



MALAWI COMMUNICATIONS REGULATORY AUTHORITY

**REQUEST FOR PROPOSALS (RFP) TO CONDUCT A MARKET DEFINITION AND COMPETITION
ASSESSMENT FOR THE WHOLESALE AND RETAIL COMMUNICATION SERVICES MARKETS IN
MALAWI**

PROCUREMENT REFERENCE #: MACRA/IPDC/ERD-MDCA/2021/04/01

1. BACKGROUND

The Malawi Communications Regulatory Authority (MACRA) was established under the Communications Act, Cap 68:01 of the Laws of Malawi to regulate communication services and ensure that as far as it is practicable, reliable and affordable communication services are provided throughout Malawi and are sufficient to meet the demand of such services in accordance with principles of transparency, certainty, market orientation, efficiency and consumer satisfaction. In addition, MACRA is required to regulate the communication sector and to protect interest of consumers, purchasers and other users of communication services with regard to prices charged for the quality and variety of services provided. MACRA is also mandated to promote efficiency and competition among its licensees as they provide communication services in the market.

Section 57 of the Communications Act mandates MACRA to conduct market analyses and publish in the Gazette a list of all retail and wholesale communications services markets that, in the Authority's opinion, require ex-ante regulatory control and licensees deemed as holding dominant position for each identified communication service markets, to be imposed with additional regulatory obligations as a means of correcting market failures. These market assessments and dominance determinations are important to MACRA's promotion, supervision, monitoring and application of effective remedies for weak and failed competition.

In line with the above mandate and the importance of market analyses, MACRA would like to engage a consultant to conduct a market definition and competition assessment for wholesale and retail market in the communication sector in Malawi. The successful consultant shall take into consideration technological advancement such as convergence of technologies and markets.

2. RATIONALE

The market assessment and dominance determination (market analyses) are a fundamental function in competition and economic regulations under the Communications Act. The Act recognises that competition is the most effective means of organising, operating and disciplining economic markets. As such, market assessment is one of the regulatory tools that Communication Regulators use in promoting competition and regulating anti-competitive behaviour in the communication services sector. Furthermore, the market analyses aim at improving consumer welfare by ensuring that service providers are offering high quality services at affordable rates. In addition, the analyses will assist MACRA in devising and implementing effective remedies for correcting market failures currently existing in the communications services sector.

It is therefore imperative that MACRA undertakes a market analysis and competition assessment to foster and strengthen competition on market forces as primary drivers of investment, innovation, lower prices, improved coverage and better customer services in the country.

OBJECTIVES

The main objective of the study is to define the wholesale and retail markets and undertake a market and competition assessment of the communication services sector in Malawi.

3.1 Specific objectives for the study:

- Review of the current legal and regulatory environment to ensure that the competition and market assessment is within the stipulated laws and make detailed recommendations.
- Develop criteria for market definition and the actual identification of relevant markets for which communication services segments will form a basis for significant market power assessment.
- Define relevant markets by undertaking products and geographical supply and demand side substitutability analyses, hypothetical monopolistic tests and appraisal of prevalent market conduct and performance.
- Provide guidance on the execution of structural- conduct-performance analysis for competition analyses and other best practices within the region and internationally in developing competition framework.
- Undertake a market power assessment (defining the methodology/approach used) and determine dominant players and operators with Significant Market Power (SMP).
- Identify the barriers if any, which prevent or restrict market competition and the growth of the sector and players.
- Provide a proposal of the best ways by which the identified barriers and factors considered a hindrance to growth can be considerably minimized or eliminated.

- Propose/prescribe remedies and approaches for the regulatory treatment for SMP or dominant players and enhanced consumer protection.
- Identify specific incentives that can be injected in the data or internet market segment in order to ensure that there is effective competition affordability and growth.
- Recommend any relevant intervention that would effectively enhance management of competition in the communication market in Malawi.

3. SCOPE OF ASSIGNMENT

The following activities are expected to be executed to deliver the study objectives:

1. Develop a framework for relevant market definition (i.e. the market identification and competition assessment framework for communication services in Malawi). The relevant market definition should comprehensively apply but not limited to the following product and geographical tests:
 - a. Conduct a structural market analysis.
 - b. Undertake demand-side and supply-side substitutability tests.
 - c. Undertake Small but Significant Non-transitory Increase in Price (SSNIP) Test for relevant market definition.
2. Conduct significant market power assessment.
3. Propose remedies and recommendations to address identified market failures.
4. Training and deliberate transfer of knowledge for the whole process to the key MACRA staff who shall be involved in the assignment.

4. QUALIFICATION OF THE CONSULTANT

The Consultants are expected to have the following required qualifications and experience:

- i. Minimum of a master's degree in economics, law, telecommunications/ICTs or areas relevant to the job.
- ii. Comprehensive background and understanding in subjects related to economics, public policy studies, ICT/telecommunication policy, regulation, and legislation.
- iii. At least 10 years' experience in telecommunications/ICTs regulation including issues such as Strong research skills and experiences in the areas of ICT and development.
- iv. Good knowledge and experience of the local/regional communications market.
- v. Strong communication, documentation and skills in English

Working Language

The working language for the consultancy service shall be English.

5. TERMS OF REFERENCE (TOR's)

Interested and potential consultants may obtain detailed Terms of Reference (TORs) contained in a Request for Proposal (RFP) document from MACRA House, Salmin Amour Road, Private Bag 261, Blantyre Malawi or through email as provided under 7 (i) below.

6. INSPECTION OF RFP DOCUMENTS, SUBMISSION AND OPENING OF PROPOSALS.

The following are addresses for inspection of RFP document, submission and opening of proposal documents:

i) Inspection of RFP Documents

Malawi Communications Regulatory Authority (MACRA)
MACRA House
Ginnery Corner
Salmin Amour Road
P/Bag 261
Postcode 312200
BLANTYRE

Attention: Head of Procurement & Supply Chain

Tel: +265 1 810 497

Fax: +265 1 812 890

E-mail: gkaphale@macra.org.mw; anyirenda@macra.org.mw
procurement@macra.org.mw

ii) Submission of Proposal Documents

The Chairperson
Internal Procurement and Disposal Committee (IPDC)
Malawi Communications Regulatory Authority (MACRA)
MACRA House
Ginnery Corner
Salmin Amour Road
P/Bag 261
Postcode 312200
BLANTYRE

iii) Opening of Proposals

Malawi Communications Regulatory Authority (MACRA)
MACRA House
Boardroom Hall
Salmin Amour Road
P/Bag 261

Postcode 312200
BLANTYRE

7. SELECTION OF SUCCESSFUL CONSULTANT

The Consulting Firm shall be selected under **Quality and Cost-Based Selection (QCBS)** procedures as described in the Request for Proposal (RFP), in accordance with the provisions of the Public Procurement and Disposal of Assets (PPDA) Act of 2017. Consultants' are therefore instructed to submit their proposals in two separate envelopes clearly marked, '**PROPOSAL TO CONDUCT A MARKET DEFINITION AND COMPETITION ASSESSMENT FOR THE WHOLESALE AND RETAIL COMMUNICATIONS SERVICES MARKETS IN MALAWI**' one for the Technical Proposal and another one for the Financial Proposals.

8. LOCATION AND DURATION

The successful Consulting Firm is expected to carry out the assignment and deliver the final report within a period of six to nine months from the date of contract award. The location of this assignment shall be the whole of the Republic of Malawi for all the wholesale and retail markets in the communications sector.

9. OBLIGATION OF THE CONSULTING FIRM

The successful Consulting Firm is to discharge its responsibilities to the expected professional standards and integrity.

10. CONFLICT OF INTEREST

The successful Consulting Firm shall state whether or not there is any conflict of interest, particularly if the Consultant is currently carrying out consultancy work for any other stakeholder (licensed operator/service provider) in the communications sector in Malawi.

11. CLIENT CONTRIBUTION AND CONTACT PERSON

MACRA shall assist the successful Consulting Firm in terms of acquisition of relevant data pertaining to licensed operators in the electronic communications sector. The contact person during the consultancy shall be the **Director General**.

12. PROPOSAL OPENING

Opening of proposals shall take place in MACRA Boardroom on Tuesday 15th June, 2021 at 15:00 hours and bidder's representatives and the general public who wish to attend are most welcome. MACRA is however, not bound to accept the lowest or any proposal but reserves the right to exercise choice of lowest evaluated, substantially responsive proposal and can cancel the procurement proceedings at any stage.