

IN THE FOURTH SESSION OF THE FOURTH PARLIAMENT OF
THE FOURTH REPUBLIC OF GHANA

**REPORT OF THE JOINT COMMITTEE ON
FINANCE AND COMMUNICATIONS ON THE
COMMUNICATIONS SERVICE TAX BILL.**

1.0 INTRODUCTION

The Communications Service Tax Bill was laid in the House on 20th February, 2008 and referred to the Joint Committee on Finance and Communications for consideration and report in accordance with the Constitution and Standing Orders of the House.

To consider the Bill, the Committee met with the Minister of State at the Ministry of Finance and Economic Planning, Hon. Dr. Anthony Akoto Osei, Deputy Minister of Finance and Economic Planning, Hon. Prof. George Gyan-Baffour, Deputy Minister of Communications, Hon. Frederick Opare Ansah, officials from the Value Added Tax Service, the Ministry of Finance and Economic Planning and communications service providers and reports as follows:

2.0 REFERENCE DOCUMENTS

In considering the Bill, the Committee referred to the following documents:

1. The 1992 Constitution of the Republic of Ghana

2. The National Communications Authority Act, 1996 (Act 524)
3. The Standing Orders of the House

3.0 OBJECT OF THE BILL

The object of the Bill is to impose a communications service tax on communication service usage charged to consumers by communication service providers who are authorized or licensed or required to be authorized or licensed by the National Communications Authority.

4.0 CONTENTS OF THE BILL

The Bill contains a total of 16 clauses.

Clause 1 imposes a communications service tax. The tax is to be levied on charges payable by consumers for the use of communications service.

Clause 2 specifies the persons liable to pay the tax.

The rate of the tax is contained in clause 3.

Clause 4 mandates the Value Added Tax Service established under section 36 of the Value Added Tax Act, 1998 (Act 546) to collect and pay the tax into the Consolidated Fund.

Submission of tax return and time for payment of the tax are dealt with in clause 5.

Clause 6 deals with payment of interest on outstanding tax.

Recovery of tax, interest or penalty due is dealt with in clause 7. The clause empowers the Commissioner to apply to the Court for an order that compels an individual or business to pay to the commissioner the

money owed, or so much of it as is sufficient to discharge the tax, interest or penalty payable and due.

Clause 8 deals with distraint for liability and empowers the courts to order the seizure of property where persons owing tax become recalcitrant.

Clause 9 deals with recovery of the tax in respect of a person under liquidation.

Clause 10 captures the applicability of sections 29 and 30 and Parts IX and XII of the Value Added Tax Act, 1998 (Act 546) to the management of the tax as regards records, offences, penalties, and related matters.

Clause 11: Objections and appeals

Clause 12 provides for the sufficiency of a certificate issued by the Commissioner as evidence in civil or criminal proceedings.

Clause 13 provides for the directives and powers of the Minister responsible of Finance and the Commissioner of the Value Added Tax Service in the implementation of the tax.

Clause 14 empowers the Minister to make Regulations by Legislative Instrument (LI) for the purpose of giving effect to the provisions of the Act.

Clause 15: Interpretations

Clause 16 seeks to give the commencement date of the Act after Presidential assent through publication in the *Gazette*.

5.0 OBSERVATIONS

The Committee observed that this tax forms part of efforts by government to widen the tax net in order to increase revenue yield.

The Committee noted that revenue to be accrued from the communications service tax is to be used to support the country's development agenda including employment programmes.

It was further observed that the tax would form part of the charges payable by consumers for the use of communications service and is to be accounted for by the communications service providers to the Value Added Tax (VAT) Service.

Members expressed the need to establish an effective and efficient monitoring mechanism to monitor the systems of the Communications Service Providers in order to track their actual revenues for the purposes of applying the tax.

Officials from the Value Added Tax Service assured the Committee that there is an effective monitoring system in place to determine the amount of tax due for payment.

The Deputy Minister for Finance and Economic Planning also indicated the need for effective monitoring to protect government revenue but also cautioned that care should be taken to ensure that government does not become too intrusive of the business of the operators.

The Minority Members on the Committee actively participated in the consideration of the Bill. They however, expressed their opposition in principle to the imposition of communications service tax because of its impact on teledensity and mobile penetration.

6.0 AMENDMENTS PROPOSED

The Committee respectfully proposes the following amendments to the Bill:

- i. **Clause (1) - Amendment Proposed** - sub-clause (2), *delete*
- ii. **Clause (3) - Amendment Proposed** - sub-clause (1), line 1, *delete* "not be more than 8%" and *insert* "be 6%"
- iii. **Clause (3) - Amendment Proposed** - sub-clause (2), - *delete*
- iv. **Clause (4) - Amendment Proposed** - sub-clause (2), line 2, *delete* "penlaty" and *substitute* "penalty"
- v. **Clause (5) - Amendment Proposed** - sub-clause (8), line 3, *delete* "GH¢1000" and *substitute* "GH¢2000"
- vi. **Clause (6) - Amendment Proposed** - sub-clause (1), *delete* and *insert* the following:
"(1) Subject to section 5(6), a service provider who does not pay the tax by the due date shall pay monthly interest on the tax due at the rate of one hundred and fifty percent of the average of the prevailing commercial banks' lending rates as published by the Bank of Ghana for the period which is not more than one month after the due date that the tax remains unpaid."
- vii. **Clause (7) - Amendment Proposed** - sub-section (1), line 1 - *delete* "and any" and *insert* "or"

viii. **Clause (8) - Amendment Proposed** - sub-clause (1), *delete* and *insert* the following:

"8.(1) where tax, penalty or interest due under this Act remains unpaid after the time by which this Act requires it to be paid, the Commissioner may apply to the Court by motion on notice to the person from whom the payment is due for an order to levy distress on the

- (a) goods and chattels of that person
- (b) commodity or items found in premises or land owned by, in use or in possession of that person or of any other person on behalf of or in trust for that person or
- (c) assets, property, building factory, machinery, plant, tools, means of transport, accessories and all equipment used for the provision of communication service by that person"

vii. **Clause (8) - Amendment Proposed** - sub-clause (3), line 3 - *delete* "subsection (2)" and *Insert* "subsection (1)"

viii. **Clause (8) Amendment Proposed** - sub-clause (4), line 1 - *delete* "a police officer" and *insert* "the police" and line 2 - *delete* "that police officer" and substitute "the police"

ix. **Clause (8) - Amendment Proposed**- sub-clause (6) (a), *delete* and *insert* the following:

- (a) the cost or charges of

- (i) the distress
 - (ii) maintenance of the distress, and
 - (iii) the sale
- x. **Clause (8) - Amendment Proposed** - sub clause (6) last line - *delete* "has" and *insert* "takes"
- xi. **Clause (8) - Amendment Proposed** - sub-clause (7) third line - *delete* "has" and *insert* "takes"
- xii. **Clause 12 - Amendment Proposed** - sub-clause (2) - *insert* "which has been" after "document" in line 1
- xiii. **Clause 13- Amendment Proposed** - sub-clause (1), line 1- *delete* "responsible for Finance"
- xiv. **Clause 13 - Amendment Proposed** - *add* a new sub-clause (4) as follows:
"The Minister in collaboration with the Minister of Communication shall establish a monitoring mechanism to verify the actual revenue that accrue to a communications service provider for the purpose of applying the tax"
- xv. **Clause 15 - Amendment Proposed** - definition of "charge for communications service usage", after "levy", *delete* all words
- xvi. **Clause 15 - Amendment Proposed** - definition of "Communication service" line 3 *delete* all words after "functions"

xvii. Clause 16 - Amendment Proposed - *delete*

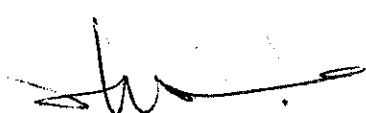
7.0 CONCLUSION

The Committee, after careful consideration of the Bill, recommends to the House to adopt this report and pass the **Communications Service Tax Bill** subject to the amendments proposed.

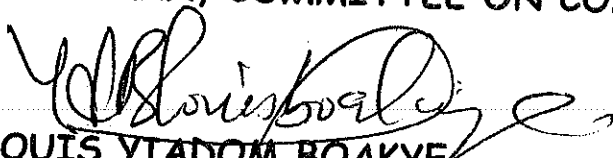
Respectfully submitted.



~~HON. NII ADU DAKU MANTE~~
CHAIRMAN, FINANCE COMMITTEE



HON. KOJO ARMAH
CHAIRMAN, COMMITTEE ON COMMUNICATIONS



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MARCH 07, 2008