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RESPONSE TO CONCERNS REGARDING NITA, THE PROPOSED BILL, AND FEES & CHARGES

Recent publications by some persons on social media, particularly X, contain serious misconceptions regarding the legal basis of NITA's regulatory functions, the status of existing Legislative Instruments, and the relationship between the current law and the proposed NITA Bill.

For the purposes of clarity and public education, the following responses are necessary.

1. CLAIM: "NITA is implementing a future law before Parliament has spoken."

RESPONSE:

It is important to understand that the existing fees, registration structures and certification categories operated by NITA are not being implemented under the proposed NITA Bill currently undergoing stakeholder consultation.

They are derived from existing laws and duly passed Legislative Instruments already laid before and matured through Parliament.

In particular:

- Fees and Charges (Miscellaneous Provisions) Regulations, 2023 (L.I. 2481); and
- Fees and Charges (Miscellaneous Provisions) (Amendment) Regulations, 2025 (L.I. 2512)

already establish fee schedules and regulatory categories relating to ICT companies, ICT professionals and digital service providers.

The 2025 Amendment Regulations expressly state that they were made pursuant to powers granted under the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080).

Therefore, the claim that Parliament has "not spoken" is incorrect.

2. CLAIM: “NITA has no lawful authority for these systems.”

RESPONSE:

NITA’s authority did not begin with the proposed Bill.

NITA’s existing mandate is grounded in:

- the National Information Technology Agency Act, 2008 (Act 771);
- the Electronic Transactions Act, 2008 (Act 772);
- the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080); and
- subsidiary legislation passed pursuant to these laws.

Indeed, L.I. 2481 of 2023 already contains provisions for:

- registration of ICT companies;
- registration of ICT professionals;
- annual renewals;
- fintech entities;
- e-commerce providers; and
- other ICT-related classifications.

The suggestion that NITA “manufactured tomorrow’s powers today” ignores the existence of these already operative legal instruments.

3. CLAIM: “The proposed NITA Bill is secretly being operationalised.”

RESPONSE:

This confuses two entirely different legal processes.

The proposed NITA Bill is a primary legislation process currently undergoing consultation and review.

The fees and charges referenced in some of these publications on social media arise from subsidiary legislation already passed under existing law.

A Legislative Instrument (LI) laid before Parliament and allowed to mature acquires the force of law under Ghana’s constitutional framework.

Therefore, referencing or operationalising provisions already contained in existing LIs cannot reasonably be described as implementing a future Bill.

4. CLAIM: “The fees appearing on NITA platforms prove unconstitutional conduct.”

RESPONSE:

The very fees cited in one of these publications on social media are expressly contained in L.I. 2512 itself.

Examples include:

- Fintech entities accreditation fees of GH¢20,000
- E-commerce service provider accreditation fees of GH¢10,000

These fees reflect the regulatory burden of assuring safe, secure and resilient platforms and protecting the digital consumer.

These are not unofficial portal inventions. They are explicitly stated in a Legislative Instrument passed under lawful authority.

5. CLAIM: “NITA is acting ultra vires.”

RESPONSE:

An allegation of ultra vires conduct requires proof that an institution acted outside powers granted by law.

However:

- existing Acts already establish NITA;
- existing laws already recognise regulatory functions within the ICT ecosystem; and
- existing Legislative Instruments already establish fees and categories now being discussed.

Disagreement with the policy direction or scale of regulation does not automatically transform lawful regulation into unconstitutional conduct.

6. CLAIM: “This is a digital coup before the law exists.”

RESPONSE:

A careful reading of sections 2 and 3 of the National Information Technology Agency Act, 2008 (Act 771) reveals that ICT professionals’ registration and certification is a core regulatory function of NITA.

Under section 2 of the National Information Technology Agency Act, 2008 (Act 771), NITA has the mandate of regulating the provision of ICT. Section 3(1)(y) also mandates NITA to perform any other functions necessary to attain the object of the Agency in section 2.

NITA under Section 3(1)(c) requires ICT service providers to be licensed and maintains registers of those licence holders under Section 3(1)(g).

Through this licensing/registration power, NITA runs the “Ghana IT Professionals Register” and issues certifications. It is an administrative interpretation of “regulate the provision of ICT” under Section 2.

In addition:

- L.I. 2512 was gazetted on 24 July 2025 and entered into force on 13 November 2025;
- L.I. 2481 has been in existence since 2023.

The ongoing NITA Bill process seeks to modernise and expand Ghana’s digital governance architecture to address emerging technologies, cybersecurity, digital trust services, cloud infrastructure, artificial intelligence, digital identity ecosystems and cross-border digital transactions.

It is therefore inaccurate to suggest that all existing regulatory activity originates from a future Bill.

7. CLAIM: “The Ministry is bypassing democratic accountability.”

RESPONSE:

The facts demonstrate the opposite.

The proposed Bill:

- remains under stakeholder consultation after being widely advertised;
- is subject to Cabinet consideration;
- requires Attorney-General review;
- must still undergo parliamentary scrutiny under Article 106 of the Constitution;
and
- cannot become enforceable without presidential assent.

This process itself demonstrates constitutional compliance and democratic accountability.

8. ON CONCERNS ABOUT STARTUPS, YOUTH AND INNOVATION

RESPONSE:

Concerns regarding affordability, startup sustainability, implementation timelines and proportional regulation are legitimate policy issues worthy of public engagement. These have been considered in the new bill and overarching startup and innovation bill.

Government welcomes constructive stakeholder feedback on:

- fee calibration;
- phased implementation;
- startup exemptions;
- SME protections;
- and innovation incentives.

However, there must be a distinction between:

- legitimate policy debate; and
- inaccurate allegations that existing lawful instruments are unconstitutional simply because one disagrees with the policy choices.

9. CONCLUSION

The public must clearly distinguish between:

- the proposed NITA Bill currently undergoing the full legislative review cycle; and
- existing laws and Legislative Instruments already in force.

NITA has not implemented powers under a future law.

The fees and regulatory categories being referenced are rooted in existing statutory and subsidiary legal instruments already recognised under Ghanaian law.

Public discourse on digital governance is welcome and necessary. However, such discourse must remain grounded in legal accuracy, constitutional facts and responsible civic engagement.

CORPORATE AFFAIRS DEPARTMENT