



GHANA ASSOCIATION OF LIBERTARIAN THINK TANKS (G.A.L.T)

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PUBLIC STATEMENT

10 QUESTIONS THE GOVERNMENT MUST ANSWER ON THE PROPOSED NITA BILL

The proposed National Information Technology Agency (NITA) Bill, 2025, is one of Ghana's most ambitious initiatives to reform its digital economy after 18 years of fragmented legislation. The Bill imposes criminal penalties, licensing requirements, revenue levies, strong ministerial powers, and broad regulatory control over software developers, startups, ICT experts, and digital businesses.

On 26 May 2026, the Ministry of Communication, Digital Technology And Innovations convened a stakeholder consultation under the theme “The NITA Bill and Ghana’s Digital Future: Responding to Stakeholder Concerns”. While we appreciate the participation, several clarifications provided during the session raise as many new questions than it was answered. Notably, the Minister indicated that the version of the NITA Bill in the public domain is already out of date, with updated version 4.0 or 5.0 currently before Cabinet for consideration, but no new text was made accessible to stakeholders. Consultations with stakeholders on a superseded document are not real engagement; they are procedural theatre.

We acknowledge three clarifications from the stakeholder’s consultation:

- a) The 1% gross revenue levy has been removed from the current version.
- b) The licensing framework is now described as targeting businesses providing ICT services to government entities, Ministries, MMDAs, and State Authorities — not the general IT industry.
- c) Inspection powers will require legal process, including warrants.

These compromises are noted. They do not, however, address the fundamental difficulties raised below. As an association whose members are dedicated to economic freedom, innovation, civil liberty, free market and ease of doing business, Ghana Association of Libertarian Think Tanks urges the government to offer clear, direct, and public responses to the following questions below before the bill is laid before Parliament.

1. If the Scope Is Government Contracts, Why Does the Bill’s Text Not Say So?

The Minister indicated during the consultation that the licensing regime focuses on ICT companies that provide services to government agencies, rather than the whole digital sector. However, the



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language of the Bill in public circulation does not contain such a restriction. The categories listed as requiring licensure are incredibly broad:

- Business and Productivity Software and Licensing Services
- Mobile Application Developers
- E-commerce Service Providers
- Data Brokers and Data Analytics Service Providers
- Fintech Entities and Financial Information Providers
- Market Data Providers
- Miscellaneous ICT Components and Goods

These categories encompass virtually every digital business in Ghana — regardless of whether they have any relationship with the government. If the scope is genuinely limited to government contractors, the Bill must say so explicitly. A minister's verbal assurance at a stakeholder session is not law.

These categories encompass almost every digital business operating in Ghana, regardless of whether they have a relationship with the government. If the scope is indeed confined to provide IT services and equipment to MDAs/MMDAs in the fulfillment of government, the Bill should state so explicitly. A verbal assurance from the minister during a stakeholder session is not law.

- Will the government release the current Cabinet version of the Bill immediately so stakeholders can verify whether the scope restriction is actually enacted in legislative text?
- If the current text does not restrict the regime to government contractors, why are stakeholders being consulted on a misrepresented scope?

A law means what it says. Ministerial interpretation cannot substitute for precise statutory language.

2. Why Were Stakeholders Consulted on an Outdated Document?

At the consultation on May 26, the Minister affirmed that the version that is now in circulation is not the one that Cabinet is currently considering. A Version 4.0 or 5.0 of the NITA Bill exists. He explained that the updated version 4.0 or 5.0 of the NITA Bill could not be shared due to his commitment to the oath of secrecy of Cabinet.

This justification is inadequate. The text of a proposed bill is not covered by Cabinet confidentiality; only Cabinet memoranda are. The Cabinet memo is not required by the public. It requires the most recent version of the bill that may impact the livelihoods and rights of the public. The government can engage the public on a draft that it knows is outdated and then move on with a significantly different document, which is a troubling precedent.

- a) Will the government immediately publish the current text of the NITA Bill as it stands before Cabinet, separated from any Cabinet memo?



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- b) Will the government commit to a fresh, substantive consultation round based on the actual current text before the Bill is laid before Parliament?

Stakeholder consultation conducted on a superseded draft is, at minimum, a waste of public time. At worst, it is deliberate misdirection. Parliament itself deserves to consider a document that reflects the actual regulatory intent.

At the very least, stakeholder consultation on an outdated draft is a waste of public time. It is, at worst, intentional deception. Parliament itself deserves to consider a document that reflects the actual regulatory intent in the future.

3. On What Legal Basis Is Any Part of This Regime Currently Operational?

There are legitimate concerns that before Parliament passed the Bill, parts of the license and fee ecosystem were already being operationalized. The Fees and Charges Act (Act 1080), L.I. 2481, and L.I. 2512 have been mentioned by the Minister's defense as the current legal basis.

This is not a valid argument. Prices for services that are already legally permitted are set by fee schedules. They don't independently establish significant regulatory authority, force private companies to apply for licenses, or penalize non-compliance. The Electronic Transactions Act, 2008 (Act 772), Section 38(1) is explicit: "A licence shall not be issued or granted by the Agency to an individual."

- a) Which specific statutory provision — not a fees instrument — currently authorizes NITA to compel licensing of private ICT businesses?
- b) Has the ministry obtained independent legal advice confirming the legality of any operational elements of this regime prior to parliamentary enactment?
- c) If the Bill is needed to create this authority, will the government acknowledge that this is a new regulatory regime, not a codification of existing arrangements?

Regulatory power is not the same as pricing power. An invoice does not constitute authorization. Democratic legitimacy cannot be replaced by administrative ambition.

4. Does Criminalizing Unlicensed Operation Serve Any Proportionate Purpose?

The publicly accessible version of the Bill makes it illegal to operate an ICT business without a license, and imposes fines or imprisonment and both. One crucial question arises if the Minister's scope guarantee is accurate and exclusively relates to IT services and equipment providers government:

- a) Why does failure to obtain an IT service provider to government registration warrant criminal sanction rather than administrative disqualification from tendering?

Every other procurement regime in Ghana handles noncompliance through civil and administrative measures, including as contract rejection, deregistration, and state-imposed financial penalties. No serious procurement framework criminalizes businesses for failing to register.



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If, on the other hand, the criminal prohibitions expand beyond government contractors to the wider digital economy, the initial issue remains completely valid: Freelance developers, student coders, startups, and small software firms face criminal exposure simply for operating without state approval.

- b) What specific, documented public harm does this criminalization address that cannot be remedied by administrative and civil mechanisms?
- c) Will the government commit, in the revised Bill, to replacing criminal penalties with proportionate administrative sanctions?

Criminal law should be a last resort, not a first instrument of regulatory compliance.

5. Is the Levy Gone, or Just Relocated?

The Minister confirmed that the 1% gross revenue levy had been eliminated. GALT admits this. However, because the current Cabinet wording is missing, we cannot confirm whether equivalent extraction has been reintroduced by other techniques, such as increased licence fees, renewal charges, or transaction-based levies.

The pricing schedule presented during the consultation ranges between \$55 to \$3,055, depending on the service category. While the Minister referred to these as “small compared to what businesses charge the government,” this framing is inaccurate. Fee proportionality should be measured against the cost of compliance and economic viability, not against contract values.

- a) Will the government publish the full, current fee schedule in the updated Bill text for public scrutiny?
- b) Has a Regulatory Impact Assessment been conducted on the cumulative cost burden — including licence fees, renewal fees, compliance obligations, and administrative time — on ICT SMEs and startups?
- c) Will the government commit that no new revenue extraction mechanism has been substituted for the removed 1% levy in Version 4.0/5.0 of the NITA Bill?

The removal of the gross revenue levy is greatly welcome. Its replacement with a different type of extraction would be a purely cosmetic concession rather than a substantive one.

6. How Does Section 46 Interact With the One Million Coders Programme?

Section 46 of the Bill, as currently circulated, prohibits employment as an ICT specialist without NITA certification. The Minister did not withdraw or significantly amend this provision during the consultation. The government is also promoting the One Million Coders Programme, which aims to cultivate digital talent on a large scale.

The conflict is systemic, not incidental. A program meant to train hundreds of thousands of coders cannot coexist with a legislation that makes those coders unemployed until they earn state certification—especially if:



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- Certification timelines are long or capacity is limited.
- Certification costs are prohibitive for recent graduates.
- There is no automatic certification pathway for programme graduates.
- How does the government plan to certify One Million Coders graduates at scale?
- What is the certification cost, processing timeline, and pass/fail framework?
- Will programme graduates automatically receive provisional certification upon completion?
- If a graduate cannot immediately afford or obtain certification, are they legally prohibited from accepting employment in their trained field?

The government cannot responsibly invest public funds in a digital skills initiative while also creating a legal barrier between those talents and employment.

7. What Anti-Corruption Safeguards Exist Within the Proposed Licensing Regime?

The proposed NITA Bill establishes a robust regulatory framework that includes licensing authorities, inspection powers, fee administration, enforcement capabilities, and influence on government-facing ICT enterprises. Globally, systems that combine regulatory discretion with market access are among the most vulnerable to corruption and rent-seeking.

The Bill appears to offer considerable power over license approvals, renewals, inspections, and compliance determinations, but there is little public clarity about safeguards against abuse.

- a) What independent appeal mechanisms exist for businesses denied licences or subjected to enforcement actions?
- b) Are licensing criteria objective and publicly available?
- c) Will licensing decisions and enforcement actions be transparently published?
- d) Does the Bill prevent conflicts of interest involving NITA officials and licensed entities?
- e) Are whistleblower protections available for businesses reporting extortion or unofficial payments?

Without sufficient anti-corruption safeguards, the regime risks becoming a gatekeeping system that prioritizes political access and regulatory influence over innovation, competition, and entrepreneurial merit and productivity.



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8. Who Actually Governs Ghana's Digital Economy?

The proposed NITA Bill creates significant jurisdictional overlap with existing regulatory bodies:

- The Cyber Security Authority — cybersecurity standards and incident response
- The Data Protection Commission — data governance and privacy
- The National Communications Authority — telecommunications and spectrum
- The Bank of Ghana — fintech and payment systems
- Emerging AI and cloud governance structures under development

It is conceivable that a fintech business that employs AI-driven analytics, manages health data, and offers cloud-based services to a government ministry may need licenses, registrations, or compliance certificates from five or more different regulatory agencies. Each has its own costs, renewal schedules, authority to conduct inspections, and procedures for enforcement.

- a) Which institution has ultimate authority over AI systems, cloud infrastructure, and data governance — and what is the legal basis for that determination?
- b) How many separate compliance obligations will a typical technology startup face under the combined framework?
- c) Has the government conducted a regulatory mapping exercise to identify and resolve overlapping jurisdictions before adding another layer?

Regulatory clarity is not a luxury. It is a precondition for investment, innovation, and economic growth.

9. Why Does the Bill Grant Open-Ended Ministerial Expansion Powers?

The Bill reportedly allows the Minister to define, expand, or modify the categories of activities requiring licences through Legislative Instrument. This provision is structurally incompatible with the Minister's own scoping assurance.

If the licensing regime is genuinely limited to government contractors — as stated at the stakeholder's consultation — there is no need for open-ended ministerial power to expand it. It is stated in section 37(6) that “a licence is valid for the period and on the terms and conditions that may be determined by the agency”. This provision will place businesses at the mercy of the minister's whims and caprices.

- Why does a Bill described as targeting government contractors require ministerial power to expand the licensing regime without parliamentary oversight?
- Will government remove Section 37(6) or replace it with a provision that will clearly define validity of the licence?
- What sunset, review, or parliamentary override mechanisms exist to constrain the use of this power under the NITA bill?



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Regulatory certainty matters for investment decisions. An open-ended ministerial expansion clause makes the entire framework unpredictable — by design or by structure.

10. Should National Security Cyber Threats Be Handled by a Commercial Regulator?

During the consultation, the Minister stated that one justification for NITA's extended authority is to protect important government systems from cyber threats. This is a legitimate concern. However, it creates a structural question that has not been addressed.

If the true concern is national security — protecting critical databases, government networks, and state systems from foreign or domestic threats — the appropriate response is a dedicated state cyber defense capability: a military or intelligence-grade cyber unit with the technical capacity, legal authority, and operational mandate to address those threats.

Creating a commercial license and fee-collection regime at NITA and labeling it a security framework does not address the security issue. It imposes a compliance burden on legitimate local enterprises while doing nothing to dissuade sophisticated external threats who do not register with NITA or pay its fees.

Does the government have a dedicated military or intelligence cyber unit with operational capability to protect critical national infrastructure?

- If yes, what is the relationship between that unit and NITA's proposed inspection and enforcement powers?
- If not, why is the government building a commercial licensing regime instead of an actual security capability?
- What evidence exists that mandatory business licensing prevents the security breaches the government claims to be concerned about?

Security threats necessitate security responses. A licensing authority is not a cyber-defense force. Ghana deserves both, but must not mistake one for the other.

Conclusion

Ghana's technological ecosystem expanded as innovators were free to build, experiment, compete, and create. The Internet economy was not founded on criminal penalties, licensing monopolies, or bureaucratic gatekeeping.

The stakeholder consultation on May 26, 2026, was an admirable gesture. However, consulting the public on an obsolete version of a Bill that is already before Cabinet does not constitute real involvement. It is a post-facto rationalization. The opportunity for significant public input is fast shrinking.

Three things are required before Parliament proceeds:

- Full publication of the current version of the Bill (4.0/5.0).



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- Conduct a second round of stakeholder consultation based on the actual content, including proper notice and written feedback.
- Provide written, public answers to all ten questions, not verbal guarantees in a single session.

Ghana's digital future must be founded on innovation, competition, constitutional governance, and economic freedom, rather than excessive regulation, administrative opacity, and centralized control.

Signed

Ghana Association of Libertarian Think Tanks

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