

## OVERVIEW OF THE COMMENTS RECEIVED AND LTA'S RESPONSE

No.	Respondent	Subject	Summary of comment	LTA response
<b>POINTS MADE IN RESPONSE TO THE PUBLIC CONSULTATION</b>				
1	Lonestar	Contributions to the UAF	<p>Lonestar states that it has three operational licenses which specify a minimum UAF contribution of, respectively, 0.05%, 0.05% and 0.5% of gross marginal revenue. Lonestar suggests that the draft Regulations should be changed to read:</p> <p><i>“Licensees and Service Operators designated by the LTA shall pay an annual contribution to the Universal Access Fund as mandated in the LTA issued Licenses(s).”</i></p>	<p>The LTA notes that the requirements from all Lonestar’s licenses (and those of other operators) stipulate only a <u>minimum</u> contribution. Separately both the ICT Policy and the National Universal Access Program Strategy stipulate that the contribution should be between 0.5% and 2% of gross annual revenues.</p> <p>No change necessary.</p>
2	Lonestar	Administrative and Operational Costs	<p>The draft Regulations do not (but should) specify a maximum percentage of the Universal Access Fund that is used for administrative purposes.</p>	<p>The draft regulations limit administrative costs to what is “reasonably and necessarily associated with the due and proper administration of the Board and the Committee”. It is not possible to specify a percentage limitation to these costs until some experience has been gained with the operation of the Fund, and the appropriate percentage will vary depending on the level of contributions being made each year. For these reasons it is inappropriate to establish a percentage threshold within the regulation.</p> <p>Nevertheless, LTA accepts the need to control costs carefully, and proposes to establish an initial limit of 15% within the Operations Manual for the UAF. Moreover,</p>

				administrative costs will be part of the annual Budget to be established by the Implementation Committee and approved by the Governing Board.
3	Lonestar	Current universal access sites	Some of the Base Transmission Stations currently deployed by Lonestar and other Licensees may qualify as Universal Access sites based on the relevant criteria. These sites should be officially recognized and benefit equally from UAF support.	The goal of the UAF is to extend network and services beyond the scope of existing commercial service. It is not therefore appropriate to use the Fund to support existing network facilities even if they might (as new facilities) be eligible for support under the criteria established in the Regulations.
4	Libtelco	Unserved and underserved areas	Considering that most of Liberia is underserved, especially in the provision of data services and human capacity development, the concept of universal service fund for "UNDERSERVED" area may be explicitly reserved for commercial enterprises whereas, "UN-SERVED" may be explicitly reserved for state-owned enterprises.	The aim of the UAF is to increase service provision in both unserved and underserved areas. The best and most cost-effective way to achieve this objective is by least cost subsidy auction, and it makes no sense to restrict the number of potential participants in such an auction based on their ownership. The tender process should be transparent and non-discriminatory.
5	Libtelco	Administrative costs	Please assure stakeholders that issues such as the salary of the committee and PIU, board-fees etc will not increase overhead costs nor misappropriate the UA funds.	See the answer to Lonestar, point 2 above.
<b>POINTS MADE AT THE STAKEHOLDER WORKSHOP</b>				
6	Mobile operators	Objectives	Some mobile operators expressed general support for the Universal Access Fund (UAF). However, operators expressed concern that the UAF	The LTA notes that the UAF is mandated by the Telecom Act 2007, the Ministry of Posts and Telecommunications' (MoPT) 2011 National ICT Policy, and by the MoPT's 2014 Universal Access Program Strategy.

projects should not compete with commercially viable coverage and infrastructure included within the operators' rollout plans. Operators requested as much input as possible in the selection of the projects, as they know the market well, including their own rollout plans. Operators also expressed concern about the need for transparency in project selection.

LTA shares the concerns raised by the operators and notes that these concerns are inter-related, as the best way to ensure that Universal Access (UA) projects do not compete with commercially viable services is for operators to participate actively in consultations to select UA projects.

The Universal Access provisions of the Telecom Act 2007 have been implemented in a manner that includes specific provisions to avoid competition with commercially viable services and infrastructure.

For example, the UA Program Strategy provides:

#### *1.1.4 Objectives*

*The objectives of the national Universal Access program are to promote the provision of ICT services in un-served and under-served areas where commercial service is not feasible.*

*... The program objectives shall meet the following criteria:*

*... i) Minimize distortions and interference caused by each UA project to commercially available telecommunications services; ...*

In implementing the UA Program Strategy, the Regulations further provide:

*11.2. No program shall be approved by the Board unless it is – ... (f) not already addressed by another project whether as part of the UAF or not.*

These provisions are designed to help ensure that UA projects do not compete with each other or with near term commercial projects intended to be carried out by operators.

In order to ensure the effectiveness of these provisions,

				<p>however, it is important that operators provide the UAF Implementation Committee with accurate and timely information on service and infrastructure rollout plans in various regions of Liberia subject to potential UA projects. The LTA recognizes that such information provided by operators may be confidential and therefore the LTA will follow the LTA's Confidentiality Regulations (Regulation LTA-REG-0002) to ensure required confidentiality is maintained. The active participation by operators on the Implementation Committee and UA Governing Board will also strongly assist in avoiding the selection of UA projects in areas that are commercially viable or included in operators near term rollout plans.</p>
7	Hon. John Balloutte	Appointment of the Board	<p>Concern that article 4.2 of the Regulations provides unnecessary discretion to the LTA in appointing members of the Governing Board. Article 4.2 provided:</p> <p><i>The Minister shall appoint the Board within one month of the coming into effect of these Regulations, failing which the persons nominated by the LTA shall constitute the Board.</i></p>	<p>The LTA agrees and has revised article 4.2 to delete the following:</p> <p><i>... failing which the persons nominated by the LTA shall constitute the Board.</i></p>
8	Ministry of Posts and Telecommunications	Creation and Operation of the Fund	<p>Deputy Minister Zotawon Titus, MoPT, commented that the draft Regulations (as sent by LTA to MoPT April 30, 2014) was "a good document from its structure, content, simplicity and clarity of language to implementation. It basically covers all the critical parameters that matter - governance framework, funding and their sources</p>	<p>The LTA agrees with this submission and has revised the Regulations to include the following provision:</p> <p><i>9.7 Within 6 months of project completion, any UA project over a threshold that is to be determined annually by the Governing Board, shall also be audited for value-for-money using an independent expert to assess whether the project implementation has met the contractual requirements and ensure that the quality of equipment and</i></p>

			<p>among others.”</p> <p>The DM noted however that “there was an oversight on the issue of audit” and proposed that the language used in NUAPS be adopted to address this concern:</p> <p><i>'... All projects implemented under the program and over a defined minimum size threshold shall also be audited for value-for-money using an independent expert to assess whether the project implementation has met the contractual requirements and ensure that the quality of equipment and its installation is to an acceptable level'.</i></p> <p>The DM noted that the “draft regulation must therefore define what that threshold is.”</p>	<p><i>its installation is to an acceptable level.</i></p> <p>The audit here proposed is in addition to the annual monitoring and evaluation of the entire UA program. Bearing in mind the additional administrative costs involved in such an audit it is only appropriate for the largest of UA projects.</p>
9	Hon. Numene Bartekwa	Objectives	<p>The Chairpersons of the Standing Committees on Posts &amp; Telecommunications emphasized the importance of the UA Fund to meeting the communications needs of rural residents of Liberia and the need for consultation with the Committees in the establishment of the Fund through the Regulations.</p>	<p>The LTA welcomes contributions from the Chairpersons of these two important committees as evidenced by the invitations to attend the stakeholder workshop, and looks forward to their continued support as the UAF is established.</p> <p>The LTA notes that, under the NUAPS and the Regulations, the UAF Budget shall be approved on an annual basis by the National Legislature as part of the National Budget approval process. The Budget will be submitted as part of the budget of the Executive, thereby providing a further venue for the Legislative Committees’ involvement with the UA Fund.</p>

10 LTA

Typographical errors and edits

A number of changes are suggested to improve clarity in the draft Regulations.

Throughout the Regulations “the Fund” should refer to the monetary account of the Universal Access Fund, whereas “UAF” should be used to refer to the entity that runs the Fund, comprising the Governing Board, the Implementation Committee and the Project Implementation Unit.

In 4.10(b) replace Universal Access Budget and Implementation Plan with Universal Access Annual Budget and Workplan, which is thereafter referred to as “the Budget”.

In 10.4 replace “*receipt*” with “*receive*”.

## ANNEX A: PARTICIPANTS IN UNIVERSAL ACCESS CONSULTATION WORKSHOP

The following is the full list of participants in the workshop held on 1 May 2014

Name	Organisation
Angelique Weeks	LTA Chairperson
Harry T Yuan	LTA Commissioner
Anthony McCritty	LTA Commissioner
Henry Benson	LTA Commissioner
Hon. Numene T. H. Bartekwa	House of Representatives
Hon. John Ballout	House of Senators
Zahnga E Peabody	Libtelco
Joe Bando	Ministry of Posts & Telecommunications
Nathaniel Kevin	Lonestar
Elijah Glay	LTA
Dee-ward Ambrose Jah	Novafone
Emmanuel Tomah	LTA
Jonah Massaquoi	LTA
Bobby Sebo	Liberia Science Foundation
William Saamoi	Cellcom
Sonia Iqbal	Liberia Chamber of Commerce
Stephanie Harman	Liberia Chamber of Commerce
Anthony Flah	LTA
Nyenkenyen Glay	WEN Inc.
Walter Dean	WARCIP
John Dolomengi	Ministry of Posts & Telecommunications
Saleho Kanneh	LTA
Isaac Yonly	LTA
Osborne K Diggs Jnr	LTA Counsellor
Edwin M Bonar	DSTV
Augustus Fallah	LTA
Jarsea Burphy	LTA
David Rogerson	Incyte Consulting
William Burnfield	Great Village International Consultants
Eden Reeves	Incyte Consulting
Parvez Iftikhar	Commonwealth Telecommunications Organisation

Part/Section	Existing Text of Section	Requested Revision	LTA Decision	Revised Text
10.2 of UA Regulations	Licensees and service providers designated by LTA shall pay 2% of annual gross revenues each year for the first three-year period of the operation of the UAF. The LTA may revise these contributions in terms of section 10.3, and shall suspend contributions for any year in which the balance of the Fund at the start of the year, excluding extraordinary contributions, exceeds a sum equal to three times the aggregate contribution assessed on licensees in the most recent financial year.	Reduce the contribution to 0.5%	LTA agrees	Licensees and service providers designated by LTA shall pay 0.5% (half of one percent) of annual gross revenues for the first year of the operation of the UAF. The LTA may revise these contributions in terms of section 10.3, and shall suspend contributions for any year in which the balance of the Fund at the start of the year, excluding Extraordinary Contributions, exceeds a sum equal to three times the aggregate contribution assessed on licensees in the most recent financial year.