

# **Public Hearing on the Draft Memorandum Circular**

## **RULES AND REGULATIONS ON THE SELECTION OF A NEW MAJOR PLAYER IN THE PUBLIC TELECOMMUNICATIONS MARKET**



# Overview

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B. Participants' Qualifications

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ii. Financial Capability

iii. Technical Capability

## II. Selection Criteria

A. National Population Coverage

B. Minimum Average Broadband Speed

C. Annual Capex/Opex



# Overview

## III. What will the NMP get?

- A. Issuance of CPCN and Term
- B. Frequencies
  - i. Covered Radio Frequencies
  - ii. Contingent Radio Frequencies

## IV. What are the obligations of the NMP?

- A. Bidding Agreement
- B. Performance Security
- C. Roll-out Plan
- D. Quarterly Reports
- E. Annual Audit of Commitments
- F. Payment of Spectrum User Fees



# Overview

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A. The Independent Auditor

B. Procedure for Audit

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# I. Participants' Qualifications



## **A. Who may be a Participant?**

- i. A Congressional Franchise holder; or
- ii. A Congressional Franchise holder covered by a Bidding Agreement with committed local or foreign investors



# B. Participants' Qualifications

## i. Legal Qualifications

- a. holder of a Congressional Franchise;
- b. is not a Related Party, as defined under SEC MC No. 19, s. of 2016 to any Dominant Telecommunications Player; and
- c. has no outstanding liabilities (uncontested obligations) to the NTC as of 30 September 2018

## ii. Financial Capability

- a. has paid-up capital of at least Ten Billion Pesos (Php10B); or
- b. if covered by a Bidding Agreement, aggregate paid capital of its members should at least be Ten Billion Pesos (Php10B)



### **iii. Technical Capability**

- a. experience in provisioning, delivery and operations of telecommunications services for the last ten (10) years on a national scale; or
- b. if covered by a Bidding Agreement, one (1) of its members shall have experience in provisioning, delivery and operations of telecommunications services for the last ten (10) years on a national scale





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## II. Selection Criteria



# A. National Population Coverage

- This refers to the service coverage of the Participant's network committed to be established in terms of specified barangays and its corresponding populations stated as a percentage of national population of the Philippines excluding any coverage provided by dominant telecommunication players under a national roaming agreement or similar agreement
- The population per barangay shall be based on the August 2015 Official Census conducted by the Philippine Statistics Authority



# A. National Population Coverage

- Weightage – 40%
- Minimum & Maximum for National Population Coverage
  - Year 1 – 10% to 50%
  - Year 2 – 20% to 60%
  - Year 3 – 30% to 70%
  - Year 4 – 40% to 80%
  - Year 5 – 50% to 90%
- Bids below the minimums shall not be accepted



## B. Minimum Average Broadband Speed

- To be measured in Megabits per second (Mbps) and means the committed minimum national average broadband speed applicable to both fixed and mobile broadband services which is available at least 80% of the time
- Weightage – 20%
- Minimum/Maximum Average Broadband Speed – 5 Mbps to 45 Mbps
- Bids of less than 5 Mbps average broadband speed shall not be accepted



# C. Annual Capex/Opex

- Minimum/Maximum Capex/Opex – PhP 40B to PhP 130B
- Weightage – 40%
- Weight Per Year
  - Year 1 – 100%
  - Year 2 – 140%
  - Year 3 – 130%
  - Year 4 – 70%
  - Year 5 – 60%
- Bids of less than an aggregate of PhP 40B at the end of the Commitment Period shall not be accepted



# Summary of Selection Criteria Point System

	Year 1	Year 2	Year 3	Year 4	Year 5
<b><u>National Population Coverage:</u></b>					
Minimum*	10%	20%	30%	40%	50%
Maximum**	50%	60%	70%	80%	90%
Point System	<b><i>1 pt per whole 1% above the annual minimum.</i></b>				
Maximum Points	40 points	40 points	40 points	40 points	40 points
<b><u>Minimum Average Broadband Speed:</u></b>					
Minimum*	5 Mbps	5 Mbps	5 Mbps	5 Mbps	5 Mbps
Maximum**	45 Mbps	45 Mbps	45 Mbps	45 Mbps	45 Mbps
Point System	<b><i>1 pt per 2 Mbps above minimum</i></b>				
Maximum Points	20 points	20 points	20 points	20 points	20 points
<b><u>Capital and Operational Expenditures:</u></b>					
Minimum*	40 Bn	40 Bn	40 Bn	40 Bn	40 Bn
Maximum**	130 Bn	130 Bn	130 Bn	130 Bn	130 Bn
Point System	<b><i>1 pt per P2.25 Bn of cumulative Capex/Opex above minimum</i></b>				
Maximum Points	40 points	40 points	40 points	40 points	40 points
<b><u>Annual Rating***</u></b>	100.00%	140.00%	130.00%	70.00%	60.00%

\* Bids lower than minimum shall not be accepted.

\*\* Bids equal to or higher than maximum will receive full points.

\*\*\* Participant's annual point score shall be multiplied by the corresponding rating.



# HCLoS + Capex/Opex

"Form A"

Criteria, Points, Weight	Coverage (Year)				
	FY 1	FY 2	FY 3	FY 4	FY 5
National Population Coverage	100.00%				
Cumulative Coverage	100.00%	100.00%	100.00%	100.00%	100.00%
Coverage Points	40.00 pts	40.00 pts	40.00 pts	40.00 pts	40.00 pts
Speed	46 Mbps	45 Mbps	45 Mbps	45 Mbps	45 Mbps
Speed Points	20.00 pts	20.00 pts	20.00 pts	20.00 pts	20.00 pts
Capex/Opex (annual)	130 Bn				
Cumulative Capex/Opex	130 Bn	130 Bn	130 Bn	130 Bn	130 Bn
Capex/Opex Points	40.00 pts	40.00 pts	40.00 pts	40.00 pts	40.00 pts
Annual Rating	100.00 pts	100.00 pts	100.00 pts	100.00 pts	100.00 pts
Weight	100%	140%	130%	70%	60%
Final Bid Rating	100.00 pts	140.00 pts	130.00 pts	70.00 pts	60.00 pts

**500.00 pts**

Participant Name:

*[Indicate Participant Name here]*

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# HCLoS Bidding Scenario

National Population Coverage			Speed		Capex/Opex (annual)			Annual Rating		
Initial and Annual Increment	Cumulative Coverage	Points (A)	Annual Average	Points (B)	Annual Amount	Cumulative Capex/Opex	Points (C)	Total Points (A+B+C)	Weight	Final Bid Rating
<b>Benchmark (Minimums only)</b>										
10.00%	10.00%	.00 pts	5 Mbps	.00 pts	8 Bn	8 Bn	.00 pts	.00 pts	100%	.00 pts
10.00%	20.00%	.00 pts	5 Mbps	.00 pts	8 Bn	16 Bn	.00 pts	.00 pts	140%	.00 pts
10.00%	30.00%	.00 pts	5 Mbps	.00 pts	8 Bn	24 Bn	.00 pts	.00 pts	130%	.00 pts
10.00%	40.00%	.00 pts	5 Mbps	.00 pts	8 Bn	32 Bn	.00 pts	.00 pts	70%	.00 pts
10.00%	50.00%	.00 pts	5 Mbps	.00 pts	8 Bn	40 Bn	.00 pts	.00 pts	60%	.00 pts
										<u>.00 pts</u>
<b>Bidder A</b>										
15.00%	15.00%	5.00 pts	10 Mbps	2.50 pts	20 Bn	20 Bn	.00 pts	7.50 pts	100%	7.50 pts
15.00%	30.00%	10.00 pts	10 Mbps	2.50 pts	20 Bn	40 Bn	.00 pts	12.50 pts	140%	17.50 pts
15.00%	45.00%	15.00 pts	10 Mbps	2.50 pts	20 Bn	60 Bn	8.00 pts	25.50 pts	130%	33.15 pts
15.00%	60.00%	20.00 pts	10 Mbps	2.50 pts	20 Bn	80 Bn	17.00 pts	39.50 pts	70%	27.65 pts
15.00%	75.00%	25.00 pts	10 Mbps	2.50 pts	20 Bn	100 Bn	26.00 pts	53.50 pts	60%	32.10 pts
										<u>117.90 pts</u>
<b>Bidder B</b>										
15.00%	15.00%	5.00 pts	15 Mbps	5.00 pts	30 Bn	30 Bn	.00 pts	10.00 pts	100%	10.00 pts
15.00%	30.00%	10.00 pts	15 Mbps	5.00 pts	30 Bn	60 Bn	8.00 pts	23.00 pts	140%	32.20 pts
15.00%	45.00%	15.00 pts	15 Mbps	5.00 pts	30 Bn	90 Bn	22.00 pts	42.00 pts	130%	54.60 pts
15.00%	60.00%	20.00 pts	15 Mbps	5.00 pts	30 Bn	120 Bn	35.00 pts	60.00 pts	70%	42.00 pts
15.00%	75.00%	25.00 pts	15 Mbps	5.00 pts	30 Bn	150 Bn	40.00 pts	70.00 pts	60%	42.00 pts
										<u>180.80 pts</u>
<b>Bidder C</b>										
15.00%	15.00%	5.00 pts	20 Mbps	7.50 pts	50 Bn	50 Bn	4.00 pts	16.50 pts	100%	16.50 pts
15.00%	30.00%	10.00 pts	20 Mbps	7.50 pts	40 Bn	90 Bn	22.00 pts	39.50 pts	140%	55.30 pts
15.00%	45.00%	15.00 pts	20 Mbps	7.50 pts	30 Bn	120 Bn	35.00 pts	57.50 pts	130%	74.75 pts
15.00%	60.00%	20.00 pts	20 Mbps	7.50 pts	20 Bn	140 Bn	40.00 pts	67.50 pts	70%	47.25 pts
15.00%	75.00%	25.00 pts	20 Mbps	7.50 pts	10 Bn	150 Bn	40.00 pts	72.50 pts	60%	43.50 pts
										<u>237.30 pts</u> NMP



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## IV. **What are the obligations of the NMP?**

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### **III. What will the NMP get?**



## **A. Issuance of CPCN and Term**

Term – 15 years or term of NMP's franchise, whichever is shorter



## B. Frequencies

### i. Covered Radio Frequencies

<b>FREQUENCY BAND</b>	<b>FREQUENCY RANGE</b>
<b>700 MHz</b>	738.0 – 748.0 MHz
	793.0 – 803.0 MHz
<b>2100 MHz</b>	1955.0 – 1970.0 MHz
	2145.0 – 2160.0 MHz
<b>2000 MHz</b>	2010.0 – 2025.0 MHz
<b>2.5 GHz</b>	2535.0 – 2555.0 MHz
<b>3.3 GHz</b>	3300.0 – 3400.0 MHz
<b>3.5 GHz</b>	3480.0 – 3520.0 MHz

ii. Contingent Radio Frequencies

<b>FREQUENCY BAND</b>	<b>FREQUENCY RANGE</b>
<b>2100 MHz</b>	1970.0 – 1980.0 MHz
	2160.0 – 2170.0 MHz

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# **IV. What are the obligations of the NMP?**





**A. Bidding Agreement** – implement within 60 days

**B. Performance Security**

- 10% as cash bond or 30% as surety bond of the Annual bid amount and budgeted Capital and Operational Expenditure Commitment as contained in the Business Plan
- If in surety bond, the same shall be renewed annually for five years



**C. Roll-out Plan** – within 90 days from notice declaration of NMP

**D. Quarterly Reports**

**E. Annual Audit of Commitments**

- from the end of each year during Commitment period performed by an Independent Auditor under Section 7

**F. Payment of Spectrum User Fees**



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  - A. The Independent Auditor
  - B. Procedure for Audit
- VI. Sanctions for Breach of Commitments

# **V. Annual Audit of Commitments**



# A. The Independent Auditor

**Independent Auditor with requisite professional qualifications and at least 10 years experience in the telecommunications industry appointed in accordance with Section 7**

- NTC shall furnish NMP with a list of Independent Auditors (IA);
- NMP shall select and nominate the IA from NTC list within thirty (30) days;
- NTC confirms appointment of IA;
- NMP shall pay for services from its operational expenses in accordance with MC; and
- The IA shall perform the tests and measurements annually for the five (5) year Commitment Period in accordance with internationally accepted auditing standards.



## **B. Procedure for Audit**

**The IA shall observe the following:**

- **Commencement and Period to Conduct Tests**
  - The IA shall conduct tests and measurements starting on Day 1 after the end of each year of the Commitment Period. All tests and measurements shall be completed not later than fifteen (15) days from Day 1



# National Population Coverage

- For fixed networks (fiber-to-the-home [FTTH], twisted pair and coaxial cable), population coverage shall be determined based on the areas where FTTH, twisted pair and coaxial cable are installed
- For fixed networks using wireless access and mobile networks, the coverage area shall be determined based on the areas where the field strength is at least 60 dBuV/m in urban areas, 39 dBuV/m in suburban areas, and 34 dBuV/m in rural areas unless otherwise determined by the IA
- The total population of a barangay is considered covered if at least 80% of the population have access to the fixed, fixed wireless and mobile networks



## Minimum Average Speed

- The minimum average speed shall be measured using the lowest comparable or equivalent offered service plan. The IA shall subscribe to said Plan and perform the tests and measurements using the Broadband Speed Test Agent/Software/Application and test procedures prescribed by the Commission
- There shall be an appropriate number of tests and measurement samples as determined by the IA completed within thirty (30) days from start of Day 1
- The tests and measurements shall be conducted anytime from 0000HRS to 2400HRS, any day and anywhere within the areas covered by the commitment





**Within fifteen (15) business days after the completion of the tests and measurements, the IA shall submit its official report to the Commission stating, among others, the population covered and the minimum average speed delivered.**



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# **VI. Sanctions for Breach of Commitments**



**Failure of the NMP to comply with any of its Commitments constitutes a breach.**

**The NMP shall be allowed a period of six (6) months to remedy such breach.**

**Upon failure of the NMP to remedy the breach within the period allowed, the NTC shall:**

- A. Forfeit the Performance Security;
- B. Consider the breach to be a breach of the Special Conditions in the CPCN impose applicable penalty and bring a *quo warranto* proceeding; and
- C. Consider the breach to be a breach of the Special Conditions attached to the Radio Frequencies, and thereby proceed to the process of recalling the Radio Frequencies assigned to the NMP.



# VII. Projected Timeline



1. Publication of the Notice for Public Hearing - 15 days
2. Public Hearing
3. Submission of Position Papers – 10 days
4. Finalization – 7 days
5. Publication of Final Memorandum Circular (M.C.)
6. Effectivity of the M.C. - after 15 days
7. Bidding Process – 1 to 2 months



# VIII. Position Paper



**Please submit position papers to**

**newmajorplayer@ntc.gov.ph**





**End.**

