



ICOL Application and Open Window

Decision & Order:

Date: 25 October 2019

Section 16 of the Electronic Communications Act 2011 (the “ECA”) requires the Regulatory Authority of Bermuda (the “RA”) to specify the criteria, conditions, requirements and procedures that shall apply to the grant of Communications Operating Licences (“COLs”), including Integrated COLs (“ICOLs”).

The Regulatory Authority (Master Communications Operating Licence Application Process) General Determination 2019 (the “GD”) set forth the application and award process for ICOLs, which includes an annual window in which applicants may submit ICOL applications to the RA using a Master Application Form which the RA shall set by administrative determination. The Communications Operating Licence Policy (the “Policy”) issued by the Minister of Home Affairs on 25 October 2019 set the policies for the RA to implement going forward with respect to the issuance of any new public COL, including any ICOL.

In accordance with the GD and the Policy, the RA hereby declares that ICOL applications may be submitted to the RA from 27 January 2020 to 28 February 2020, using the Master Application Form set forth in Appendix A.

So ordered this 25 October 2019.



Appendix A: Master Application Form



Communications Operating Licence: Master Application Form

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GENERAL INSTRUCTIONS

1. This Master Application Form should be used by any applicant (the "Applicant") that wishes to apply for all public Communications Operating Licences ("COLs"), including an Integrated Communications Operating Licence ("ICOL").
2. The Master Application Form shall be submitted to the Regulatory Authority of Bermuda (the "Authority") in accordance with the process set out in this Master Application Form, the Regulatory Authority (Master Communications Operating Licence Application Process) General Determination, and any other applicable regulations or administrative determinations.
3. The Master Application Form must be signed and dated by or on behalf of the Applicant, stating, where signed on behalf of the Applicant, the capacity of the signatory.
4. **All Applicants** must complete **Parts A and B and E** of this Master Application Form. Applicants for **ICOLs** must complete **Part C** and Applicants for any **COLs** other than an ICOL must complete **Part D**.
5. Any Applicant seeking confidentiality of this Master Application Form must comply with section 33(3) of the ECA, including submitting a non-confidential version of this Master Application Form and justification for the confidentiality request. The Authority will assess the confidentiality request pursuant to section 33 of the ECA.
6. This Master Application Form may not be used to request a spectrum licence. A spectrum licence application form must be submitted for that purpose.

Application fees

7. An Application Fee in the amount set forth in any applicable regulation must be submitted by electronic transfer or wire transfer to the account designated by the Authority when submitting this Master Application Form.

Provision of information to the Authority

8. At all times during the application process, Applicants are obligated to:
 - (a) provide the Authority with complete and accurate information and update as necessary; and
 - (b) provide timely responses to any requests for information issued by the Authority.
9. For the avoidance of doubt, the Authority reserves the right to request any information that it deems necessary or prudent to evaluation the application.

Changes to information provided

10. Applicants are obligated to notify the Authority immediately of any change in the information provided and/or any representations made in the Master Application Form following the submission of the Master Application Form, up to and including the award of the requested licence.

Submission of the Master Application Form to the Authority

11. The Master Application Form should be submitted to the Authority's address, as set forth on the Authority's official website.
12. The Master Application Form should also be submitted to the Authority at: licence@ra.bm
13. All communications with the Authority regarding the Master Application Form should be conducted in writing and sent by letter or email to the address set forth above.

Definitions

14. In the Master Application Form, unless the context otherwise requires:

"Affiliate" means any entity that owns, is owned by, or shares common ownership with another entity, as evidenced by the ownership of 25 per cent or more of the shares, stock or other securities or voting rights of the owned entity, including through an agreement or arrangement of any type;

"Applicant" means the legal entity applying for an ICOL or RCOL;

"Authority" means the Regulatory Authority of Bermuda;

"COL" means a Communications Operating Licence granted pursuant to section 16 of the ECA and, for the avoidance of doubt, includes an ICOL and a RCOL;

"General Determination" means the Regulatory Authority (Master Communications Operating Licence Application Process) General Determination 2019;

"ECA" means the Electronic Communications Act 2011;

"ICOL" means an Integrated Communications Operating Licence, a particular type of COL authorizing the licence holder to operate and provide public electronic communications networks and public electronic communications services transmitted by means of such networks (national and international).

"Person" means a natural person or any company or association or body of persons, whether corporate or unincorporate, being a body which is empowered by law to sue or be sued in its own name or in the name of an officer or other person;

"RAA" means the Regulatory Authority Act 2011; and

15. Capitalised terms used in this Master Application Form that are not defined shall have the meaning given to them in either the ECA, RAA or the General Determination, as applicable.

-- Please separate the front sheet, these instructions and Annex 1 from the Master Application Form prior to submitting --

MASTER APPLICATION FORM

PART A : APPLICANT'S DETAILS (ALL APPLICANTS)

A.1 GENERAL INFORMATION

Provide the following details regarding the Applicant:

Name of the Applicant in full.	
Registered address of Applicant.	
Business address of Applicant (if applicable).	
The Applicant's registered number on the Bermuda Register of Companies.	
Name, address, facsimile number (where applicable), telephone number and electronic mail address of the person to whom correspondence or enquiries concerning the application should be directed.	

A.2 MANAGEMENT INFORMATION

Provide the following information for all directors and senior executives of the Applicant:

Full legal name of person	Role (applicant, etc.)	Residential address	Date of Birth

A.3 OWNERSHIP

Identify all significant legal interests in the Applicant (including all shareholders, partners or ultimate beneficial owners owning 10% or more):

Full legal name of person	Percentage of Ownership	Residential address	Date of Birth

A.4 AFFILIATES

Provide legal names for all of the Applicant's Affiliates (including Affiliates of the Applicant and the Applicant's owners), if any:

Entity	Affiliates
Owner 1:	
Owner 2:	
Owner 3:	
Owner 4:	
Owner 5:	

A.5 LEGAL DISCLOSURES

For all of the individuals listed in A.2 and A.3, above, please disclose if he or she has been (i) the subject of insolvency proceedings in Bermuda or other jurisdiction within the past 15 years; (ii) found guilty of an offence under the ECA or RAA or a serious criminal violation within the past 15 years. For these purposes, a serious criminal violation shall be any indictable offence. Please provide details of any offence listed below:

Name of person	Offence	Details

PART B: ELIGIBILITY CHECKLIST (ALL APPLICANTS)

Prior to submitting an application for an ICOL or a COL, the Applicant must complete the following checklist to confirm the Applicant's eligibility.

All Applicants	Confirm (Tick)
The Applicant is a company that it is registered with the Bermuda Registrar of Companies.	<input type="checkbox"/>
The Applicant is qualified to conduct business in Bermuda.	<input type="checkbox"/>
The Applicant has provided a certificate of compliance from the Bermuda Registrar of Companies office.	<input type="checkbox"/>
The Applicant (or any individual or legal entity set forth in A.2 or A.3 above): a) has not been found by decision of the Authority to be in material non-compliance with any applicable laws, regulations or administrative decision of the Authority, including non-payment of Authority or Government fees.	<input type="checkbox"/>
The Applicant (or any individual or legal entity set forth in A.2 or A.3 above): b) has not been the subject of insolvency proceedings in Bermuda or other jurisdiction with the past 5 years.	<input type="checkbox"/>
The Applicant (or any individual or legal entity set forth in A.2 or A.3 above): c) has not been found guilty of an offence under the ECA or RAA or a serious criminal violation within the past 10 years. For these purposes, a serious criminal violation shall be any indictable offence.	<input type="checkbox"/>
The Applicant (or any individual or legal entity set forth in A.2 or A.3 above): d) has not been found guilty of any unlawful activities or disreputable acts which would render the award of a licence contrary to the public interest under the circumstances.	<input type="checkbox"/>
ICOL Applicants Only	
The Applicant individual or legal entity (or owner or beneficial owner or an associated individual acting as a director or in a senior management role): e) does not have a direct or indirect controlling interest of 10 or more percent in an existing ICOL holder.	<input type="checkbox"/>

PART C : ICOL APPLICATION (ICOL APPLICANTS ONLY)

Applicant should provide the information requested below in an annex to the Master Application Form and reference the appropriate place in the annex to respond to each question in the tables below.

C.1 COMMERCIAL

Provide the following information regarding the Applicant's commercial plan:

A description of the Applicant's business goals, objectives and mission.	
A description of the Applicant's ownership structure, and what experience the Applicant and its owners, directors and senior executives have in developing and operating similar businesses.	
A description of customer service standards and procedures.	
A description of the Applicant's proposed marketing strategy for any new services the Applicant proposes to offer.	
A description of the proposed staffing levels generally.	
An explanation of how the Applicant's proposals will promote and preserve effective and sustainable competition.	
A description of the Applicant's proposed billing system.	

C.2 FINANCIAL

Provide the following information regarding the Applicant's financial plan:

A summary description of the Applicant's financial plan for the first three years following the award of the ICOL.	
Pro-forma statements (which includes income statement, balance sheet and cash flow/ budget) that show the financial projections of the Applicant for the first three years following the award of the ICOL.	
A summary description of all assumptions to the pro-forma statements. Examples include but not limited to, sales forecast, personnel plan & fixed asset budget.	

Historical financial statements of the Applicant for the past two years (audited if available), if applicable.	
Any significant changes in the Applicant's financial status that have occurred over the past six months.	
Any material changes in the Applicant's financial status that are reasonably likely to occur over the next 12 months.	
Financial statements of the Applicant's parent company (audited if available), if applicable.	
Any other financial information that is relevant to consideration of the Applicant's proposed business.	
<p>Letter from an insurance company (or equivalent) committing that, for a period of three years following the effective date of the Licence, the Applicant is able to maintain an insurance policy, bond, guarantee or other instrument, payable to an independent third party, in a form and an amount acceptable to the Authority that is sufficient to:</p> <p>a) cover the costs of removing any abandoned Electronic Communications Networks and Associated Facilities partially or fully constructed by the Licensee; and</p> <p>b) compensate the Licensee's Subscribers for the reasonable costs they incur in establishing new accounts with alternative service providers if the Licensee discontinues the provision of Electronic Communications Service.</p> <p>If the application is approved, the Applicant will need to provide a copy of the insurance certificate (or equivalent) before the Authority will grant the licence to Applicant.</p>	

C.3 TECHNICAL

Provide the following information regarding the Applicant's technical plan:

Detailed description of the electronic communications services the Applicant intends to provide.	
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Detailed description of the electronic communications network and associated facilities the Applicant intends to construct and operate.	
The relevant experience in constructing and operating electronic communications networks and providing the electronic communications services proposed by the Applicant and/or any other relevant industry experience. With regard to such experience, the Applicant should describe the specific types of networks operated and services provided in and outside of Bermuda by the Applicant.	
The experience of key personnel of the Applicant, and demonstration that they have adequate qualifications and experience.	
The number of customers proposed to be served by the Applicant over the first three years following the award of the ICOL.	
Experience relevant to small island markets similar to Bermuda.	

PART D: COL APPLICATION (ONLY FOR APPLICATIONS THAT ARE NOT ICOLS)

APPLICANT MAY PROVIDE ADDITIONAL INFORMATION IN AN ANNEX TO THE MASTER APPLICATION FORM BELOW.

D.1 COMMERCIAL

Provide the following information regarding the Applicant's commercial plan:

A description of the Applicant's business goals, objectives and mission.	
A description of the Applicant's ownership structure, and what experience the Applicant and its owners, directors and senior executives have in developing and operating similar businesses.	
A description of customer service standards and procedures.	
A description of the Applicant's proposed marketing strategy for any new services the Applicant proposes to offer.	
A description of the Applicant's proposed staffing levels generally.	
An explanation of how the Applicant's proposals will promote and preserve effective and sustainable competition.	
A description of the Applicant's proposed billing system.	
Detailed description of the electronic communications services the Applicant intends to provide.	

D.2 FINANCIAL

Provide the following information regarding the Applicant's financial plan:

A summary description of the Applicant's financial plan for the first three years following the award of the COL.	
Any significant changes in the Applicant's financial status that have occurred over the past six months.	
Any material changes in the Applicant's financial status that are reasonably likely to occur over the next 12 months.	

Any other financial information that is relevant to consideration of the Applicant's proposed business.	
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D.3 TECHNICAL

Provide the following information on the technical capabilities of the Applicant:

Detailed description of the electronic communications services the Applicant intends to provide.	
Detailed description of the electronic communications associated facilities the Applicant intends to operate.	
The relevant experience in providing the services covered by the application and/or any other relevant industry experience. With regard to such experience, the Applicant should describe the specific types of services provided in and outside of Bermuda by the Applicant.	
The experience of key personnel of the Applicant, and demonstration that they have adequate qualifications and experience.	
The number of customers served by the Applicant.	

PART E: DECLARATION (ALL APPLICANTS)

I, the undersigned, hereby declare that I am duly authorized by the Applicant to:

- (a) submit this Master Application Form for and on behalf of the Applicant for the purpose of applying for an Integrated Communications Operating Licence / Communications Operating Licence [Delete as applicable]; and
- (b) act on behalf of the Applicant in all matters relating to the application.

I hereby declare that the information contained herein and the documents, statements and particulars accompanying it are, to the best of my knowledge and belief, correct.

I acknowledge that this application shall only take effect upon written confirmation by the Authority that the Authority has received the completed Master Application Form, and the Applicant has met the eligibility requirements.

Communications Operating Licence Applied For:	Integrated Communications Operating Licence / Communications Operating Licence [Delete as applicable]
Name of Applicant (BLOCK CAPITALS)	
Signature	
Name of authorised signatory	
Address	
Email address	
Position	
Date	