers the other party to be in breach of such agreement, or to have unfairly terminated an infrastructure sharing and/or collocation agreement, may request the Authority to intervene in such dispute.
- 6) Following a written request, the Authority shall respond to the requesting party, no later than thirty (30) working days after receiving such request, whether it:
 - a) Requires additional information from the parties involved before deciding whether to intervene or not; or
 - b) Has decided not to intervene and provide a written response with a justification for not intervening; or
 - c) Has decided to intervene in accordance with the procedure established in the Authority's Dispute Resolution Directive.

PART XII
MISCELLANEOUS

23. Amendment

The Authority may, at any time it deems it necessary, and consistent with the Proclamation, amend this Directive.

24. Effective Date

This Directive comes into force as of ____, 2020.

DONE IN ADDIS ABABA, ON _____ DAY OF _____ 2020

**ENGINEER BALCHA REBA
DIRECTOR GENERAL
ETHIOPIAN COMMUNICATIONS AUTHORITY**

ANNEX A

ILLUSTRATION OF CATEGORIES OF INFRASTRUCTURE SHARING AND COLLOCATION SERVICES

The following categories of services are offered as an illustration of the kinds of common infrastructure sharing and collocation services this Directive apply to. Some of these services may include sharing the right of way of the infrastructure sharing and collocation provider.

- 1) **Collocation:** A service where the infrastructure sharing and collocation provider makes available space in its network infrastructure, facilities, or premises, to an infrastructure sharing and collocation seeker. An infrastructure sharing and collocation seeker usually has 24-hour, seven (7) days per week access to the collocation space or room to install, operate, and maintain its own telecommunications transmission equipment. collocation services may be offered in various modes:
 - a) *Dedicated Collocation:* Where an infrastructure sharing and collocation provider provides a custom-built dedicated, separated, and secured, space for the installation of an infrastructure sharing and collocation seeker's telecommunications equipment.
 - b) *Adjacent Collocation:* Where an infrastructure sharing and collocation provider provides space to an infrastructure sharing and collocation seeker in an enclosed space, but separated structure, within or near, the site boundary of its existing facility.
 - c) *Distant Collocation:* Where an infrastructure sharing and collocation provider provides space to an infrastructure sharing and collocation seeker in an enclosed space, but at a distant location, from the boundaries of its existing facility.
 - d) *Co-mingling:* Where an infrastructure sharing and collocation provider provides infrastructure sharing and collocation seekers with floor space or space within a rack, to place their equipment next to each-other.
 - e) *Virtual Colocation:* Where an infrastructure sharing and collocation provider gives an infrastructure sharing and collocation seeker the ability to connect to an infrastructure sharing and collocation provider's services without physical access to a collocation space. An infrastructure sharing and collocation seeker provides its own transmission equipment or leases it from an infrastructure sharing and collocation provider. The infrastructure sharing and collocation provider handles the installation, operation and maintenance, of the equipment. An infrastructure sharing and collocation seeker does not have physical access to the virtual collocation space or the equipment, but can electronically monitor and control such equipment communications.
- 2) **Access to Ducts:** Refers to access to conduits or pipes, that enclose underground telecommunications cables. These ducts protect the cables, and enable installing or pulling additional cables without further digging. Access to ducts may include access to associated infrastructure, such as, manholes, handholes, or buildings. It may also include access to power and air conditioning services.

- 3) **Access to Towers and Masts:** A service where an infrastructure sharing and collocation seeker is allowed to use a tower or mast that belongs, or is controlled by, an infrastructure sharing and collocation provider, for the purpose of installing an infrastructure sharing and collocation seeker's transmission equipment and cables. Such service may also include access to associated infrastructure such as buildings, sites, power, or air conditioning.
- 4) **Dark Fiber:** An infrastructure sharing and collocation provider leases a single fiber or a number of fiber pairs, to an infrastructure sharing and collocation seeker. However, the infrastructure sharing and collocation provider does not have its transmission equipment connected to the leased fiber. Such service may also include access to associated infrastructure such as manholes and handholes, buildings, sites, power, or air conditioning.
- 5) **Unbundled Local Loop:** A service where the infrastructure sharing and collocation seeker, leases copper pairs from the infrastructure sharing and collocation provider. The infrastructure sharing and collocation seeker takes control of the copper pairs from the main distribution frame to the subscriber, which enables it to provide voice and data services.
- 6) **Access to Interconnection Points:** This refers to access to facilities, sites, or buildings, where two or more Telecommunications Operators interconnect. Such service may also include access to associated services such as collocation, access to cross connectors, power, and air conditioning