

**The Bangladesh Telecommunication Regulatory Commission
(Licencing Procedure) Regulations, 2004**

[As modified upto 31 August 2008]

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(Licencing Procedure) Regulations, 2004

[BTRC Regulation No. 1 of 2004]

Dated: the 1st January, 2004

No.BTRC/Regulation/2004-115- In exercise of the powers conferred under section 99 of the Bangladesh Telecommunications Act, 2001 (Act No. 18 of 2001) the Bangladesh ¹[Telecommunication] Regulatory Commission to ensure uniform, neutral and transparent licencing procedure, is pleased to make the following regulations:-

1. **Short title**:- These regulations may be called The Bangladesh ¹[Telecommunication] Regulatory Commission (Licencing Procedure) Regulations, 2004.

2. **Definition** :- In these regulations, unless there in anything repugnant in the subject or context:-

(a) "Act" means The Bangladesh ¹[Telecommunication] Act, 2001 (Act No. 18 of 2001).

(b) "Applicant" means an individual, organisation or company (registered under the Companies Act, 1994 in Bangladesh) as defined in section 2(24) of Act No. 18 of 2001 seeking licence to establish, maintain telecommunication system and provide telecom services.

(c) "Commission" means the Bangladesh ¹[Telecommunication] Regulatory Commission.

(d) "Licence" means a legal authorisation and a document known as licence containing terms and conditions issued or deemed to have been issued by the Commission for establishing telecommunication system for providing service as defined in section 2(29) of the Act No. 18 of 2001.

(e) "Prescribed" means prescribed by regulations.

(f) "Register" means register of licence to be maintained by the Commission.

(g) "Schedule" means schedule appended to this regulations.

3. Objectives of the regulations:-

(a) The objective includes among others to frame procedure of selecting applicants ¹[of] issuance of licence to any intending operator having conformity of purpose and analogous to the expressed objectives contained in the Act, 2001 and also the licensing on non-exclusive basis with or without any restriction on the number of entrants in order to rationalize private participation and to encourage ¹[the] creation of ¹[an] environment of competition.

(b) Documentation of the procedures and methodologies to be applied for selecting applicants intending to provide telecommunication services within the geographical confines of Bangladesh, space above the landmass constituting Bangladesh and its territorial water;

(c) Regulation of market structure, liberalization, control of market access to ensure the viability of new entrants, control on number of licensees to accommodate within the finite resources like radio spectrum, numbers, right of way and similar other resources required by the operators through equitable, pragmatic measures and in the public interest in order to balance the competing interests and priorities.

4. Classes of services for which licence is necessary:-

(1) Licences shall be required for providing the following services:-

(a) Public Switched telephone Service (PSTN).

(b) Cellular Mobile Phone Services.

(c) ¹[Global Mobile Personal Communication by Satellite] (GMPCS).

(d) National Long Distance Service.

(e) Overseas Telecommunication Service.

(f) Internet Data Communication Service (ISP).

(g) Data Communication Service.

(h) VSAT Services.

(i) Paging Services.

(j) Radio Trunking services.

¹[(k) VoIP (Voice over Internet Protocol) Technology/Service

(l) Network Service]

²[(m) International Gateway Services (IGW)

(n) Interconnection Exchange Services (ICX)

(o) Internet Exchange Services (IX)

(p) IP Telephony Services

(q) 3G Services]

⁴[(r) Broadband Wireless Access (BWA) Services]

²[(s) Call Center Services

(t) Telecom Value Added Services (VAS)]

³[(u) Submarine Cable Service

(v) Satellite Service]

⁴[(w) Amateur Radio]

In addition to the above services the Commission may bring any other services within the purview of licencing requirement as and when it considers necessary.

¹[(2) As per provisions of section 36(6) of the Act the Commission, keeping in mind the nature of services, classified the same into two categories, licence for which would be granted through open (and/or auction) licence system and competitive bidding (and/or auction) procedure as described in schedule 1 of these regulations.]

(3) In order to encourage the ICT sector to flourish throughout the country the licencing procedure for granting ISP licence and VSAT licence has been liberalized and simplified. Unless disqualified for the grounds mentioned in section 36(3) of the Act, any person having satisfactory technical and financial capabilities shall be eligible to get licence to provide the above mentioned service through an open licencing procedure. There shall be no limit of the number of licences of this category unless for sufficient reasons the Commission decides to suspend issuing such licence for certain period and for certain areas. It shall be within the discretion of the Commission to classify the ISP and VSAT licence for ¹[the] Capital City, divisional city, district town and upazila headquarters or nationwide basis.

(4) The Commission decides to grant licence for providing PSTN service through ¹[competitive bidding and/or auction] licencing procedure on the division of the whole country into different zones to encourage new entrants by ensuring healthy competition ¹[and a] level playing field.

(5) The new licences for the Cellular Mobile Phone, Paging Service, Radio Trunking Service ¹[, Global Mobile Personal Communication by Satellite] (GMPCS), ¹[National Long Distance Service (NLD)], ²[Public Switched telephone Service (PSTN), International Gateway Services (IGW), Interconnection Exchange Services (ICX)], ³[Internet Exchange Services (IX), Submarine Cable and Satellite Service] shall be granted through competitive bidding ¹[and/or auction] procedure and the number of such licence shall be subject to the availability of the scarce spectrum resource.

(6) The service for which open ¹[and/or auction] licencing procedure and the service for which ¹[the] competitive bidding ¹[and/or auction] licencing procedure shall be applicable ¹[is given] in ¹[*] schedule I.

5. Open Licencing Procedure ¹[* * * * *]:-

(1) The Commission shall give wide publicity in newspapers and electronic media of its programme/intention of issuing licence of different categories specifying the time and manner of how the applications shall be made.

(2) The Commission may invite applications for the consideration of granting licence through, the newspapers and/or internet ¹[or its website] to intending operators. The Commission may verify the ¹[applicants] information on location, space, installation, apparatus, finance, manpower etc. as furnished with the application.

(3) It shall specify the criteria and conditions the applicants have to fulfill in order to be eligible for getting licence for providing particular service.

(4) The Commission may frame guide lines and prescribed application forms which shall be available at the relevant time in its office with or without payment of price.

(5) The Commission may determine, fix and revise from time to time according to exigencies of ¹[*] situation licence fee, application fee, ¹[the] evaluation fee and other charges as it deems appropriate.

(6) The Commission shall prepare licence forms as far as practicable of international standard for different telecom services keeping pace with the changing scenario.

(7) The Commission shall determine the duration of different categories of licence, renewal and other conditions, rights and liabilities.

(8) The Commission shall by all reasonable means and subject to the provisions of the Act, 2001 undertake steps to regulate the activities of the licensee operators and ensure healthy growth and consumer friendly environment in ¹[the] telecom sector.

6. ¹[Procedure for Application]:-

(1) In order to obtain a licence for operating telecommunication services in the country, the intending operator shall submit to the Commission application in such form, in such manner and with payment of such fees as prescribed by the Commission. All relevant information, papers and documents required by the Commission for the purpose shall have to be attached along with the application.

(2) Subject to the provisions of sections 36 of the Act 2001 a person who is eligible and who fulfils the conditions and set criteria ¹[and] having sufficient technical and financial capabilities may apply to the Commission for licence in ¹[the] prescribed form with all necessary documents within the time notified. Application not fulfilling the set criteria and/or not accompanied with necessary documents shall be rejected outright.

(3) The Commission shall maintain separate registers for each category of licence in prescribed form shown in schedule II. Soon after receipt, the applications shall be entered into the respective register, particulars thereof shall be noted and ¹[*] separate ¹[files] for each ¹[*] individual case shall be opened and the day to day proceedings with regard to scrutiny and different stages of evaluation shall be recorded and signed by the concerned officers. After scrutiny and evaluation the summary thereof shall be placed in the meeting of the Commission which upon consideration of the relevant materials shall take final decision either to reject or grant licence. In the case of rejection of the application the Commission shall record its reason for so doing and forthwith communicate the same to the applicant.

(4) After the Commission approves the grant of licence, the applicant shall be granted the licence in the prescribed form containing ¹[the] seal of the Commission ¹[and] duly signed by its authorised representative.

(5) In the register, the date of filing the application, the decision of the Commission, date of issue of licence, duration, renewal date, amount of fees realised etc. shall be noted in the respective column of the register. The licence shall be delivered to the applicant or his duly authorised agent against proper receipt and signature in the appropriate column of the register. The register shall be maintained in printed form and in bound volume to be preserved at least for the whole period of duration of the licence.

(6) The copy of the licence in exact form with the full contents, seal and signature of the issuing authority shall be kept in the respective file.

(7) In the event of loss or damage the licensee shall be entitled to get duplicate licence from the copy of the licence kept in the file and record of the Commission upon payment of necessary fees.

7. Procedure of [*] licencing for PSTN Services :-

(1) Unless otherwise decided by the Commission, the PSTN services shall be subject to [*competitive bidding and/or auction] licencing under the terms and conditions [*laid down] in the regulatory licencing guidelines/framework and the model licence form adopted by the Commission.

(2) For the purpose of convenience the whole country may be divided into as many zones as may be practical. To attract the [*] suitable applicants[*], the Commission shall give wide publicity in leading national dailies and electronic media for issuing licences, mentioning the different zones and the period within which applications in prescribed form shall be received.

(3) The licencing for PSTN service involves many important aspects requiring [*] attention and care of the Commission [* * *]. In order to ensure transparency and fair play the Commission should give sufficient time and opportunity [*to genuine operators] for adequate response [* * *].

(4) The Commission shall publicise the programme of granting licence to as many operators as may be reasonably viable for sustaining the market under a healthy competitive environment ensuring the consumer's interest and raising the tele-density in the country.

(5) The applications received within the time limit notified shall be entered in the register [* * * * *].

(6) [* * * *] those [*applicants] should [*first] be scrutinised to ascertain whether the applicant is disqualified or not as per section 36 of the Act 2001 and the set criteria and [*], whether the] general conditions are satisfied.

(7) When after preliminary scrutiny the applications are prima-facie found in order, then the technical, financial and professional capabilities of the applicant shall be evaluated by expert/evaluation committee. The applicants in order to be eligible for getting licence must satisfy the standard as may be fixed by the Commission.

(8) The report and findings of the expert/evaluation committee shall be placed with all the records and materials in the Commission's meeting for consideration

and decision. The Commission shall generally act on the report unless the opinion of the expert/evaluation committee is found tainted with bias or perversity. It may accept or reject the expert opinion or direct to clarify certain points or may refer for fresh evaluation by another expert Committee. But while rejecting the expert opinion it shall record the reason ¹[thereof].

(9) After the Commission approves the application ¹[after] having found the applicant eligible ¹[* fulfilling] all the relevant terms and conditions, the applicant shall be granted the licence in the form and manner prescribed.

(10) The particulars of licence shall be entered into the register and copy of the licence shall be retained in the file for future reference.

8. Licencing procedure through competitive bidding ¹[and/or auction] :

(1) The grant of new licence for Cellular Mobile Phone ¹[and Public Switched Telephone Network (PSTN)] shall be subject to the availability of frequency spectrum. The Commission shall carefully assess the spectrum position. In the event of disproportionate allocation of frequency in excess of the usual requirement of any existing operator, the Commission shall take appropriate steps for recovery of the excess frequency spectrum, if necessary by revising and reallocating the frequency as the case may be.

(2) The Commission may conduct ¹[a] study if necessary on this issue and shall have an efficient management of frequency spectrum securing the best interest of the nation.

(3) The Commission may, subject to the availability of frequency spectrum take steps to grant licence to the new Cellular Mobile Phone ¹[and Public Switched Telephone Network (PSTN)] operators strictly keeping in view regard to all the relevant factors conducive to the sound and healthy growth of the sector.

(4) The procedure of licencing shall be the competitive bidding ¹[and/or auction] process. The Commission shall notify in the widely circulated newspapers, electronic media and website inviting tender in the form of international standard giving sufficient time to ¹[for submission of] tenders¹[/]offers as per the guide lines and tender documents to be available in the Commission's office.

¹[Sub-regulation (5) omitted].

(6) ¹[* * * * *] The bid-offers submitted by the applicants shall be evaluated by an expert/evaluation Committee, comprising of persons having thorough knowledge ¹[of] the concerned service and other allied aspects.

(7) The applicant shall take permission from other competent and relevant Government authorities by fulfilling their requirements. Intending operators willing to engage in the Internet information service for news reporting, publishing, education, health care, medicine and any other internet enabled services, shall obtain approval from concerned authorities if so required before applying to the Commission for the required telecommunication services.

(8) When the use of any radio equipment or any apparatus causing radio interference or radio frequency is necessary for carrying on the activities allowed under the licence, the licensee shall obtain separate licence or permit incorporating the allocation of frequency. The licensee shall also obtain technical acceptance certificate for the radio equipment and apparatus used for providing the service.

(9) In granting licence for different categories of services as shown in the schedule I the Commission shall follow the respective procedure as above.

(10) The Commission shall prepare standard licence form and follow the best practice.

¹[(10A) The Commission may, from time to time, frame necessary guidelines for issue of licences.]

(11) The Commission in disposing of the applications for licence shall maintain as far as practicable the time frame as mentioned in section 36(8) of the Act.

(12) These regulations cover only the licencing procedure of the Commission and are supplementary to the provisions of the Bangladesh Telecommunications Act 2001, other prevalent laws, sector policy framed by ¹[the] Government, ¹[concerned] rules, regulations, guidelines and other documents ¹[* * *] and shall be subject to amendments and modification as and when necessary.

Schedule I
[¹[Regulation] 4(6)]

Services for which competitive bidding ¹[and/or auction] licence procedure applicable

1. Cellular Mobile Phone Service.
2. ¹[Global Mobile Personal Communication by Satellite] (GMPCS)
3. Overseas Telecom Service.
4. Paging Service (for commercial purpose)
5. Radio Trunking Service (for commercial purpose)
- ¹[6. Public Switched Telephone Network (PSTN)
7. National Long Distance Service.(NLD)]
- ²[8. International Gateway Services (IGW)
9. Interconnection Exchange Services (ICX)
10. Internet Exchange Services (IX)
11. 3G Services]
- ⁴[12. Broadband Wireless Access (BWA) Services]
- ³[13. Submarine Cable Service
14. Satellite Service]

Services for which open ¹[and/or auction] licencing procedure applicable

1. ¹[VoIP (Voice over Internet Protocol) Technology/Service
2. Network Service]
3. Internet Service (ISP)
4. VSAT Service
5. Data Communication Service.
- ²[6. IP Telephony Services

7. Call Center Services

8. Telecom Value Added Services (VAS)]

⁴[9. Amateur Radio

10. Any other services authorized by BTRC.]

Schedule II
[¹[Regulation]-8]

Bangladesh Telecommunication Regulatory Commission
Register of licences

Category of licence

Sl. No.	Date of filing the application	Name of Applicant	Address	Fax/Tel Number	Date of Decision of Commission	Approval/ Rejection	Duration of licence & area of operation	Date of Delivery of licence/ signature of recipient	Amount received item wise with date	Renewal		Description of penal action taken	Remarks
										Period of renewal	Date of renewal		

Notes-

1. Amended by the BTRC Licensing Procedure Regulations (First Amendment), 2005 (Amendment No. 1 of 2005) published in the Bangladesh Gazette Part VI on 8 December 2005 at pages 1895 and 1896.
2. Amended by the BTRC Licensing Procedure Regulations (Second Amendment), 2007 (Amendment No.1 of 2007) published in the Bangladesh Gazette Extra-ordinary on 21 August 2007 at pages 7697 and 7698.
3. Inserted by the Bangladesh Telecommunication Regulatory Commission (Licensing Procedure) (Amendment) Regulations, 2008 [BTRC Regulation No.2 of 2008] vide Notification No. BTRC/Regn./ 2004-507 dated 21st April 2008 published in the Bangladesh Gazette Extra-ordinary on 22 April 2008 at pages 2281 and 2282.
4. Amended by the Bangladesh Telecommunication Regulatory Commission (Licensing Procedure) (Second Amendment) Regulations, 2008 [BTRC Regulation No.3 of 2008] vide Notification No. BTRC/Regn./ 2004-1012 dated 4th August 2008 published in the Bangladesh Gazette Extra-ordinary on 4 August 2008 at pages 5205 and 5206.