

# **CHAPTER 8.11**

## **TELECOMMUNICATIONS ACT**

### **Revised Edition**

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• Act • Subsidiary Legislation •

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### **ACT**

**(Acts 27 of 2000, 20 of 2003 and 9 of 2006)**

Act 27 of 2000 in force 31 March 2001 (S.I.28/2001)

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**CHAPTER 8.11**  
**TELECOMMUNICATIONS ACT**

AN ACT to provide for the regulation of telecommunications and for related or incidental matters.

Commencement [31 March 2001]

**PART 1**  
**PRELIMINARY**

**1. Short title**

This Act may be cited as the Telecommunications Act.

**2. Principal object of Act**

(1) The principal object of this Act is to give effect to the purposes of the Treaty and to regulate the telecommunications sector in Saint Lucia.

(2) Without limiting the generality of subsection (1) the objects of this Act are to ensure—

- (a) open entry, market liberalisation, and competition in telecommunications;
- (b) policies and practices in relation to the management of telecommunications are in harmony with those of ECTEL;
- (c) the operation of a universal service regime so as to ensure the widest possible access to telecommunications at an affordable rate by the people of Saint Lucia in order to enable them to share in the freedom to communicate over an efficient and modern telecommunications network;
- (d) fair pricing and the use of cost-based pricing methods by telecommunications providers in Saint Lucia;
- (e) fair competition practices by telecommunications providers;
- (f) the introduction of advanced telecommunications technologies and an increased range of services;
- (g) the public interest and national security are preserved;
- (h) the application of appropriate standards in the operation of telecommunications;
- (i) the overall development of telecommunications in the interest of the sustainable development of Saint Lucia.

**3. Interpretation**

(1) In this Act, unless the context otherwise requires—

“**applicant**” means a person applying for a licence or a frequency authorisation;

“**application**” means an application for a licence or frequency authorisation, including a modification or renewal of a licence;

“**application fee**” means the fee payable to the Commission by an applicant for a licence or frequency authorisation;

**"Board"** means the Board of Directors of ECTEL appointed under Article 8 of the Treaty;

**"broadcasting"** means the transmission of radio or video programming to the public on a free, pay, subscription, or other basis, whether by cable television, terrestrial, or satellite means, or by other electronic delivery of such programming;

**"class licence"** means a licence, as distinct from an individual licence, issued on the same terms to each applicant of a category of users in respect of the operation of a type of telecommunications network or telecommunications service specified under section 6;

**"Commission"** means the National Telecommunications Regulatory Commission established by section 7;

**"commissioner"** means a commissioner appointed under section 7;

**"Comptroller"** means the Comptroller of Inland Revenue; (*Inserted by Act 20 of 2003*)

**"document"** includes an electronic document;

**"diplomatic missions"** include international organisations accredited to Saint Lucia;

**"ECTEL"** means the Eastern Caribbean Telecommunications Authority established by Article 2 of the Treaty;

**"frequency authorisation"** means an authorisation granted by the Minister under section 35 to use radio frequencies in connection with the operation of a network or the provision of services under an individual licence or class licence or otherwise;

**"frequency fees"** means the prescribed fee payable by a frequency authorisation holder;

**"Gross Annual Revenue"** means the Gross Revenue for the reporting year received by or due to the licensee and its affiliates, from whatever source derived, before any deductions for expenses, discounts, returns, or offsets of any kind, except domestic interconnection payments and taxes or charges collected for and on behalf of the Government;

**"individual licence"** means a licence granted to a particular person in accordance with section 29 on terms specific to that person;

**"infrastructure"** includes facilities, submarine cables and landing sites, towers, sites and underground facilities;

**"infrastructure sharing"** means the joint utilisation of a particular physical structure, segment, element, or feature of the entire infrastructure;

**"inspector"** means a person appointed under section 51;

**"interconnection"** means the connection of 2 or more separate telecommunication systems, networks, links, nodes, equipment, circuits and devices involving a physical link or interface;

**"land"** includes any land under whatever tenure held and easement, servitude, right or privilege in or over land;

**"licence"** means an individual licence or a class licence;

**"licence fees"** means the initial, annual and renewal fees payable by an applicant;

**"Minister"** means the Minister to whom responsibility for telecommunications is assigned;

**"park"** means an enclosed or private space set apart for ornament or to afford the benefit of pleasure and recreation;

**"person"** includes any corporation, either aggregate or sole, any partnership or association, and any undertaking, club, society, or other body of one or more persons and any individual;

**"private network"** means a system to provide telecommunications service to a person or entity that is for the sole and exclusive use of that person or entity and is not interconnected with the public telecommunications network;

**"public telecommunications network"** means a telecommunications network used for the provision of telecommunications services to the public;

**"public voice telephony services"** means the commercial provision to the public of the direct transport and switching of voice telephony in real time from and to network termination points;

**"radio communications"** means the transmission, emission or reception of signs, signals, text, images and sounds, or other intelligence of any nature by radio;

**"radio equipment"** means any equipment or apparatus designed or used for radio communications;

**"records"** includes existing licences, frequency authorisations, telecommunications equipment approvals, policy or operational documents, orders and documents relating to decisions;

**"regulations"** means regulations made under section 73;

**"road"** means any road or street or part thereof and includes all bridges, culverts, embankments, approaches, drains, verges, pavements, kerbs, footpaths, parapets and other works or things, forming part of any road or street;

**"site"** means land, or a building on land or a structure on land;

**"special licence"** means a licence granted under provisions of section 6 by the Minister in an emergency or other exigent circumstances;

**"telecommunications"** means any form of transmission, emission, or reception of signs, text, images and sounds or other intelligence of any nature by wire, radio, optical or other electromagnetic means;

**"telecommunications facilities"** means any facility, apparatus or other thing that is used or capable of being used for telecommunications or for any operation directly connected with telecommunications, and includes a transmission facility;

**"telecommunications network"** means any wire, radio, optical, or other electromagnetic system used to route, switch, or transmit telecommunications;

**"telecommunications provider"** means a person who is licensed under this Act to operate a telecommunications network or to provide telecommunications services;

**"telecommunications services"** means services provided by means of telecommunications facilities and includes the provision in whole or in part of telecommunications facilities and any related equipment, whether by sale, lease or otherwise, or such other services as may be prescribed by the Minister;

**"tender fees"** means the fees payable by an applicant for an individual licence in order to participate in an open tender procedure;

**"terminal equipment"** means equipment intended to be connected directly or indirectly to the network termination point of a telecommunications network in order to emit, transmit, or receive telecommunications services;

**"tower"** means a tower, or a pole, or a mast or a similar structure;

**"Treaty"** means the Treaty establishing the Eastern Caribbean Telecommunications Authority signed at St. George's, Grenada on 4 May, 2000 and includes that Treaty as amended from time to time;

**“underground facility”** means an underground facility that is used, installed ready to be used, or intended to be used, to hold lines;

**“Universal Service Fund”** means the Fund established for the promotion of universal service by Section 43;

**“universal service”** includes the provision of—

- (a) public voice telephony;
- (b) internet access;
- (c) telecommunications services to schools, hospitals and similar institutions, and the disabled and physically challenged; or
- (d) other service by which people access efficient, affordable and modern telecommunications.

(2) Except so far as the contrary intention appears, an expression that is used both in this Act and in the Treaty (whether or not a particular meaning is assigned to it by the Treaty) has in this Act the same meaning as in the Treaty.

*(Amended by Act 9 of 2006)*

#### **4. Act to bind Crown**

This Act binds the Crown.

#### **5. Non-application of Act**

(1) This Act shall not apply to—

- (a) the program content and scheduling, as opposed to the transmission aspects of broadcasting networks and services;
- (b) telecommunications networks and services operated or provided exclusively by the armed forces, police force, public security, and civil aviation authorities except in relation to the requirement to have a frequency authorisation;
- (c) any terminal equipment used for the purposes of paragraphs (a) or (b).

(2) The Minister may, on the recommendation of ECTEL, by order, exempt any category of ship or aircraft, or person or type of network or service from this Act.

(3) The Minister may by order exempt a diplomatic mission from the requirements of this Act.

(4) Any exemptions under sub-section (2) or (3) may be subject to conditions.

#### **6. Powers of Minister**

(1) The Minister may grant—

- (a) an individual licence;
- (b) a class licence;
- (c) a frequency authorisation in respect of a licence; or
- (d) a special licence.

(2) Where the Minister fails to grant to an applicant a licence or frequency authorisation he or she shall give that applicant his or her reasons for that decision in writing.

(3) The Minister, on receipt of a recommendation from ECTEL shall by notice published in the Gazette, specify the telecommunications networks and services that are subject to an individual licence, a class licence or a frequency authorisation.

(4) In the exercise of his or her powers the Minister shall consult with the Commission.

(5) The Minister shall wherever practicable in the exercise of his or her powers—

- (a) adopt the form, document, process and subsidiary legislation as recommended by ECTEL; and
- (b) implement policy and recommendations proposed by ECTEL.

## **PART 2**

### **THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION, ITS FUNCTIONS AND POWERS**

#### **7. Establishment of Commission**

(1) There is established a Commission under the general direction and control of the Minister to be known as the National Telecommunications Regulatory Commission.

(2) The Commission shall consist of not less than 3 and not more than 5 commissioners, all of whom shall be appointed by the Minister on such terms and conditions as he or she may specify in their instruments of appointment.

(3) The Minister shall appoint one of the commissioners to be the chairperson.

#### **8. Qualifications and tenure of commissioners**

(1) The commissioners shall be persons of recognised standing and experience, all of whom may be drawn from the following disciplines—

- (a) finance and accounting;
- (b) telecommunications;
- (c) economics;
- (d) law; or
- (e) other related fields,

except that at least one of the commissioners shall be a person of recognised standing and experience in telecommunications.

(2) A commissioner holds office for a period of 3 years unless he or she resigns or is removed from office in accordance with this Part.

#### **9. Resignation of commissioners**

(1) A Commissioner, other than the chairperson, may resign his or her office in writing addressed to the Minister through the chairperson.

(2) The chairperson of the Commission may, at any time, in writing addressed to the Minister resign from his or her office.

#### **10. Termination of office**

The Minister shall remove a Commissioner from office—

- (a) for inability to perform the functions of his or her office;

- (b) for being absent from 3 consecutive meetings of the Commission or 5 meetings in aggregate during any 12 month period of his or her term of appointment;
- (c) if he or she is declared bankrupt or compounds with his or her creditors;
- (d) for misconduct; or
- (e) for any other conduct inconsistent with his or her function.

## **11. Functions of Commission**

(1) The functions of the Commission are to—

- (a) advise the Minister on the formulation of national policy on telecommunications matters with a view to ensuring the efficient, economic and harmonised development of the telecommunication and broadcasting services and radio communications of Saint Lucia;
- (b) ensure compliance with the Government's international obligations on telecommunications;
- (c) be responsible for technical regulation and the setting of technical standards of telecommunications and ensure compatibility with international standards;
- (d) plan, supervise, regulate and manage the use of the radio frequency spectrum in conjunction with ECTEL, including the assignment and registration of radio frequencies to be used by all stations operating in Saint Lucia or on any ship, aircraft, vessel, or other floating or airborne contrivance or spacecraft registered in Saint Lucia;
- (e) regulate prices for telecommunications services;
- (f) advise the Minister in all matters related to tariffs for telecommunications service;
- (g) collect all fees prescribed and any other tariffs levied under this Act or regulations;
- (h) receive and review applications for licences and advise the Minister accordingly;
- (i) monitor and ensure that licensees comply with the conditions attached to their licences;
- (j) review proposed interconnection agreements by telecommunications providers and recommend to the Minister whether or not he or she should approve such agreements;
- (k) investigate and resolve any dispute relating to interconnections or sharing of infrastructure between telecommunications providers;
- (l) investigate and resolve complaints related to harmful interference;
- (m) monitor anti-competitive practices in the telecommunications sector and advise the national body responsible for the regulation of anti-competitive practices accordingly;
- (n) maintain a register of licensees and frequency authorisation holders;
- (o) provide the Minister with such information as he or she may require;
- (p) undertake in conjunction with other institutions and entities where practicable, training, manpower planning, seminars and conferences in areas of national and regional importance in telecommunications;

- (q) report to and advise the Minister on the legal, technical, financial, economic aspects of telecommunications, and the social impact of telecommunications;
- (r) manage the universal service fund;
- (s) perform such other functions as are prescribed.

(2) In the performance of its functions the Commission shall where necessary, consult and liaise with ECTEL.

## **12. Powers of Commission**

(1) The Commission shall have the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1), the Commission has the power to—

- (a) acquire information relevant to the performance of its functions including whether or not a person is in breach of a licence, frequency authorisation or this Act;
- (b) require payment of fees;
- (c) initiate legal proceedings against a licensee or authorised frequency holder for the purposes of compliance;
- (d) hold public hearings pertaining to its functions;
- (e) sit as a tribunal;
- (f) do anything incidental to its powers.

## **13. Records**

(1) Subject to subsection (2), a record of the Commission shall, upon request, be available for public inspection at the offices of the Commission on payment of the prescribed fee.

(2) The following records shall not, except in accordance with this section, be made available to the public for inspection:

- (a) records relating to the internal personnel rules and practices of the Commission;
- (b) personnel records, medical records, and other records whose disclosure would constitute an invasion of personal privacy;
- (c) secret records relating to national defence or security;
- (d) records of intra-governmental communications relating to governmental decision processes;
- (e) records of information obtained by the Commission in the course of its frequency monitoring activities;
- (f) records containing information relating to the valuation of the property of the telecommunications providers;
- (g) records of trade secrets or proprietary commercial, financial or technical information which is customarily guarded from competitors;
- (h) records of information which are subject to judicial privilege; and
- (i) records which are not open to public inspection by virtue of the provisions of any enactment.

(3) The Commission shall make available records referred to in subsection (2)(d) through the discovery process in court proceedings.

(4) The Commission shall not disclose an investigative record compiled for enforcement purposes for public inspection if to do so—

- (a) interferes with enforcement proceedings;
- (b) deprives a person of the right to fair trial or impartial adjudication;
- (c) constitutes an unjustified invasion of personal privacy;
- (d) discloses the identity of a confidential source;
- (e) discloses investigative techniques or procedures; or
- (f) endangers the life or physical safety of the law enforcement personnel or any other person.

(5) An application for authorisation of equipment and materials relating to an application for a licence or frequency authorisation is not available for public inspection until the Commission approves the application for a licence or frequency authorisation.

(6) Records of information submitted in connection with audits, investigations and examinations shall not be made available for public inspection until the Commission acts upon the matter.

(7) The Commission shall cause to be published in the Gazette—

- (a) licences issued, modified, renewed or revoked;
- (b) exemptions granted under the Act; and
- (c) enforcement orders of the Commission.

#### **14. Commission to provide guidelines**

(1) The Commission may, on the recommendation of ECTEL, provide guidelines as to the cost and pricing standards on which the reasonableness of the rates, terms and conditions of interconnections will be determined, and on other matters as prescribed.

(2) Guidelines determined by the Commissioner under subsection (1) shall be available to the public at the office of the Commission during business hours or made available to a person on payment of the prescribed fee.

(3) The Commission may give written directions to a licensee or frequency authorisation holder in connection with the performance of its functions or to implement the guidelines of the Commission.

#### **15. Commission to investigate complaints**

(1) The Commission shall investigate a complaint by a person who is aggrieved by the actions or conduct of a telecommunications provider in respect of a decision against that person.

(2) The Commission shall investigate a complaint only where that person has first sought redress for the complaint from that telecommunications provider and that complaint has not been amicably resolved.

#### **16. Disputes between licensees**

(1) The Commission, when presented with a dispute between licensees requiring an interpretation of licences, frequency authorisations or regulations, shall refer the matter to ECTEL with a request that ECTEL provide the Commission with an opinion, or with the consent of the licensees refer the matter to ECTEL for mediation or arbitration and in keeping with the provisions of the Treaty.

(2) The Commission shall take account of the opinion and recommendation of ECTEL in resolving the relevant dispute.

## **17. Dispute resolution**

(1) The Commission shall, wherever practicable, apply conciliation, mediation, and alternative dispute resolution techniques in resolving disputes.

(2) For the following purposes the Commission is hereby established as a telecommunications tribunal—

- (a) to hear and determine disputes between licensees of telecommunications services;
- (b) to hear and adjudicate disputes between licensees and the public involving alleged breaches of the Act or regulations, or licences or frequency authorisations;
- (c) to hear and determine complaints by subscribers relating to rates payable for telecommunications services;
- (d) to hear and determine claims by a licensee for a change in rates payable for any of its services;
- (e) to hear and determine objections to agreements between licensees;
- (f) of its own motion or at the instance of the Minister, to review and determine the rate payable for any telecommunications service;
- (g) to hear and determine complaints between licensees and members of the public.

(3) The tribunal under subsection (2) shall comprise the chairperson and 2 other Commissioners nominated for the purpose by the chairperson.

(4) Where a Commissioner withdraws from any proceedings on a matter before the Commission on account of interest, illness or otherwise, the Commission shall not be disqualified for the transaction of business by reason of such vacancy among its members, save that in the case of an equality of votes the chairperson shall have a casting vote.

## **18. Hearing of matter by Commission**

(1) The Commission shall expeditiously hear and inquire into and investigate any matter which is before it, and in particular shall hear, receive and consider statements, arguments and evidence made, presented or tendered—

- (a) by or on behalf of any complainant;
- (b) by or on behalf of the telecommunications licensee or provider;
- (c) on behalf of the Minister.

(2) The Commission shall determine the periods that are reasonably necessary for the fair and adequate presentation of the matter by the respective parties thereto and the Commission may require those matters to be presented within the respective periods so determined.

(3) The Commission may require evidence or arguments to be presented in writing and may decide the matters upon which it will hear oral evidence or arguments.

(4) All matters brought before the Commission shall be determined by a majority of the members thereof.

(5) Any party to a matter brought before the Commission shall be entitled as of right to appeal to the Court of Appeal from any judgement, order or award of the Commission.

## **19. Appearance**

Every party to a matter shall be entitled to appear at the hearing thereon, and may be represented by an attorney or any other person who in the opinion of the tribunal is competent to assist such person in the presentation of the matter.

## **20. Powers of Commission when sitting as a tribunal**

(1) The Commission shall have powers to—

- (a) issue summons to compel the attendance of witnesses;
- (b) examine witnesses on oath, affirmation or otherwise; and
- (c) compel the production of documents.

(2) Summons issued by the Commission shall be under the hand of the chairperson.

(3) Sections 63, 64, 65 and 66 shall apply in respect of the commission when sitting as a tribunal.

## **21. Awards**

In addition to the powers conferred on the Commission under section 12, the Commission may, in relation to any matter brought before it—

- (a) make provisional or interim orders or awards relating to the matters or part thereof, or give directions under the hearing or determination;
- (b) dismiss any matter or part of a matter or refrain from further hearing or from determining the matter or part thereof if it appears that the matter or part thereof is trivial or vexatious or that further proceedings are not necessary or desirable in the public interest;
- (c) order any party to pay costs and expenses, including expenses of witnesses, as are specified in the order;
- (d) generally give all such directions and do all such things as are necessary or expedient for the expeditious and just hearing and determination of the matter.

## **22. Review by Commission**

The Commission may review, vary or rescind its decisions or order made by it; and where a hearing is required before that decision or order is made, the decision or order shall not be suspended or revoked without a further hearing.

## **23. Directions by the Minister**

The Minister may give directions to the Commission of a policy nature, and the Commission shall comply with those directions.

## **24. Meetings of Commission**

Meetings of the Commission shall be conducted in accordance with Schedule 1.

## **25. Remuneration of Commissioners**

(1) Commissioners shall be paid such remuneration as the Minister may determine and specify in their instruments of appointment.

(2) The Commissioner and any other persons whose services the commission deems necessary to engage shall be entitled to receive and shall be paid remuneration for their attendance at an inquiry at such rates as may be approved by the Minister.

## **26. Staff of Commission**

The Commission shall have such staff and the services of such specialist persons as is necessary for the performance of its functions.

## **27. Annual Report**

(1) The Commission shall submit annually to the Minister at the end of each calendar year a report which includes—

- (a) an assessment of the state of telecommunications and its impact and significance for the development of Saint Lucia;
- (b) a description of the activities undertaken by the Commission including recommendations made in respect of licences and frequency authorisations;
- (c) actions taken to promote the Treaty including the implementation of the recommendations, policies and guidelines of ECTEL;
- (d) a financial report of the Commission;
- (e) such other matters as are prescribed.

(2) The Minister shall cause a copy of a report submitted under subsection (1) to be laid before Parliament within 28 days of its receipt by the Minister, or if Parliament is not in session, within 28 days of the commencement of its next session.

## **PART 3 LICENSING OF TELECOMMUNICATIONS PROVIDERS**

### **28. Prohibition on engaging in services without a licence**

(1) A person shall not establish or operate a telecommunications network or provide a telecommunications service without a licence.

(2) Where a frequency authorisation is necessary for or in relation to the operation of a telecommunications network or a telecommunications service, a person shall not operate that network or service without that authorisation.

(3) A person who wishes to land or operate submarine cables within the territory of Saint Lucia for the purpose of connecting to a telecommunications network shall first obtain a licence, in addition to any other approvals, licences or permits required under the law in force in Saint Lucia.

(4) A person who contravenes subsection (1) or (2) or (3) commits an offence and is liable on indictment to a fine not exceeding \$1,000,000 or to imprisonment for a period not exceeding 10 years.

### **29. Procedure of grant of individual licence**

(1) An applicant for an individual licence shall submit his or her application in the prescribed form to the Commission for consideration by ECTEL, together with the prescribed fee.

(2) The Commission shall immediately transmit the application to ECTEL, for its review and recommendation.

(3) On receipt of the recommendation from ECTEL, the Commission shall transmit the application together with ECTEL's recommendation to the Minister for consideration of the grant of an individual licence.

(4) Where in the absence of an invitation to tender in respect of telecommunications network or service there is only one applicant the Commission shall submit the application to ECTEL for its review and recommendation;

### **30. Content of individual licence**

(1) The Minister may, in granting the individual licence, include all or any of the terms and conditions specified in Part 1 of Schedule 2.

(2) An individual licence shall include the terms and conditions specified in Part 2 of Schedule 2.

### **31. Grant of individual licence**

(1) The Minister shall, before granting an individual licence, take into account—

- (a) the purposes of the Treaty;
- (b) the recommendation of ECTEL;
- (c) whether the objective of universal service will be promoted including the provision of public telephony services sufficient to meet reasonable demand at affordable prices;
- (d) whether the interests of subscribers, purchasers and other users of telecommunications services will be protected;
- (e) whether competition among telecommunications providers of telecommunications services will be promoted;
- (f) whether research, development and introduction of new telecommunications services will be promoted;
- (g) whether foreign and domestic investors will be encouraged to invest in telecommunications;
- (h) appropriate technical and financial requirements;
- (i) whether the public interest and national security interests will be safeguarded;
- (j) such other matters as are prescribed.

(2) The Minister shall not grant an individual licence unless ECTEL recommends accordingly.

### **32. Procedure for grant of class licence**

(1) An applicant shall submit his or her application for a class licence to the Commission in the prescribed form together with the prescribed application fee.

(2) The Commission shall upon receipt of the application determine, whether the particular applicant falls within the definition of a class licence.

### **33. Content of class licence**

(1) The Minister may, in granting a class licence include all or any of the terms and conditions specified in Part 1 of Schedule 2.

(2) A class licence shall include the terms and conditions specified in Part 2 of Schedule 2.

### **34. Grant of special licence**

(1) An applicant for a special licence shall submit his or her application in the prescribed form to the Minister together with the prescribed application fee.

(2) The Minister may grant a special licence when an emergency or other exigent circumstance exists.

(3) A special licence shall be for a term not to exceed 10 calendar days and shall not be renewable.

(4) The Minister shall immediately upon issue of a special licence, inform the Commission and ECTEL.

### **35. Grant of frequency authorisation**

(1) An applicant for a frequency authorisation shall submit his or her application to the Commission in accordance with the prescribed form together with the prescribed application fee.

(2) The Commission shall, upon receipt of the application and after consultation with ECTEL, recommend to the Minister whether or not the particular applicant shall be granted a frequency authorisation.

(3) The Minister may grant the frequency authorisation where the Commission recommends accordingly.

### **36. Content of frequency authorisation**

(1) The Minister may, in granting a frequency authorisation, include all or any of the terms and conditions specified in Part 1 of Schedule 2.

(2) A frequency authorisation shall include all the terms and conditions as specified in Part 2 of the Schedule.

### **37. Amendment of Schedule 2**

The Minister may, on the recommendation of ECTEL, amend Schedule 2 by order published in the Gazette.

### **38. Fees for Licence**

(1) Any fees payable by a person under this Act in respect of a licence shall be paid by the applicant to the Comptroller.

(2) Where the Comptroller concludes from the results of an enquiry that the licence fees due and payable or any part of fees remains unpaid after the due date the Comptroller shall make an assessment to the best of his or her judgment.

*(Amended by Act 20 of 2003 and Act 9 of 2006)*

### **38A. Application of certain provisions of Income Tax Act**

The provisions of the Income Tax Act prescribed in Schedule 4 shall apply with the necessary modifications in relation to licences granted under this Act as they apply in relation to income tax chargeable under the Income Tax Act. *(Inserted by Act 9 of 2006)*

### **39. Modification of licences and authorisations**

(1) The Minister may, on the receipt of a recommendation from ECTEL—

- (a) modify an individual licence where the Minister and the licensee agree in writing;
- (b) modify a class licence following appropriate consultation with members of the relevant class;
- (c) modify a frequency authorisation where the Minister and the licensee agree in writing;

- (d) modify any licence or frequency authorisation without the agreement of the licensee if the Minister is of the view that the modification is necessary in the public interest or for reasons of national security.

(2) A licensee who seeks a modification of a licence shall apply in the same manner as he or she did for the initial licence.

#### **40. Suspension and revocation of licences and authorisation**

(1) The Minister may suspend or revoke a licence, or vary a term and condition of that licence if it is not a statutory term or condition by a notice in writing served on the licensee.

(2) The Minister may suspend, revoke or refuse to renew a licence where—

- (a) the radio apparatus or station in respect of which the licence was granted interferes with a telecommunication service provided by a person to whom a licence is already granted for that purpose;
- (b) the licensee contravenes this Act;
- (c) the licensee fails to observe a term or condition specified in his or her licence;
- (d) the licensee is in default of payment of the licence or renewal fee or any other money owed to the Government;
- (e) ECTEL recommends the suspension or revocation;
- (f) the suspension or revocation is necessary for reasons of national security or the public interest.

(3) Before suspending or revoking a licence under subsection (2), the Minister shall give the licensee one month notice in writing of his or her intention to do so, specifying the grounds on which it proposes to suspend or revoke the licence, and shall give the licensee an opportunity—

- (a) to present his or her views;
- (b) to remedy the breach of the licence or term and condition; or
- (c) to submit to the Minister within such time as the Minister may specify, a written statement of objections to the suspension or revocation of the licence,

which the Minister shall take into account before reaching a decision.

(4) This section also applies with any necessary modification to a frequency authorisation holder.

#### **41. Surrender of licence**

Where a licence or authorisation has been revoked, every licensee and every other person in whose possession or under whose control the licence or authorisation may be, shall surrender the licence or authorisation to the Commission if required by the Minister.

### **PART 4 UNIVERSAL SERVICE, INTERCONNECTION, INFRASTRUCTURE, SHARING, NUMBERING**

#### **42. Provision of universal service**

(1) The Minister may, on the recommendation of ECTEL, include as a condition in the licence of a telecommunications provider a requirement to provide universal service, except that such requirement shall be carried out in a transparent, non-discriminatory and competitively neutral manner.

(2) A telecommunications provider who is required by its licence to provide universal service to any person shall do so at such price and with the quality of service specified in the licence.

#### **43. Universal Service Fund**

(1) There shall be established a fund to be known as the Universal Service Fund, which fund shall be managed by the Commission in accordance with regulations made by the Minister on the recommendation of ECTEL.

(2) Every telecommunication provider shall contribute to the Universal Service Fund.

(3) The Minister shall, by order, on the recommendation of ECTEL, specify the percentage of the gross revenue which a telecommunications provider referred to in subsection (2) shall contribute to the Universal Service Fund, except that the percentage to be contributed shall be the same for all providers.

(4) The Minister shall, on the recommendation of ECTEL, by order published in the Gazette specify which telecommunications provider in Saint Lucia is entitled to receive payments from the Universal Service Fund.

#### **44. Purpose of the Fund**

(1) The Fund shall be used by the Commission, to compensate any telecommunications provider who is required to provide universal service by virtue of section 42 or to otherwise promote universal service.

(2) The amount of compensation payable under subsection (1) of shall be computed in accordance with the regulations made by the Minister on the recommendation of ECTEL, and the conditions attached to the licence of the telecommunications provider and shall be paid to the relevant telecommunications providers by the Commission.

(3) In making the regulations referred to in subsection (2) the Minister shall also be guided by the actual cost that is incurred in making available the required universal service.

#### **45. Interconnection and infrastructure sharing**

(1) Subject to subsection (5), a telecommunications provider who operates a public telecommunications network shall not refuse, obstruct, or in any way impede another telecommunications provider from making an interconnection with his or her telecommunications network.

(2) A telecommunications provider who wishes to interconnect with the telecommunications network of another telecommunications provider shall make a request to that other telecommunications provider in writing.

(3) A telecommunications provider to whom a request for interconnection is made, shall, in writing, respond to the request within a period of 4 weeks from the date of the request.

(4) A telecommunications provider in granting a request under subsection (3) shall agree, with the person making the request, the date the interconnection shall be effected.

(5) A telecommunications provider to whom a request for interconnection is made may in his or her response refuse that request in writing on reasonable technical grounds only.

(6) A telecommunications provider on receipt of a refusal for interconnection may refer that refusal to the Commission for review and possible dispute resolution.

(7) A telecommunications provider providing an interconnection service in accordance with this section shall impose reasonable cost based rates, and such other

reasonable terms and conditions as the Commission may, on the recommendation of ECTEL, determine.

(8) Any interconnection service provided by a telecommunications provider under the provisions of subsection (7) above shall be on terms which are not less favourable than—

- (a) those of the provider of the interconnection service;
- (b) the services of non-affiliated suppliers; or
- (c) the services of the subsidiaries or affiliates of the provider of the interconnection service.

(9) A telecommunications provider shall not, in respect to any rates charged for interconnection services provided to another telecommunications provider, vary the rates on the basis of the type of customers to be served, or on the type of services that the telecommunications provider requesting the interconnection services intends to provide.

#### **46. Interconnection agreements**

(1) A person shall not enter into any interconnection agreement, implement or provide interconnection service without first submitting the proposed agreement to the Commission for its approval, which approval shall be in writing.

(2) Interconnection agreements between telecommunications providers shall be in writing, and copies of the agreements shall be kept in a public registry maintained by the Commission for that purpose and open to public inspection during normal working hours.

(3) The Commission shall, after consulting ECTEL, prepare, publish, and make available copies of the procedures to be followed by the telecommunications providers when negotiating interconnection agreements.

#### **47. Cost of interconnection**

(1) The cost of establishing any interconnection to the telecommunications network of another telecommunications provider shall be borne by the telecommunications provider requesting the interconnection.

(2) The cost referred to in subsection (1) shall be based on cost-oriented rates that are—

- (a) reasonable and arrived at in a transparent manner having regard to economic feasibility; and
- (b) sufficiently unbundled such that the provider requesting the interconnection service does not have to pay for network components that are not required for the interconnection service to be provided.

#### **48. Infrastructure sharing**

Sections 45, 46 and 47 shall apply to infrastructure sharing, with the necessary modifications.

#### **49. Access to towers sites and underground facilities**

(1) Where access to telecommunications towers, sites and underground facilities is technically feasible, a telecommunications provider (in this section referred to as the first provider) must, upon request, give another telecommunications provider (in this section referred to as the second provider) access to—

- (a) a telecommunications tower owned or operated by the first provider; or
- (b) a site owned, occupied or controlled by the first provider;

- (c) an eligible underground facility owned or operated by the first carrier,

for the sole purpose of enabling the second provider to install a facility for use in connection with the supply of a telecommunications service.

(2) A telecommunications provider, in planning the provision of future telecommunications services, must co-operate with other telecommunications providers to share sites and eligible underground facilities.

(3) Access to sites, towers or eligible underground facilities shall, with the necessary modifications, be on such terms as set out in sections 45 to 47 above; and—

- (a) on such terms and conditions as are agreed between providers; or
- (b) failing agreement as determined by the Commission.

## **50. Private Networks**

(1) The licence requirement in section 28 applies to the provision or operation of private telecommunications networks and a frequency authorisation is required to operate a private telecommunications network providing radio-communications services or that utilises the radio frequency spectrum.

(2) A private telecommunication network shall not be used for resale, except that the owner of a private network may resell spare capacity on its facilities or cede or assign his or her rights to use such facilities or sublet or otherwise part with control thereof to a licensed telecommunications operator.

(3) Where the operator of a private network intends to offer telecommunications directly to the public for a fee, or to such classes of users as to be effectively available directly to the public, such an operator requires to apply for an individual a licence under section 29.

(4) A private telecommunication network shall not be restricted to the carrying of voice only or data only or to any other such use.

## **51. Numbering**

(1) The Commission shall establish and manage a national plan for the allocation of numbers among telecommunications providers in accordance with the regional plan established by ECTEL.

(2) The Commission shall, in managing the national plan for the allocation of numbers among telecommunications providers, shall have the power to reallocate and reassign numbers to the extent reasonably required to implement an administer the national numbering plan.

## **52. Domain name registration**

The Commission shall assume responsibility for the registration and management of Internet domain names.

# **PART 5 COMPLIANCE AND MANAGEMENT**

## **53. Appointment of inspectors**

(1) The Commission may by instrument in writing appoint inspectors for the purposes of this Act.

(2) The Commission shall furnish each inspector with an identity card containing a photograph of the holder which he or she shall produce on request in the performance of his or her functions.

(3) An inspector may investigate any complaint or conduct concerning an allegation of a breach of the Act, licence or frequency authorisation.

## **54. Right of entry**

(1) Subject to subsections (2),(3) and (4), an inspector, on reasonable suspicion that a licensee or frequency authorisation holder is engaged in conduct that is contrary to this Act, the relevant licence or authorisation, may enter any vehicle, ship, vessel, aircraft, or premises and search the vehicle, ship, vessel, aircraft, or premises, and in that process—

- (a) remove any document or extracts of the document; or
- (b) seize any telecommunications apparatus, from the person with the custody or possession of the document or apparatus.

(2) An inspector shall not enter any vehicle, ship, vessel, aircraft, or premises in exercise of the powers conferred on him or her by subsection (1) unless the occupier or the person in charge of the vehicle, ship, vessel, aircraft or premises consents to the entry or, where he or she does not, the inspector first obtains a search warrant.

(3) An inspector shall not seize any telecommunications apparatus in exercise of the powers conferred on him or her by subsection (1) without a court order.

(4) An inspector shall, on entering the vehicle, ship, vessel, aircraft, or premises identify himself or herself to the person in charge of the vehicle, ship, vessel, aircraft, or premises, at the time of entry, by showing the person the search warrant together with his or her official identity card.

(5) An inspector shall, on completing the search, leave with the person in charge of the vehicle, ship, vessel, aircraft, or premises, a receipt in which it is recorded a list of documents or extracts taken by the inspector.

(6) An inspector may copy any document removed by him or her in accordance with the provisions of subsection (1) of this section, and return the document to the owner or person in charge of the document.

## **55. Search and seizure**

(1) Where a magistrate is satisfied by information on oath that—

- (a) there is reasonable ground for suspecting that an offence under this Act has been committed or is about to be committed; and
  - (b) evidence of the commission of that offence is to be found on any premises, vehicles, vessel or aircraft specified in the information,
- the magistrate may issue a search warrant authorising the inspector named in the warrant, with or without a police officer, to enter and search the premises, vehicles, vessel or aircraft specified in the information and examine, test or seize any apparatus and equipment.

(2) Any document, telecommunications apparatus or other thing seized under a search warrant shall—

- (a) where legal proceedings are not commenced within a period of 30 days from the date of seizure of the document, telecommunications apparatus or thing be returned to the owner; or
- (b) where legal proceedings are commenced before the expiry of the 30 days, be kept until the conclusion of those proceedings.

(3) Where a licensee is convicted of an offence under this Act in respect of any document, telecommunications apparatus or thing seized under this Part the court may order the forfeiture of that document, telecommunications apparatus or thing seized.

## **56. Inspection**

Any person who holds a valid licence or frequency authorisation shall exhibit his or her licence for inspection on demand to an inspector.

## **57. Parties eligible to seek orders for forfeiture or injunction relief**

The court may, on application of the Commission or an interested party—

- (a) make an order for forfeiture of any equipment used for the commission of the offence; and
- (b) grant an order restraining a person from engaging in activities contrary to this Act.

## **PART 6 OFFENCES**

### **58. Connection of terminal equipment**

(1) A person shall not connect any terminal equipment to a public telecommunications network without the written approval of the Commission.

(2) The Commission shall, before giving the approval, take into account the recommendations of ECTEL relating to equipment approval.

(3) Despite subsections (1) and (2), the Minister may, on the recommendation of ECTEL, exempt by order, any person from the requirements of this section.

(4) A person who connects any terminal equipment contrary to this section commits an offence and is liable, on conviction on indictment, to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding 2 years.

### **59. Reduction of electrical interference**

A person shall not use or cause to be used any thing that is capable of causing electrical interference with the normal functioning, or use of a licensed telecommunications network or operation of telecommunications apparatus, unless such a thing is equipped with filters, suppressors or other devices, or is otherwise modified to minimise the interference to a prescribed level.

### **60. Unlawful interception**

Any message transmitted over a public telecommunications network, is confidential and shall not be intercepted or interrupted without the consent of the sender, or except as provided under this Act or any other enactment.

### **61. Secrecy of personal information**

Any personal information relating to a subscriber is confidential and shall not be disclosed by any telecommunications provider without the consent of the subscriber under a court order under this Act or any other enactment.

### **62. Malicious damage to apparatus**

(1) A person shall not remove, injure, or destroy any telecommunication network, or telecommunications apparatus, except in accordance with this Act.

(2) A person who contravenes subsection (1) commits an offence.

(3) Where a person who has no previous convictions commits an offence under this section that person is liable on summary conviction to a fine not exceeding \$15,000.

(4) Where a person who has a previous conviction commits an offence under this section that person is liable on conviction on indictment to a fine not exceeding \$30,000 or to imprisonment for a period not exceeding 4 years.

### **63. Unlawful interception and disclosure of personal information**

(1) A person who—

- (a) contravenes section 59; or
- (b) knowingly discloses any personal information contrary to section 60,  
commits an offence and is liable, on conviction on indictment, to a fine not exceeding \$15,000 or to imprisonment for a period not exceeding 2 years.

(2) Subsection (1) shall not apply to a disclosure made to the Customs Department, the Income Tax Department or the police.

### **64. Obstruction of investigation**

A person who, in any manner, impedes, prevents, or obstructs any investigation being carried out by the Commission under this Act commits an offence and is liable, on conviction on indictment to a fine of \$10,000 or to imprisonment for a period not exceeding one year.

### **65. Refusal**

A person who—

- (a) refuses to produce any document, record, thing, or any information required by the Commission under this Act; or
- (b) destroys or alters, or causes to be destroyed or altered, any document, record or thing required to be produced under this Act,  
commits an offence and is liable, on conviction on indictment, to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding one year.

### **66. Giving false information**

A person who knowingly gives false or misleading information to the Commission commits an offence and is liable, on conviction on indictment, to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding one year.

### **67. Failure to attend to give evidence to the Commission**

A person who—

- (a) refuses or fails, without reasonable excuse, to appear before the Commission, having been required to do so; or
- (b) refuses to take an oath or make an affirmation having appeared before the Commission as a witness,  
commits an offence, and is liable, on summary conviction, to a fine not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months.

## **PART 7 MISCELLANEOUS**

### **68. Stoppage of telecommunications**

Communication which appears dangerous to the security of Saint Lucia or contrary to public order or decency shall not be accepted for transmission, and if, in the opinion of the person receiving it, the message contains elements that constitute an offence, he or she shall immediately inform the Commission which shall take the necessary appropriate action.

## **69. Access to lands and road works**

(1) A person nominated by a public telecommunications provider and duly authorised in writing by the Minister or relevant authority may, at any reasonable time, enter upon and survey any land, other than land covered by buildings or used as a park, for the purpose of ascertaining whether the land would be suitable for use by the provider for, or in connection with, the establishment or running of the provider's system.

(2) For the purpose of providing a telecommunications service, a telecommunications provider may lay or maintain or remove, any line or cable, in or over a street or a public ground and shall repair and restore the street and public ground to the satisfaction of the Minister.

(3) Where a telecommunications provider fails to comply with subsection (2) within [ ] days of the laying maintenance or removal, the Minister may cause the repairs to restoration to be done and the telecommunications provider is liable to the cost for such repairs or restorations.

(4) Where, in an exercise of the power conferred by this section, any damage is caused to land or to chattels, the telecommunications provider shall make good the damage or pay to every person interested in the land or chattels compensation in respect of the damage; and where, in consequence of an exercise of that power, any person is disturbed in his or her enjoyment of any land or chattels, the provider shall pay to that person compensation in respect of the disturbance.

(5) In engaging in the inspection of land, installation of facilities, or maintenance of facilities, a telecommunications provider must take all reasonable steps to act in accordance with good engineering practice, to protect the environment, to protect the safety of persons and property, and to ensure that the activity interferes as little as practicable with the operations of a public utility, public roads and paths, the movement of traffic, and the use of land.

(6) A telecommunications provider who engages in any activity covered in subsection (1) or (2) must ensure that a facility installed over a road, bridge, path or navigable water is installed in a way that will allow reasonable passage by persons, vehicles and vessels.

(7) Where a telecommunications provider fails to comply with the provision of this section the Minister may suspend or revoke the telecommunications provider's licence in accordance with section 40.

## **70. Copyright**

The grant of a licence or frequency authorisation does not authorise the licensee or the holder of the authorisation to infringe any copyright, which may exist in the matter transmitted by him or her under his or her licence or authorisation.

## **71. Liability of public and private officials**

Where a breach of this Act or licence has been committed by a person other than an individual any individual including a public officer who at the time of the breach was director, manager, supervisor, partner or other similarly responsible individual, may be found individually liable for that breach if—

- (a) having regard to the nature of his or her functions;
- (b) and his or her or reasonable ability to prevent that breach,

the breach was committed with his or her consent or connivance, or he or she failed to exercise reasonable diligence to prevent the breach.

## **72. Installation and operation of telecommunications by diplomatic mission**

(1) Despite this Act a diplomatic mission established in Saint Lucia may establish and operate telecommunication including radio apparatus, with the permission of the Minister.

(2) A diplomatic mission shall make proper arrangements for the use of its telecommunications permitted under subsection (1) in accordance with this Act.

## **73. Regulations**

(1) The Minister may make regulations to give effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations providing, in particular, for or in relation to—

- (a) forms and procedures in respect of the grant of a licence or a frequency authorisation;
- (b) matters relating to the provision of universal service and the management of the Universal Service Fund;
- (c) the type of terminal equipment to be connected to a public telecommunications network;
- (d) interconnection between telecommunications providers, and the sharing of infrastructure by telecommunications providers;
- (e) interconnection agreements;
- (f) matters relating to the allocation of numbers among the telecommunications providers;
- (g) stoppage or interception of telecommunications;
- (h) management of the spectrum;
- (i) adopting industry codes of practice, with or without amendment;
- (j) the procedure and standards relating to the submission, review and approval by the Commission of telecommunications tariffs;
- (k) the control, measurement and suppression of electrical interference in relation to the working of telecommunications apparatus;
- (l) matters of confidentiality including on the part of all persons employed in or in anyway connected with the maintenance and working of any telecommunications network or telecommunications apparatus;
- (m) public inspection of records of the Commission;
- (n) procedures for the treatment of complaints;
- (o) procedures for dispute resolution;
- (p) matters for which guidelines are to be issued by the Commission;
- (q) matters relating to the quality of telecommunications services;
- (r) technical regulation and setting of technical standards;
- (s) fees, including the amount and circumstances in which they are payable;
- (t) conduct of public hearings;
- (u) private networks and VSATS;
- (v) cost studies and pricing models;
- (w) submarine cables and landing rights;

(x) registration and management of domain names.

(3) Where ECTEL recommends regulations for adoption for the purpose of the Agreement the Minister shall take all reasonable steps to ensure their promulgation.

#### **74. Repeal and savings**

(1) Until such time as regulations are made under this Act, any regulations made under the repealed Acts specified in Schedule 3 shall continue in force with such modifications as are necessary to bring them in conformity with this Act.

(2) A person authorised to operate a telecommunications network or provide a telecommunications service or use radio frequencies as at the date of the entry into force of this Act shall be deemed to be operating such network or providing such service or using such radio frequencies under a licence issued under this Act for 6 months from the entry into force of this Act. Thereafter, any such telecommunications provider shall require a licence under this Act.

### **Schedule 1**

(Section 24)

#### **CONDUCT OF MEETINGS OF THE COMMISSION**

1. The Commission shall meet at such times and at such places as the Commission considers necessary or expedient for the transaction of the business of the Commission.
2. The chairperson may at any time call a special meeting of the Commission, and shall call a special meeting of the Commission within 14 days of receipt of a request for that purpose addressed to him or her in writing and signed by any 2 commissioners.
3. The quorum of the Commission at any meeting shall be 3 commissioners.
4. In the absence of the chairperson, the commissioners present shall elect from their number a commissioner to preside at the meeting of the Commission.
5. Decisions of the Commission shall be by majority of votes of members present and voting.
6.
  - (a) Minutes of each meeting of the Commission shall be recorded and kept by the Secretary to the Commission.
  - (b) A certified copy of the minutes of each meeting confirmed by the Commission shall be forwarded to the Minister within 14 days after the meeting at which they were confirmed.
7. The Commission may invite any person to attend any meeting of the Commission where the Commission considers it necessary to do so, but that person shall not vote on matters before the Commission.
8. Subject to this Schedule, the Commission may regulate its own procedure, and may delegate to any commissioner power and authority to carry out on behalf of the Commission such duties as the Commission may determine.
9. Where a commissioner has an interest, directly or indirectly, in any matter before the Commission in which his or her private capacity conflicts with his or her duties as a commissioner and which matter is a subject of consideration by the Commission, commissioner shall, as soon as practicable after becoming aware of the interest in the matter, disclose his or her interest to the chairperson.

10. The commissioner referred to in paragraph 9 of this Schedule shall not, unless otherwise decided by the Commission, take part in the consideration of the matter, and if allowed to take part in the consideration of the matter he or she shall not vote on the matter.

## **Schedule 2**

(Sections 30, 33, 36)

### **PART 1 CONDITIONS THAT MAY BE INCLUDED IN LICENCES AND FREQUENCY AUTHORISATIONS**

1. Licences and frequency authorisations granted under this Act may contain any or all of the following conditions—
- (a) the networks and services which the licensee or authorisation holder is and is not entitled to operate and provide, and the networks to which the network of the licensee or authorisation holder can be connected;
  - (b) the duration of the licence or authorisation;
  - (c) the build-out of the network and geographical and subscriber targets for the provision of the relevant services;
  - (d) the use of radio spectrum;
  - (e) the provision of services to rural or sparsely populated areas or other specified areas in which it would otherwise be uneconomical to provide services;
  - (f) the provision of services to the blind, deaf, physically and medically handicapped and other disadvantaged persons;
  - (g) the interconnection of the licensee's network with those of other operators;
  - (h) the sharing of telecommunications infrastructure;
  - (i) prohibitions of anti-competitive conduct;
  - (j) the allocation and use by the licensee of numbers; and
  - (k) provision of universal service.

### **PART 2 CONDITIONS THAT MUST BE INCLUDED IN LICENCES AND FREQUENCY AUTHORISATIONS**

Licences and frequency authorisations granted under this Act shall contain all of the following conditions—

- (a) period of licence and procedure for renewal or variation at behest of the applicant;
- (b) a condition stipulating that the licence or frequency authorisation shall only enter into force upon payment by the licensee or authorisation holder to ECTEL or the Commission of the prescribed fee;
- (c) a condition requiring the licensee or authorisation holder to pay annual anniversary fees and renewal fees on specified dates;
- (d) a condition requiring the licensee or frequency authorisation holder to provide ECTEL with such documents and information as ECTEL shall require and request in order to fulfil its purposes and functions;

- (e) a condition requiring the licensee or frequency authorisation holder to comply with any direction made by the Commission under section 14(1);
- (f) provision of information and documents as required by and to the Commission and ECTEL;
- (g) non-exclusivity of the licence, and exclusivity or otherwise of the frequency authorisation;
- (h) contribution to universal service;
- (i) procedure to deal with complaints of customers, or subscribers;
- (j) compliance with the recommendations of ECTEL;
- (k) payment of moneys owed to the Government;
- (l) the submission to the Commission of a complete audited financial report;
- (m) specification of the fees depending on the divergent or convergent<sup>1</sup> nature of the services provided.

### **Schedule 3**

(Section 73)

#### **LIST OF ENACTMENTS**

Wireless Telegraph, Act, 1953

Production of Telegrams Act, 1939

Cable and Wireless (West Indies) Limited Order, 1960, No.7

Public Telephones Act, 1966.

### **Schedule 4**

(Section 38A)

#### **PROVISIONS OF THE INCOME TAX ACT WHICH APPLY TO LICENCES GRANTED UNDER THIS ACT**

Sections 106 – 112 (which deal with objections and appeals)

Sections 115, 116, 118 – 121, 123 – 130 (which deal with payment, recovery and refund of tax)

Sections 131 – 137 (which deal with Civil Penalties)

Sections 138, 140, 141, 144 – 147 (which deal with criminal proceedings)

*(Inserted by Act 8 of 2006)*

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## **CHAPTER 8.11 TELECOMMUNICATIONS ACT**

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<sup>1</sup> Convergent nature means the process of multiple telecommunication services provided over a single medium.

## **SUBSIDIARY LEGISLATION**

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### *List of Subsidiary Legislation*

1. Telecommunications (Terminal Equipment and Public Network) Regulations – Section 73
  2. Telecommunications (Interconnection) Regulations – Section 73
  3. Telecommunications (Private Network Licensing) Regulations – Section 73
  4. Telecommunications (Numbering) Regulations – Section 73
  5. Telecommunications (Quality of Service) Regulations – Section 73
  6. Telecommunications (Wholesale) Regulations – Section 73
  7. Telecommunications (Spectrum Management) Regulations – Section 73
  8. Telecommunications (Universal Service Fund) Regulations – Section 73
  9. Telecommunications (Retail Tariff) Regulations – Section 73
  10. Telecommunications (Confidentiality in Network and Services) Regulations – Section 73
  11. Telecommunications (Fees) Regulations – Section 73
  12. Telecommunications (Frequency Fees) (Collection Mechanism) Regulations – Section 74
  13. Telecommunications (Exemption) Regulations – Section 73
  14. Telecommunications (Licensing and Authorisation) Regulations – Section 73
  15. Telecommunications (Dispute Resolution) Regulations – Section 73
  16. Telecommunications (Universal Service Fund Contribution) Order – Section 43(3)
  17. Telecommunications (Interconnection) Regulations – Section 73(2)
  18. Telecommunications (Exemption) Order – Section 5(2) and (4)
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### **Telecommunications (Terminal Equipment and Public Network) Regulations – Section 73**

#### **(Statutory Instruments 10/2002 and 26/2003)**

Statutory Instrument 10/2002 in force 1 April 2001

Amended by Statutory Instrument 26/2003 in force 17 March 2003

#### **ARRANGEMENT OF REGULATIONS**

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4. Signature of applicant
5. Filing of application
6. Time frame for function of Commission
7. More time required by Commission
8. Fresh approval required
9. Commission to bill applicant
10. Type approvals granted by Contracting States
11. Technical regulations
12. Type approvals specified in Schedule
13. Exemptions
14. Burden of proof
15. Importation of equipment
16. Registration of terminal equipment
17. Adequacy of report
18. Non-discriminatory acceptance testing
19. Changes from acceptance testing
20. Acceptance testing change to be in agreement
21. Provisions to maintain equipment
22. Speedy repairs of equipment
23. Fault reports to be addressed expeditiously

- 24. Directives by Commission
  - 25. Notice to be given when rights are affected
  - 26. Registration for inside wiring
- Schedule
- 

## **TELECOMMUNICATIONS (TERMINAL EQUIPMENT AND PUBLIC NETWORK) REGULATIONS – SECTION 73**

Commencement [1 April 2001]

### **1. Citation**

These regulations may be cited as the Telecommunications (Terminal Equipment and Public Network) Regulations.

### **2. Interpretation**

In these Regulations—

“**Act**” means the Telecommunications Act;

“**equipment**” means any equipment that is either radio equipment or telecommunications terminal equipment or both;

“**harmful interference**” means interference which, interrupts a radio communications or other telecommunications service or system, or otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with applicable national regulations;

“**interface**” means either or both of—

- (a) an air interface specifying the radio path between radio equipment and their technical specifications; and
- (b) a network termination point which is a physical connection point at which a user is provided with access to public telecommunications networks;

“**Hertzian waves**” means electromagnetic waves of frequencies from 1 hz to 3,000 GHZ propagated in space without artificial guide.

“**Minister**” means Minister responsible for Telecommunications.

### **3. Type approval conditions**

(1) A person shall not install, sell for use or use any item of equipment in Saint Lucia, unless the Commission grants a certificate of type approval in respect of that type of equipment.

(2) Items of equipment that require type approval include but are not limited to—

- (a) cellular telephones;
- (b) cordless telephones;
- (c) fax machines;
- (d) GSM telephones;
- (e) mobile radios;
- (f) modems;
- (g) wireless remote devices;
- (h) PABXs (including Small Business Systems and Key Systems);

- (i) pagers;
- (j) radio receivers;
- (k) radio transmitters;
- (l) satellite earth stations;
- (m) telecommunications switching equipment;
- (n) telephone instruments;
- (o) telex equipment;
- (p) other equipment emitting a radio signal; and
- (q) any other customer premises equipment to be attached to any part of a licensed telecommunications network.

(3) A person who is granted a certificate of type approval by the Commission for use of any of the items specified in sub-regulation (2) shall not be required to apply to the Commission for further approval, if that person uses the same model of equipment subsequently.

#### **4. Signature of applicant**

An application to the Commission for type approval of equipment shall be signed by—

- (a) an authorised representative of the applicant; or
- (b) the applicant personally.

#### **5. Filing of application**

(1) A person who applies for type approval in respect of any equipment shall forward to the Commission—

- (a) a sample of the equipment if requested;
- (b) completed application forms;
- (c) the prescribed fee;
- (d) the relevant literature; and
- (e) the technical specifications specified by the Commission after consultation with ECTEL.

(2) Copies of the application forms, the related documentation and samples referred to in sub-regulation (1) may be forwarded by the Commission to ECTEL for recommendations and review.

#### **6. Time frame for function of Commission**

The Commission may require a maximum period of 6 weeks for—

- (a) testing the samples of equipment;
- (b) purpose of reviewing the application; and
- (c) granting of type approval for customer premises equipment.

#### **7. More time required by Commission**

The Commission may require a maximum period of 3 months for the purpose of reviewing the applications, for testing any samples of equipment and for granting type approval for switches over 1000 points and high capacity microwave equipment.

## **8. Fresh approval required**

Where changes have occurred in the models, designs or the technical specifications in respect of equipment which has been the subject of approval by Commission to an applicant, that applicant shall apply for fresh approval in respect of that equipment.

## **9. Commission to bill applicant**

(1) The Commission shall upon receipt of an application compute the applicable fee and forward an invoice to the applicant within 30 days of the receipt of the application.

(2) Where the applicant fails to remit the invoiced fee within 30 days of its receipt, the Commission may terminate any provisional approval it may have granted by written notice to the applicant.

## **10. Type approvals granted by Contracting States**

The Commission may recognize type approvals granted by other Contracting States, and will consult and liaise with ECTEL, in respect of such matters where necessary.

## **11. Technical regulations**

The Commission may, upon the recommendation of ECTEL, determine the technical regulations that should be recognized in Saint Lucia and other approved States for the purposes of giving effect to the recognition of, or exemption from, type approval procedures.

## **12. Type approvals specified in Schedule**

(1) The Commission will recognise the type approvals which are specified in the Schedule.

(2) The Commission shall ensure that appropriate manuals containing the legal requirements of type approval by Contracting States which it recognizes, is printed and made readily available to telecommunications providers and other interested parties.

## **13. Exemptions**

The following items of equipment when certified by the Commission to be compliant with the prescribed technical standards shall be exempt from type approval procedures:

- (a) cable;
- (b) for sale and installation inside wiring;
- (c) household appliances.

## **14. Burden of proof**

The party seeking the recognition of the type approval granted by the countries specified in the Schedule or exempted from type approval as specified in regulation 13 shall produce to the Commission satisfactory documentary evidence that the relevant equipment qualifies for the recognition or exemption sought.

## **15. Importation of equipment**

(1) A person shall ensure that the importation of radio equipment, customer premises equipment or other terminal equipment, does not damage or endanger the telecommunications network and shall comply with the procedures relating to the approval of equipment as set out in these Regulations.

(2) Despite the provisions of subregulation (1) compliance with type approval requirements does not apply to a cellular mobile phone.

(3) No equipment or any component thereof imported into OECS States shall be delivered by the Comptroller of Customs to any person unless it complies with the provisions of these Regulations.

(4) The Comptroller of Customs in any event shall not deliver such equipment or component to any person unless that person is approved by the Commission to possess or use that specific type of equipment.

(5) The Commission shall authorize an officer to inspect the said equipment or component part thereof to ensure that it complies with these Regulations.

(6) Any person to whom the Comptroller delivers equipment or any component thereof shall not part with the said equipment or component unless it is to a person who is authorized to own, possess or use that equipment or component.

(7) Every licensed telecommunications provider who comes into possession of equipment shall keep at his or her licensed address a book to be called the "Telecommunications Equipment Register" and shall immediately upon receipt of any equipment make or cause to be made therein entry of the date of such receipt the serial number and full description of each kind of equipment received and the name and address of the person from whom it is received. The licensed provider shall also enter or cause to be entered into the said Register any equipment that he or she has constructed or have for sale, use or otherwise.

(8) Every licensed telecommunications provider shall immediately after delivery of equipment from his or her licensed premises, make or cause to be made entry of the date of such delivery, the name and address of the person to whom delivered, the nature and date of the licence produced by such person with the name of the office from which it was issued, or the circumstances exempting such persons from producing such licence, the description of all equipment so delivered, and the cause of such delivery whether on sale, hire, loan or otherwise.

(9) The Telecommunications Equipment Register may be in such form as may be prescribed by the Commission and shall be produced for inspection, at the request of the Commission or of any member of the Commission who shall have power to verify the same by examination, at the premises or at a place the Commission so directs.

*(Amended by S.I. 26/2003)*

## **16. Registration of terminal equipment**

(1) A person who wishes to—

- (a) provide maintenance, repair services, reticulation and any related installation at customer premises; or
- (b) supply items of terminal equipment such as fax machines, PABXs or telephone sets,

shall register with the Commission.

(2) Upon registration with, and payment of the prescribed registration fee to the Commission, it may issue a registration card to technicians or other authorised persons connected with the installation, maintenance and repair services.

(3) Registration is subject to annual renewal upon payment of the prescribed renewal fee.

## **17. Adequacy of report**

Where a telecommunications operator or provider wishes it will be sufficient if that operator or provider attaches a report to the application showing that the equipment has conformed to the acceptance testing requirements or international type approval.

## **18. Non-discriminatory acceptance testing**

An operator or provider of telecommunications services may carry out in a non-discriminatory manner, acceptance testing of all customer premises equipment installations to be interfaced with its network, to ascertain whether the required installations meet the prevailing standards before connection.

## **19. Changes from acceptance testing**

Any changes that arise from acceptance testing of installations by an operator or provider of a telecommunications service shall represent a portion of the tariffs of the operator or provider and shall be approved by the Commission.

## **20. Acceptance testing change to be in agreement**

Changes relating to acceptance testing of installations at customer premises shall form part of the written agreement between an operator or provider of telecommunications services and the provider of customer premises equipment.

## **21. Provisions to maintain equipment**

A customer shall be responsible for the maintenance of customer premises equipment, without prejudice to incorporating into an agreement drawn up between himself or herself and a provider of that equipment, a provision for the maintenance and repair of that equipment.

## **22. Speedy repairs of equipment**

A provider of customer premises equipment shall have in place, systems for the speedy and efficient repairs of its equipment, and as far as practicable, for the temporary allocation to customers of items of equipment whilst theirs are under repairs.

## **23. Fault reports to be addressed expeditiously**

A provider of customer premises equipment shall take all reasonable measures to ensure that its items of equipment or its services are maintained, provided or replaced within 48 hours of receiving a faults report.

## **24. Directives by Commission**

The Commission may issue directives to a dealer or supplier of customer premises equipment upon receipt of complaints from consumers or providers or operators of telecommunications services.

## **25. Notice to be given when rights are affected**

(1) Where the Commission intends to take any action which may affect the rights, interests or privileges of the person complained against it shall notify the provider of the customer premises equipment in writing of the proposed action.

(2) The Commission shall specify a period of not less than 28 days in which the provider of the customer premises equipment may make representation on its behalf in respect of the proposed action.

## **26. Registration for inside wiring**

(1) A person who wishes to provide or supply items of terminal equipment such as inside wiring shall register with the Commission.

(2) Upon registration with, and payment of the registration fee to the Commission, the Commission may issue a registration card to technicians or other

authorised persons connected with such wiring, related installation, maintenance and repair services.

(3) Registration is subject to annual renewal upon payment of the prescribed renewal fee.

### **Schedule**

(Regulation 12)

- (a) AMPS cellular equipment – FCC Part 68, other US and Canadian Law Sections;
- (b) Facsimile machines that are certified to be in conformity with the technical requirements of Parts 15 and 68 of the Regulations of the United States Federal Communications Commission and the related radiation performance standards found in Title 21, chapter 1, subchapter j; of the United States Code of Federal Regulations;
- (c) PABX and related equipment that is certified to be in conformity with the technical requirements of Parts 15 and 68 of the Regulations of the United States Federal Communications Commission, and related Canadian technical standards for electromagnetic interference, including ICES-003 class B;
- (d) TDMA cellular equipment – FCC Part 68, other US and Canadian Law sections.
- (e) GSM Cellular Equipment – FCC Part 68, other US, Canadian Law Sections.
- (f) European Telecommunications Standards Institute (ETSI). Definitions, Rules and Decisions.

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### **Telecommunications (Interconnection) Regulations – Section 73**

#### **(Statutory Instrument 11/2002)**

Statutory Instrument 11/2002 in force 1 April 2001

Replaced by Statutory Instrument 72/2009 .. in force 22 June 2009

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## TELECOMMUNICATIONS (INTERCONNECTION) REGULATIONS – SECTION 73

Commencement [1 April 2001]

### 1. Citation

These regulations may be cited as the Telecommunications (Interconnection) Regulations.

### 2. Interpretation

In these Regulations—

“**Act**” means the Telecommunications Act;

“**cellular mobile services**” means telecommunications services comprising radio communications via a cellular mobile telecommunications network;

“**cellular mobile telecommunications network**” means a telecommunications network that permits telecommunications while the user is in motion and that provides for inter-cell hand-over during telecommunications;

“**calling line identity**” means the information generated by a telecommunications network that identifies the calling number;

“**essential service**” means a telecommunications service designated as such by the Commission under regulation 7;

“**interconnecting operator**” means a public telecommunications network operator who requests interconnection from another public telecommunications network operator under the Act;

“**interconnection capacity**” means the ability to provide interconnection;

“**interconnection provider**” means a public telecommunication network operator who receives a request to provide interconnection under the Act;

“**dominant interconnection provider**” means an interconnection provider designated by the Commission as a dominant interconnection provider under regulation 8;

“**point of interconnection**” means the point or points of interconnection where the exchange of telecommunications between the telecommunications network of an interconnection provider and the telecommunications network of an interconnecting operator takes place;

“**private network operator**” means a person who is licensed to operate a private telecommunications network;

**“public network operator”** means a person who is licensed to operate a public telecommunications network;

**“reference interconnection offer”** means a document setting out the terms on which the telecommunications provider proposes to offer interconnection services and that includes a description of the interconnection and other services offered to interconnecting operators and specifies the charges and other terms and conditions on which those services are offered (and “reference interconnection offer provider” shall have a corresponding meaning);

**“register”** means the register maintained under regulations 22 and 23.

### **3. Notice of request**

(1) An interconnecting operator shall notify the Commission of any request for interconnection by forwarding 2 copies of the written request to the Commission, one of which shall be addressed to ECTEL.

(2) A request for interconnection shall contain at least the following information—

- (a) a copy of the licence of the interconnecting operator;
- (b) the services with respect to which interconnection is sought; and
- (c) any other information as specified in the RIO or reasonably required in order for the telecommunications provider to respond to that request.

### **4. Equal responsibility**

An interconnection provider and an interconnecting operator shall act in a manner that enables interconnection to be established as soon as reasonably practicable.

### **5. Non-discrimination transparency**

(1) In providing interconnection, an interconnection provider shall act in accordance with the following principles—

- (a) interconnection shall be provided on non-discriminatory terms and conditions including charges and quality of service;
- (b) interconnection shall be provided to interconnecting operators under no less favourable terms and of no less favourable quality as the interconnection provider provides similar services for itself; and
- (c) an interconnection provider shall provide on request information reasonably necessary to interconnecting operators considering interconnection, in order to facilitate the conclusion of any agreements.

(2) The information provided shall include planned changes for implementation within the next 6 months following a request, unless otherwise agreed by the Commission.

### **6. Confidentiality**

(1) A person shall not knowingly communicate, or allow access to information received from a telecommunications provider in respect of interconnection, except to the extent authorised by the telecommunications provider in writing, or by the Act.

(2) Despite any law, an interconnection provider shall not be required, in connection with any legal proceedings, to produce any statement or other record containing information referred to in subregulation (1), or to give evidence relating to it, unless the proceedings relate to the enforcement of this Act.

## **7. Essential service**

The Commission, acting on the recommendation of ECTEL, shall, by notice published in the Gazette, designate as an essential service in Saint Lucia any telecommunications service with respect to which the Commission or ECTEL has determined after a public consultation process that—

- (a) access to that service is essential for participation in a downstream telecommunications market;
- (b) it would not be economically feasible for an interconnecting operator to replicate or otherwise obtain the service from itself or another person; and
- (c) it is in the long-term interests of consumers of telecommunications services in Saint Lucia that the service be so designated.

## **8. Dominant interconnection provider**

The Commission shall, acting on the recommendation of ECTEL, by notice published in the Gazette, designate as a dominant telecommunications provider in respect of a particular telecommunications market or markets in Saint Lucia if the Commission or ECTEL has determined that, after a public consultation process, with respect to that telecommunications provider—

- (a) possesses significant market power with respect to the market or markets for telecommunications services in Saint Lucia; and
- (b) it is in the long-term interests of consumers of telecommunications services in Saint Lucia that the service be so designated.

## **9. Publication of information**

(1) The Commission shall have available for the use of the general public, documentation on interconnection that is adequate and current.

(2) The Commission shall use any media that it considers appropriate to inform the public of the documentation available under subregulation (1).

(3) The Commission may impose a fee for providing the documentation to any person.

## **10. Burden of proof**

The burden of proving that interconnection rates are reasonable cost-oriented rates shall lie with the inter-connection provider.

## **11. Rate structure**

(1) The interconnection rates shall be imposed in a transparent manner and shall identify clearly—

- (a) charges for interconnection services; and
- (b) the contribution to the interconnection provider's access deficit.

(2) Charges for interconnection services shall be cost-oriented, where "cost-oriented" means those charges shall be no higher than the fully allocated cost of providing that service and no lower than the total service long-run incremental cost of providing that service.

(3) Services other than interconnection services provided to an interconnecting operator shall be provided at a rate not exceeding the best retail prices minus avoidable costs of the dominant interconnection provider provided that such prices are not less than the total service long-run incremental cost of the dominant interconnection provider.

## **12. Reference**

(1) Each dominant interconnection provider shall publish a reference interconnection offer.

(2) The reference interconnection offer provider may set different tariffs, terms and conditions for different interconnection services, where such differences can be objectively justified and do not result in the unfair distortion of competition.

(3) The reference interconnection offer provider shall apply the appropriate interconnection tariffs, terms and conditions when providing interconnection for its own services or those of its affiliates, subsidiaries or partners.

(4) The charges of the reference interconnection offer shall be sufficiently unbundled to ensure that the inter-connecting operator requesting interconnection is not required to pay for services not related to the service requested.

(5) Interconnection rates set out in the reference interconnection offer shall be cost-oriented.

## **13. Points of interconnection**

An interconnection provider shall offer interconnection services at any technically feasible point of its telecommunications network, upon request by an interconnecting operator, which shall pay for the investment, operations and maintenance expenses of the facilities necessary to reach the point or points of interconnection within the network of the interconnection provider.

## **14. Calling line identity**

Every interconnecting operator and interconnection provider shall offer, upon request, the calling line identity and all necessary signalling data, in accordance with accepted international standards and any codes which may be issued by the Commission.

## **15. Form and contents of agreement**

(1) All interconnection agreements and reference interconnection offers must be in writing and the following matters shall be specified in those agreements except where a particular matter is irrelevant to the specific form of the interconnection requested—

- (a) access to ancillary, supplementary and advanced services;
- (b) adequate capacity and service levels including the remedies for any failure to meet those service levels;
- (c) a provision that deals with regulatory change, including determinations by the Commission;
- (d) duration and renegotiation of interconnection agreements;
- (e) forecasting, ordering, provisioning and testing procedures;
- (f) dispute resolution procedures;
- (g) geographical and technical characteristics and locations of the points of interconnection;
- (h) information handling and confidentiality provisions;
- (i) intellectual property rights;
- (j) measures anticipated for avoiding interference or damage to the networks of the parties involved or third parties;
- (k) national and international appropriate indexes for service quality;

- (l) procedures in the event of alterations being proposed to the network or service offerings of one of the parties;
- (m) provisions for the formation of appropriate working groups to discuss matters relating to interconnection and to resolve any disputes;
- (n) if appropriate, provision of infrastructure sharing and identification of collocation and their terms;
- (o) provision of network information;
- (p) technical specifications and standards;
- (q) terms of payment, including billing and settlement procedures;
- (r) the maintenance of end-to-end quality of service;
- (s) the procedures to detect and repair faults, as well as an estimate of acceptable average indexes for detection and repair times;
- (t) the scope and description of the interconnection services to be provided;
- (u) the technical characteristics of all the main and auxiliary signals to be transmitted by the system and the technical conditions of the interfaces;
- (v) transmission of calling line identity, where available to be transmitted;
- (w) ways and procedures for the supply of other services that the parties agree to supply to each other, such as operation, administration, maintenance, emergency calls, operator assistance, automated information for use, information on directories, calling cards and intelligent network services;
- (x) any other relevant issue; and
- (y) the obligations and responsibilities of each party in the event that inadequate or defective equipment is connected to their respective networks.

(2) Public network operators shall make available to interested parties, proposed interconnection agreements or reference interconnection offers.

## **16. Connectivity**

(1) An interconnection agreement shall include provision for any-to-any connectivity to allow each end-user of that network to communicate with each other end-user of public telecommunications services, regardless of whether the end-users are connected to the same, or different, networks.

(2) An interconnection agreement shall include provision for the suspension, termination or amendment of the agreement in the event of—

- (a) conduct that is illegal or interferes with the obligations of the telecommunications provider, under the relevant licence, Act or regulations;
- (b) requirements that are not technically feasible;
- (c) health or safety problems;
- (d) requirements for space that is unavailable; or
- (e) circumstances that pose an unreasonable risk to the integrity or security of the network or services of the telecommunications provider, from which the sharing arrangement is requested.

(3) An interconnection agreement shall include a provision to allow for the suspension of interconnection where it is necessary to deal with a material degradation of the telecommunications network or services.

## **17. Non-inclusion**

An interconnection agreement shall not contain any provision which has the effect of—

- (a) imposing any unfair or discriminatory penalty or disadvantage upon a person in the exercise of the person's right to be provided with interconnection;
- (b) precluding or frustrating the exercise of a person's rights or privileges afforded under the Act or Regulations; and
- (c) preventing a licensee from lawfully providing an interconnection service to another telecommunications provider.

## **18. Amendment of agreement**

(1) The parties to an interconnection agreement may amend or modify an agreement which has been approved by the Commission by—

- (a) giving not less than 30 days written notice prior to the effective date of the amendment or modification; and
- (b) submitting a copy of the proposed amendment or modification to the Commission.

(2) Despite any provision of the agreement, no interconnection provider shall terminate an interconnection agreement for breach of that agreement unless—

- (a) the interconnection provider has given the interconnecting operator a written notice stating the breach, and providing for a period of not less than 3 months during which time the breach may be cured;
- (b) the interconnecting operator has failed to remedy the breach within the notice period; and
- (c) if the services provided under the Agreement are essential services, the Commission, after due notice, has consented to the termination provided that, in the case of an interconnection agreement that provides both essential and other services, only termination with respect to those essential services shall be so restricted.

## **19. Procedures for application**

(1) The parties shall submit a written application of a proposed interconnection agreement to the Commission at least 30 working days prior to the proposed effective date of the agreement.

(2) The Commission shall approve the proposed interconnection agreement if it is satisfied that the proposed interconnection agreement is consistent with—

- (a) any reference interconnection offer in force;
- (b) where no reference interconnection offer is in force, the principles of interconnection set out in regulation 5.

(3) The Commission shall consult with ECTEL for its advice and recommendations concerning the application, before determining whether to approve the proposed interconnection agreement.

(4) The Commission may request additional information from the parties to a proposed interconnection agreement where it considers it necessary to further evaluate the terms, conditions and charges contained in the proposed inter-connection agreement.

(5) If the Commission notifies the parties that it does not consider that the proposed interconnection agreement is consistent with the principles set out in regulation 5, the interconnection provider and the inter-connecting operator shall

negotiate and submit a revised proposed interconnection agreement to the Commission, within a reasonable time, having regard to the matters being the subject of the Commission's request.

(6) Where the Commission does not request additional information or modifications, or rule on the agreement within 30 days of receiving an application for the approval or renewal of the agreement, or 10 days, in the case of an agreement revised in accordance with subregulation (5), the Commission shall approve the agreement.

## **20. Interconnection not permitted**

A party shall not negotiate or propose to enter into an interconnection agreement where the Commission determines and rules that—

- (a) the law prohibits the interconnection;
- (b) the interconnection would endanger life or safety, or damage the property or impair the quality of the services of the party providing the interconnection;
- (c) the licence issued to the party from whom the interconnection is requested, exempts it from the obligation to interconnect;
- (d) the licence issued to the party requesting interconnection does not authorise the telecommunications services for which interconnection is requested;
- (e) the requested interconnection is not technically feasible; or
- (f) the proposed interconnection is contrary to the law or the public interest.

## **21. Renewal of agreement**

A licensee shall file with the Commission an application for approval of the renewal or extension of an existing interconnection agreement at least 30 days before the effective date of the 5th anniversary of that agreement, and on each successive 5th anniversary.

## **22. Register**

(1) All copies of an interconnection agreement shall be kept in a register maintained by the Commission in print form, or as a database in electronic medium, and in any other form prescribed by the Commission.

(2) The Register shall be kept at the principal office of the Commission and Parts 1 and 3 of the Register shall be open to public inspection during normal working hours.

(3) A copy of the Register shall be provided to ECTEL.

## **23. Contents of register**

The Register shall be maintained in 3 parts—

- (a) Part 1 containing a list of all inter-connection agreements with the names of interconnection providers, service areas of their operation, and the dates of the execution of the agreements, and shall be opened for inspection by the public;
- (b) Part 2 containing portions of interconnection agreements which the Commission has directed to be kept confidential; and
- (c) Part 3 containing the contents of inter-connection agreements excluding those directed by the Commission to be kept confidential which shall be open for inspection by the public.

## **24. Confidential portion of register**

(1) The Commission may, on the request of any party to an interconnection agreement, direct that any part of the interconnection agreement be kept confidential.

(2) Any request to keep part of an interconnection agreement confidential shall be accompanied by a non-confidential description of the relevant portion of the interconnection agreement.

(3) Where the Commission is satisfied that the interests of a telecommunications provider could be adversely affected if the relevant part were not kept confidential, it may direct that the relevant part of the interconnection agreement be kept confidential and the non-confidential description of that part must be incorporated in Part 3 of the Register.

(4) Where the Commission declines the request of any public network operator to keep any portion of the inter-connection agreement confidential, it shall record its reason for doing so and furnish a copy of its decision to the applicant.

(5) Before making any decision not to keep any information confidential including to disclose any information, the Commission shall afford a hearing to the public network operator who has requested the information be kept confidential.

(6) Whenever a public network operator requests that any part of an interconnection agreement should be kept confidential, that portion of the agreement shall remain confidential until the matter is determined by the Commission.

## **25. Format for separating information**

(1) The Commission may, prescribe the format for seeking disaggregated information of parts of an interconnection agreement relating to technical standards or specifications from the Register in respect of—

- (a) access charges;
- (b) area of operation;
- (c) consumer related information;
- (d) downtimes;
- (e) fault resolving procedures;
- (f) interconnection;
- (g) port charges;
- (h) quality of service; and
- (i) revenue sharing arrangements.

(2) Each licensee shall offer such assistance to the Commission in relation to disaggregating information under this regulation as it may reasonably require.

## **26. Access to register**

(1) Parts 1 and 3 of the Register shall be open for inspection by the public on payment of the prescribed fee and on the fulfilment of any other condition prescribed by the Commission.

(2) Any person seeking inspection of Parts 1 or 3 of the Register shall apply to the officer designated by the Commission who shall allow inspection and also make available extracts of the relevant portions of the Register, on payment of the prescribed fee.

(3) The Commission may in accordance with subregulations (1) and (2) also allow access to Parts 1 and 3 of the Register through the website maintained by it.

## **27. Dispute resolution**

(1) Where an interconnection provider and an interconnecting operator are unable, after having negotiated in good faith for a reasonable period, to agree the terms and conditions of an interconnection agreement, either party may request the assistance of the Commission in resolving the dispute.

(2) The Commission, in responding to a request for assistance, may choose to take one or more of the following actions—

- (a) act as arbitrator of that dispute;
- (b) appoint a mediator to that dispute; or
- (c) direct the parties to commence or continue interconnection negotiations.

(3) Where the Commission appoints a mediator, it may direct that payment of the mediator's reasonable costs and expenses are paid for by the relevant parties to the dispute.

(4) Where the parties cannot agree on a date upon which to commence negotiations, the Commission shall be empowered to compel both parties to commence negotiations by a prescribed date.

(5) The Commission may, if requested by either party, set a time limit within which negotiations on interconnection are to be completed and any such direction shall set out the steps to be taken if agreement is not reached within the time limit.

## **28. Role of parties to dispute**

(1) The complaining party shall submit to the Commission a clear and reasoned statement of the issues in dispute, as well as any issues on which there is agreement.

(2) The opposing party shall respond to the complaint within 30 days and shall state the reasons for its position including any statutory or regulatory justification for that position.

## **29. Fairness in dispute resolution**

(1) When a complaint has been referred to the Commission it shall take steps to resolve the dispute—

- (a) as promptly as practicable, having regard to the matters in dispute;
- (b) preserving any agreements between the parties over issues that are not in dispute; and
- (c) consistent with subregulation (2) below.

(2) When acting as an arbitrator, the Commission or ECTEL shall attempt to achieve a fair balance between the legitimate interests of the parties to the dispute, and have regard to the circumstance including the following—

- (a) whether the proposed ruling promote the long-term interests of consumers of telecommunications services in Saint Lucia;
- (b) the interests of persons who have rights to use the telecommunications networks concerned;
- (c) the economically efficient operation of a telecommunications network or the provision of a telecommunications service.

## **30. Disconnection of networks**

(1) Any dispute between parties of an interconnection agreement shall not cause the partial or total disconnection of the relevant network except in accordance with regulation 16.

(2) Despite subregulation (1), the Commission may decide that partial or total disconnection is necessary and so advise the parties.

(3) Whenever the Commission takes action in accordance with sub-regulation (2), it shall recommend and instruct that preliminary measures are applied to minimise any negative effects on the users of one or both networks.

### **31. Guidelines for resolving dispute**

In exercising its duties under regulation 29, the Commission shall take into account the—

- (a) availability of technically and commercially viable alternatives to the interconnection requested;
- (b) desirability of providing users with a wide range of telecommunications services;
- (c) interests of the users;
- (d) nature of the request in relation to the resources available to meet the request;
- (e) need to maintain a universal service;
- (f) need to maintain the integrity of the public telecommunications network and the interoperability of services;
- (g) promotion of competition;
- (h) public interest;
- (i) regulatory obligations or constraints imposed on any of the parties; and
- (j) other relevant and appropriate consideration.

### **32. Infrastructure sharing**

A telecommunications provider when requested, is obliged to provide infrastructure sharing arrangements to another telecommunication provider, except where such arrangements—

- (a) are illegal or incompatible with the obligations of the telecommunications provider, under the relevant licence, Act or regulations;
- (b) are not technically feasible;
- (c) create health or safety problems;
- (d) require space that is unavailable; or
- (e) pose an unreasonable risk to the integrity or security of the network or services of the telecommunications provider, from which the sharing arrangement is requested.

### **33. Intervention by Commission**

(1) The Commission may intervene to resolve a dispute concerning infrastructure sharing co-location at the request of either party and the Commission may take into account the matters listed in regulation 32.

(2) Where the Commission intervenes, it shall exercise those powers, and apply those principles, as set out in the Act and these regulations for the resolution of disputes with respect to interconnection.

(3) The decision of the Commission shall be notified to the parties and published.

### **34. Procedure for approval**

(1) A telecommunications provider who intends to install or construct a telecommunications facility on public property, shall submit a copy of the request for approval to the Commission and any relevant Authority having jurisdiction over the property concerned.

(2) The document referred to in subregulation (1) shall be accompanied by a certificate and notarised copies of the necessary approvals or permits from the relevant Government Department or other agencies dealing with environmental and other relevant matters.

(3) The certificate referred to in subregulation (2) shall contain a statement declaring—

- (a) any existing licence or frequency authorisation or both pursuant to which permission to operate the proposed facility has previously been granted by the Commission;
  - (b) the extent of any facility-sharing, co-location or other agreements pertaining to the proposed telecommunications facility;
  - (c) the extent of the construction required;
  - (d) the estimated length of the construction period;
  - (e) the nature and purpose of the proposed telecommunications facility; and
  - (f) the technical specifications of the proposed facility.
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## **Telecommunications (Private Network Licensing) Regulations – Section 73**

### **(Statutory Instrument 12/2002)**

Statutory Instrument 12/2002 in force 1 April 2001

#### **ARRANGEMENT OF REGULATIONS**

- 1. Citation
  - 2. Interpretation
  - 3. Obligation to give information
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  - 9. Bypass prohibition
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  - 11. Safeguard for confidentiality
  - 12. Restriction on unfair practices
  - 13. Notice of violation
  - 14. Notification of revocation
  - 15. Revocation of licence
  - 16. Reporting obligations
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- 

## **TELECOMMUNICATIONS (PRIVATE NETWORK LICENSING) REGULATIONS – SECTION 73**

Commencement [1 April 2001]

## 1. Citation

These Regulations may be cited as the Telecommunications (Private Network Licensing) Regulations.

## 2. Interpretation

In these Regulations—

“**Act**” means the Telecommunications Act;

“**affiliate**” means a relationship between 2 entities, in which one of them directly or indirectly owns more than 50% of the capital stock of, or controls the other entity;

“**bypass**” means conduct comprising—

- (a) the passing of an international voice service (including a reconstructable voice service as part of a data or mixed voice/data service) without passing through the international gateway switch of a licensed international voice network operator; or
- (b) the termination of international voice services over the domestic public switched telecommunications network by a person who does not originate the call or possess a valid interconnection agreement with that domestic network operator with respect to international voice services;

“**capital stock**” includes all forms of equity ownership and partnership interests;

“**control**” means control in whatever form exercised and is not limited to majority stock ownership, and includes direct or indirect control through intervening subsidiaries;

“**licensee group**” means the licensee, its parent or subsidiaries, and any affiliate comprising the users of the private telecommunications network;

“**Minister**” means Minister responsible for Telecommunications;

“**private leased circuit**” means a telecommunications facility which is provided by means of one or more public telecommunications networks for the conveyance of messages between points, all of which are points of connection between those telecommunications systems and other telecommunications systems. Such a communications facility is made available to persons whereby messages transmitted at any of the points of connection, are received at every such point, and are fixed by the manner in which the communications facility is installed, and cannot otherwise be selected by a person or a telecommunications apparatus sending messages by means of the facility.

## 3. Obligation to give information

In any application for a licence to establish or operate a private telecommunications network, the applicant shall include with that application the information specified in the Schedule.

## 4. Signing of applications

(1) The applicant shall submit a statement to the Commission in writing specifying the date on which it desires to put the private telecommunications network into operation which shall be at least 30 days after the date of that application.

(2) The information referred to in subregulation (1) shall be signed by—

- (a) an officer if the licensee is a member of an unincorporated association;
- (b) an officer or duly authorised employee if the licensee is a company or other business entity;

- (c) one of the partners if the licensee is a partnership; and
- (d) the licensee personally if an individual.

## **5. Procedure for dealing with amended information**

A licensee shall forward updated information to the Commission within 30 days from effecting any major change in information originally submitted by submitting a statement with the additional information and a declaration on the anniversary date of the submission of the original statement, specifying the truth and accuracy of the information.

## **6. Limits to disclosure**

(1) The Commission shall maintain a list of persons or entities licensed to establish and operate a private telecommunications network under these regulations, and shall make that list and any information referred to in regulations 4 and 5 available for public inspection at its principal office.

(2) Despite subregulation (1) confidential information shall not be disclosed to members of the public.

## **7. Prohibition**

(1) A private telecommunications network shall only be established or operated by means of—

- (a) telecommunications facilities provided by a person licensed to operate a public switched telecommunications network; or
- (b) telecommunications facilities in respect of which a licensee is licensed to operate.

(2) A private telecommunications network operator who uses facilities under subregulation (1) above shall not be inter-connected to the public switched telecommunications network.

(3) A licence to establish and operate a private telecommunications network shall not as a condition of that licence, restrict the services provided to the licensee by itself to voice traffic or data traffic, or similar limited use.

## **8. Resale of excess capacity on private telecommunications network**

(1) A licensee of a private telecommunications network shall be entitled to—

- (a) cede or assign the rights to use excess capacity on private telecommunications network facilities;
- (b) resell excess capacity on private telecommunications network facilities; or
- (c) sublet or surrender control of the private telecommunications network facilities on a long-term basis.

(2) Where a licensee resells its excess capacity on or sublets or surrenders control of, its private telecommunications network facilities ("resale"), that resale must—

- (a) be incidental to the purposes of the private telecommunication network;
- (b) offered only to licensed operators; and
- (c) not prevent the rightful and proper use of the private telecommunications network by any member of the licensee group.

## **9. Bypass prohibition**

A person shall not engage in bypass.

## **10. Messages to cease**

Where a private telecommunications network is used for the purpose of advertising the sale of goods, services or any other thing by sending messages to the number of an end-user a licensee who receives a request from that end-user to cease sending such messages shall cease forthwith.

## **11. Safeguard for confidentiality**

A licensee shall take all reasonable steps to—

- (a) ensure the accuracy and reliability of any metering system used in connection with a private telecommunications network;
- (b) keep records of all metering which shall be made available to the Commission, upon request;
- (c) safeguard information acquired by the licensee in relation to the conveyances of communications; and
- (d) safeguard the privacy and confidentiality of any communications conveyed relating to the private telecommunications network.

## **12. Restriction on unfair practices**

(1) A licensee shall not, whether by any act or omission, do anything which results in or is intended to have, or is likely to have the effect of distorting, preventing or restricting competition in the course of, or as a result of, or in connection with the establishment or operation of a private telecommunications network licensed under these regulations.

(2) A public telecommunications operator shall not disconnect or suspend service to any operator of a private telecommunications network for any reason other than—

- (a) as required by law or under any order issued by the Commission;
- (b) in accordance with the terms of any contract for the provision of that service; or
- (c) if the operator believes on reasonable grounds that the private operator is engaging in bypass.

## **13. Notice of violation**

(1) Where there are reasonable grounds to suspect that a licensee holding a private telecommunications network licence violates any provision of the Act or regulations, the licensee shall be served with a written notice by the Commission requesting an explanation of the alleged violation.

(2) The licensee shall submit a written answer in duplicate to the Commission within 7 days from receipt of the notice, or during such other period as may be specified in the notice.

(3) Where an answer cannot be furnished within the specified period due to unavoidable circumstances, the licensee shall acknowledge the notice and request extension of time setting forth in the letter of acknowledgement, a satisfactory explanation for the delay and the reasons for the extension.

## **14. Notification of revocation**

Before revoking a licence, the Commission shall give the licensee written notice of its intention to do so, and provide the licensee a period of not less than 28 days from the date of the notice in which to make representations in relation to such proposed revocation.

## **15. Revocation of licence**

The Minister may on the advice of the Commission revoke a licence held by a licensee which relates to all or any part of a private telecommunications network established or operated by that licensee in the following circumstances where—

- (a) the licensee has repeatedly or wilfully engaged in bypass;
- (b) the Commission has given the licensee not less than 30 days notice in writing that failure by the licensee to comply with a directive within that period would result in the revocation of the licence in respect of that licensee or of all or any part of the private telecommunications network operated by that licensee;
- (c) the licensee fails to secure the required frequency authorization in respect of radio communications equipment which is part of the private telecommunications network;
- (d) the licensee has failed to comply with a final order of the Commission;
- (e) the licensee is convicted of committing an offence under the Act; or
- (f) the Minister determines that revocation of the licence is required in respect of the licensee in the interests of national security.

## **16. Reporting obligations**

A licensee shall keep, maintain and provide to the Commission annual traffic reports relating to the utilization and disposal of any excess capacity on a private telecommunications network that has been sold pursuant to regulation 8.

## **Schedule**

(Regulation 3)

### **INFORMATION REQUIRED FOR SUBMISSION BEFORE ESTABLISHING A PRIVATE TELECOMMUNICATIONS NETWORK**

#### **1. The licensee shall submit the following information—**

- (a) a description of the nature and purpose of the service to be provided by the proposed private telecommunications network, including—
  - (i) a description of terminal equipment comprising the private telecommunications network including the equipment to be used and to be provided by the licensee,
  - (ii) a detailed description of technical aspects of proposed private telecommunications network including but not limited to a descriptive configuration of the proposed private telecommunications network,
  - (iii) a statement certifying that the equipment complies with type approval requirements in Saint Lucia including a statement of compliance from a recognized approval agency,
  - (iv) full details of the premises where the elements of the proposed private telecommunications network will be located,
  - (v) the area of operation of the proposed private telecommunications network, and
  - (vi) the public telecommunication systems or private leased circuit to which the private telecommunications network is to be connected;
- (b) a description of the members of the licensee group;

- (c) a list of any other countries that are signatories to the Eastern Caribbean Telecommunications Authority Agreement, where the applicant intends to apply for or has applied for, or has been granted an individual licence, a class licence, a frequency authorization or a cable landing licence;
- (d) any information deemed relevant by the applicant;
- (e) a statement that the licensee intends to establish and operate a private telecommunications network;
- (f) a statement whether any individual or class licence to provide facilities or services in Saint Lucia or a frequency authorization to utilize frequencies in Saint Lucia has previously been granted to the licensee under the Act, and if so a general description of the categories of facilities, services or frequency so authorised;
- (g) the e-mail address, name, post office address, telephone number and title of the licensed registered office;
- (h) the e-mail address, name, post office address, telephone number and the title of the officer and any other contact person to whom correspondence concerning the licence is to be addressed.
- (i) the following details where the private telecommunications network is to be connected to any private leased circuit provided by a satellite system using a very small aperture terminal (also known as VSAT)—
  - (i) the antenna, facility site, identification numbers, antenna identification number, manufacturer and model number of the antenna, number of antenna to be used by the private telecommunications network, antenna size in meters, antenna gain both transmit and/or gain receive expressed in Cd Bi at – GHz with respect to the VSAT earth station antenna to be used by the private telecommunications network,
  - (ii) the destination points in Saint Lucia and any foreign country for the private telecommunications network communications using the satellite,
  - (iii) the frequency coordination limits of the VSAT,
  - (iv) the maximum antenna height and maximum power limit for each antenna,
  - (v) the particulars of operation for each RF. carrier for each antenna,
  - (vi) the satellite name and orbit location, and
  - (vii) a statement that the licensee will cooperate with any other licensee whose VSAT operation is potentially or adversely affected by the first mentioned licensee's operation, in order to reach an agreement in good faith, for modification of power density levels in either or both systems, and to facilitate operations without harmful interference;
- (j) the particulars of the international simple resale bearer circuit and other telecommunication system where the private telecommunications network is to be connected to that international simple resale bearer circuit;
- (k) the State or territory where the corporation, partnership or other business enterprise is incorporated; and
- (l) whether the licensee is a partnership, corporation or other business enterprise.

2. For the purpose of paragraph 1(i) subparagraphs (i) and (iii) the frequency coordination limits of the VSAT includes—

- (a) antenna elevation angles;

- (b) earth station azimuth angles;
- (c) frequency limits in MHz;
- (d) satellite arc ranges; and
- (e) the maximum EIRP density toward the horizon (d BW/4kHz).

3. For the purpose of paragraph 1(i) subparagraphs (i) and (iv) the maximum antenna height and the maximum power limit for each antenna includes the—

- (a) building height above ground level in meters;
- (b) maximum antenna height above roof-top in meters;
- (c) maximum antenna height in meters above ground level and above mean sea level;
- (d) total EIRP for all carriers, expressed in dBW; and
- (e) total input power at antenna flange, expressed in watts.

4. For the purposes of paragraph 1(i) subparagraphs (i) and (v) the particulars operation for each RF. carrier for each antenna includes—

- (a) a description of the modulation techniques and services provided;
- (b) antenna polarization (H,V,L,R);
- (c) emission designator;
- (d) the frequency bands used (MHz);
- (e) maximum EIRP density per-carrier (dBW/4kHz);
- (f) maximum EIRP per-carrier (dBW); and
- (g) transmit/receive mode.

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## **Telecommunications (Numbering) Regulations – Section 73**

### **(Statutory Instrument 139/2007)**

Statutory Instrument 139/2007 in force 27 August 2007

#### ARRANGEMENT OF REGULATIONS

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| 1.       | Citation  |
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| 6.       | Obligations of a telecommunications provider      |
| 7.       | Assignment of telecommunications numbers          |
| 8.       | Fees  |
| 9.       | Cancellation of use of telecommunications numbers |
| 10.      | Compliance with the national numbering plan       |
| Schedule |   |

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## **TELECOMMUNICATIONS (NUMBERING) REGULATIONS – SECTION 73**

Commencement [27 August 2007]

## 1. Citation

These Regulations may be cited as the Telecommunications (Numbering) Regulations.

## 2. Commencement

These Regulations shall come into force on the date of its publication in the Gazette.

## 3. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Telecommunications Act;

“**allocation**” means the setting aside of blocks of numbers for the purpose of assigning selected blocks of numbers to providers of telecommunications services;

“**data storage device**” means any article or material, for example a disc, from which information is capable of being reproduced;

“**national numbering plan**” means the plan established under section 51 of the Act;

“**telecommunication number**” means the number, sign or other mark, which a telecommunications provider in its delivery of telecommunications services uses for identification of telecommunications facilities in order to connect between the place of transmission and the place of reception, or for identification of the type of content of transmission the telecommunications facility is to deliver;

“**telecommunications numbering system register**” means the register established under regulation 5.

## 4. Functions of the Commission

(1) The Commission shall publish the national numbering plan on its website and shall make copies available to the public upon request.

(2) The Commission shall maintain control of all telecommunications numbers to ensure fair and efficient use of them by—

- (a) performing proper planning, allocations and monitoring;
- (b) maintaining the national Telecommunications Numbering System Register of all providers in respect of the numbers assigned to them.

## 5. Telecommunications numbering system register

(1) The Commission shall establish and cause to be maintained a telecommunications numbering system register.

(2) The following particulars in respect of a telecommunications provider who has been allocated numbers shall be recorded in the register—

- (a) the name and address of the telecommunications provider;
- (b) a description of the type of telecommunications service being provided;
- (c) particulars of numbers that have been allocated to telecommunications providers under the authority of the National Numbering Plan;
- (d) a note indicating that the telecommunication provider has paid the requisite fees;
- (e) such other particulars as may be required to adequately identify and locate the telecommunications service provider.

(3) The register may be maintained electronically.

(4) A person may, on the payment of the fee set out in the Schedule:

- (a) inspect the register; and
- (b) make a copy of, or take extracts from, the Register.

(5) If the register is maintained electronically, a person is taken to have made a copy of, or taken an extract from the Register, if the Commission gives the person a printout of the relevant parts of the Register.

(6) A person may request a copy to be provided in electronic form and the Commission may provide the information—

- (a) on a data storage device; or
- (b) by way of electronic transmission.

## **6. Obligations of a telecommunications provider**

A telecommunications provider shall be required to use telecommunications numbers as allocated by the Commission and in accordance with the national numbering plan and shall ensure that telecommunications numbers are—

- (a) utilized efficiently;
- (b) limited to provision of telecommunications services;
- (c) utilized in a manner that telecommunications facilities or services may be identified;
- (d) utilized and paid for, as required by the Act, in accordance with the procedures for assignment of telecommunications numbers.

## **7. Assignment of telecommunications numbers**

Where an application is submitted and the Commission determines that, based on the national numbering plan, the telecommunications numbers required for provision of telecommunications services in the application are available, and upon payment of the requisite fee, the Commission shall assign the numbers with or without conditions.

## **8. Fees**

(1) Notwithstanding the Telecommunications (Fees) Regulations, numbering fees shall be payable in accordance with the provisions set out in the Schedule.

(2) The numbering fees payments shall be as follows—

- (a) an application fee payable on the making of an application;
- (b) an initial fee payable on the allocation of a code or a block of codes; and
- (c) an annual fee payable on the 1<sup>st</sup> day of November of each year for each code or block of codes allocated to an operator.

## **9. Cancellation of use of telecommunications numbers**

(1) Where a telecommunications provider fails to use a number assigned to him by the Commission or fails to pay requisite fees, he or she shall be required to submit to the Commission reasons for such failure.

(2) Where the telecommunications provider fails to satisfy the Commission with regard to regulation 9 (1), the Commission may take regulatory measures including cancellation of the assignment.

## 10. Compliance with the national numbering plan

(1) A telecommunications provider shall comply with the requirements, conditions or restrictions set out in the national numbering plan established and managed by the Commission in accordance with section 51 of the Act.

(2) Where a telecommunications provider fails or ceases to meet any of the requirements, conditions or restrictions set out in the National Numbering Plan he or she commits an offence and is liable upon summary conviction to a fine not exceeding \$10,000.

### Schedule

(Regulation 5)

- (a) Fees for obtaining copies or extracts of the National Telecommunications Register

Medium	Fee
Hard copy	\$50 (entire Register) \$2.00 (per page)
Data storage device	\$100
Electronic Transmission	Free

(Regulation 8)

- (b) Fees for the use of numbers

	Application	Initial	Annual
Central Office Codes (Block of 10,000 numbers)	\$150	\$220	\$410
Short Codes (Block of 10 codes)	\$100	\$575	\$1060

## Telecommunications (Quality of Service) Regulations – Section 73

### (Statutory Instrument 148/2007)

Statutory Instrument 148/2007 in force 27 August 2007

#### ARRANGEMENT OF REGULATIONS

1. Citation
2. Interpretation
3. Application
4. Quality of service criteria and parameters
5. Publication of quality of service information
6. Universal service providers
7. Amendment of service criteria and parameters
8. Obligations of telecommunications provider
9. Obligations of Wholesale service providers
10. Content of service level agreements
11. Connection service time
12. Compliance manual
13. Record keeping
14. Information to Commission
15. Unpredictable situations and cases of force majeure
16. Making available information to customer
17. Advance notice
18. Compliance and enforcement

## TELECOMMUNICATIONS (QUALITY OF SERVICE) REGULATIONS – SECTION 73

Commencement [27 August 2007]

### 1. Citation

These Regulations may be cited as the Telecommunications (Quality of Service) Regulations.

### 2. Interpretation

In these Regulations—

“**Act**” means the Telecommunications Act;

“**billing accuracy**” means the measure of the number of incorrect bills per 1000 bills issued where an incorrect bill is one which has been determined by the telecommunications provider or Commission to have been issued with an error;

“**call completion success rate**” means the percentage of originated calls successfully completed where a successfully completed call is established by a successful connection to the called number although the called party may not answer;

“**Commission**” means the National Telecommunications Regulatory Commission established by section 7 of the Act;

“**compliance manual**” means a document that includes details of work processes and information systems concerning criteria and parameter treatment, and details of algorithmic treatment of parameter calculations;

“**connection of service**” means the interval between approval of an application for a service and the provision of the service by the telecommunications provider;

“**customer care service Answered and Attended**” means the duration from the instant when the address information required for setting up a call is received by the network to the instant a human operator answers the calling party to provide the service requested where the service provided is not wholly automatic or does not employ the use of a voice response system;

“**ECTEL**” means the Eastern Caribbean Telecommunications Authority established by Article 2 of the Eastern Caribbean Telecommunications Authority Treaty;

“**fault report**” means a report of disrupted or degraded service that is made by a customer and is attributable to the network of the telecommunications service provider or any interconnected public network, and that is not found to be invalid;

“**force majeure**” means any event or effect that can be neither anticipated nor controlled and includes both acts of nature such as earthquake, flood, lightning and hurricane, and acts of people such as riot, strike, civil disorder, declared state of emergency and war or any similar act which the Commission determines to be force majeure;

“**loss of service**” means the interruption of the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals that the consumer has engaged the services of telecommunications provider to ensure that transmission, conveyance or routing occurs;

**“peak period”** means a twelve hour period of the day, between 6:00 am and 8:00 pm, on Monday to Friday and special days, that the relevant telecommunications provider designates as the period of high level of telecommunications traffic on its network;

**“planned disruption of service”** means the scheduled or planned downtime of the telecommunication service by the telecommunications provider;

**“quality of service”** means the measurement of the performance for a telecommunications network and the degree to which the network conforms to the stipulated parameters;

**“quarter”** means a period of 3 months ending 31st March, 30<sup>th</sup> June, 30th September or 31st December in a calendar year;

**“reconnection time”** means the period between the settling of outstanding amounts by the customer and the resumption of service;

**“reconnection of service”** means the restoration of telecommunications service by the telecommunications provider after the telecommunications provider or its duly authorized agent receives overdue payment from the customer;

**“reported fault cleared”** means the duration from the instant a fault has been notified by the customer to the published point of contact of the telecommunications service provider to the instant when the service or service element has been restored to normal working order;

**“reseller of service”** means a telecommunications provider engaged in the subsequent sale or lease on a commercial basis with or without adding value, of a telecommunication service provided by a telecommunications provider on a wholesale basis;

**“service level agreement”** means a formally negotiated agreement between a wholesale service provider and a reseller of service with the main purpose of agreeing on the level of service the wholesale service provider provides to the reseller of service;

**“service level objectives”** means the level of service the wholesale service provider and the reseller of service agree on and usually include a set of service level indicators such as availability, performance and reliability;

**“special days”** means (i) Christmas Day, (ii) New Year’s Day and (iii) Mothers’ Day;

**“standard installation”** means an installation where the necessary equipment to carry out the installation is readily available and no significant additional resources are required;

**“universal service provider”** means a telecommunications provider that is required to provide universal service;

**“unreported fault cleared”** means the duration from the instant a fault has been detected by the telecommunications service provider to the instant when the service or service element has been restored to normal working order.

### **3. Application**

(1) These Regulations apply to a telecommunications provider of any of the following telecommunications services—

- (a) Public Fixed Telecommunications Service;
- (b) Public Mobile Telecommunications Service;
- (c) Internet Service.

(2) The Minister may, by Order published in the Gazette amend sub-regulation (1) to add to or remove any of the services to which these Regulations apply.

#### **4. Quality of service criteria and parameters**

The quality of service criteria and parameters in respect of—

- (a) Public Fixed Telecommunications Services are set out in Schedule 1;
- (b) Public Mobile Telecommunications Services are set out in Schedule 2; and
- (c) Internet Services are set out in Schedule 3.

#### **5. Publication of quality of service information**

The Commission may, after consultation with ECTEL, determine the content, form and manner of publication of information on the quality of service to be provided by a telecommunications provider to its customers.

#### **6. Universal service providers**

Nothing in these Regulations shall exempt a universal service provider from complying with the established quality of service criteria and parameters.

#### **7. Amendment of service criteria and parameters**

(1) The Commission may, after consultation with ECTEL, and having regard to market needs or the regulatory objectives of the Commission make recommendations to the Minister to amend the service criteria and parameters set out in the Schedules.

(2) The Minister may, upon receipt of a recommendation from the Commission, amend the Schedules to these Regulations by Order published in the Gazette.

#### **8. Obligations of telecommunications provider**

(1) A telecommunications provider may in addition to the criteria set out herein adopt additional service criteria or parameters to determine its level of quality of service.

(2) Where a telecommunications provider adopts additional criteria in accordance with sub-regulation (1) and introduces procedures and information systems intended for the treatment of quality of service criteria and parameters it shall notify the Commission at least 30 days prior to the intended introduction and shall notify the public of its quality of service information.

(3) In the notice sent to the Commission, the telecommunications provider shall detail all relevant matters including the methods and systems used for their measurement.

#### **9. Obligations of Wholesale service providers**

A wholesale service provider who intends to make his or her retail services available as wholesale services to a reseller of service shall enter into a service level agreement with a wholesale service provider to ensure that the service being delivered to the customer meets the desired expectation of the customer with regard to the quality of service being provided.

#### **10. Content of service level agreements**

A service level agreement shall include the following provisions related to-

- (a) definition of the service being provided;
- (b) the measurement of performance;
- (c) service level objectives;
- (d) duties of the wholesale service provider;

- (e) duties of the reseller of service;
- (f) problem management;
- (g) warranties;
- (h) disaster recovery;
- (i) dispute resolution; and
- (j) penalties.

## **11. Connection service time**

(1) Requests for connection of service that do not involve a standard installation because the telecommunications provider—

- (a) does not supply the particular service in the requested geographical area;
- (b) cannot technically install the service within the time frame provided for in the Schedules; or
- (c) cannot install the service because it is not technically feasible;

are excluded from the operation of these Regulations.

(2) The burden of proving that the service cannot technically be installed within the time frame set out in the Schedules or that it is not technically feasible to install the service shall lie with the telecommunications provider.

(3) Notwithstanding sub-regulation (1), where a service provider and a consumer agree that a request for connection would be completed within an agreed time frame, the delivery time shall be taken into consideration for measurement purposes.

## **12. Compliance manual**

(1) A telecommunications provider shall, within 3 months after the introduction of the criteria and parameters established in the Schedules, keep current a compliance manual in respect of each service that it is licensed to provide.

(2) A telecommunications provider shall not delete any part of the compliance manual without the prior written consent of the Commission.

(3) The telecommunications provider shall keep and provide the compliance manual referred to in subregulation (1) in any format directed by the Commission.

(4) Where the Schedules hereto have been amended, the affected telecommunications providers shall within 30 days of the coming into effect of those amendments include them with any necessary adaptations in the compliance manual referred to in subregulation (1).

## **13. Record keeping**

A telecommunications provider shall retain quality of service data as well as all measurements and related records for a minimum period of 18 months after the end of the reporting period or until such time as the Commission may direct.

## **14. Information to Commission**

(1) A telecommunications provider shall submit to the Commission on a quarterly basis a report on its achievements for each of the service criteria and parameters set out in the Schedules to these Regulations for the last reporting quarter.

(2) The telecommunications provider shall submit the report referred to in subregulation (1) on the last working day of the month following the end of the quarter.

(3) Where a telecommunications provider has not attained the service criteria and parameters set out in the Schedules hereto, the telecommunications provider shall state the reasons therefore and the time period within which it shall attain the required service criteria and parameters.

## **15. Unpredictable situations and cases of force majeure**

(1) In the event of a natural disaster or other case of force majeure affecting quality of service, a telecommunications provider shall within the reporting period in which the natural disaster or other case of force majeure occurred—

- (a) provide the Commission with satisfactory information with regard to compliance with quality of service requirements during the reporting period; and
- (b) make available to the Commission and the public details of the achieved level of compliance during the reporting period.

(2) The Commission may take into account factors relating to—

- (a) any changes in environmental or operating conditions that could not have been reasonably foreseen by the telecommunications provider; or
- (b) any service deficiencies that arise partly or wholly from the operations of another telecommunications provider,

which may affect a telecommunications provider's ability to achieve the quality of service criteria and parameters as set out in the Schedules.

(3) Where a telecommunications provider is unable to submit a report during the relevant quarter as a result of a natural disaster or a case of force majeure, he or she may apply to the Commission in writing for an extension of time.

(4) In the event of a natural disaster or a case of force majeure, the Commission may exempt a telecommunication provider from the obligation to submit a report during the quarter in which the natural disaster or the case of force majeure occurred until the subsequent quarter.

## **16. Making available information to customer**

(1) A telecommunications provider shall, before it concludes a contract with a customer, make available to that customer clear and up-to-date information on its quality of service for each service that it is licensed to provide.

(2) Notwithstanding subregulation (1), before the last working day of January in each year, a telecommunications provider shall publish on its website and in one newspaper of wide circulation in Saint Lucia—

- (a) clear and up-to-date information on the average performance levels achieved during the previous year compared with each criterion and parameter detailed in the Schedules to these Regulations;
- (b) clear and up-to-date information on the minimum and average quality of service levels it proposes to provide to customers in the course of the year.

## **17. Advance notice**

A telecommunications provider shall give customers advance notice of planned interruption of service by publishing the notice in the electronic media or the print media.

## **18. Compliance and enforcement**

(1) Notwithstanding regulation 17, a telecommunications provider to whom these Regulations apply shall comply with the obligations provided for in these Regulations within 6 months of the coming into effect of these Regulations.

(2) A telecommunications provider who—

- (a) fails to comply with these Regulations after 6 months have elapsed from the coming into effect of these Regulations;
  - (b) fails to submit during a time period specified in these Regulations or by the Commission, information requested by these Regulations;
  - (c) submits or publishes false or misleading information relating to quality of service; or
  - (d) obstructs or prevents an investigation by the Commission of the quality of service measurement, reporting or record keeping procedures,
- commits an offence and is liable to the enforcement measures outlined in the Act including suspension of its licence as provided for in section 40 of the Act.

(3) Without prejudice to sub-regulation (2), the Commission may take one or more of the following enforcement measures—

- (a) require the telecommunications provider to implement a remedial plan to improve the quality of service of the relevant services over a period to be determined by the Commission; and
- (b) require the telecommunications provider to publish additional information about the quality of the relevant service and, if so determined by the Commission, its implementation of the remedial plan.

## Schedule 1

### SCHEDULE 1

(Regulation 5 (a) )

<i>Quality of Service Criteria and Parameters</i> Fixed Public Telecommunications Service		<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Compliance</i>
1	Maximum waiting time for connection of service (working days)	14	10	7	> 90 %
2	Unreported faults cleared within 24 hours	70%	75%	80%	Not applicable
3	Unreported faults cleared within 48hours	80%	85%	90%	Not applicable
4	Unreported faults cleared within 72 hours	90%	90%	>90%	Not applicable
5	Reported faults cleared within 24 hours	80%	90%	>90%	Not applicable
6	Reported faults cleared within 48hours	90%	95%	>95%	Not applicable
7	Reported faults cleared within 72 hours	95%	>95%	>98%	Not applicable
8	Loss of service not to exceed (days) in a 30 day period	7	5	3	Not applicable
9	Call completion success rate for local calls during peak period (percent)	80	85	90	Not Applicable
10	Call completion success rate for international calls during peak period (percent)	75	80	85	Not Applicable
11	Number of billing errors per 1000 bills	10	8	5	> 90 %
12	Percentage of calls to customer care service answered and attended to in 20 seconds (percent)	70	75	80	Not Applicable
13	Reconnection of service after payment of overdue amounts within period (Business hours)	5	4	3	85 %
14	Advance Notice for planned disruption of service (hours minimum)	48	48	48	95 %

## Schedule 2

### SCHEDULE 2

(Regulation 5 (b))

<i>Quality of Service Criteria and Parameters</i> Mobile Telecommunications Services		Year 1	Year 2	Year 3	Compliance
1	Maximum waiting time for connection of service (working days)	3	2	2	85 %
2	Repeated loss of service not to exceed (days) in a 30 day period	3	2	1	90 %
3	Call completion success rate for local calls during peak period (percent)	85	95	98	Not Applicable
4	Call completion success rate for International calls during peak period (percent)	80	85	90	Not Applicable
5	Number of billing accuracy errors per 1000 bills (Post paid)	10	8	5	> 95 %
6	Percentage of calls to customer care service answered and attended to in 20 seconds (percent)	70	75	80	Not Applicable
7	Reconnection of service after payment of overdue amounts (post paid) within period (Business hours)	5	4	3	> 90 %
8	Advance Notice for planned disruption of service (hours minimum)	48	48	48	95 %

## Schedule 3

### SCHEDULE 3

(Regulation 5 (c))

<i>Quality of Service Criteria and Parameters</i> Internet Services		Year 1	Year 2	Year 3	Compliance
1	Maximum waiting time for connection of service (working days)	14	10	7	90 %
2	Access time to ISP for dial up connection	<90 secs	<60 secs	<60 secs	90 %
3	Repeated loss of service not to exceed (days) in a 30 day period	1	1	0.5	90 %
4	Isolation of a geographical area affecting more than 50 customers; number of incidences in a 30 day period	5	3	2	95 %
5	Reported faults per 100 subscribers for a 30 day period	<3	<3	<3	90 %
6	Redress complaints within 7 days in respect of provision or disconnection of Internet access (%)	80	85	90	Not Applicable
7	Faults clearance <ul style="list-style-type: none"> <li>within 24 clock hours</li> <li>within 72 clock hours</li> <li>within 3 to 7 days</li> </ul>	80% 95% 98%	90 % 97 % 99 %	95 % 99 % 99.5 %	Not Applicable
8	Reconnection of service after payment of overdue amounts within period (Business hours)	5	4	3	79%
9	Advance notice for planned disruption of service (hours minimum)	48	48	48	>90 %

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**Telecommunications (Wholesale) Regulations – Section 73**  
**(Statutory Instrument 168/2007)**

Statutory Instrument 168/2007 in force 17 September 2007

ARRANGEMENT OF REGULATIONS

1. Citation
  2. Interpretation
  3. Availability of retail services for wholesale
  4. Dominant wholesale service provider
  5. Wholesale service discount
  6. Special wholesale services
  7. Special wholesale service tariffs
  8. Competitive safeguards
- 

**TELECOMMUNICATIONS (WHOLESALE) REGULATIONS – SECTION 73**

Commencement [17 September 2007]

**PART 1**  
**PRELIMINARY**

**1. Citation**

These Regulations may be cited as the Telecommunications (Wholesale) Regulations.

**2. Interpretation**

In these Regulations:

“**Act**” means the Telecommunications Act;

“**dominant wholesale service provider**” means a public network operator who is designated *by* the Commission as dominant for the purposes of providing special wholesale services under regulation 5;

“**public network operator**” means a person who provides telecommunications services between 2 parties neither of whom is affiliated with such person, accepts the rights and obligations of public network operators and is licensed to operate a public telecommunications network;

“**public telecommunications network**” means a telecommunications network used for the provision of telecommunications services to the public;

“**retail service**” means a telecommunications service that a public network operator provides at retail to end-user customers;

“**special wholesale service**” means a wholesale service which consists of the essential components or functions of a total retail service, and any ancillary services necessary for other providers of telecommunications services to efficiently provide a total retail service to end-users;

“**telecommunications services**” means services provided by means of telecommunications facilities, and includes the provision in whole or in part of telecommunications facilities and any related equipment, whether by sale, lease or

otherwise or such other services as may be prescribed by the Minister from time to time;

**“total retail service”** means retail service that includes the components or functions required to be offered on a wholesale basis as a special wholesale service as determined in regulation 7;

**“wholesale service”** means a retail service or element of a retail service that is purchased from a public network operator by a telecommunications provider for resale to the public.

### **3. Availability of retail services for wholesale**

(1) A public network operator shall make available all of its retail services as wholesale services to a telecommunications provider on a nondiscriminatory basis and without discriminatory conditions or limitations.

(2) A wholesale service that is expressly intended for one category of customers shall not be resold to another category of customers.

(3) A public network operator shall not discriminate in favour of its end-user customers or against other providers of telecommunications services.

### **4. Dominant wholesale service provider**

(1) The Commission, acting on the recommendation of ECTEL, and by notice published in the Gazette, may, with respect to a particular market or markets, designate a public network operator as a dominant wholesale service provider for the purposes of providing retail services at a discount and providing special wholesale services.

(2) If the Commission has determined, after a public consultation process, that a public network operator:

- (a) enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers in a market or markets for telecommunications services in Saint Lucia; and
- (b) in the best interests of consumers of the telecommunications services, the public network operator be so designated,

the Commission shall designate the public network operator a dominant wholesale service provider.

(3) The Commission may undertake a consultation process which will commence with a preliminary determination of market dominance and the designation of one or more dominant wholesale service providers.

(4) The Commission shall notify a public network operator who is preliminarily determined and designated by the Commission to be a dominant wholesale service provider of the determination and designation and shall provide the public network operator with the opportunity to respond in writing within 30 days of the preliminary determination and designation.

(5) The Commission shall cause the response of the public network operator to be published in a notice in a newspaper of wide circulation.

(6) Interested parties may comment in writing to the Commission within 15 days of the publication of the response of the network operator.

(7) The Commission shall forward the comments of all interested parties to the affected network operator.

(8) The affected public network operator shall reply to interested parties within 15 days of such comments being received.

(9) The Commission shall issue its final determination of market dominance no later than 30 days after all comments have been filed with it.

(10) Notwithstanding this regulation, a public network operator may consent to being treated as a dominant wholesale service provider.

(11) The Commission, acting on the recommendation of ECTEL or acting on a petition filed by a dominant wholesale provider, and by notice published in the Gazette, may determine that the conditions specified in sub-regulation (1) of this regulation no longer exist with respect to a particular market or markets and, if it so determined by the Commission, shall remove the designation of dominant wholesale provider from a public network operator.

## **5. Wholesale service discount**

(1) The Commission, acting on the recommendation of ECTEL and by notice published in the Gazette, may determine, after a public consultation process, a standard wholesale discount from retail prices at which dominant wholesale service providers must offer wholesale services.

(2) A dominant wholesale service provider may apply for a standard wholesale discount to be amended.

(3) The standard wholesale discount shall be applied to all retail services of a dominant wholesale service provider until such time as the Commission has determined that a different discount is justified for any retail service or groups of retail services.

(4) Where the Commission determines that a different wholesale service discount is justified, the Commission shall notify the public of the new wholesale service discount that is to be applied.

(5) The new wholesale service discount shall take effect within 30 days of publication by the Commission.

(6) The wholesale service discount shall be calculated to reflect the costs associated with providing a retail service to end-user customers that the dominant wholesale service provider avoids when making such service or services available as wholesale services offset by the costs the dominant wholesale service provider may incur to make such retail service or services available as wholesale services.

## **6. Special wholesale services**

(1) The Commission, acting on the recommendation of ECTEL and by notice published in the Gazette and on the Commission's website, may require, after a public consultation, a dominant wholesale service provider to make available special wholesale services.

(2) A special wholesale service shall consist of components or functions of a retail service which are determined to be essential in order for other providers of telecommunications services to offer a total retail service to end-users that is competitive with the total retail service of the dominant wholesale service provider and which the other providers of telecommunications services cannot economically supply themselves or obtain from a public network operator other than the dominant wholesale provider.

(3) A special wholesale service shall include either the essential components or functions of the total retail service, and any ancillary services necessary for other providers of telecommunications services to efficiently provide the total retail service.

## **7. Special wholesale service tariffs**

(1) A dominant wholesale service provider shall publish and file with the Commission tariffs for special wholesale services.

(2) The tariffs for special wholesale services shall be nondiscriminatory and shall comply with the competitive safeguards contained in regulation 9 (1) and 9 (2).

(3) The Commission shall have the authority to ensure that the special wholesale service tariffs are compliant with the Act and the Regulations, including the competitive safeguard contained in regulation 9(1) and 9 (2).

## **8. Competitive safeguards**

When a dominant wholesale service provider seeks to raise the price of a special wholesale service or reduce the price of the corresponding total retail service, the dominant wholesale service provider shall demonstrate to the satisfaction of the Commission that the prices of its special wholesale services satisfy the imputation standard contained in sub-regulation (2).

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# **Telecommunications (Spectrum Management) Regulations – Section 73**

## **(Statutory Instrument 119/2008)**

Statutory Instrument 119/2008 in force 29 December 2008

### **ARRANGEMENT OF REGULATIONS**

#### **PART 1 PRELIMINARY**

1. Citation
2. Interpretation
3. Application

#### **PART 2 MANAGEMENT OF SPECTRUM**

4. Commission to manage spectrum
5. Commission to use monitoring equipment
6. Commission to coordinate its management activities
7. Temporary use of frequencies
8. Use of government agency frequency by non-government agency
9. Capacity of equipment

#### **PART 3 ROLE OF COMMISSION**

10. Guidelines for assigning frequencies
11. Management of electro- magnetic spectrum
12. Harmful interference
13. Obligation to give information

#### **PART 4 MISCELLANEOUS**

14. Reassignment of Radio Frequencies
- 

## **TELECOMMUNICATIONS (SPECTRUM MANAGEMENT) REGULATIONS – SECTION 73**

Commencement [29 December 2008]

## **PART 1 PRELIMINARY**

### **1. Citation**

These Regulations may be cited as the Telecommunications (Spectrum Management) Regulations.

### **2. Interpretation**

In these Regulations—

“**Act**” means the Telecommunications Act;

“**ECTEL**” has the same meaning as that ascribed to it in the Telecommunications Act;

“**harmful interference**” means any radiation or induction that endangers the functioning of a radio navigation service or of a safety service or obstructs or repeatedly interrupts a radio service operating in accordance with the table of frequency allocations and these Regulations;

“**incidental emissions**” means radio-frequency energy generated and emitted during the course of normal operation of a device that is not intentionally designed to generate or emit unwanted radio frequency energy;

“**radio**” means the general term applied to the use of electromagnetic waves of frequencies arbitrarily lower than 3,000GHz, propagated in space without artificial guide;

“**radio frequency**” means any frequency within the electromagnetic spectrum associated with radio wave propagation;

“**radio station**” means any facility or installation that emits or receives radio frequencies;

“**Region 2**” means the geographical area defined by the International Telecommunication Union that covers North America, Central America and South America and the Caribbean;

“**station**” means one or more transmitters or receivers or a combination of transmitters or receivers, including the accessory equipment, necessary at one location for carrying out a radio communication service, or the radio astronomy service.

### **3. Application**

(1) These Regulations apply to all matters relating to the management and monitoring of radio frequency.

(2) All persons utilising radio frequency for, or in relation to the operation of a telecommunications network, or providing a telecommunications service, shall obtain frequency authorisation for the use of such frequency.

## **PART 2 MANAGEMENT OF SPECTRUM**

### **4. Commission to manage spectrum**

(1) The Commission shall manage and control the use of electromagnetic spectrum in Saint Lucia.

(2) Subject to the ECTEL recommended regional radio spectrum plan, the Commission may establish a national plan for the allocation and assignment of radio frequencies and review and amend such plan whenever necessary.

(3) The regional radio spectrum plan shall comply with the regional plan of frequency allocation of Region 2 and the Master Table of Frequencies of the International Telecommunication Union.

(4) The National Plan shall also take into consideration the policy and objectives related to future use of Radio Frequency in Saint Lucia.

(5) The management of electro-magnetic spectrum shall as far as is practicable, be in conformity with the Regional Radio Spectrum Plan recommended by ECTEL.

## **5. Commission to use monitoring equipment**

(1) The Commission shall monitor the use of radio frequencies in Saint Lucia in order to ensure compliance with these Regulations and that holders of frequency authorization comply with the conditions, regulations and terms of those authorizations.

(2) The Commission may use spectrum management and monitoring equipment to detect illegal use of frequencies or equipment.

(3) The results of such monitoring shall be prima facie evidence of the use of radio frequencies and radio equipment in Saint Lucia.

## **6. Commission to coordinate its management activities**

Where the management of the spectrum involves the use of the electro-magnetic spectrum by the armed forces, police force, public security or civil aviation, the Commission may consult with the relevant body.

## **7. Temporary use of frequencies**

(1) The Commission may recommend that the Minister authorise, on a temporary basis only, the use of frequencies outside the scope of the Regional Radio Spectrum Plan for projects of short duration or emergencies if the Commission considers that exceptional circumstances require the utilisation, and that harmful interference will not be caused to services operating in accordance with the Regional Spectrum Management Plan or the National Plan if established.

(2) The frequency authorisations referred to in subregulation (1) shall not be used for any commercial purpose or to develop any service to be operated on frequencies other than those allocated to that service.

(3) All frequency authorisations, except those issued for projects of short duration or emergencies, shall, prior to their issuance be forwarded to ECTEL for its advice and comments.

(4) All frequency authorisations issued for projects of short duration or emergencies shall as soon as practicable be forwarded to ECTEL for its information.

## **8. Use of government agency frequency by non-government agency**

(1) Where a frequency has been assigned to a government agency the Commission, may recommend to the Minister that he or she grants permission to a non-governmental agency to use that frequency.

(2) The recommendation in subregulation (1) shall be made after consultation with the appropriate government agency and ECTEL.

(3) In the consultation referred to in subregulation (2) the relevant government agency shall certify that the frequency required by the non-governmental agency is necessary for the purpose of coordinating activities between the government and non governmental agencies.

(4) A recommendation made pursuant to subregulation (1) may include the following conditions:

- (a) the non governmental agency shall not cause harmful interference to a frequency authorisation holder;
- (b) in the event the non governmental agency causes harmful interference to a frequency authorisation holder the non governmental agency shall take immediate steps, up to and including cessation of operation, to eliminate the harmful interference;
- (c) where a frequency authorisation holder causes harmful interference to a non governmental agency, the frequency authorisation holder may take such steps as it deems necessary to eliminate the harmful interference.

## **9. Capacity of equipment**

Equipment utilised by a frequency authorisation holder shall be capable of being adapted within a reasonable time frame so that it may receive and transmit on any frequency in the bands assigned to the holder of that authorisation.

# **PART 3 ROLE OF COMMISSION**

## **10. Guidelines for assigning frequencies**

In recommending to the Minister in relation to the assignment of frequencies, the Commission shall take into account—

- (a) the views of ECTEL;
- (b) representations or objections that are timely and duly made and not withdrawn;
- (c) the availability of frequencies and the ability for sharing the frequencies;
- (d) the distribution of frequencies between commercial, noncommercial, rural, urban, military or other categories;
- (e) the need for, and location of radio frequency spectrum in use, or to be used by the national Government; and
- (f) the technical characteristics of the equipment involved, and its capability to interconnect with other communications equipment and networks.

## **11. Management of electro- magnetic spectrum**

(1) Subject to the Act and these Regulations, the Commission shall:

- (a) manage and control incidental emissions or emissions from exempted low powered emitters of the electro-magnetic spectrum;
- (b) manage and control the use of the electro-magnetic spectrum from, to and within the territory of Saint Lucia; and
- (c) put into place measures, give directives and make recommendations to prohibit or minimize the incidence of those emissions.

(2) The Commission may issue a directive requiring a person to comply with technical regulation in respect of the emission of electromagnetic radiation from equipment of any description.

(3) The Minister may limit the number of frequency authorizations in a given frequency band, after a public consultation, to ensure the efficient use and management of the electro-magnetic spectrum.

(4) A public consultation under subregulation (3) shall be for the purpose of bringing matters to which it relates to the attention of those likely to be affected and to provide opportunity for comment.

(5) The public consultation shall be in accordance with the Commission's established guidelines and published on the Commission's website, in the Gazette and in a local newspaper with general circulation in Saint Lucia.

## **12. Harmful interference**

(1) Where the Commission receives a complaint of harmful interference resulting from the operation of a radio station the Commission shall as soon as is practicable investigate that complaint.

(2) Where the Commission determines that the source of the harmful interference is from within another ECTEL Member State the affected Commission shall immediately notify ECTEL.

(3) Where ECTEL is notified pursuant to regulation 12 (2), ECTEL shall request the Commission of the other ECTEL Member State to investigate the complaint.

(4) Where a Commission finds evidence to support a complaint, it shall give the alleged wrongdoer 7 days from the date of service of the notice to satisfactorily respond to the complaint.

(5) Upon request of the alleged wrongdoer, the Commission may extend by not more than 7 days, the time required to satisfactorily remedy the harmful interference.

(6) Where the party is a frequency authorisation holder and does not request an extension pursuant to regulation 12(5) and it fails to satisfy the Commission that it is not causing harmful interference as alleged or fails to remedy the breach, the Commission shall immediately submit to the Minister a report including details of the complaint, results of the investigation, any response from the frequency authorization holder and the Commission's recommendation to revoke, suspend or vary the non-statutory terms and conditions of the frequency authorisation.

(7) The Minister, upon receipt of the recommendation from the Commission, shall give that frequency authorisation holder notice in writing in accordance with the Act of the Minister's intention to revoke or suspend the frequency authorisation specifying the ground on which he proposes to do so, and giving the frequency authorisation holder an opportunity to—

- (a) present his or her views;
- (b) satisfy the Minister that it is not causing the harmful interference as alleged;
- (c) provide satisfactory reasons why the frequency authorization should not be revoked or suspended or its non-statutory terms or conditions varied.

(8) Where harmful interference is from a source in a non-ECTEL Member State, the Commission shall advise ECTEL and ECTEL shall as soon as is practicable initiate the procedure established by the International Telecommunication Union for the management of electromagnetic interference between its ECTEL Member States.

(9) If after the Commission has conducted the investigation it is of the view that the harmful interference is from an unauthorized source within Saint Lucia it shall:

- (a) advise the offender of the illegal operation and request that the offender ceases and desists from transmitting on unauthorized frequency;
- (b) in the event that the offender fails to comply with the Commissions request the Commission shall as soon as is practicable advise ECTEL and submit a report including the results of its investigation to the Director of Public Prosecutions detailing the breach of the Act.

## **13. Obligation to give information**

(1) A licensee or frequency authorisation holder, its agents or servants on or at any premises or place entered by an inspector or other authorised officer of the Commission under this regulation, shall give to the inspector or other authorised

officer any information he or she may reasonably require for the purposes of these Regulations and shall not hinder or obstruct him or her in the performance of his or her functions.

(2) In this regulation “**authorised officer**” means an officer authorised in writing by the Minister.

## **PART 4 MISCELLANEOUS**

### **14. Reassignment of Radio Frequencies**

(1) The Minister may, on the advice of the Commission and consistent with the Regional Spectrum Management Plan, reassign frequency:

- (a) to allow for the introduction of new technology;
- (b) where it is necessary to ensure the efficient use of the radio spectrum;
- (c) where the overall demand for radio frequency for a particular telecommunications service cannot be met; or
- (d) where a frequency authorisation holder requests frequency held by another frequency authorisation holder and the Minister considers it appropriate to do so.

(2) The Commission shall, before advising the Minister regarding the reassignment of radio frequency:

- (a) consult with ECTEL;
- (b) allow any person likely to be affected by the proposed activity an opportunity to make representations;
- (c) ensure that any person licensed to provide telecommunications services or establish and operate a telecommunications network is able to maintain continuity in the provision of the relevant services or networks;
- (d) give holders of existing frequency authorisations reasonable notice of the pending reassignment; and
- (e) where necessary publish specific objectives and nondiscriminatory procedures for the proposed reassignment.

(3) Where a reassignment is made pursuant to subregulation (1) (d), a frequency authorisation holder shall not be entitled to compensation.

(4) Where a reassignment is made pursuant to subregulation (1) (d), the holder of a frequency authorisation for that frequency may be entitled to compensation from the requesting licensee.

(5) Compensation referred to under subregulation (4) shall be for costs reasonably incurred in complying with that reassignment.

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## **Telecommunications (Universal Service Fund) Regulations – Section 73**

### **(Statutory Instrument 120/2008)**

Statutory Instrument 120/2008 in force 29 December 2008

#### **ARRANGEMENT OF REGULATIONS**

1. Citation

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- 3. Interpretation
- 4. Scope

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- 6. Objectives
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- 9. Allocation of Funds

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Commencement [29 December 2008]

## 1. Citation

These Regulations may be cited as the Telecommunications (Universal Service Fund) Regulations.

## PART 1 PRELIMINARY

## 2. Commencement

These Regulations shall come into force on the date of its publication in the Gazette.

## 3. Interpretation

(1) In these Regulations unless the context otherwise requires—

“**Act**” means the Telecommunications Act;

“**bid bond**” means a guarantee to ensure that a bid will remain valid during the period stated in the bidding document;

“**bidding documents**” means a set of documents issued by the Commission for the purposes of soliciting bids in the course of the procurement process;

“**contract bond**” means a bond to secure the performance of a Fund project;

“**contractor**” means a telecommunications provider who is awarded a contract in accordance with regulation 32;

“**financial year**” means the financial year of the Commission;

“**Fund**” means the Universal Service Fund established under section 43 of the Act;

“**Fund Administrator**” means a person appointed under regulation 10;

“**Fund operating plan**” means a document outlining proposals for Fund operations for a given year;

“**Fund project**” means a project financed from the Fund;

“**guidelines**” means a document of policy and procedures issued by the Commission under regulation 7 for the effective carrying out of the provisions of these Regulations;

“**restricted bidding**” means the direct solicitation of a limited number of potential bids where there is reason to believe that the service required is available from a limited number of potential contractors;

“**universal service**” includes the provision of:

- (a) public voice telephony;
- (b) internet access;
- (c) telecommunications services to schools, hospitals and similar institutions, and the physically challenged; or
- (d) other service by which people access efficient, affordable and modern telecommunications.

(2) Terms used in these Regulations shall have the meanings assigned to them under the Act.

#### **4. Scope**

The aim of these Regulations is to provide for the management of the Universal Service Fund.

### **PART 2 UNIVERSAL SERVICE FUND**

#### **5. The Fund**

(1) In accordance with sections 43 and 44 of the Act, there shall be established a Universal Service Fund.

(2) The Fund shall be managed by the Commission which shall—

- (a) collect and disburse the income of the Fund; and
- (b) make all relevant decisions with respect to the Fund consistent with the Act and these Regulations.

(3) The Fund shall consist of—

- (a) contributions by telecommunications providers as specified under the Act and by Order of the Minister;
- (b) any funds that may be directly appropriated by Parliament for purposes of the Fund; and
- (c) official grants, donations, bequests or other contributions, or transfers granted by an individual or other legal entity.

(4) The Commission may refuse any bequest, donation, grant or other contribution if the Commission considers it inconsistent with the best interest of the Fund.

#### **6. Objectives**

(1) The Fund shall be used by the Commission to compensate any telecommunications provider who is required to provide Universal Service or to otherwise promote Universal Service.

(2) In using the Fund to promote universal service the Commission shall:

- (a) encourage efficient access to and use of telecommunication networks and services throughout Saint Lucia with special focus on rural, under-served and maritime areas, with a goal to help promote social, educational and economic development;
- (b) ensure the reasonable availability and affordability of basic and advanced telecommunications services, including voice telephony and internet access, as well as broadband connectivity over both wired and wireless networks at the community, household and individual levels, particularly where the commercial telecommunications market may be unable to deliver such services in a financially viable manner independently, as well as to the physically challenged, elderly, and indigent communities;
- (c) provide support for the introduction and expansion of telecommunications services to schools, health facilities and other organizations serving public needs;
- (d) promote technological innovation in the telecommunications sector.

#### **7. Role of the Commission**

The Commission, in carrying out its obligations under the Act and these Regulations, shall—

- (a) develop appropriate indicators of telecommunications access within Saint Lucia;
- (b) identify appropriate targets for moving toward universal service nationwide within a reasonable time frame;
- (c) determine, in consultation with ECTEL and the public and industry stakeholders, appropriate socio-economic criteria to identify the geographic areas, population groups, institutions and organizations that may be eligible to benefit from Fund projects;
- (d) establish the mechanisms for proper management of the Fund;
- (e) approve the application, qualification, and competitive bidding conditions for the awarding of funds under designated projects;
- (f) evaluate and define the scope and terms of potential Fund projects;
- (g) monitor Fund projects and enforce the terms of Fund project contracts;
- (h) monitor and enforce the mechanism for the assessment, collection and recovery of the required contributions to the Fund;
- (i) liaise and consult with the Minister and ECTEL to promote consistency between the operation of the Fund and national and regional telecommunications policies and take into account the policy of Government when determining which fund projects would receive funding in any given financial year;
- (j) liaise and consult with telecommunications providers and other industry stakeholders on the status of telecommunications industry technologies, markets, and other relevant developments;
- (k) consult with ECTEL, to determine whether sole source procurement can be used;
- (l) issue Guidelines for the effective carrying out of the provisions of these Regulations; and
- (m) implement the guidelines for the operation of the Fund.

## **8. Role of ECTEL**

(1) ECTEL shall provide assistance to the Commission in relation to the performance of technical tasks associated with the management of the Fund.

(2) Without limiting the generality of subregulation (1) ECTEL may contribute financial, accounting, technical and legal expertise in any or all of the following:

- (a) maintenance of Fund accounts;
- (b) telecommunications market analysis and review of Fund goals and objectives;
- (c) identification of prospective Fund projects;
- (d) conduct of project appraisals for short-listed projects;
- (e) development of documents and other materials for the competitive bidding process, including bidding documents;
- (f) valuation of bidder eligibility and technical and financial proposals;
- (g) evaluation of bids;
- (h) preparation of annual reports, project reviews and monitoring; and
- (i) reviewing and monitoring Fund projects.

(3) ECTEL shall recommend to the Commission whether sole source procurement may be used.

## **9. Allocation of Funds**

(1) The Commission shall take into account the objectives outlined in regulation 6 when allocating funds for Fund projects.

(2) In identifying projects for fund allocation the Commission:

- (a) shall promote the establishment of efficient, self-sustaining entities, which may continue to expand access to telecommunications on their own initiative, requiring the minimum amounts of Fund resources possible;
- (b) may use the Fund to support projects that may not be economically feasible without Fund support;
- (c) may use the Fund to finance projects to the extent necessary to create adequate economic incentives for investors.

## **PART 3 FUND ADMINISTRATION**

## **10. Fund Administrator**

(1) There shall be a Fund Administrator who shall be appointed by the Commission.

(2) In appointing the Fund Administrator, the Commission shall consider candidates who meet the following qualifying criteria—

- (a) graduate of an accredited university, or a chartered or certified institute;
- (b) knowledge and experience in one or more of the following:  
management, finance, accounting, telecommunications or any other related field to ensure adequate performance of the requirements of the position; and
- (c) does not have a conflict of interest with regard to the principal functions of the Fund.

(3) A person who fails to disclose a conflict of interest to the Commission shall be liable to have his or her appointment as Fund Administrator summarily terminated without compensation.

(4) Subject to subregulation (5) the Fund Administrator shall be appointed on such terms and conditions as shall be set out in the contract of employment.

(5) The Fund Administrator shall report to the administrative head of the Commission for all personnel and administrative matters, but shall submit his or her recommendations for Fund Project decisions both to the administrative head and to the Commission.

## **11. Duties of the Fund Administrator**

(1) Subject to the direction of the Commission, the Fund Administrator shall do all things necessary for and incidental to the proper functioning of the Fund.

(2) The Fund Administrator's duties shall include the following—

- (a) to assist the Commission in identifying potential projects for Fund support;
- (b) to define, prepare and distribute bidding documents and other documentation for projects approved for Fund financing and implementation;

- (c) to supervise and monitor Fund projects;
- (d) to participate in the selection of consultants to support Fund project implementation;
- (e) to sensitize the public of Universal Service Fund matters;
- (f) to supervise the preparation and monitoring of the Fund's Operating budget;
- (g) to prepare progress reports on Fund Projects and overall Fund operations, and prepare or cause to be prepared the financial statements of the Fund for the approval of the Commission;
- (h) to request and receive project proposals; and
- (i) to prepare bid evaluation reports.

## **12. Conflict of interest**

(1) The Fund Administrator shall be considered to have a conflict of interest for the purposes of these Regulations, where he or she, or anyone in his or her immediate family has or acquires any pecuniary or other personal interest with respect to any Fund project.

(2) Where at any time the Fund Administrator has a conflict of interest in relation to any matter with respect to the Fund, the Fund Administrator shall immediately disclose the conflict of interest to the Commission and refrain from taking part, or any further part, in the matter.

(3) In the instances described in subregulation (2), the Commission may appoint a temporary or interim person to carry out the functions of Fund Administrator in relation to the relevant Fund project.

(4) Upon the Commission becoming aware of any conflict of interest, it shall take steps to ensure that the Fund Administrator does not participate in any decisions and actions relative to the matter giving rise to the conflict, and to modify its procedures accordingly with respect to that matter.

## **PART 4 ACCOUNTING REQUIREMENTS**

### **13. Fund bank accounts**

(1) The Fund's income shall be kept in accounts, separate and independent from the other operating accounts of the Commission.

(2) The Fund's income shall be initially deposited in a designated Fund bank account and shall be disbursed upon authorization of the Commission for specific Fund related activities in accordance with the guidelines.

### **14. Budgets**

(1) The Commission shall prepare and keep separate budgets for the Fund Projects and Operations through accounting allocations.

(2) The Operating Budget shall be used for operating the Fund and administrative expenses charged to the Fund shall not exceed 10% of the annual budget of the Fund.

(3) The Fund project budget shall be allocated to Fund Projects that have been selected and approved for financing in accordance with these Regulations.

(4) Before the end of the financial year, the Commission shall prepare budget forecasts for the Fund for the following financial year, subject to the Fund operating plan, in accordance with the Guidelines.

## **15. Accounts and financial audit**

(1) The Commission shall keep books of accounts and maintain proper records of the operations of the Fund in accordance with international accounting standards.

(2) The accounts of the Fund may at any time and shall, at the end of each financial year, be audited by an independent auditor appointed by the Commission on such terms and conditions as the Commission may determine.

## **16. Annual report**

The Commission shall include in its annual report:

- (a) the audited financial statements of the Fund;
- (b) details of activities supported by the Fund; and
- (c) details of awards of contracts.

## **PART 5 FUND PROJECTS**

## **17. Proposals for Fund projects**

(1) A person may submit a proposal for a Fund project, according to procedures and formats set out by the Commission in the guidelines.

(2) The Fund Administrator shall request and receive project proposals for review.

## **18. Defining Fund projects**

(1) The Commission shall establish criteria, in accordance with the guidelines for determining the scope and nature of projects that may be eligible for Fund support in any given financial year.

(2) The Commission shall determine which proposed projects shall receive financial support from the Fund in any given financial year.

(3) A determination in accordance with subregulation (2) shall be based upon clear and transparent procedures, which may also include public consultations.

(4) Fund project bidding documents shall not unduly favour any particular bidder.

## **19. Financial analysis, principles and methods**

(1) All projects to be financed from the Fund shall be developed based upon economic evaluation of the costs and benefits to the country and the targeted populations, in accordance with the Guidelines.

(2) The Commission shall seek to support projects that can be self-sustaining beyond the Fund support.

(3) The Commission shall consult with ECTEL when conducting financial and market analysis to evaluate factors that may influence a project's viability.

(4) In all financial and economic analysis, the Commission and ECTEL shall incorporate forward-looking estimates of costs and revenues, based upon realistic projections and verifiable source information concerning market trends.

## **20. Compensation for Fund projects**

(1) In accordance with section 44 of the Act, the Fund shall compensate a telecommunications provider who is required to provide telecommunications service.

(2) For the purposes of section 44 of the Act, “**actual cost**” means the net present value of net economic deficits that would be incurred by the telecommunications provider undertaking the full cost of the project on its own.

(3) Net economic deficit shall be calculated as the costs the telecommunications provider would have avoided by not providing the service (including capital expenditures, operating expense, and a reasonable rate of return on investment) less any revenues derived from providing the service.

## **PART 6 PROCUREMENT**

### **21. Eligibility**

Notwithstanding the terms of their licence, existing telecommunications providers shall be automatically considered eligible to bid for all projects, and the licence shall be modified accordingly to incorporate the requirement to provide universal service as provided under section 42 of the Act.

### **22. Procurement**

(1) Subject to subregulation (2), Fund project implementation contracts shall be awarded on the basis of an open competitive bidding procedure.

(2) Notwithstanding subregulation (1), the Commission may, where it is deemed appropriate, award Fund Project implementation contracts on the basis of a restricted bidding procedure, a sole source procurement procedure or an emergency procurement procedure.

(3) The Commission shall determine which method of procurement is appropriate in the circumstances and manage the procurement process in accordance with the requirements and procedures set out in the guidelines.

### **23. Open competitive bidding**

Where the Commission determines that open competitive bidding is appropriate in the circumstances, it shall prepare bidding documents and publicly invite eligible interested parties to submit open competitive bids.

### **24. Restricted bidding**

Restricted bidding may be used where the estimated cost of the project is less than EC\$250,000.00

### **25. Sole source procurement**

Where the Commission determines, in consultation with ECTEL, that there is only one economically feasible source to undertake a particular Fund project the Commission may use sole source procurement.

### **26. Emergency procurement**

The Commission may make emergency procurements for a Fund project without bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary to prevent or minimize serious disruption in services.

### **27. Bid bond**

(1) The Commission may, where applicable and in such a manner as outlined in the guidelines, include in the bidding documents a requirement for a bid bond.

(2) Forfeiture of a bid bond shall be imposed by the Commission only in the event of:

- (a) a modification or withdrawal of a bid after the deadline for the submission of bids during its period of validity;
- (b) refusal by a bidder to accept a correction of an error appearing on the face of the bid;
- (c) failure by a successful bidder to sign a contract in accordance with the terms set out in the bidding documents;
- (d) failure of a successful bidder to provide a contract bond for the performance of the contract as required by the Commission.

## **28. Bid opening**

The Commission shall include in the bidding documents the date, time, details and procedure for the opening of bids.

## **29. Bid evaluation**

(1) The Commission may co-opt independent evaluators to examine and evaluate the bids.

(2) On completion of the evaluation, the Fund Administrator shall prepare a written report detailing the examination and evaluation of bids and identifying the winning bid that meets the qualification criteria.

## **30. Notice**

The Commission shall notify bidders of the results of the bidding process within 28 days of the bid opening.

## **31. Rejection of all bids**

(1) The Commission may reject all bids within twenty one days of the bid opening where the Commission considers that the bids received are not substantially responsive to the requirements of the bidding documents or that the bid prices are higher than the project budget and shall inform the bidders of the rejection by written notice.

(2) Where the Commission rejects all bids because the lowest evaluated responsive bid exceeds the project budget, the Commission may:

- (a) enter into negotiations within 7 days of the notice referred to in regulation 27 with the lowest evaluated bidder to try and obtain a satisfactory contract; or
- (b) repeat the invitation for bids.

(3) Where the Commission rejects all bids because the bids are not substantially responsive to the requirements of the bidding documents, the Commission shall review the causes justifying the rejection and consider making revisions to the bidding documents before repeating the invitation for bids.

## **32. Award**

(1) The Commission shall award the contract within 14 days of the conclusion of negotiations by written notice to the bidder whose bid best meets the requirements and criteria set forth in the bidding documents.

(2) Upon selection of the successful bidder, the Commission shall cause the results to be published in a newspaper of wide circulation in Saint Lucia and posted on the Commission's website.

(3) After the award of the contract, the Commission shall cause the evaluation report to be opened to public inspection.

(4) Where sole source or emergency procurements are used, the Commission shall award the contract within 14 days of successful negotiation of the contract.

(5) Subject to section 42 of the Act, the award of a contract shall be subject to the grant of a licence by the Minister for the purpose of fulfilling the contract service requirements.

(6) The Commission may require a contractor to give a contract bond guaranteeing complete execution of the Fund project as required by the contract.

### **33. Disputes and protests**

The Commission shall give consideration to disputes and protests relating to:

- (a) bidding documents;
  - (b) contract awards;
  - (c) debarment of contractors; and
  - (d) other Fund project related matters,
- in accordance with the guidelines.

### **34. Cancellation of invitations for bids**

(1) The Commission may cancel without penalty to bidders an invitation for bids or any other solicitation where it is in the best interest of the Fund.

(2) The Commission shall notify bidders of the reasons for cancellation.

(3) The Commission shall publish the reasons for cancellation on its website.

(4) Where an invitation for bid is cancelled, the Commission shall return within seven days in full any bid bond that was deposited with it to all bidders who were required to deposit a bid bond.

## **PART 7 PROJECT IMPLEMENTATION**

### **35. Project implementation and follow-up**

(1) The Commission shall ensure that all Fund projects are implemented in accordance with the terms and conditions of the contract.

(2) A contractor shall provide periodic reports to the Commission, detailing its progress in fulfilling contractual requirements and timetables, and explaining any delays.

(3) The Commission may, in cases it deems appropriate, provide an advance payment of no greater than 20% of the total Fund project, subject to reimbursement or a lien against equipment purchased in cases of non-compliance in accordance with regulation 33.

### **36. Project accounts**

(1) A telecommunications provider that receives Fund financing shall maintain separate books of account for each Fund project and shall make these accounts available for review by the Commission within 21 days of its request.

(2) Accounts kept under subregulation (1) shall include detailed records of all revenue and expenditure associated with the project, including calculation of the net costs of the project.

### **37. Right to audit records**

(1) A telecommunications provider receiving Fund financing shall maintain books and records relating to the performance of the contract for a period of 7 years from the date of final payment under the contract or completion of the contract, whichever is later.

(2) A telecommunications provider shall maintain all books and records required under subregulation (1) for review and audit by the Commission or anyone designated by the Commission.

(3) The Commission shall audit or cause to be audited a Fund Project at least once per year for each year that a Fund Project contract is in force, and at the end of the contract period, and the telecommunications provider shall cooperate fully with all audits.

### **38. Sanctions for non-compliance**

(1) Where a contractor fails to complete or comply with the requirements of a Fund Project contract, the Commission may require:

- (a) the contractor to compensate it up to the amount of funds paid, plus any administrative and legal costs incurred; or
- (b) the contractor to, where a contract bond was given by the contractor to secure the repayment of sums advanced by the Commission to execute a Fund Project:
  - (i) pay or satisfy any claim or entitlement to payment of damages, compensation or other financial relief, or
  - (ii) pay or satisfy such claim or entitlement up to the Bond Amount or at the Commission's option to perform or execute the contract or any other contractual obligation relating to the Fund Project.

(2) The Commission shall not require compensation under sub-regulation (1) until dispute resolution provisions under the contract have been exhausted.

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## **Telecommunications (Retail Tariff) Regulations – Section 73**

### **(Statutory Instrument 69/2005 and 110/2015)**

Statutory Instrument 69/2005 in force 23 April 2005

Replaced by Statutory Instrument 110/2015 .. in force 7 December 2015

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## **TELECOMMUNICATIONS (RETAIL TARIFF) REGULATIONS – SECTION 73**

Commencement [7 December 2015]

### **PRELIMINARY**

#### **1. Citation**

These Regulations may be cited as the Telecommunications (Retail Tariff) Regulations.

## 2. Interpretation

In these Regulations —

“**Act**” means the Telecommunications Act;

“**bill**” means —

- (a) the information issued by a telecommunications provider to a customer of the charges due for payment; or
- (b) the information retained by a telecommunications provider for the purpose of recording and enabling debits and credits to be applied to the account of a customer;

“**bundle**” means a combination of telecommunication services, whether regulated or unregulated, provided by a telecommunications provider under a combined rate or rate formula where the offering of one or more telecommunication services within the combination is contingent on the acceptance of the entire combination of telecommunication services;

“**cost-based pricing**” means setting the amount charged for a telecommunications service according to the cost of providing that telecommunications service;

“**customer**” means, in relation to a telecommunications provider, a person who uses or requests a telecommunications service from a telecommunications provider, including any person who uses or intends to use the telecommunications service for the purposes of, or in connection with, a business;

“**directory**” means a printed document containing the name, number and address of customers of telecommunication services which is made available to members of the public;

“**directory enquiry facility**” means a place for providing directory information supplied by a telecommunications provider through a telecommunications network;

“**dominant telecommunications provider**” means a telecommunications provider that is declared to be dominant under regulations 15, 16, 17 and 20;

“**emergency service**” means a service provided by the police force, fire service, ambulance or other service relating to safety of life;

“**new telecommunications service**” means a telecommunications service or a bundle which a telecommunications provider does not provide or offer to provide at the time of making an application under regulation 23;

“**price cap**” means an incentive-based method for regulation of the tariff charged by a telecommunications provider for one or more regulated service;

“**price floor**” means a price regulation regime for a market or a group of markets in which a telecommunications provider is prohibited from pricing a service or services at less than a minimum price determined by the Commission;

“**price regulation regime**” means any system for regulating tariffs for a telecommunications service, such as, a price cap, a price floor, rate of return regulation and cost-based pricing;

“**rate**” means a fixed amount charged to provide a telecommunications service;

“**rate of return regulation**” means a price regulation regime where a price is set to enable a telecommunications provider to achieve a particular return on investment;

“**regulated service**” means a telecommunications service that is designated by the Commission or deemed a regulated service under regulation 13;

“**retail price**” means an amount charged by a telecommunications provider to a customer for a telecommunications service;

**“special telecommunications service”** includes —

- (a) an emergency service;
- (b) operator assistance;
- (c) a directory enquiry facility; and
- (d) any other service designated by the Commission as a special telecommunications service under regulation 14(1);

**“tariff”** means the rate, retail price, terms and conditions applicable to a telecommunications service;

**“unregulated service”** means a telecommunications service that is not a regulated service;

**“wholesale price”** means an amount charged by a telecom-munications provider of a telecommunications service to —

- (a) resellers of a telecommunications service; or
- (b) persons who use a telecommunications service as an input in the provision of other telecommunication services.

### **3. Application and non-application**

(1) These Regulations apply to telecommunication services that a telecommunications provider offers or provides to one or more customers or to other telecommunication providers.

(2) Notwithstanding subregulation (1), these Regulations do not apply to interconnection services under the Tele-communications (Interconnection) Regulations.

## **PART 1 REGULATION OF TARIFF**

### **4. Commission to regulate tariff**

(1) Subject to these Regulations, the Commission shall, after consultation with ECTEL, regulate the tariff for telecommunication services offered or provided by a telecommunications provider.

(2) Without limiting the generality of subregulation (1), the Commission shall, after consultation with ECTEL —

- (a) set, review and approve tariffs for any telecommunications service;
- (b) require the publication of all tariffs for telecommunication services, whether regulated or unregulated;
- (c) publish and maintain an up to date list of regulated services on the website of the Commission;
- (d) publish a list of markets for telecommunication services on the website of the Commission;
- (e) declare a telecommunications provider as a dominant telecommunications provider in a relevant market;
- (f) declare a telecommunications service as a regulated service or unregulated service;
- (g) impose a price regulation regime in respect of any telecommunications service;

- (h) substitute or amend tariffs or any part of a tariff for a regulated telecommunications service;
- (i) investigate and resolve complaints relating to tariffs by customers or other telecommunication providers;
- (j) order compensation to be paid by a telecommunications provider to a customer or other telecommunications provider;
- (k) request information from a telecommunications provider relating to the retail price of telecommunication services or other financial information relating to the revenues or operations of a telecommunications provider;
- (l) monitor retail prices for telecommunication services;
- (m) regulate the tariff of a telecommunications service or group of telecommunication services where the Commission considers that it is just and reasonable to do so;
- (n) make decisions and issue directions to a telecommunications provider in respect of tariffs as the Commission considers appropriate; and
- (o) do all things reasonable and necessary in respect of regulating tariffs for telecommunication services.

## **PART 2**

### **TARIFF FOR TELECOMMUNICATIONS SERVICE**

#### **5. Tariff to satisfy minimum requirements**

(1) Subject to subregulation (2), a telecommunications provider shall ensure that the retail price for a telecommunications service is determined in accordance with the principles of supply and demand in the market.

(2) A telecommunications provider shall provide a tariff for a telecommunications service that —

- (a) is fair and reasonable;
- (b) does not discriminate unduly among similarly situated persons, including the telecommunications provider and any body corporate with which the telecommunications provider is affiliated;
- (c) is not anti-competitive;
- (d) is priced above costs for providing a telecommunications service;
- (e) does not utilize revenues or the allocation of costs from one telecommunications service to cross-subsidize another telecommunications service, except with the written authorization of the Commission;
- (f) is clear, up to date and easily accessible by the public; and
- (g) charge the customer based on actual usage of the telecommunications service by the customer.

#### **6. Unfair and unreasonable tariff**

(1) The Commission may consider that a tariff is unfair and unreasonable where a telecommunications provider proposes any or all of the following —

- (a) an increase of a retail price, notwithstanding a reduction in the underlying costs for providing the telecommunications service;
- (b) a retail price for a telecommunications service which significantly exceeds the costs for providing that telecommunications service;

- (c) an increase of a retail price that, having regard to the nature of the telecommunications service, is likely to have a significant impact on customers in Saint Lucia;
- (d) an increase of a retail price that is unrelated to the costs of providing a telecommunications service;
- (e) multiple retail price increases for the same telecommunications service within a 12 month period;
- (f) terms and conditions that, having regard to the nature of the telecommunications service, the relative bargaining power of the customer and the telecommunications provider involved, and the availability of a substitute telecommunications service from another telecommunications provider, are unduly onerous; or
- (g) a tariff that departs materially from accepted standards in the telecommunications industry for providing the telecommunications service to the public, to the detriment of customers.

## **7. Disclosure and publication of tariff**

(1) Upon the written request of the Commission, a telecommunications provider shall disclose to the Commission the tariffs for the telecommunication services provided by the telecommunications provider in such time and in such manner as the Commission specifies.

(2) The tariff disclosed by a telecommunications provider under subregulation (1) may be subject to a review by the Commission, on the recommendation of ECTEL, and if the tariff is accepted it is the official tariff for that telecommunications provider.

(3) Except where the Commission otherwise permits in writing, a telecommunications provider shall publish the tariff for the telecommunication services provided by the telecommunications provider —

- (a) in its directory, if any;
- (b) on the website of the telecommunications provider;
- (c) by sending or providing a copy of the tariff or any part of a tariff to a customer or group of customers that may reasonably request a copy; or
- (d) by placing a copy of the tariffs in every registered office and place of business owned or controlled by the telecommunications provider or body corporate with which it is affiliated, provided that such body corporate provides or offers to provide such telecommunication services to the public.

(4) Notwithstanding subregulation (3), the Commission may require a telecommunications provider to —

- (a) publish tariffs by one or all of the means specified in subregulation (3); and
- (b) publish a tariff for a particular telecommunications service in a newspaper of wide circulation in Saint Lucia.

(5) A telecommunications provider shall ensure that tariffs published for telecommunication services includes information relating to —

- (a) the name and address of the registered office of the telecommunications provider;
- (b) a clear description of the telecommunications service offered or provided by the telecommunications provider;
- (c) where any subscription or periodic rental charge is applicable, details of which telecommunication services are included within the charges;

- (d) standard rates and retail prices;
- (e) details of standard discounts and special and targeted tariff schemes in respect of —
  - (i) access,
  - (ii) all types of usage charges, and
  - (iii) any maintenance services;
- (f) details of any compensation or refund policy;
- (g) any types of maintenance offered;
- (h) standard contract conditions offered, including any minimum contractual period; and
- (i) any means for resolving disputes.

## **8. Anti-competitive conduct**

(1) For the purposes of these Regulations, the Commission shall consider any of the following acts by a telecommunications provider to constitute anti-competitive conduct —

- (a) tying telecommunication services together in a manner that a customer is required when purchasing one telecommunications service to purchase another telecommunications service that the customer does not require;
- (b) providing to a customer more favourable retail prices that are not justified by differences in cost, if that customer acquires another telecommunications service that it does not require;
- (c) attempting to leverage a dominant position in one market so as to increase market share in another market where the telecommunications provider is not the dominant telecommunications provider, in order to gain an unfair advantage in that other market;
- (d) deliberately reducing the retail price for a tele-communications service without making corresponding reductions in the wholesale price for the tele-communications service, where the telecommunications provider also provides that telecommunications service at a wholesale price to a competing telecommunications provider, in order to gain an unfair advantage in the retail market;
- (e) agreeing with other telecommunication providers on retail prices, by fixing or otherwise agreeing, to manipulate retail prices for telecommunication services with other telecommunication providers;
- (f) attempting to impose restrictions on the retail price charged by another telecommunications provider, where the first telecommunications provider supplies the other telecommunications provider with products or tele-communication services;
- (g) entering into an exclusive agreement with any person on certain terms and conditions, such that the exclusivity has or may have the effect of substantially lessening competition in a related market; or
- (h) doing anything or taking any action which has or is likely to have the effect of preventing, substantially restricting, or distorting competition in any market.

## **9. Unregulated telecommunications service**

(1) A telecommunications provider shall ensure that it provides at least 21 days written notice to the Commission of any proposed change to a tariff for an existing unregulated telecommunications service.

(2) A telecommunications provider shall ensure that it notifies the Commission in writing of the introduction of any new unregulated telecommunication services within 14 days of the introduction the telecommunication services.

## **10. Tariff review**

(1) The Commission may review the tariff of an unregulated telecommunications service, in any case where —

- (a) a customer or a telecommunications provider requests a review in writing;
- (b) the Commission reasonably suspects that a tariff does not comply with regulations 5, 6 and 8;
- (c) the Commission has reasonable grounds to believe a proposed change to a tariff for an unregulated telecommunications service will have a significant impact on customers in Saint Lucia; or
- (d) ECTEL recommends a review.

(2) Where the Commission decides to review a tariff, the Commission shall, at least 30 days prior to the commencement of the review, publish a notice in a local newspaper of wide circulation in Saint Lucia and on the website of the Commission —

- (a) identifying the telecommunications provider, the telecommunications service and briefly describing the tariff to be reviewed;
- (b) stating the grounds for the review;
- (c) stating the address and other contact details of the Commission; and
- (d) informing the telecommunications provider and any interested persons that representations or submissions may be made to the Commission, subject to these Regulations or such other procedures as the Commission determines, acting on a recommendation from ECTEL.

(3) A telecommunications provider shall not implement a change to an existing tariff where a notice under subregulation (2) has been published by the Commission.

(4) Within 30 days of publication of the notice under subregulation (2), a telecommunications provider shall file the information setting out how the tariff complies with regulations 5, 6 and 8 and shall provide sufficient documentary evidence to enable the Commission to assess the application.

(5) The Commission shall review the tariff for the telecommunications service.

(6) Where the Commission determines that the rates are not compliant, the Commission, acting on the recommendation of ECTEL, may direct the telecommunications provider to —

- (a) take any necessary measures to bring the tariff into compliance with the regulations, bearing in mind the reasons for the non-compliance;
- (b) withdraw the tariff.

(7) Unless requested by the telecommunications provider, the Commission shall not review the same tariff, within 6 months of completion of a tariff review.

**PART 3**  
**PRICE REGULATION REGIME**

**Division 1**  
***Price regulation regime***

**11. Compliance with price regulation regime**

(1) A telecommunications provider shall comply with the terms of any price regulation regime applicable to that telecommunications provider for the duration of the price regulation regime.

(2) A breach of the terms of a price regulation regime in effect for a telecommunications provider is deemed to be a breach of an agreement between the telecommunications provider and ECTEL.

**12. Procedure for adoption of price regulation regime**

(1) ECTEL may recommend a draft price regulation regime applicable to a dominant telecommunications provider, for adoption by the Commission.

(2) Prior to recommending the adoption of a draft price regulation regime, ECTEL shall provide at least 30 days notice to the dominant telecommunications provider by publishing a notice on the website of ECTEL and providing the telecommunications provider with a copy of the proposed draft price regulation regime.

(3) Where ECTEL recommends the adoption of the draft price regulation regime —

- (a) the Commission shall, within 14 days of receipt of the recommendation, initiate a public consultation by publishing a notice in the *Gazette*, at least one local newspaper of wide circulation in Saint Lucia and on the website of the Commission, setting out the details of the price regulation regime, and allow not less than 90 days for the submission of comments by interested persons;
- (b) the Commission shall adopt any recommendations by ECTEL for the procedures to be followed in the conduct of the public consultations;
- (c) any person likely to be affected by the price regulation regime is entitled to make representations to the Commission on any matters relevant to the determination of ECTEL and the Commission;
- (d) upon expiration of any public consultation period under paragraph (a), ECTEL may revise the price regulation regime, taking account of any relevant representations made under paragraph (c), and submit a final price regulation regime for adoption by the Commission, provided that, at any time after the conclusion of the public consultation period referred to in paragraph (a), ECTEL may recommend the adoption of the price regulation regime, with or without amendment, and the Commission shall either approve or disapprove it, without modification, within 14 days of receipt of such recommendation.

(4) An approved price regulation regime shall be published by the Commission in the *Gazette*, a local newspaper of wide circulation in Saint Lucia and on the website of the Commission, and shall take effect 14 days from the date of publication.

(5) The Commission shall not amend an approved price regulation regime unless ECTEL recommends such amendment.

**Division 2**  
***Regulated Telecommunications Service***

**13. Regulated telecommunications service**

(1) The Commission shall designate the following telecommunication services as a regulated telecommunications service —

- (a) a telecommunications service that is subject to a price regulation regime;
- (b) special telecommunications service;
- (c) a new telecommunications service that is a bundle that includes any regulated services.

(2) Notwithstanding subregulation (1), the following are deemed to be regulated telecommunication services, where —

- (a) there is only one telecommunications provider operating a public telecommunications network or providing a public telecommunications service;
- (b) a telecommunications provider has a dominant position in the relevant market;
- (c) the Commission detects anti-competitive pricing or acts of unfair competition;
- (d) the Commission considers it necessary to ensure that a telecommunications provider complies with the requirements of its licence;
- (e) such regulation is required in the public interest; or
- (f) the Commission considers that it is appropriate to do so.

(3) A telecommunications provider shall not provide a regulated telecommunications service except in accordance with a tariff approved under Part 4.

(4) A telecommunications provider shall not discontinue a regulated telecommunications service unless the Commission gives approval to do so.

(5) At least twenty-one days prior to the proposed discontinuance of a telecommunications service, a telecommunications provider shall file an application for approval under subregulation (4) setting out the reasons for discontinuing the telecommunications service.

(6) The Commission shall not unreasonably withhold approval of a telecommunications provider to discontinue a regulated telecommunications service.

**14. Special telecommunications service**

(1) The Commission may, acting on a recommendation of ECTEL, designate an additional service as a special telecommunications service by publishing a notice in the *Gazette*, a local newspaper of wide circulation in Saint Lucia, and on the website of the Commission, designating the service to be a special telecommunications service, and allow not more than 30 days for comments by interested persons.

(2) The Commission shall not designate an additional service as a special telecommunications service for the purposes of these Regulations unless ECTEL recommends accordingly, and where ECTEL so recommends, a designation as a special telecommunications service shall take effect 30 days after receipt of the recommendation by the Commission.

(3) Acting on a recommendation of ECTEL, the Commission may adopt special rules in respect of the provision of special telecommunications services, by providing at least 30 days notice to providers and customers by publication of such rules on the

website of the Commission, and a telecommunications provider shall comply with such rules, once adopted.

## **15. Dominance by public consultation**

(1) ECTEL may make a recommendation to the Commission that a telecommunications provider be declared a dominant telecommunications provider in a relevant market.

(2) Where ECTEL makes a recommendation under subregulation (1) —

- (a) the Commission shall initiate a public consultation by publishing a notice in the *Gazette*, a local newspaper of wide circulation in Saint Lucia, and on the Commission's website, declaring the telecommunications provider to be dominant, setting out the reasons for making the declaration and allow a period of not less than 30 days but not more than 90 days for the submission of comments by interested persons;
- (b) any person likely to be affected by the declaration is entitled to make representations to the Commission on any matter relevant to the assessment;
- (c) ECTEL may recommend the adoption of procedures by the Commission for assessing dominance, including —
  - (i) identifying information to be requested from the telecommunications provider,
  - (ii) the timeframes for the receipt of submissions from a telecommunications provider;
- (d) the Commission and ECTEL shall draw adverse inferences from the failure of the telecommunications provider to supply any requested information in respect of an application;
- (e) the Commission shall issue its final determination of market dominance no later than 30 days after receipt of a final recommendation by ECTEL.

(3) Notwithstanding subregulations (1) and (2), a telecommunications provider may consent in writing to being declared a dominant telecommunications provider in a relevant market, and where the telecommunications provider consents, the Commission shall not be required to undertake a public consultation to make a declaration.

(4) Where the Commission declares a telecommunications provider to be a dominant telecommunications provider under subregulations (1) and (2), or based on a consent to being declared dominant under subregulation (3), the declaration shall be published in the *Gazette* and at least one local newspaper of wide circulation in Saint Lucia, on the Commission's website and such declaration shall take effect 14 days after publication.

(5) The Commission shall not declare a telecommunications provider as dominant without a recommendation from ECTEL.

## **16. Presumed dominance**

(1) ECTEL may, after a public consultation on such terms and conditions as it may determine, recommend the adoption of a specified level of market share for the purposes of making a presumption of dominance by the Commission.

(2) A telecommunications provider with the specified level of market share in a relevant market is presumed to be a dominant telecommunications provider in that market.

(3) Where a telecommunications provider is presumed dominant, the Commission shall impose a price regulation regime on the telecommunication services provided by that telecommunications provider in the relevant market.

## **17. Declaration of dominance**

(1) Acting on a recommendation of ECTEL, the Commission may declare a telecommunications provider to be a dominant telecommunications provider with respect to a telecom-munications network or a telecommunications service where, individually or jointly with others, it enjoys a position of economic strength affording the telecommunications provider the power to behave to an appreciable extent independently of competitors and customers.

(2) In declaring a telecommunications provider as a dominant telecommunications provider, the Commission shall consider the following —

- (a) the relevant market;
- (b) the market share of the telecommunications provider;
- (c) the power of the telecommunications provider to introduce and sustain a material retail price increase independently of competitors;
- (d) the degree of differentiation among telecommunication networks and telecommunication services in the market;
- (e) technology and market trends; and
- (f) any other matters the Commission considers relevant.

## **18. Review of declaration**

(1) Where a telecommunications provider is declared a dominant telecommunications provider under regulation 15, presumed dominant under regulation 16 or deemed a dominant telecommunications provider under regulation 20 and the telecommunications provider considers that it is no longer dominant, the telecommunications provider may apply to the Commission to have its status as a dominant telecommunications provider reviewed on such terms and according to such procedures as the Commission determines acting on a recommendation from ECTEL.

(2) A telecommunications provider seeking a review of its status as a dominant telecommunications provider shall furnish the Commission with any supporting information and data that the telecommunications provider may regard as relevant to the review.

(3) Where necessary, the Commission may request additional information from the telecommunications provider.

(4) The Commission shall not consider an application to review a declaration of dominance, where such information or data has not been supplied by the telecommunications provider.

(5) Where the Commission after conducting a review is satisfied that a dominant telecommunications provider is no longer dominant in respect of a relevant market, the Commission shall publish a notice in the *Gazette*, at least one local newspaper of wide circulation in Saint Lucia and on the website of the Commission, declaring the telecommunications provider as no longer dominant in a particular market and the declaration takes effect from the date of publication.

(6) The Commission shall not change the status of a dominant telecommunications provider without a recommendation from ECTEL.

## **19. Amendment of licence after declaration**

(1) For the purpose of imposing any special restrictions or obligations on a dominant telecommunications provider, ECTEL may, after a declaration of dominance or declaring a telecommunications provider to be no longer dominant, or a consent to a declaration of dominance as the case may be, recommend to the Minister responsible for telecommunications, that a dominant telecommunications provider's licence be amended to reflect its status as a dominant provider or that the telecommunications provider is no longer a dominant provider in a relevant market.

(2) Where the Minister accepts a recommendation made under subregulation (1), the Minister may amend the licence of the telecommunications provider as if the telecommunications provider had consented to the modification of the licence under the Act.

## **20. Deemed dominant telecommunications provider**

(1) For the purposes of these Regulations, a telecommunications provider operating the only public telecommunications network or providing the only public telecommunications service is deemed a dominant telecommunications provider.

(2) Subject to the procedures outlined in regulation 20(1), where a telecommunications provider is deemed to be a dominant telecommunications provider in a relevant market, the Commission shall regulate the tariff for the telecommunication services provided by that telecommunications provider without undertaking a public consultation to declare the tele-communications provider as a dominant telecommunications provider.

(3) The Commission shall publish a notice in the *Gazette*, a newspaper of wide circulation in Saint Lucia and on the website of the Commission of, the names of all telecommunication providers deemed to be dominant telecommunication providers under these Regulations.

## **21. Market trial**

(1) A dominant telecommunications provider may conduct a market trial for a new telecommunications service or a short-term promotion for a regulated telecommunications service which may involve a tariff change for the regulated telecommunications service, without prior approval of the Commission, where —

- (a) the telecommunications provider files a tariff and a description of the market trial or short-term promotion with the Commission and ECTEL, at least 30 days prior to the commencement of the market trial or promotion;
- (b) the market trial or short-term promotion does not exceed 30 days; and
- (c) the market trial or short-term promotion is not similar to a market trial or promotion that concluded less than 60 days earlier.

(2) A telecommunications provider may file the information under subregulation (1)(c) on an *ex parte* basis, and the Commission and ECTEL shall not disclose such information until such time as the telecommunications provider has commenced the market trial or short-term promotion.

(3) The Commission may, acting on a recommendation of ECTEL, order a dominant telecommunications provider not to conduct a market trial for a new telecommunications service or short-term promotion for a regulated telecommunications service, or may require the telecommunications provider to suspend or discontinue a market trial or short-term promotion in progress, where —

- (a) the telecommunications provider has not complied with subregulation (1); or
- (b) the tariff for the market trial or short-term promotion contravenes regulations 5, 6 and 8.

(4) At the expiration of the market trial or short-term promotion, a telecommunications provider shall apply for approval under regulation 26 or 27, where it proposes to make the tariff permanent.

(5) A telecommunications provider shall not undertake a similar market trial or a short-term promotion more than 3 times within a 12 months period.

## **22. Bundles**

(1) A dominant telecommunications provider applying for approval to introduce a tariff for a new bundle shall file additional information to satisfy the Commission that —

- (a) a bundle does not unfairly distort competition;
- (b) customers shall be able to obtain the individual telecommunications services comprising the bundle separately where they require;
- (c) the individual telecommunications services comprising the bundle or the bundle as a whole are not provided below cost;
- (d) bundles are not provided in an unduly discriminatory manner;
- (e) customers are likely to obtain benefits or the telecommunications provider is likely to obtain efficiencies from the availability of the bundle;
- (f) where the bundle relates to telecommunication services subject to a price regulation regime, the bundle complies with any rules contained in the price regulation regime; and
- (g) the tariff for any bundle otherwise complies with these Regulations.

(2) A telecommunications provider shall comply with any guidelines the Commission may adopt for tariffs related to bundles, provided that the guidelines shall not take effect until the expiration of 30 days from the date of publication of such guidelines on the website of the Commission.

## **23. New telecommunications service**

(1) A dominant telecommunications provider that proposes to introduce a new telecommunications service may file an application to introduce such service on an *ex parte* basis, and the Commission and ECTEL shall not disclose the contents of the application until such time as the Commission has determined the categorization of the telecommunications service.

(2) Where a dominant telecommunications provider files an application under subregulation (1), it shall, in addition to complying with regulation 9, file with the Commission —

- (a) a clear description of the service and a justification for categorizing the service as a new telecommunications service; and
- (b) an assessment by the telecommunications provider as to whether the new telecommunications service should be designated as regulated or unregulated by the Commission,

and simultaneously provide a copy to ECTEL.

(3) The Commission may approve or reject the categorization of the telecommunications service as a new telecommunications service by the telecommunications provider in accordance with a recommendation from ECTEL.

(4) Where the Commission has determined the designation of the service as regulated, the Commission and ECTEL shall review the tariff for the service in accordance with regulation 25.

## **PART 4 TARIFF APPLICATION**

## **24. Prohibition on tariff**

A telecommunications provider shall not —

- (a) change the tariff for a regulated telecommunications service in accordance with a price regulation regime;
- (b) change the tariff for a special telecommunications service; and
- (c) change the tariff for a telecommunications service where it is the sole provider of that telecommunications service,

unless the Commission gives approval to do so.

## **25. Application**

(1) At least 21 days prior to the date the tariff takes effect, a telecommunications provider shall —

- (a) file a written application with the Commission —
  - (i) setting out how the tariff complies with regulations 5, 6 and 8 and any price regulation regime applicable to the telecommunications provider,
  - (ii) supported by sufficient, relevant documentary evidence to enable the Commission to assess the application; or
- (b) simultaneously provide a copy of the application to ECTEL; and
- (c) within 7 days of filing the application for approval under subregulation (1)(a), publish a notice of the application in accordance with subregulation (2).

(2) A telecommunications provider shall ensure that a notice of an application filed with the Commission under subregulation (1) —

- (a) is published on the website of the telecommunications provider and in a local newspaper of wide circulation in Saint Lucia;
- (b) contains the name, address and contact details of the telecommunications provider and the Commission;
- (c) briefly describes the nature of the application and the proposed date the tariff or discontinuation is to take effect; and
- (d) informs interested parties that they may make submissions to the Commission at any time after the date of publication of the notice.

(3) In any case where a telecommunications provider applies to decrease the retail price for a regulated telecommunications service, it shall, in addition to complying with subregulation (1) or (2), file a declaration with the Commission to the effect that the proposed retail price is above the cost of providing the telecommunications service.

(4) Any person likely to be affected by the outcome of an application shall be entitled to make representations to the Commission on any matter relevant to the application, and the Commission shall ensure that copies of any comments or submissions from interested parties on the application are forwarded to the telecommunications provider making the application and to ECTEL within 7 days of receipt.

(5) The Commission or ECTEL may request a telecommunications provider to file additional information relating to an application.

(6) The Commission and ECTEL shall draw adverse inferences from the failure of the telecommunications provider to supply any requested information in respect of an application.

(7) The Commission may require a telecommunications provider to apply for the approval of an application for a proposed change to an existing tariff, where a notice under regulation 15(2)(a) has been published by the Commission.

## **26. Grant or refusal of approval of application**

(1) Within 14 days of receipt of the application under regulation 25(1) or of receipt of any additional information under regulation 25(5), ECTEL shall make a recommendation to the Commission to grant or refuse to approve the application.

(2) In making its recommendation to the Commission, ECTEL shall take into account the following —

- (a) that the tariff complies with regulations 5, 6 and 8;
- (b) in the case of a regulated telecommunications service subject to a price regulation regime, the tariff complies with such regime; and
- (c) in the case of a special telecommunications service, the tariff complies with any special rules contained in the provider's licence or adopted by the Commission, in accordance with regulation 14(3).

(3) The Commission may approve an application to provide a tariff, with or without conditions.

(4) The Commission shall not approve any tariff where it is satisfied that such a tariff is contrary to the Act.

(5) Where on the recommendation of ECTEL the Commission refuses to approve an application, the Commission shall —

- (a) issue the decision in writing to the telecommunications provider; and
- (b) issue the reasons for the refusal of the application.

(6) The Commission shall not unreasonably withhold approval of an application from a telecommunications provider.

## **27. Amendment or withdrawal of tariff**

(1) The Commission shall not approve or amend a tariff unless ECTEL recommends the approval or amendment of the tariff.

(2) Where the Commission refuses to approve an application for a tariff, the Commission may, acting on the recommendation of ECTEL, direct a telecommunications provider to —

- (a) take any necessary measures to bring the tariff into compliance with these Regulations, bearing in mind the reasons for the refusal; or
- (b) withdraw the tariff to which the application relates;
- (c) prohibit a telecommunications provider from introducing the tariff.

## **PART 5 TREATMENT OF CUSTOMERS BY TELECOMMUNICATION PROVIDERS**

## **28. Contract to contain minimum terms**

(1) A telecommunications provider shall ensure that a contract between a provider and a customer for providing telecommunications services, contains at least all of the following —

- (a) the identity and address of the telecommunications provider;
- (b) details of the telecommunication services provided, the quality of service levels offered and the time for initial connection;
- (c) details of maintenance services offered;
- (d) particulars of tariffs, and the means by which up-to-date information on applicable tariffs and maintenance charges may be obtained;

- (e) the duration of the contract, the conditions of renewal and termination of services and of the contract;
- (f) any applicable compensation or refund arrangements applicable where quality of service levels are not met; and
- (g) the method for initiating procedures for dispute settlement under the contract.

(2) Where a telecommunications provider intends to modify a condition in a contract with a customer, which in the opinion of the Commission is likely to be of material detriment to the customer, the telecommunications provider shall —

- (a) provide the customer with at least 30 days notice of its intention, detailing the proposed modification; and
- (b) inform the customer of the right to terminate the contract without penalty if the proposed modification is not acceptable to the customer.

## **29. Billing**

(1) A telecommunications provider shall ensure that a bill to a customer in respect of the provision of any telecommunications service represents and does not exceed the true extent of any such telecommunications service actually provided to the customer.

(2) Where for any reason, a bill to a customer contains charges for telecommunication services which were not actually supplied by a telecommunications provider, the telecommunications provider shall reimburse the customer where the customer has paid the charges to the extent of any overpayment.

## **30. Itemized bills**

(1) A telecommunications provider shall ensure that, in respect of every bill for telecommunication services, itemized bills are provided upon request and at no extra cost to customers.

(2) A telecommunications provider shall ensure that bills are itemized to a sufficient level of detail to enable a customer to —

- (a) verify the charges itemized in the bill; and
- (b) monitor and control the customer's usage and expenditure for the services concerned.

(3) A telecommunications provider shall not provide an itemized bill where —

- (a) the telecommunications provider provides the relevant telecommunications service on a pre-paid basis;
- (b) the customer has an alternative means, free of charge, of adequately monitoring the customers' usage and expenditure; or
- (c) the customer does not request an itemized bill.

(4) The Commission may issue directions in order to specify the level of itemization a telecommunications provider is required to provide.

## **31. Disconnection**

(1) A telecommunications provider shall ensure that any measures taken to secure payment by a customer or to effect disconnection of a telecommunications service to a customer —

- (a) is proportionate and not unduly discriminatory;
- (b) provides adequate notice in advance of a consequent service disruption or disconnection; and

- (c) confines any service disruption or disconnection to the service concerned, as far as technically feasible.

(2) A telecommunications provider shall ensure that it provides at least 30 days notice to a customer of its intention to effect a service disruption or disconnection of any service as a result of non-payment.

(3) Except in cases of fraud, persistent non-payment or late payment, a telecommunications provider shall not disconnect, refuse to supply or refuse to reconnect a telecommunications service to a customer, due to non-payment of another telecommunications service by such customer.

(4) Notwithstanding subregulation (3), a telecommunications provider shall not supply or reconnect a telecommunications service to a customer where —

- (a) it is not technically feasible to provide the telecommunications service independently of another service; and
- (b) the customer has not paid any outstanding bills and or any applicable reconnection fees, in respect of the other service.

(5) Except with the written authorization of the Commission, a telecommunications provider shall ensure that reconnection to a telecommunications service is not conditional upon the payment of charges in respect of any period during which such telecommunications service was not provided, pursuant to a disconnection.

## **PART 6 MISCELLANEOUS**

### **32. Decisions and directions of the Commission**

(1) The Commission may issue written decision or direction to a telecommunications provider for the purposes of compelling compliance with these Regulations and a telecommunications provider shall comply with any such decisions or directions, once issued.

(2) Unless otherwise specified, the Commission shall ensure that any decisions or directions of the Commission made under these Regulations are published on the website of the Commission.

### **33. Referral to High Court**

Where a telecommunications provider refuses to comply with any decision or direction by the Commission under these Regulations, the Commission may apply to a judge of the High Court for an order compelling the telecommunications provider to comply with the decision or direction of the Commission and for such costs and other relief as the Court allows.

### **34. Written recommendation from ECTEL**

ECTEL shall provide a written recommendation where required to make a recommendation to the Commission.

### **35. Extension of timeframes**

The Commission may extend the period of time, whether fixed by these Regulations or otherwise, for doing anything required or permitted to be done pursuant to these Regulations, or in proceedings before the Commission or under its decisions.

### **36. Issuance of guidelines**

The Commission may from time to time, and after consultation with ECTEL, publish guidelines on any aspect of these Regulations on its website, and such guidelines may be of general application or specific to a proceeding.

### **37. Revocation**

The Telecommunications (Tariff) Regulations are revoked.

### **38. Savings**

(1) A price regulation regime that is approved by the Commission before these Regulations come into force continues as an approved price regulation regime under these Regulations.

(2) Where, as of the date of these Regulations coming into force, a telecommunications provider and ECTEL have agreed on a price regulation regime, all services designated as regulated in that price regulation regime are deemed to be regulated telecommunication services for the purposes of these Regulations, and all services designated as unregulated in that price regulation regime are deemed unregulated telecom-munications services for the purposes of these Regulations.

(3) The Commission shall, after consultation with ECTEL, extend the effective date of an existing price regulation regime, until such time as a new or revised price regulation regime has been adopted.

(4) Where an application for approval of a price regulation regime is filed with the Commission before these Regulations come into force, the Commission shall consider the application at the date that these Regulations come into force as if the application was filed under these Regulations.

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## **Telecommunications (Confidentiality in Network and Services) Regulations – Section 74**

### **(Statutory Instrument 17/2002)**

Statutory Instrument 17/2002 in force 1 April 2001

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**TELECOMMUNICATIONS (CONFIDENTIALITY IN NETWORK AND SERVICES)**  
**REGULATIONS – SECTION 74**

Commencement [1 April 2001]

**PART 1**  
**PRELIMINARY**

**1. Citation**

These Regulations may be cited as the Telecommunications (Confidentiality in Network and Services) Regulations.

**2. Interpretation**

In these Regulations:

“**Act**” means the Telecommunications Act;

“**authorised request**” means a request received from the recipient of a transmission;

“**Minister**” means the Minister responsible for Telecommunications;

“**subscriber personal information**” means information of a personal nature relating to a telecommunications subscriber that discloses the address, marital status, financial status, occupation or other identifying information that is unrelated or incidental to the provision of telecommunications services;

“**subscriber proprietary network information**” means information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any subscriber of a telecommunications provider, and that is made available to the telecommunications provider by the subscriber solely, by virtue of the customer-provider relationship.

**PART 2**  
**INTERCEPTION MONITORING STOPPAGE**

**3. Activation of intercepted communication**

A telecommunications provider shall ensure that any interception of communications within its network is capable of being activated only when authorised by the receiver of a transmission, or in accordance with a court order.

**4. Strict measures of control**

A telecommunications provider shall—

- (a) appoint a senior employee or officer with the responsibility for ensuring that the interception of communications can be activated only when authorised by the receiver or in accordance with a court order; and

- (b) authorise designated employees or officers to engage where necessary in lawful interception activities.

## **5. Court order**

A telecommunications provider shall not implement any interception of transmissions over a public telecommunications network or telecommunications apparatus unless the telecommunications provider receives a court order authorising law enforcement officials to intercept transmissions over the public telecommunications network or apparatus.

## **6. Officials to act within strict guidelines**

A telecommunications provider shall ensure that any employee or officer that it appoints under regulation 5 only effects interceptions that are authorised and except to a person who has made an authorised request or when authorised by a court order to a law enforcement official.

## **7. Employee to execute agreement**

(1) An employee of a telecommunications provider who is designated and authorised to receive and implement interception orders, or certifications, shall execute a non-disclosure agreement which shall be kept as part of that employee's permanent records.

(2) The terms of the agreement referred to in subregulation (1) shall survive any reassignment of the employee to other duties, or the termination or departure of the employee from the employment of the telecommunications provider.

## **8. Report of improper activities**

(1) A telecommunications provider shall report to law enforcement officials without delay any act—

- (a) of unlawful electronic surveillance that has occurred on its premises; and
- (b) which compromises the duty to report once the provider becomes aware.

(2) A telecommunications provider shall report to law enforcement officials without delay any transmission which is accepted and appears likely to threaten the national security or is contrary to public order.

## **9. Employee's suspension of duties Pending investigation**

(1) Where there are reasonable grounds to suspect that an employee of a telecommunications provider is about to engage or may have engaged in illegal surveillance activity, that employee shall be reassigned to other duties or suspended pending the outcome of an investigation.

(2) An employee who has been reassigned or suspended shall not be allowed to have access to any equipment whereby proper investigations may be compromised.

## **10. Accurate records of interception**

(1) A telecommunications provider shall maintain accurate, complete and secure records of any interception of communications.

(2) Records of any interception of communication shall include the—

- (a) court order;
- (b) identity of the law enforcement officer who presented the court order;
- (c) name and signature of the telecommunications provider's employee responsible for overseeing the interception of the communications;

- (d) start date and time of the interception;
- (e) telephone and circuit identification number or numbers involved; and
- (f) telegraphic, facsimile, telephonic or any other such type of communication.

(3) The records of interception shall be compiled either contemporaneously, or within a reasonable period of time following the initiation of the interception of the communications and such period shall not exceed 90 days.

(4) A telecommunications provider shall maintain a record of all intercepted communications for a period of 6 years.

#### **11. Reporting obligations to commission**

(1) A telecommunications provider shall report to the Commission on a quarterly basis any—

- (a) compromises or suspected compromises of interceptions; and
- (b) violation of its security policies and procedures.

(2) A telecommunications provider shall be obligated to report to the Commission without delay any violation or compromise relating to subscriber's—

- (a) personal information; or
- (b) proprietary network information.

#### **12. No acceptance of dangerous transmission**

A telecommunications provider shall not accept any form of transmission which appears likely to threaten the national security or is contrary to public order in Saint Lucia.

### **PART 3 NON-INTERCEPTION OF TRANSMISSION BY MEMBERS OF THE PUBLIC**

#### **13. No interception by members of public**

Any member of the public, including a radio amateur using radio equipment or modified commercial equipment, shall not intercept or interrupt any message transmitted over a public telecommunications network or telecommunications apparatus.

#### **14. Reporting obligation on illegal activity**

Where there are reasonable grounds to suspect that a member of the public is about to or is in the process of engaging in illegal surveillance activity, the telecommunications provider or any concerned party shall report the activity to law enforcement officials without delay.

#### **15. Reporting obligation on actual illegal activity**

A telecommunications provider shall be obliged to report to the Commission and law enforcement officials without delay any act of unlawful electronic surveillance that has occurred on its premises by an unauthorised member of the public.

**PART 4**  
**CONFIDENTIALITY IN RESPECT OF SUBSCRIBER**

**16. Strict control measures**

A telecommunications provider shall establish policies and procedures to facilitate the strictest supervision and control of its employees or officers who have or might have access to subscriber personal information or subscriber proprietary network information.

**17. Employee to execute agreement**

(1) An employee of a telecommunications provider who has access to subscriber personal information or subscriber proprietary network information shall execute a non-disclosure agreement which shall be kept as part of that employee's permanent records.

(2) The terms of the agreement referred to in subregulation (1) shall survive any reassignment of the employee to other duties or the termination or departure of the employee from the employment of the telecommunications provider.

**18. Confidentiality of subscriber**

The subscriber's personal information or subscriber's proprietary network information is confidential information, and shall not be disclosed by an employee or officer of a telecommunications provider without the consent of the subscriber or under a court order.

**19. Permission to be first obtained**

A telecommunications provider or publisher of subscriber and lists directories must first obtain the consent of a subscriber before listing the subscriber's personal information in a telephone directory.

**20. Grounds for disclosure of proprietary network information**

A telecommunications provider may use or disclose subscriber proprietary network information only if it is necessary to—

- (a) protect users of those services and other telecommunications providers from fraudulent, abusive, unlawful use of, or subscription to such services; or
- (b) provide the telecommunications services to which the proprietary customer has subscribed.

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**Telecommunications (Fees) Regulations – Section 73**  
**(Statutory Instrument 60/2014)**

Statutory Instrument 96/2002 in force 14 October 2002  
Replaced by Statutory Instrument 60/2014 .. in force 10 June 2014

**ARRANGEMENT OF REGULATIONS**

- 1. Citation
- 2. Interpretation
- 3. Application
- 4. Individual licence
- 5. Class licence

6. Frequency authorisation
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  8. Other licences
  9. Miscellaneous fees
  10. Liability for other fees
  11. Payments to the Consolidated Fund
  12. Commission not to refund
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## TELECOMMUNICATIONS (FEES) REGULATIONS – SECTION 73

Commencement [10 June 2014]

### 1. Citation

These Regulations may be cited as the Telecommunications (Fees) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires —

“**Act**” means the Telecommunications Act;

“**assigned frequencies**” means the frequencies granted by the Minister in a frequency authorisation pursuant to section 35 of the Act;

“**bandwidth**” means the width of a communication channel;

“**direct sequencing spread spectrum**” or “**DSSS**” means a transmission technology where a data signal at the sender station is combined with a higher data rate bit sequence or chipping code, that divides the user data according to a spreading ratio;

“**Family Radio Service**” or “**FRS**” means a radio service used by family, friends and associates to communicate within a limited geographical area of less than a mile radius;

“**Frequency Hopping Spread Spectrum**” or “**FHSS**” means a transmission technology where a data signal is modulated with a narrow band carrier signal which hops in a random but predictable sequence from one frequency to another as a function of time over a wide band of frequencies;

“**frequency pair**” means a pair of transmit and receive frequencies used in semi-duplex or duplex operations;

“**licensee**” means a telecommunications provider, who is licensed to operate a telecommunications network, provide telecommunications services or operate telecommunications equipment within Saint Lucia;

“**person**” includes any corporation, either aggregate or sole, partnership or association, undertaking, club, society or other body of one or more persons and includes an individual;

“**repeater**” means a device that amplifies, reshapes or retimes an input signal;

“**reporting year**” means an annual period for which financial reports are accepted by the Commission;

**“spread spectrum”** means a modulation technique used in wireless systems employing direct sequence, frequency hopping or both, which can be used for multiple access, multiple functions or both;

**“Studio to Transmitter Links”** or **“STL”** means communication links used for the transmission of broadcast material from a studio to the transmitter using a single transmission frequency;

**“type approval”** means the type approvals specified in the Schedule to the Telecommunications (Terminal Equipment and Public Network) Regulations, Cap. 8.11;

**“value added services”** means a communication facility that uses the network of an individual licensee for the transmission and provision of extra data features with separate equipment.

### **3. Application**

(1) These Regulations apply to fees relating to the provision of telecommunications facilities, equipment and services and set out the amounts and circumstances in which these fees are payable.

(2) Where there is a conflict between these Regulations and any other Regulations made under the Act in relation to fees, these Regulations prevail.

### **4. Individual licence**

A person applying for an individual licence shall pay —

- (a) the prescribed application fee set out in Schedule 1;
- (b) on the granting of the licence, the prescribed initial fee set out in Schedule 1; and
- (c) on each anniversary date of the granting of the licence and throughout the duration of the licence, the prescribed annual fee set out in Schedule 1, except where it is payable as a percentage of gross annual revenue then the annual fee payment shall be due and payable within 45 days of the reporting year and shall be accompanied by a gross annual revenue report and supporting attachments that provide details of the calculation.

### **5. Class licence**

A person applying for a class licence shall pay —

- (a) the prescribed application fee set out in Schedule 2;
- (b) on the granting of a class licence, the prescribed initial fee set out in Schedule 2; and
- (c) on each anniversary date of the granting of the licence and throughout the duration of the licence, the prescribed annual fee set out in Schedule 2, except where it is payable as a percentage of gross annual revenue then the annual fee payment shall be due and payable within 45 days of the reporting year and shall be accompanied by a gross annual revenue report and supporting attachments that provide details of the calculation.

### **6. Frequency authorisation**

A person applying for a frequency authorization shall pay —

- (a) the prescribed application fee set out in Schedule 3;
- (b) on the grant of a frequency authorization, the prescribed fee set out in Schedule 3 for all the assigned frequencies; and

- (c) the prescribed annual fee set out in Schedule 3 by equal quarterly installments in advance.

## **7. Special licence**

A person applying under the Act for a special licence shall pay the prescribed fees set out in Schedule 4.

## **8. Other licences**

(1) A person applying for any telecommunications related matter for which no specific provision is made in these Regulations shall pay the appropriate fee as determined by the Minister on the advice of the Commission.

(2) The Commission shall consult with the applicant, ECTEL and any other relevant person and adopt such reasonable process as is appropriate to aid in determining its advice to the Minister.

(3) The Commission shall take into account all relevant factors in determining its advice to the Minister, including —

- (a) ECTEL's recommendations;
- (b) views expressed by the applicant and any other consultees;
- (c) fees set out in the Schedules to these Regulations;
- (d) the commercial value of the service to be provided;
- (e) the value of any resource involved; and
- (f) any reasonably incurred administrative costs.

## **9. Miscellaneous fees**

In any other telecommunications related matter for which fees are payable, payments shall be made in accordance with Schedule 5.

## **10. Liability for other fees**

The payment of fees under these Regulations does not relieve a person who is liable to make payments under the requirements of any other Act.

## **11. Payments to the Consolidated Fund**

Except that all fees collected pursuant to regulation 6 are to be paid to ECTEL in accordance with the procedures set out in the Telecommunications (Frequency Fees) (Collection Mechanism) Regulations, Cap. 8.11, the Commission shall ensure that fees collected pursuant to these Regulations are to be paid into the Consolidated Fund.

## **12. Commission not to refund**

The Commission shall not refund fees paid pursuant to these Regulations.

## **13. Revocation**

The Telecommunication (Fees) Regulations, Cap. 8.11 are revoked.

## **Schedule 1**

(Regulation 4)

## **INDIVIDUAL LICENCE FEES**

LICENCE CODE	DESCRIPTION	LICENCE FEES		
		APPLICATION	INITIAL	ANNUAL
PMT	Public Mobile Telecommunications	\$1,000	\$20,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less, than \$20,000
FPT	Fixed Public Telecommunications	\$1,000	\$20,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less than \$20,000
PRP	Public Radio Paging	\$1,000	\$20,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less than \$20,000
INS	Internet Network/Services	\$1,000	\$20,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less than \$20,000
SUB	Subscriber Television Network/Services	\$1,000	\$20,000	3.0% of Gross Annual Revenue, except that the minimum, fee shall not be less than \$20,000
SCL	Submarine Cable Landing	\$1,000	\$50,000	\$50,000

## Schedule 2

(Regulation 5)

### CLASS LICENCE FEES

LICENCE CODE	DESCRIPTION	LICENCE FEES		
		APPLICATION	INITIAL	ANNUAL
MVN	Mobile Virtual Network Operator/Services	\$500	\$5,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less than \$5,000
RLC	Resale of Leased Circuits	\$500	\$5,000	3.0% of Gross Annual Revenue except that the in minimum fee shall not be less than \$5,000
IPT	Internet Protocol Telephony Services	\$500	\$5,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less than \$5,000
VAS	Value Added Services	\$500	\$5,000	3.0% of Gross Annual Revenue, except that the minimum, fee shall not be less than \$5,000
AVT	Audio Text/Video Text	\$500	\$5,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less than \$5,000
ISVR	International Simple Voice Resale	\$500	\$2,000	3.0% of Gross Annual Revenue, except that the minimum fee shall not be less than \$5,000
PN5	Private Networks/Services	\$500	\$5,000	\$2,000
	<b>BROADCAST SYSTEMS</b>			
BAM	Broadcast AM Radio Station	\$500	\$3,500	\$3,500
BFM	Broadcast FM Radio Station	\$500	\$3,500	\$3,500
BTV	Broadcast Television Station	\$500	\$3,500	\$3,500
COM	Community FM Radio Station	\$100	\$100	\$100

### CLASS LICENCE FEES

LICENCE CODE	DESCRIPTION	LICENCE FEES		
		APPLICATION	INITIAL	ANNUAL
AR	Amateur Radio			
ARN	– Novice	\$25	\$50	N/A

ARG	– General	\$25	\$50	N/A
ARA	– Advanced	\$25	\$50	N/A
ARF	– Temporary Call-Sign	\$25	\$50	N/A
FRS	Family Radio Service	\$25	\$50	\$50
LM	Land Mobile Radio	\$200		
LMB	– Base Station		\$75/unit	\$75/unit
LMR	– Repeater		\$500/unit	\$500/unit
LMM	– Mobile		\$75/unit	\$75/unit
LMP	– Handheld		\$50/unit	\$50/unit
MM	Maritime Mobile Radio	\$200		
MMB	– Base Station		\$75/unit	\$75/unit
MMR	– Repeater		\$500/unit	\$500/unit
MMM	– Mobile		\$75/unit	\$75/unit
MMP	– Handheld		\$50/unit	\$50/unit
MMS	– Ship Station			
	– Ships less than 1600 gross tons		\$300/ship	\$300/ship
	– Ships at 1600 gross tons or greater		\$500/ship	\$500/ship
AM	Aeronautical Mobile Radio	\$200		
AMB	– Base Station		\$75/unit	\$75/unit
		<b>APPLICATION</b>	<b>INITIAL</b>	<b>ANNUAL</b>
AMR	– Repeater		\$500/unit	\$500/unit
AMM	– Mobile		\$100/unit	\$100/unit
AMP	– Handheld		\$50/unit	\$50/unit
AMA	Aircraft Station	\$200	\$500/aircraft	\$500/aircraft

### Schedule 3

(Regulation 6)

#### FREQUENCY AUTHORISATION FEES

LICENCE CODE	DESCRIPTION	SPECTRUM FEES	
		APPLICATION	ANNUAL
PMT	Public Mobile Telecommunications	\$1,000	\$300,000 per Cellular Operator for the first 15MHz
PMT	Public Mobile Telecommunications	\$1,000	For additional frequencies \$ 20,000/MHz per frequency pair
	Public – Radio Paging	\$1,000	
PRC	– Commercial		\$600/frequency
PRN	Non-commercial		\$200/frequency
MBL	Microwave: Backhaul	\$1,000	
	– < 10 MHz bandwidth		\$ 7,000/frequency pair on a link
	– 10 – 20 MHz bandwidth		\$ 10,000/frequency pair on a link
	– 21 – 30 MHz bandwidth		\$ 12,000/frequency pair on a link
	– > 30 MHz bandwidth		\$ 18,000/frequency pair on a link
MCL	Microwave – Cellular Inter-site	\$1,000	
	– < 10 MHz bandwidth		\$5,500/frequency pair on a link
	– 10 – 20 MHz bandwidth.		\$6,000/frequency pair on a link

	- 21 – 30 MHz bandwidth		\$6,500/frequency pair on a link
	- 30 > MHz bandwidth		\$ 15,000/frequency pair on a link
MCO	Microwave – other	\$1,000	
	- < 10 MHz bandwidth		\$5,500/frequency pair on a link
	- 10 – 20 MHz bandwidth		\$6,000/frequency pair on a link
	- 21 – 30 MHz bandwidth		\$6.500/frequency pair on a link
	- > 30 MHz bandwidth		\$15,000/frequency pair on a link
MSR	Microwave – Subscriber TV Relay	\$1,000	
	- 6MHz bandwidth		\$ 1,000/frequency
VST	VSAT	\$1,000	
	- KU Band		\$ 12,000/Frequency pair
	- C Band		\$ 15,000/frequency pair
BWA	Broadband Wireless Access (698 Mhz to 806 Mhz)	\$1,000	20,000/frequency pair
FWA	Fixed Wireless Access WAN, LAN, PBX etc	\$1,000	
	- < 5 MHz bandwidth		\$500/frequency
	- 5 – 10 MHz bandwidth		\$750/frequency
	- 10 – 15 MHz bandwidth		\$1000/frequency
	- > 15 MHz bandwidth		\$1500/frequency
SS	Spread Spectrum Applications	\$1,000	
SSA	- 900 MHz FHSS Commercial		\$20,000
	- 900MHz PHSS Non commercial		\$5,000
SSB	- Spread Spectrum 2.4GHz Band	\$1,000	
	FHSS Commercial		\$20,000
	- FHSS Non commercial		\$6,000
	- DSSS Commercial < 10 MHz		\$7,000
	- DSSS Commercial 10 – 20 MHz bandwidth.		\$10,000
	- DSSS Commercial 20 – 50 MHz bandwidth		\$15,000
	- DSSS Commercial > 50 MHz bandwidth		\$25,000
	- DSSS Non commercial		\$10,000
SSC	Spread Spectrum 5 – 8 GHz Band	\$1,000	
	- FHSS Commercial		\$20,000
	- FHSS Non commercial		\$6,000
	- DSSS Commercial < 10MHz bandwidth		\$7,000
	- DSSS Commercial 10 – 20 MHz bandwidth		\$10,000
	- DSSS Commercial 20 – 50 MHz bandwidth		\$15,000
	- DSSS Commercial > 50 MHz bandwidth		\$25,000
	- DSSS Non commercial		\$10,000
LMDS	LMDS	\$1,000	
	- < 125 MHz of Bandwidth		\$500/frequency block
	125 – 250 MHz of bandwidth		\$750/frequency block

	– 250 – 500 MHz of bandwidth		\$1000/frequency block
	– 500 MHz of bandwidth		\$1500/frequency block
MMDS	MMDS	\$1,000	\$500/frequency
SES	Satellite Earth Station	\$1,000	
SES3	C Band (annual Licence)		\$60,000 per frequency pair
SES4	Ku Band (annual licence)		\$50,000 per frequency pair
LMF	Land Mobile Radio	\$200	\$200 per frequency
MMF	Maritime Mobile Radio	\$200	\$200 per frequency
AMF	Aeronautical Mobile Radio	\$200	\$200 per frequency
	BROADCAST SYSTEMS		
BAM	– Broadcast AM Radio Station	\$500	\$500 per frequency
BFM	– Broadcast FM Radio Station	\$500	\$2,000 per frequency
BTM	– Broadcast Television Station	\$500	\$3,000 per frequency
CRS	– Community Radio Station	\$200	\$25 per frequency
STL1	– Television STL Microwave	\$500	\$500 per link
STL2	– Radio STL Microwave	\$500	\$200 per link

#### Schedule 4

(Regulation 7)

##### SPECIAL LICENCE FEES

LICENCE CODE	DESCRIPTION	LICENSE FEES	
		APPLICATION	ANNUAL
SL	SPECIAL LICENSE		
SLE	– Emergencies	\$0	N/A
SLX	– Exigencies	\$200	N/A

#### Schedule 5

(Regulation 9)

##### MISCELLANEOUS FEES

LICENCE CODE	DESCRIPTION	LICENSE FEES		
		APPLICATION	INITIAL	ANNUAL
EXM	Examination Fee for Radio Operators	\$30	N/A	N/A
SEF	Inspection Fee	\$5.00	N/A	N/A
TYP-1	Type Approval Certification	\$500	N/A	N/A

### Telecommunications (Frequency Fees) (Collection Mechanism) Regulations – Section 73

(Statutory Instruments 24/2003)

Statutory Instrument 24/2003 in force 11 March 2003

## ARRANGEMENT OF REGULATIONS

1. Citation
  2. Interpretation
  3. Transmission of frequency authorisation
  4. Invoices
  5. Payment of frequency fees
  6. Bank account
  7. Collecting and depositing frequency fees
  8. Deposit receipts
  9. Adoption of procedures
- 

## TELECOMMUNICATIONS (FREQUENCY FEES) (COLLECTION MECHANISM) REGULATIONS – SECTION 73

Commencement [11 March 2003]

### 1. Citation

These Regulations may be cited as the Telecommunications (Frequency Fees) (Collection Mechanism) Regulations.

### 2. Interpretation

In these Regulations—

“**bank**” means a bank licensed under the Banking Act;

“**bank account**” means a bank account established for the purposes of regulation 6;

“**Commission**” has the meaning assigned under section 4 of the Telecommunications Act;

“**ECTEL**” has the meaning assigned under section 4 of the Telecommunications Act;

“**frequency authorisation**” has the meaning assigned under section 4 of the Telecommunications Act;

“**frequency fees**” has the meaning assigned under section 4 of the Telecommunications Act;

“**Minister**” means the Minister to whom responsibility for telecommunications is assigned.

### 3. Transmission of frequency authorisation

The Minister shall, on granting any frequency authorisation, immediately transmit to ECTEL and the Commission a copy of the frequency authorisation.

### 4. Invoices

ECTEL shall prepare and the Commission shall issue on behalf of ECTEL frequency authorisation invoices for the licensees.

### 5. Payment of frequency fees

Licensees shall pay the frequency fees at the principal office of the Commission by a bank draft made payable to ECTEL.

## **6. Bank account**

(1) ECTEL shall open a bank account with a bank for the specific purpose of receiving frequency fees.

(2) The Chairperson of the Commission shall be notified by the Managing Director of ECTEL of the bank, branch and bank account number.

## **7. Collecting and depositing frequency fees**

(1) The Commission shall assign a responsible officer to collect and deposit all frequency fees.

(2) The responsible officer shall—

- (a) issue an official receipt for all frequency fees received by the Commission;
- (b) pay the whole amount of the fees collected into the bank account established under regulation 6.

(3) Frequency fees collected shall be deposited in the bank account established under regulation 6 at the earliest opportunity and in any event not later than midday of the next working day after receipt by the Commission and the Commission shall obtain a receipt for the amounts deposited.

(4) The receipts for frequency fees shall be properly accounted for in books or records of account as may be prescribed by the Managing Director of ECTEL.

## **8. Deposit receipts**

(1) Submissions of deposit receipts to ECTEL shall be supported by—

- (a) the invoices quoting the serial numbers of the receipts issued by the responsible officer under regulation 7;
- (b) the used receipt books from which the receipts were issued; or
- (c) duplicate copies of receipts issued; or
- (d) a certified statement of a computer printout showing details of all receipts issued.

(2) Deposit receipts shall be submitted to the Managing Director of ECTEL not later than the seventh day of the month following the month of the deposit of the frequency fees.

## **9. Adoption of procedures**

The Commission shall adopt the procedures in the financial provisions of the Ministry of Finance to meet the accountability requirements with respect to receipt books, receiving custody of receipt books and other similar matters.

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## **Telecommunications (Exemption) Regulations – Section 73**

### **(Statutory Instrument 149/2007)**

Statutory Instrument 149/2007 in force 27 August 2008

#### **ARRANGEMENT OF REGULATIONS**

- 1. Citation
- 2. Commencement (Spent)
- 3. Interpretation

- 4. Exemption
  - 5. Terms, provisions and limitations
  - 6. Inspection and restrictions on use
  - 7. General conditions of operation
  - 8. Amendment
  - Schedule 1
  - Schedule 2
  - Schedule 3
  - Schedule 4
  - Schedule 5
  - Schedule 6
  - Schedule 7
- 

## TELECOMMUNICATIONS (EXEMPTION) REGULATIONS – SECTION 73

Commencement [27 August 2007]

### 1. Citation

These Regulations may be cited as the Telecommunications (Exemption) Regulations.

### 2. (*Spent*)

### 3. Interpretation

In these Regulations—

“**apparatus**” means telecommunications apparatus or apparatus designed or adapted for use in connection with telecommunications apparatus as described in Part III of Schedule 2;

“**authorised person**” means any person authorised by the Commission for the purpose of regulation 5;

“**CEPT**” means the European Conference of Postal and Telecommunications Administrations;

“**Commission**” means the National Telecommunications Regulatory Commission established by the Telecommunications Act in an ECTEL Member State;

“**Common Technical Regulations**” means the applicable rule governing the connection of terminal equipment to telecommunications networks published by the Telecommunications Research and Action Centre and by the European Telecommunications Standard Institute which is in force at the date of the publication of these Regulations;

“**eirp**” means equivalent isotropically radiated power;

“**erp**” means effective radiated power;

“**DCS**” means Digital Controlled Squelch;

“**EN45001 and EN45002**” means European Standards Normes Européennes) EN45001 and EN45002 published in September 1989 by the British Standards Institution;

“**ETSI**” means the European Telecommunications Standards Institute;

“**FCC**” means the Federal Communications Commission;

“**ISO guides 25 and 58**” means the International Organization for Standardization Guides 25 and 58 published by the International Organization for Standardization in 1990 and 1993 respectively;

**“low power device”** means a restricted radiation device radiation, exclusive of those employing conducted or guided radio frequency techniques, used for the transmission of signs, signals (including control signals), writing, images and sounds or intelligence of any nature by radiation of electromagnetic energy;

**“public telecommunications network”** means a telecommunication network used for the provision of telephone services to the public;

**“radio frequency device”** means a device that transmits or receives electromagnetic waves between 500 KHz and 300GHz;

**“relevant apparatus”** means the prescribed apparatus as defined in Schedules 1 to 7;

**“test laboratory”** means a test laboratory which has been accredited in accordance with ISO guides 25 and 58 or EN45001 and EN45002 or a national standard conforming to ISO guides 25 and 58 or EN45001 and EN45002;

**“the Act”** means the Telecommunications Act;

**“the Radio Regulations”** means the 1998 edition of the Radio Regulations made under Article 13 of the Constitution of the International Telecommunication Union.

#### **4. Exemption**

(1) Subject to regulation 5, the establishment, installation and use of the relevant apparatus are hereby exempted from the provisions of section 29 of the Act.

(2) The exemption in subregulation (1) shall not apply to relevant apparatus which is established, installed or used to provide or to be capable of providing a link between telecommunication apparatus, or a telecommunication network, and other such apparatus or network, which are used to provide a telecommunications service commercially to another person.

#### **5. Terms, provisions and limitations**

(1) The exemption provided for in these Regulations shall be subject to the terms, provisions and limitations that—

- (a) the relevant apparatus shall not cause or contribute to any undue interference to any telecommunications; and
- (b) frequency bands relating to the relevant apparatus are for terrestrial use only, unless otherwise stated in Schedule 4.

(2) Such exemption shall also be subject to such additional terms, provisions and limitations as are specified in the Schedules in respect of the relevant apparatus.

#### **6. Inspection and restrictions on use**

(1) Where an authorised person has reasonable cause to believe that any relevant apparatus is not complying with regulations 4 and 5, any person who is in possession or control of the relevant apparatus shall, on the demand of that authorised person—

- (a) permit and facilitate the apparatus to be inspected by that authorised person; and
- (b) cause its use to—
  - (i) cease, or
  - (ii) be restricted in the manner specified by that authorized person, for a period of time ending either on a date or on the occurrence of an event specified by that authorised person.

(2) Any authorised person exercising powers under subregulation (1) shall produce evidence of his authority, if so required by the person in possession or control of the relevant apparatus.

## **7. General conditions of operation**

(1) A person operating an exempted device shall not be deemed to have any vested or recognizable right to continue use of any given frequency by virtue of exemption under these Regulations.

(2) The operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference.

(3) The operator shall not resume use of the frequency device until the condition causing the harmful interference has been corrected.

(4) A person who operates a device in contravention of subregulations 2 and 3 of this regulation commits an offence and is liable, on summary conviction, to a fine not exceeding \$1000.00.

## **8. Amendment**

(1) The Commission may, after consultation with ECTEL, make recommendations to the Minister to amend the Schedules.

(2) The Minister may, on receipt of a recommendation from the Commission amend the Schedules.

### **Schedule 1**

(Regulation 2(1))

## **NETWORK USER STATIONS**

### **PART I INTERPRETATION**

In this Schedule—

“**BABT**” means the British Approvals Board for Telecommunications;

“**BTx**” means Base Transmit, the frequency on which a base station transmits and a user station receives;

“**MTx**” means Mobile Transmit, the frequency on which a user station transmits and a base station receives;

“**prescribed apparatus**” means a user station as defined below;

“**relevant network**” means a telecommunication network consisting exclusively of stations established and operated in accordance with a licence, which has been granted under section 31 of the Telecommunications Act, Cap.8.11 and is of a type specified in Part III of this Schedule; and

“**user station**” means a mobile station for telecommunications designed or adapted-

- (a) to be connected by telecommunications to one or more relevant networks; and
- (b) to be used solely for the purpose of sending and receiving messages conveyed by a relevant network by means of telecommunications;

“**station**” means one or more transmitters or receivers or a combination of receivers or transmitters or receivers, including the accessory equipment, necessary at one location for carrying out a radio communication service or the radio astronomy service.

## **PART II**

### **ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS**

The prescribed apparatus shall be subject to and comply with the Common Technical Regulations referred to in Part IV of this Schedule as appropriate, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus—

- (a) be approved by the Commission for the purposes of these Regulations; or
- (b) complies with the FCC standard referred to in Part 15 of the FCC Regulations; or
- (c) be approved to the ETSI standards or the draft ETSI standards referred to in Part IV as appropriate by a Commission following type testing at a test laboratory.

## **PART III**

### **TYPE OF LICENCE GRANTED IN ACCORDANCE WITH SECTION [-] OF THE TELECOMMUNICATIONS ACT 200-**

1. Cellular Networks licensed for use in the following services on the relevant frequency bands—

- (a) Public Mobile/Cellular telephone

Global System for Mobile communications (GSM):	880-915 MHz (MTx)
	925-960 MHz (BTx)

- (b) Public Mobile/Cellular telephone

Time Division Multiple Access 'A' (TDMA 'A')	824-834 MHz (MTx)
	869-879 MHz (BTx)

- (c) Public Mobile/Cellular telephone

Global System for Mobile communications (GSM):	1710-1785 MHz MTx)
	1805-1880 MHz BTx455

- (d) Public Mobile/Cellular telephone

Global System for Mobile communications (GSM):	1850-1910 MHz (MTx)
	1710-1785 MHz (BTx)

2. Public access mobile radio systems licensed for use in the following frequency bands—

162-167 MHz

10-430 MHz

440-449 MHz.

3. Land mobile systems licensed for use in the following frequency bands—

138-144MHz

148-156 MHz

420-430 MHz

440-456.675MHz

**PART IV  
COMMON TECHNICAL REGULATIONS AND STANDARDS**

1. GSM I-ETSI 300 020-1 (Edition 2) published by ETSI in January 1995.
2. Public mobile data systems (410-430 MHz) Final Draft pr ETS 300 113 published by ETSI in March 1996.  
  
ETS 300 113 published by ETSI in July 1996.  
  
FCC Part 15.251
3. Digital Control Squelch (DCS) BABT Special Investigation Test Schedule (SITS) 92/50 published in March 1991 and revised and reprinted in June 1995.  
  
Final Draft pr TBR 031: 1996-02 published by ETSI in February 1996.  
  
Final Draft pr TBR 032: 1996-02 published by ETSI in February 1996.  
  
Public access mobile radio systems  
  
ETS 300 086 published by ETSI in January 1991.  
  
ETS 300 113 published by ETSI in July 1996.  
  
I-ETS 300 219 published by ETSI in October 1993.
4. Common base station systems  
  
ETS 300 086  
  
ETS 300 113  
  
MPT 1326

**Schedule 2**

(Regulation 2(1))

**CORDLESS TELEPHONE APPARATUS**

**PART I  
INTERPRETATION**

In this Schedule—

“**data message**” means a non-voice message; and

“**prescribed apparatus**” means any station or apparatus described in Part III of this Schedule.

**PART II  
ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS**

The prescribed apparatus shall be subject to and must comply with the Common Technical Regulation referred to in Part IV of this Schedule, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus must—

- (a) be approved by the Commission for the purposes of these Regulations; or

- (b) be approved to the standards referred to in Part IV of this Schedule as appropriate by a COMMISSION following type testing at a test laboratory.

### **PART III DESCRIPTIONS OF THE PRESCRIBED APPARATUS**

#### **Analogue Cordless Telephone Apparatus**

**1.** Apparatus consisting of a base station and one or more portable stations designed or adapted in accordance with FCC 15.233—

- (a) to be used to send and receive voice or data messages to be conveyed over a telecommunication network to which the base station is connected; and
- (b) so as not to operate on more than one of the pair of frequencies set out below at any one time—

#### **Channel Base Transmitter (MHz) Handset Transmitter (MHz)**

1.	43.720	48.760
2.	43.740	48.840
3.	43.820	48.860
4.	43.840	48.920
5.	43.920	49.020
6.	43.960	49.080
7.	44.120	49.100
8.	44.160	49.160
9.	44.180	49.200
10.	44.200	49.240
11.	44.320	49.280
12.	44.360	49.360
13.	44.400	49.400
14.	44.460	49.460
15.	46.480	49.500
16.	46.610	49.670
17.	46.630	49.845
18.	46.670	49.860
19.	46.710	49.770
20.	46.730	49.875
21.	46.770	49.830
22.	46.830	49.890
23.	46.870	49.930
24.	46.930	49.990
25.	46.970	49.970

#### **Analogue Cordless Telephone Apparatus 900 MHz Cordless Telephone**

Ch.	BASE	HANDSET	Ch.	BASE	HANDSET	Ch.	BASE	HANDSET
01	902.100	926.100	11	902.400	926.400	21	902.700	926.700
02	902.130	926.130	12	902.430	926.430	22	902.730	926.730
03	902.160	926.160	13	902.460	926.460	23	902.760	926.760
04	902.190	926.190	14	902.490	926.490	24	902.790	926.790

05	902.220	926.220	15	902.520	926.520	25	902.820	926.820
06	902.250	926.250	16	902.550	926.550	26	902.850	926.850
07	902.280	926.280	17	902.580	926.580	27	902.880	926.880
08	902.310	926.310	18	902.610	926.610	28	902.910	926.910
09	902.340	926.340	19	902.640	926.640	29	902.940	926.940
10	902.370	926.370	20	902.670	926.670	30	902.970	926.970

Ch.	BASE	HANDSET	Ch.	BASE	HANDSET	Ch.	BASE	HANDSET
31	903.000	927.000	41	903.300	927.300	51	903.600	927.600
32	903.030	927.030	42	903.330	927.330	52	903.630	927.630
33	903.060	927.060	43	903.360	927.360	53	903.660	927.660
34	903.090	927.090	44	903.390	927.390	54	903.690	927.690
35	903.120	927.120	45	903.420	927.420	55	903.720	927.720
36	903.150	927.150	46	903.450	927.450	56	903.750	927.750
37	903.180	927.180	47	903.480	927.480	57	903.780	927.780
38	903.210	927.210	48	903.510	927.510	58	903.810	927.810
39	903.240	927.240	49	903.540	927.540	59	903.840	927.840
40	903.270	927.270	50	903.570	927.570	60	903.870	927.870

Ch.	BASE	HANDSET	Ch.	BASE	HANDSET	Ch.	BASE	HANDSET
01	905.600	925.500	08	906.300	926.200	15	907.000	926.900
02	905.700	925.600	09	906.400	926.300	16	907.100	927.000
03	905.800	925.700	10	906.500	926.400	17	907.200	927.100
04	905.900	925.800	11	906.600	926.500	18	907.300	927.200
05	906.000	925.900	12	906.700	926.600	19	907.400	927.300

2. Apparatus consisting of a base station and one or more portable stations designed or adapted in accordance with FCC Part 15.233—

- (a) to be used to send and receive voice or data messages to be conveyed over a telecommunication network to which the base station is connected; and
- (b) so as to operate on either of the pairs of frequencies set out below-

Channel No. Base station	Portable station transmission frequency	Transmission frequency
1	47.43125 MHz	77.51250 MHz
2	47.41875 MHz	77.55000 MHz

3. Apparatus consisting of a base station and one or more portable stations designed or adapted in accordance with FCC Part 15.247-

- (a) to be used to send and receive voice or data messages to be conveyed over a telecommunication network to which the base station is connected; and
- (b) so as to operate on either of the frequencies set out below—

2.4 GHz Cordless Telephone

Channel Base	Transmitter (MHz)	Handset Transmitter (MHz)
1	2412	2412
2	2417	2417
3	2422	2422
4	2427	2427
5	2432	2432
6	2437	2437
7	2442	2442
8	2447	2447
9	2452	2452
10	2457	2457
11	2462	2462
12		

**PART IV  
COMMON TECHNICAL REGULATIONS AND STANDARDS**

**CT1 - ETSI EN 301 796**

The FCC Part 15 Regulations

**Schedule 3**

(Regulation 2(1))

**LAND MOBILE-SATELLITE SERVICE STATIONS**

**PART I  
INTERPRETATION**

In this Schedule—

**“Eutelsat”** means the European Telecommunications Satellite Organization established by Article 11(a) of the Convention on the European Telecommunications Satellite Organization of 1982;

**“Globalstar”** means Globalstar LP whose registered office is situated at 3200 Zanker Road, GS-06, San Jose, CA 95134, United States of America;

**“ICO”** means ICO Global Communications (Holdings) Limited whose registered office is situated at Clarendon House, 2 Church Street, Hamilton, Bermuda;

**“Inmarsat”** means Inmarsat Limited whose registered office is situated at 99 City Road, London EC1Y 1AX;

**“Iridium”** means Iridium Satellite LLC whose registered office is situated at 8440 South River Parkway Tempe, AZ 85284 USA;

**“Italsat”** means the satellite network operated by Telespazio s.p.a. whose registered office is situated at via Tiburting, 965-00156 Rome, Italy;

**“Land Mobile-Satellite Service”**, “Land Earth Station” and “Land Mobile Earth Station” have the meanings given to them in the Radio Regulations;

**“prescribed apparatus”** means a Land Mobile Earth Station in a Land Mobile-Satellite Service described in Part III of this Schedule.

## **PART II ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS**

The prescribed apparatus shall be subject to and comply with the Common Technical Regulations referred to in Part IV of this Schedule as appropriate, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus must be—

- (a) approved by the Commission for the purposes of these Regulations; or
- (b) approved to the ETSI standards referred to in Part IV of this Schedule as appropriate by a Commission; or
- (c) approved to the FCC Part 25 standard as appropriate by a Commission.

## **PART III DESCRIPTIONS OF THE PRESCRIBED APPARATUS**

### **Eutelsat**

Land Mobile Earth Stations in the Eutelsat Land Mobile-Satellite Service which are designed or adapted to—

- (a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service; and
- (b) be capable of transmitting in the frequency band 14.00-14.25 GHz and receiving in the frequency bands 10.70-11.70 GHz or 12.50-12.75 GHz and operating at a power level not exceeding the maximum specified in the table set out in Part IV.

### **Globalstar**

Land Mobile Earth Stations in the Globalstar Land Mobile-Satellite Service which are designed or adapted to—

- (a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service;
- (b) be capable of transmitting and receiving in the frequency bands 1610.0-1621.35 MHz and 2483.5-2500.0 MHz and operating at a power level not exceeding -3 dBW/4 kHz mean power (eirp) density; and
- (c) operate in accordance with the requirements of ECTRA/ERC Decision (97) 05 and ERC Decision ERC/DEC (97) 03.

### **ICO**

Land Mobile Earth Stations in the ICO Land Mobile-Satellite Service which are designed or adapted to—

- (a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service;
- (b) be capable of transmitting and receiving in the frequency bands 1997.5-2010.0 MHz and 2187.5-2200.0 MHz and operating at a power level not exceeding 9.8 dBW/25 kHz peak power (eirp) density; and

- (c) operate in accordance with the requirements of ECTRA/ERC Decision (97) 05, ERC Decision ERC/DEC (97) 03 and ERC Decision ERC/ DEC (97) 04 decided by the CEPT in June 1997.

### Inmarsat

Land Mobile Earth Stations in the Inmarsat Land Mobile-Satellite Service which are designed or adapted to—

- (a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service; and
- (b) be capable of transmitting in the frequency bands 1626.5-1645.5 MHz and 1646.5-1660.5 MHz and receiving in the frequency bands 1525.0- 1544.0 MHz or 1545.0-1559.0 MHz and operating at a power level not exceeding the maximum specified in the table set out in Part IV.

### Italsat

Land Mobile Earth Stations in the Italsat Land Mobile-Satellite Service which are designed or adapted to—

- (a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service; and
- (b) be capable of transmitting in the frequency bands 1626.5-1645.5 MHz and 1646.5-1660.5 MHz and receiving in the frequency bands 1525.0-1544.0 MHz or 1545.0-1559.0 MHz and operating at a power level not exceeding the maximum specified in the table set out in Part IV.

## PART IV COMMON TECHNICAL REGULATIONS AND STANDARDS

### Inmarsat

Type of Inmarsat station	Maximum power (erp)	ETSI standard (unless otherwise stated)	Date of publication
A	+37 dBW	Technical Requirements for Inmarsat Standard - A Ship Earth Stations, edition 3	May 1988
		Ship Earth Station Technical Bulletin 26A	September 1991
		Ship Earth Station Technical Bulletin 27B	October 1993
B	+34 dBW (+1/-2 dB)	TBR 44	May 1998
C	+16 dBW	TBR 26 edition 1	May 1998
D	+9 dBW	TBR 26 edition 1	
M	+28 dBW (+3/-3 dB)	TBR 44	
Mini M (phone)	+2.7 dBW	TBR 44	
M4	+26dBW	TBR 44	

### Eutelsat

Type of Eutelsat station	Maximum power (erp)	ETSI standard Date of publication
Euteltracs (Omni-tracs)	19 dBW	TBR 27 January 1998

### Italsat

Type of Italsat station	Maximum power (erp)	ETSI standard	Date of publication
EMS-PRODAT	12 dBW	TBR 26 edition 1	May 1998
EMS-MSSAT	11.5 dBW	TBR 44	May 1998

### Iridium

Must comply with the common technical regulation for Satellite Personal Communications Networks (S-PCN) Mobile Earth Stations (MESs), including hand held

earth stations, for S-PCN operating in the 1.6/2.4 GHz frequency bands under the Mobile Satellite Service (MSS).

## **ICO**

Must comply with the common technical regulation for Satellite Personal Communications Networks (S-PCN) Mobile Earth Stations (MESs), including hand held earth stations, for S-PCN operating in the 2.0 GHz frequency bands under the Mobile Satellite Service (MSS).

## **Globalstar**

Must comply with the common technical regulations for Satellite Personal Communications Network (S-PCN) Mobile Earth Stations (MESs), including hand held earth stations, for S-PCN operating in the 1.6/2.4 GHz frequency bands under the Mobile Satellite Service (MSS).

## **Schedule 4**

(Regulation 2(1))

### **SHORT RANGE DEVICES**

#### **PART I INTERPRETATION**

1. In this Schedule—

**“direct sequence spread spectrum modulation”** means a form of modulation where a combination of data to be transmitted and a known code sequence (or chip sequence) is used to directly modulate a carrier;

**“EN 300 220-1”** means the European Telecommunications Standard EN 300 220-1 published by ETSI in November 1997;

**“EN 300 328”** means the European Telecommunications Standard EN 300 328 published by ETSI in November 1994, revised and reprinted in November 1996 and amended in July 1997;

**“EN 300 330”** means the European Telecommunications Standard EN 300 330, version 1.2.2 (1999) published by ETSI in 1999;

**“I-ETS 300 422”** means the European Telecommunications Standard IETS 300 422 published by ETSI in December 1995;

**“I-ETS 300 440”** means the European Telecommunications Standard IETS 300 440 published by ETSI in December 1995 and Corrigendum issued in April 1996;

**“EN 300 674”** means the European Telecommunications Standard EN 300 674 published by ETSI in November 1998;

**“EN 300 718”** means the European Telecommunications Standard EN 300 718 published by ETSI in March 1997;

**“EN 300 761”** means the European Telecommunications Standard EN 300 761 published by ETSI in January 1998;

**“EN 300 836-1”** means the European Telecommunications Standard EN 300 836-1 published by ETSI in May 1998;

**“EN 301 091”** means the European Telecommunications Standard EN 301 091 published by ETSI in June 1998;

**“EN 301 357”** means the European Telecommunications Standard EN 301 357, version 1.2.1 (1999) published by ETSI in 1999;

**"FCC Part 15.231"** means the telecommunications standard 15.231 for short range devices, SRD

**"FCC Part 15.233"** means the telecommunications standard 15.231 for short range devices, SRD

**"FCC Part 15.235"** means the telecommunications standard 15.231 for short range devices, SRD

**"Fo"** means centre frequency;

**"frequency hopping spread spectrum modulation"** means a technique in which the transmitted signal occupies a number of frequencies in time, each for some period of time;

**"non-manufactured apparatus"** means apparatus made up from components, but which is not for retail resale;

**"prescribed apparatus"** means any station or apparatus described in Part III of this Schedule.

**"radiated level"** means the maximum level permitted, referenced to the erp, eirp or field strength as specified in Part III of this Schedule; and

**"Telemetry"**, **"Telecommand"**, **"Television"** and **"Telephony"** have the meanings given to them in the ITU Radio Regulations.

2. Where the channel spacing or channel bandwidth is defined in this Schedule the centre frequency of the first channel is at a distance of half the channel spacing from the lower frequency band edge.

## **PART II ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS**

Prescribed apparatus must—

- (a) be approved by the Commission for the purposes of these Regulations; or
- (b) be approved to the ETSI standards or FCC Part 15 Regulations referred to in Part III of this Schedule as appropriate by the Commission following type testing at a test laboratory, or otherwise complies with such standards in the case of non-manufactured apparatus used as metal detectors or model control apparatus referred to in Part III, paragraphs 13 and 20 below.

## **PART III DESCRIPTIONS OF THE RELEVANT APPARATUS**

### **General Purpose Short Range Devices**

1. Any telecommunications apparatus, which is not described elsewhere in this Schedule and which is designed or adapted so as to be capable of use within the frequency band, and at a radiated level not exceeding the maximum for such frequency band, specified in the table below—

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
49.82-49.98 MHz	10 mW erp	10 kHz	Yes	EN 300 220-1	15.231
49.82-49.98 MHz	10 mW erp	-	Yes		
433.05-434.79 MHz	10 mW erp	-	Yes (on condition that no interference is caused to other users)		

## Telemetry and Telecommand: General

### 2. Telecommunications apparatus designed or adapted for—

- (a) Telemetry and Telecommand, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;
- (b) in category iii, channel numbers 1 and 3 to 11 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);
- (c) in category iv, channel numbers 1 to 5 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);
- (d) in category v, Telemetry and Telecommand may only be used in conjunction with telephony with a non-locking push to talk key or voice operated carrier;
- (e) in category vii, the band may also be used for airborne telemetry based on 25 kHz channel spacing;
- (f) in categories viii, ix and xii, consecutive channels may be combined for increased bandwidth up to the maximum sub-band frequency allocation. The total signal bandwidth must be contained within the allocated sub-band—

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
i	26.995, 27.045, 27.095, 27.145, 27.195 MHz	1 mW erp	10 kHz	No	-	EN 300 220-1	Part 15.231
ii	40.66-40.7 MHz	10 mW erp	-	No	-		
iii	173.2-173.35 MHz	1 mW erp	12.5 kHz	No	-		
iv	173.2-173.35 MHz	1 mW erp	25 kHz	No	-		
v	173.5875, 173.6 MHz	10 mW erp	12.5 kHz	Yes	-		
vi	417.9-418.1 MHz	250 µW erp	-	No	-		
vii	433.05-434.79 MHz	10 mW erp	-	No	≤ 10%		
viii	868-868.6 MHz	25 mW erp	≤ 25 kHz	No	≤ 1%		

ix	868.7-869.2 MHz	25 mW erp	<= 25 kHz No	<= 0.1%		
x	869.3-869.4 MHz	10 mW erp	<= 25 kHz No	<= 10%		
xi	869.4-869.65 MHz	500 mW erp	<= 25 kHz No	<= 10%		
xii	869.7-870 MHz	5 mW erp	<= 25 kHz No	up to 100 %		
xiii	2400-2483.5 MHz	10 mW eirp	<= 20 MHz Yes	-	I-ETS 300 440	Part 15.235

### Telemetry and Telecommand: Industrial/Commercial.

#### 3. Telecommunications apparatus designed or adapted for-

- (a) Telemetry and Telecommand, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;
- (b) in category i, channel numbers 1 and 3 to 11 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);
- (c) in category ii, channel numbers 1 to 5 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);
- (d) in category iv, channel numbers 1 to 25, 28 to 31 and 33 to 35 are available with a channel centre frequency of 458.5 MHz + (channel bandwidth x channel number);
- (e) in category v, channel numbers 1 to 12, 14 to 15 and 17 are available with a channel centre frequency of 458.5 MHz + (channel bandwidth x channel number)-

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
i	173.2-173.35 MHz	10 mW erp	12.5 kHz	No	EN 300 220-1	Part 15.231
ii	173.2-173.35 MHz	10 mW erp	25 kHz	No		
iii	173.2-173.35 MHz	10 mW erp	-	No		
iv	458.5-458.95 MHz	500 mW erp	12.5 kHz	No		
v	458.5-458.95 MHz	500 mW erp	25 kHz	No		
vi	2445-2455 MHz	100 mW eirp	-	No	I-ETS 300 440	15.235

### Telemetry: Data buoys

4. Telecommunications apparatus designed or adapted for Telemetry in a maritime environment, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below—

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
35.3375, 35.3625, 35.3875, 35.4125, 35.4375, 35.4625 MHz	250 mW erp	25 kHz	No	EN 300 220-1	Part 15.231

## Medical and Biological Applications

### 5. Telecommunications apparatus designed or adapted for-

- (a) Telemetry and Telecommand, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;
- (b) in category ii, channel numbers 1 to 24 are available with channel centre frequency of  $173.7 \text{ MHz} + (\text{channel bandwidth} \times \text{channel number})$ ;
- (c) in category iii, channel numbers 1 to 11 are available with channel centre frequency of  $173.7 \text{ MHz} + (\text{channel bandwidth} \times \text{channel number})$ ;
- (d) in category v, for use with ultra low power active medical implants only;
- (e) in category vi and vii, channel numbers 37 to 47 are available with channel centre frequency of  $458.5 \text{ MHz} + (\text{channel bandwidth} \times \text{channel number})$ ;
- (f) in category viii and ix, channel numbers 19 to 23 are available with channel centre frequency of  $458.5 \text{ MHz} + (\text{channel bandwidth} \times \text{channel number})$ ;
- (g) in categories ii, iii, vi and viii, these bands may also be used in an airborne application for the tracking of birds-

Short Range Data Links

### 6. Telecommunications apparatus designed or adapted-

- (a) for the provision of short range data links, so as to be capable of use only within the frequency band, and at a radiated level not exceeding the maximum for such frequency band, specified in the table below and subject to the following sub-paragraph;
- (b) analogue speech is not permitted.

Category	Frequencies or frequency band	Radiated level	Channel band width	Music or speech permitted	ETSI standard	FCC Standard
i	300 kHz-30 MHz	9dB $\mu$ A/m@ 10m	-	No	EN 300 330	Part 15.213
Category	Frequencies or frequency band	Radiated level	Channel band width	Music or speech permitted	ETSI standard	FCC Standard
ii	173.7-174 MHz	10 mW erp	12.5 kHz	No	EN 300 220-1	Part 15.231
iii	173.7-174 MHz	10 mW erp	25 kHz	No		
iv	173.7-174 MHz	10 mW erp	-	No		
v	402-405 MHz	25 $\mu$ W erp	300 kHz	No		
vi	458.9625-459.1000 MHz	10 mW erp	12.5 kHz	No		
vii	458.9625-459.1000 MHz	500 mW erp	12.5 kHz	No		
viii	458.9625-459.1000 MHz	10 mW erp	25 kHz	No		
ix	458.9625-459.1000 MHz	500 mW erp	25 kHz	No		

## Equipment for the Detection of Movement or Alert

### 7. Telecommunications apparatus designed or adapted to—

- produce a radiated field and respond to a variation in that field as a result of any intrusion or movement within that field by other devices, objects or persons in order to detect or monitor the movement of such devices, objects or persons, so as to be capable of use on one or more of the frequencies within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, specified in the table below and subject to the following subparagraphs;
- in category i, this service is due to be withdrawn by 31st December 2003;
- category ii applications are for tagging and identification only;
- category iv applications are for indoor use only;
- vii applications are for use in mobile applications only, and fixed installations are not permitted.

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
i	888.0-889.0 MHz	500 mW erp	25 kHz	No	-	
ii	2445-2455 MHz	500 mW erp	-	No	I-ETS 300 440	15.235
iii	10.577-10.597 GHz	1 W erp	-	No		
iv	10.675-10.699 GHz	1 W erp	-	No		
v	13.4-14.0 GHz	500 mW erp	-	No		
vi	24.150-24.250 GHz	2 W erp	-	No		
vii	24.250-24.350 GHz	2 W erp	-	No		

## Road Transport and Traffic Telematics

### 8. Telecommunications apparatus designed or adapted to aid in the management, control or flow of transport and traffic—

- for the provision of short range data links which respond to a signal initiated by, in the case of categories i and ii below, a network operator, or by, in the case of category ii or iii, a private system used and operated by the owner or persons authorised by the owner, so as to be capable of use only within any of the frequency bands, and at a radiated level not exceeding the maximum for such frequency bands, specified in the table below-

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
	5795-5805 MHz	$\leq 2$ W eirp	-	No	-	EN 300 674	Part 15.223
	5805-5815 MHz	$\leq 2$ W eirp	-	No	-		
	5805-5815 MHz	$\leq 2$ W eirp	-	No	-	I-ETS 300 440	Part 15.235

- (b) for the provision of short range on-board vehicle radar so as to be capable of use only within the frequency band and at a radiated level not exceeding the maximum for such frequency band specified in the table below-

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
76-77 GHz	$\leq 55$ dBm peak power	-	No	-	EN 301 091	Part 15.205

## Inductive Applications

9. That part of an induction system designed or adapted to produce-

- (a) a controlled magnetic field; and  
(b) a predetermined recognisable signal when operating within that magnetic field, so as to be capable of use only within the frequency bands, and at a radiated level, not exceeding the maximum for such frequency bands specified in the table below

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
9-30 kHz	72 dB $\mu$ A/m @ 10 m	-	No	-	EN 300 330	Part 15.213
9-185 kHz	48 dB $\mu$ A/m @ 10 m	-	Yes (music not permitted)			
30-59.75 kHz	72 dB $\mu$ A/m descending 3.5 dB/octave above 30 kHz	-	No	-		
59.75-60.25 kHz	42 dB $\mu$ A/m	-	No	-		
60.25-70 kHz	72 dB $\mu$ A/m descending 3.5 dB/octave above 30 kHz	-	No	-		
70-119 kHz	42 dB $\mu$ A/m @ 10 m	-	No	-		
119-135 kHz	72 dB $\mu$ A/m descending 3.5 dB/octave above 30 kHz	-	No	-		

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
240-315 kHz	24 dB $\mu$ A/m @ 10 m	-	No	-		
2-30 MHz	-9.5 dB $\mu$ A/m @ 10 m	-	Yes (speech only)	-		
2-30 MHz	9 dB $\mu$ A/m @ 10 m	-	No	-		
6.765-6.795 MHz	42 dB $\mu$ A/m @ 10 m	-	No	-		
7.4-8.8 MHz	9 dB $\mu$ A/m @ 10 m	-	No	-		
13.533-13.587 MHz	21.5 dB $\mu$ A/m @ 10 m	-	No	-		
13.553-13.567 MHz	42 dB $\mu$ A/m @ 10 m	-	No	-		
26.957-27.283 MHz	42 dB $\mu$ A/m @ 10 m	-	No	-		

## Metal Detectors

10. That part of an induction system designed or adapted to produce—

- (a) a controlled magnetic field; and
- (b) a predetermined recognisable signal when operating within that magnetic field, so as to be capable of use only within the frequency bands, and at a radiated level, not exceeding the maximum for such frequency bands, specified in the table below—

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
9-148.5 kHz	70 dBµA/m @ 6 m	-	No	EN 300 330	Part 15.213

## Alarms

11. Telecommunications apparatus designed or adapted—

- (a) to generate or indicate an alarm condition; or
- (b) to arm or disarm the alarm system, so as to be capable of use on one or more of the frequencies within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, specified in the table below

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
868.6-868.7 MHz	10 mW erp	<= 25 kHz	No	<= 0.1%	EN 300 220-1	Part 15.209
869.250-869.3 MHz	10 mW erp	<= 25 kHz	No	<= 0.1%		
869.65-869.7 MHz	25 mW erp	<= 25 kHz	No	<= 10%		

## Social Alarms: For the elderly and infirm

12. Telecommunications apparatus designed or adapted-

- (a) to generate or indicate an alarm condition; or
- (b) to arm or disarm the alarm system, so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below-

Frequencies or frequency band	Radiated level	Channel band-width	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
27.450, 34.925, 34.950, 34.975 MHz	500 µW erp	12.5 kHz	No	-	EN 300 220-1	Part 15.209
869.2-869.25 MHz	10 mW erp	<= 25 kHz	No	<= 0.1%		

## Alarms: Vehicle paging.

13. Telecommunications apparatus designed or adapted to generate or indicate an alarm condition so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below, provided that category ii apparatus may also be used to arm or disarm the alarm system at a radiated level not exceeding 1 mW—

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
I	47.4 MHz	100 mW erp	12.5 kHz	No	EN 300 220-1	Part 15.209
II	458.90 MHz	100 mW erp	12.5 kHz	No		

**Alarms: General alarms associated with marine applications and including fixed shore installations.**

14. Telecommunications apparatus designed or adapted

- (a) to generate or indicate an alarm condition; or
- (b) to arm or disarm the alarm system, so as to be capable of use on the frequency, and at a radiated level not exceeding the maximum for such frequency, specified in the table below, including use on land for the storage or transportation of vessels –

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
161.275 MHz	10 mW erp	12.5 kHz	No	EN 300 220-1	Part 15.209

**Alarms: Mobile and transportable and lone worker safety.**

15. telecommunications apparatus designed or adapted-

- (a) to generate or indicate an alarm condition; or
- (b) to arm or disarm the alarm system,  
so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below-

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
173.1875 MHz	10 mW erp	12.5 kHz	No	EN 300 220-1	Part 15.209
458.8375 MHz	100 mW erp	12.5 kHz	No		

**Alarms: Fixed**

16. Telecommunications apparatus designed or adapted-

- (a) to generate or indicate an alarm condition; or
- (b) to arm or disarm the alarm system, so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
173.225 MHz	10 mW erp	12.5 kHz	No	EN 300 220-1	Part 15.209
173.225 MHz	10 mW erp	25 kHz	No		
458.825 MHz	100 mW erp	12.5 kHz	No		

## Model Control

### 17. Telecommunications apparatus designed or adapted-

- (a) in categories i and v, for Telecommand to control the movement of medals in general;
- (b) in category ii, for Telecommand to control the movement of airborne models only;
- (c) in category iii, for Telecommand to control the movement of models on the ground, on water or under the water;
- (d) in category iv, for Telemetry to provide data from the model, including airborne models, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
	26.96-27.28 MHz	100 mW	10 kHz	No	EN 300 220-1	Part 15.209
i	34.995-35.255 MHz	100 mW	10 kHz	No		
ii	40.66-41.00 MHz	100 mW	10 kHz	No		Part 15.231
v	433.05-434.79 MHz	10 mW	25 kHz	No		
7	458.5-459.5 MHz	100 mW	25 kHz	No		

## Radio Microphones

18. Telecommunications apparatus designed or adapted for Telephony, for the purpose of aids to project personal voice or music, so as to be capable of use on one or more of the frequencies within the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below-

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
174.6, 174.675, 174.77, 174.885, 175.02 MHz	5 mW erp	50 kHz	Yes	I-ETS 300 422	Part 15.231
173.8, 174.1, 174.5, 174.8, 175.0 MHz	2 mW erp	180 kHz	Yes		
863-865 MHz	10 mW erp	<= 200 kHz	Yes		

## Radio Hearing Aids

### 19. Telecommunications apparatus designed or adapted-

- (a) for Telephony, for the purpose of hearing aids for the handicapped, so as to be capable of use on one or more of the frequencies within the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following subparagraphs;
- (b) frequency bands in category ii may be used if frequency bands in category i are not suitable; and frequency bands in category iii may be used if category i and ii frequency bands are not suitable;
- (c) frequency bands in category iv may only be used as an alternative for radio hearing aids if frequency bands in categories i, ii and iii are unsuitable.

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
I	173.35, 173.4, 173.465, 173.545, 173.64 MHz	2 mW erp	50 kHz	Yes	I-ETS 300 422	Part 15.235
ii	173.695, 173.775, 173.825, 173.95, 173.99 MHz	2 mW erp	50 kHz	Yes		
iii	174.07, 174.12, 174.185, 174.27, 174.36, 174.415 MHz	2 mW erp	50 kHz	Yes		
iv	174.6, 174.675, 174.77, 174.885, 175.02 MHz	2 mW erp	50 kHz	Yes		

## Wireless Audio Applications

### 20. Telecommunications apparatus designed or adapted-

- (a) for telephony, for the purpose of providing a short range radio link between the audio output of a device, so as to be capable of use on one or more frequencies within the frequency band, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;

- (b) categories i and ii are for cordless headphones or cordless loudspeakers;
- (c) category iii is for cordless headphones for use in vehicles;
- (d) category iv is for cordless headphones for use with personal stereo devices;
- (e) category v is for cordless devices used for transmitting the audio output from a television receiver to a radio receiving device.

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC Standard
i	36.61-36.79 MHz 37.01-37.19 MHz	10 $\mu$ W erp	-	Yes	-	EN 300 220-1	
ii	863-865 MHz	10 mW erp	$\leq$ 300 kHz	Yes	-	EN 301 357	
iii	863-865 MHz	2 mW erp	$\leq$ 300 kHz	Yes	-		
iv	863-865 MHz	1 mW erp	$\leq$ 300 kHz	Yes	-		
v	88-108 MHz	62 mW	$\leq$ 300 kHz	Yes	-		15.201

#### Video: Close Circuit Television.

21. Telecommunications apparatus designed or adapted-

- (a) for television, so as to be capable of use only within either of the frequency bands, and at a radiated level not exceeding the maximum for such frequency bands, specified in the table below and subject to the following sub-paragraphs;
- (b) where required, associated telephony may also be used within the specified frequency band;
- (c) music and speech are only permitted when associated with the video application;
- (d) category ii may also be used for airborne use-

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
i	1394 MHz	500 mW eirp	10 MHz	Yes	I-ETS 300 440	15.235
ii	2400-2483.5 MHz	10 mW eirp	20 MHz	Yes		15.201

#### Bluetooth Devices

22. Telecommunications apparatus designed or adapted-

- (a) to connect low-cost wireless communications and networking between personal computers, mobile phones & other devices
- (b) to connect peripheral devices by wireless data transmission to a computer.

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC Standard
i	2.400-2.483 MHz	100 mW eirp	1 MHz	Yes	ETS 300 328	Part 15.247
ii	2400-2483MHz					

## WiFi Devices

23. Telecommunications apparatus designed or adapted to receive wireless Internet on laptop computers

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech or video permitted	ETSI standard	FCC Standard
i	2.400-2.483 MHz	1000 mW eirp	5 MHz	Yes		Part 15.247

## Schedule 5

(Regulation 2(1))

## PERSONAL MOBILE RADIO (PMR) 446

### PART I INTERPRETATION

In this Schedule-

“**ETS 300 446**” means the European Telecommunications Standard ETS 300 446 published by ETSI in December 1994 and revised and reprinted in March 1997; and

“**prescribed apparatus**” means the apparatus known as personal mobile radio (“PMR 446”) described in Part III of this Schedule.

### PART II ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

The prescribed apparatus shall be subject to and comply with the Common Technical Regulations in force, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus must-

- (a) be approved by the Commission for the purposes of these Regulations; or
- (b) be approved to ETS 300 446 by a Commission following type testing at a test laboratory.

### PART III DESCRIPTION OF THE PRESCRIBED APPARATUS

Personal Mobile Radio operating in the 446 MHz Band in accordance with ETS 300 [ ] 6-

Frequencies	Channel bandwidth	Maximum erp
446.00625MHz	12.5 kHz	500 mW
446.01875 MHz	12.5 kHz	500 mW
446.03125 MHz	12.5 kHz	500 mW

446.04375 MHz	12.5 kHz	500 mW
446.05625 MHz	12.5 kHz	500 mW
446.06875 MHz	12.5 kHz	500 mW
446.08125MHz	12.5 kHz	500 mW
446.09375 MHz	12.5 kHz	500 mW

## **Schedule 6**

(Regulation 2(1))

### **INFRARED DEVICES**

#### **PART I INTERPRETATION**

In this Schedule

**"Infrared-communication"** means telecommunication by electromagnetic waves of wavelengths arbitrarily between 0.7  $\mu$ m. and 1000  $\mu$ m. propagated in space without artificial guide.

#### **PART II ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS**

Unless there is a Common Technical Regulation in force in respect of the prescribed apparatus, such apparatus must be approved for the time being by the Commission for the purposes of these Regulations.

#### **PART III DESCRIPTION OF THE PRESCRIBED APPARATUS**

Infrared-communication apparatus designed or adapted for—

- (a) Emergency Service use;
- (b) Telemetry and Telecommand;
- (c) Alarms;
  - (i) to detect movement;
  - (ii) to generate or indicate an alarm condition;
  - (iii) to arm or disarm the alarm system.
- (d) Measurement;
- (e) Video, Closed Circuit Television;
- (f) Audio applications;
- (g) Short range data links, for use between two infrared devices at a maximum distance of 300m.

## **Schedule 7**

### **DIGITAL APPARATUS**

## **PART 1 INTERPRETATION**

### **1. In this Schedule**

**"Class A digital apparatus"** means an apparatus that is marketed for use in a commercial, industrial or business environment, exclusive of an apparatus which is marketed for use by the general public or is intended to be used in the home;

**"Class B digital apparatus"** means an apparatus that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments;

**"Intentional radiator"** means an apparatus that intentionally generates and emits radio frequency energy by radiation or induction;

**"Unintentional radiator"** means an apparatus or system that generates and uses timing signals or pulses at a rate in excess of 9,000 pulses (cycles) per second and uses digital techniques; inclusive of telephone equipment that uses digital techniques or any apparatus or system that generates and uses radio frequency energy for the purpose of performing data processing functions such as electronics computations, operations, transformations, recording, filing, sorting, storage, retrieval, or transfer.

## **PART II ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS**

For all exempted equipment:

1. The exemption applies to the unintentional radiators for Class A and Class B digital apparatus as well as intentional radiators.

2. The level of radiation and conducted emissions limits should be for the Class B digital apparatus.

## **PART III DESCRIPTIONS OF THE RELEVANT APPARATUS**

### **1. Unintentional radiators**

These apparatus do not intentionally generate radio frequencies emissions and include:

- (a) personal computers;
- (b) peripherals;
- (c) receivers, radios;
- (d) TV sets, and
- (e) cable TV home terminals.

### **2. Intentional Radiators**

Intentional radiators must either have a permanently attached antenna or provide a unique coupler to prevent the use of unauthorized antennas and include:

- (a) cable-locating equipment;
- (b) cordless telephones;
- (c) remote control and alarm transmitters;
- (d) field-disturbance sensors for opening doors; and
- (e) spread-spectrum systems for wideband data transmission.

### 3. Digital apparatus

These include apparatus:

- (a) operating in the 1910 - 1930 MHz frequencies bands in accordance with FCC Part 15 Subpart D.
- (b) operating in the 5.15 - 5.35 GHz, 5.47 - 5.725 GHz, and 5.725 - 5.825 GHz bands in accordance with the standards in the FCC Part 15 Subpart E.
- (c) providing access for broadband over Power Line (ABPL) apparatus operating in the 1.705-80 MHz band over medium or low voltage lines in accordance with the standards in the FCC Part 15 Subpart G.

### 4. Digital apparatus designed or adapted

- (a) exclusively for transportation vehicles;
- (b) for electronic control of power systems;
- (c) to use as an appliance such as microwave, dishwasher, or clothes dryer, with power consumption not e" 6 nW, generating emissions < 1.745 MHz and operating from AC power line; or
- (d) for use as specialised medical equipment under the supervision of a licensed health care practitioner.

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## Telecommunications (Licensing and Authorisation) Regulations – Section 73

### (Statutory Instrument 121/2008)

Statutory Instrument 121/2008 in force 29 December 2008

#### ARRANGEMENT OF REGULATIONS

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- 4. Scope of licence

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**TELECOMMUNICATIONS (LICENSING AND AUTHORISATION) REGULATIONS –  
SECTION 73**

Commencement [29 December 2008]

**PART 1  
PRELIMINARY**

**1. Citation**

These Regulations may be cited as the Telecommunications (Licensing and Authorisation) Regulations.

**2. Interpretation**

In these Regulations—

**"Act"** means the Telecommunications Act;

**"Companies Act"** means the Companies Act, Cap. 13.01;

**"class licence Type 'A' Service"** means the services listed in Schedule 1;

**"class licence Type 'B' Service"** means the services listed in Schedule 2;

**"frequency authorisation holder"** means a person to whom a Frequency Authorisation has been granted under the Act;

**"licensee"** means person to whom a licence has been granted under the Act.

## **PART 2 LICENCE SCOPE AND CLASSIFICATION**

### **3. Categories of licence**

(1) There shall be categories of licence:

- (a) an individual licence;
- (b) a class licence;
- (c) a special licence.

(2) An Individual Licence granted by the Minister in accordance with the Act authorizes a person to establish or operate a public telecommunications network or facility necessary to provide telecommunications service.

(3) A Class Licence granted by the Minister in accordance with the Act authorizes a person to:

- (a) establish or operate elements of a telecommunications network or facility that is not connected to a public network for the sole and exclusive use of that entity; or
- (b) lease or otherwise obtain telecommunications network elements like transmission capacity, switching services, ducts or fibre from other Licensees to provide telecommunication service to the public,

for the purpose of providing a Class Licence Type A or Class Licence Type B Service.

(4) A Special Licence granted by the Minister in accordance with the Act refers to any type of licence or frequency authorisation granted for a period not exceeding ten days when emergency or other exigent circumstances exist and is not subject to renewal.

(5) The Minister shall, on receipt of a recommendation from ECTEL, publish in the Gazette the telecommunications networks and services that are subject to an individual licence, a Class Licence or a Frequency Authorisation.

(6) Frequency authorisation shall be required for the operation of any network or the provision of any service that requires the use of radio spectrum.

### **4. Scope of licence**

The grant of a licence or frequency authorisation to a person does not authorise that person to own or operate any telecommunications network, or provide any telecommunications service, other than that prescribed in the licence or frequency authorisation.

**PART 3**  
**COMMISSION'S ACTION ON RECEIPT OF APPLICATIONS**

**5. Action on receipt of application**

(1) Upon receipt of an application for a licence or frequency authorisation, the Commission shall review the application for completeness.

(2) Where the application is incomplete, the Commission shall, within 7 days, notify the applicant of the further information required to process that application and that the Commission may refrain to act further until receipt of that information.

(3) Where the Commission is satisfied with the completeness of an application for an individual licence, it shall as soon as practicable, forward the application along with the supporting documents to ECTEL for review.

(4) Where the Commission is satisfied with the completeness of an application for a class licence, it shall review the application.

**PART 4**  
**INDIVIDUAL LICENCE**

**6. Application for individual licences**

(1) An application for an individual licence shall be submitted to the Commission and shall:

- (a) be in the prescribed form and contain such information and particulars as are set out in the Schedule 3; and
- (b) be accompanied by the prescribed application fee which shall be non refundable.

(2) Notwithstanding the provisions of subregulation (1)(a), an application for a submarine cable licence shall be made in accordance with the form set out in the Schedule 4.

**7. Procedure for processing individual licence**

(1) Subject to regulation 5, the Commission, upon receipt of an application for an individual licence, shall as soon as practicable forward a copy of that application with supporting information to ECTEL.

(2) ECTEL upon receipt of the application for an individual licence may consult with the Commission, members of the public, experts, industry or other persons, or adopt any other reasonable process to aid it in recommending whether or not to grant the licence to the applicant.

(3) ECTEL shall within 60 days of receipt of an application for an individual licence make a recommendation, which shall be submitted to the Commission for onward transmission to the Minister.

(4) The Commission shall forward the application to the Minister together with ECTEL's recommendations within 5 days of receipt of ECTEL's recommendation.

**8. Notice from Minister on individual licences**

(1) Upon receipt of the recommendation for an individual licence from ECTEL, the Minister shall within 21 days of receipt notify the applicant in writing of his or her decision.

(2) Where an application for an individual licence is refused the Minister shall in his or her notification to the applicant state in writing the reasons for his or her refusal.

## **PART 5 CLASS LICENCE**

### **9. Application for class licence**

An application for a class licence shall be for either a class licence Type A Service or class licence Type B Service and shall be submitted to the Commission—

- (a) in the prescribed form and contain such information and particulars as are set out in the Schedules 5 and 6 respectively; and
- (b) be accompanied by the prescribed application fee which shall be non-refundable.

### **10. Consultations on class licence application**

The Commission, upon receiving an application for a class licence, may consult with ECTEL, members of the public, experts, industry or other persons, or adopt any other reasonable process to aid it in recommending whether or not to grant the licence to the applicant.

### **11. Commission's recommendations on class licence**

(1) Subject to regulation 5, and notwithstanding regulation 10, the Commission shall, within 60 days of receipt of a class licence application forward the application to the Minister together with its recommendations.

(2) In making its recommendation to the Minister, the Commission shall take into account—

- (a) the matters set out in the application;
- (b) any submissions received during the process set out in regulation 10; and
- (c) other relevant matters.

### **12. Minister's decision on class licence**

(1) The Minister shall within 21 days of receipt of the recommendation for a class licence from the Commission, notify the applicant of his or her decision in writing.

(2) Where the application is refused, the Minister shall in his or her notification to the applicant state in writing the reasons for his or her refusal.

## **PART 6 SPECIAL LICENCE**

### **13. Application for special licence**

An application for a special licence shall be submitted in writing to the Minister and shall—

- (a) contain such information and particulars as may be necessary to process the application including the name and address of the applicant and the service being applied for; and
- (b) be accompanied by the prescribed application fee which shall be non-refundable.

## **PART 7**

### **PLIMITING THE NUMBER OF LICENCES**

#### **14. Limiting the number of licences**

Where it is proposed that the number of licences to be granted for the operation of a particular type of telecommunications network or the provision of a particular type of telecommunications service should be limited, the Commission shall, on the recommendation of ECTEL—

- (a) publish a consultative document containing reasons for the proposed limitation;
- (b) consider any representations made to it in respect of the proposed limitation;
- (c) publish a notice in the Gazette and in a local newspaper having a wide circulation stating the-
  - (i) grounds and period during which licences will be granted, and
  - (ii) reasons for proposing to limit the number of licences; and (d) undertake a periodic review of any limitation imposed on the number of licences granted.

## **PART 8**

### **PROCEDURE FOR THE TRANSFER OF LICENCE**

#### **15. Transfer of licence**

(1) A licensee wishing to transfer a licence shall apply to the Minister in writing at least 90 days prior to the proposed date of transfer, or such other period as may be determined by the Minister.

(2) The written application of the licensee and a completed application form by the proposed transferee for a licence shall be jointly submitted to the Minister who shall as soon as practicable forward the same to ECTEL, in the case of an individual licence, and to the Commission in the case of a class licence, for its evaluation in accordance with the procedures set out in these Regulations for the evaluation of the particular licence.

(3) Upon completion of its evaluation of the application ECTEL or the Commission, as the case may be, shall forward its recommendation to the Minister.

(4) The Minister acting on such advice may approve or disapprove the transfer.

(5) Where the application is refused the Minister, shall in his or her notification to the applicant, state in writing the reasons for his or her refusal.

(6) The Minister shall respond to the applicant within 21 days of receipt of a recommendation from ECTEL or the Commission as the case may be.

(7) In this Part "**transfer**" includes any method by which a licence is to be recorded in the name of another person other than the initial licensee.

#### **16. Internal restructuring or name change**

Where a transfer of a licence or frequency authorisation is required as a result of a change of name in accordance with the Companies Act and results in no change to the beneficial ownership thereof, the provisions of regulation 15 shall not apply and the licensee shall within 30 days notify the Minister of the change of name and the reasons for the change.

**PART 9**  
**FREQUENCY AUTHORISATION**

**17. Application for frequency authorisation**

An application for a frequency authorisation shall be submitted in writing to the Commission and shall—

- (a) be in the prescribed form and contain such information and particulars as are set out in the Schedule 7.
- (b) be accompanied by the prescribed application fee which shall be non-refundable.

**18. Duties of Commission on receipt of application for frequency authorisation**

Upon receipt of an application for a frequency authorization the Commission shall—

- (a) review the application; and
- (b) consult with ECTEL on that application.

**19. Recommendations of Commission for grant of frequency authorisation**

(1) Upon completion of the process under regulation 18, the Commission shall make a recommendation to the Minister.

(2) In recommending to the Minister whether the frequency authorisation should be granted or not, the Commission shall take into account:

- (a) the matters set out in the application;
- (b) any recommendations of ECTEL;
- (c) the National Spectrum Management Plan;
- (d) the Regional Spectrum Management Plan; and
- (e) other relevant matters.

(3) Subject to the provisions of regulations 4 and 5, the Commission shall make its recommendation to the Minister in writing no later than 60 days after receipt of the application.

**20. Minister's decision on frequency authorisation**

(1) The Minister shall notify the applicant in writing of his or her decision within 21 days of receipt of the recommendation from the Commission.

(2) Where the application is approved, the Minister shall grant the frequency authorisation on payment of the prescribed fee.

(3) Where the application is refused, the Minister shall, in his or her notification to the applicant, state in writing the reasons for his or her refusal.

**21. Transfer of frequency authorisation**

The provisions of Part 8 shall apply *mutatis mutandis* to the transfer of frequency authorisations.

**PART 10**  
**ENFORCEMENT OF A LICENCE OR FREQUENCY AUTHORISATION**

**22. Enforcement of licence conditions**

(1) Where the Commission is satisfied that a licensee or frequency authorisation holder is contravening or has contravened any of the provisions of these Regulations, his or her licence or frequency authorisation, the Commission shall commence an investigation for the purpose of securing compliance with the provision, regulation or condition in question.

(2) The enforcement of conditions of a licence or frequency authorisation shall be subject to the following specific regulatory principles, practices and procedures—

- (a) the Commission may begin an investigation into a complaint in the following circumstances—
  - (i) upon receipt of a complaint by anyone,
  - (ii) where indicated by matters arising from an investigation of any person as part of the Commission's performance of its duties, or
  - (iii) where the Commission obtains information by other means and that information suggests that a contravention of the licence term or condition may have occurred or is occurring,
  - (iv) of its own motion;
- (b) upon a complaint about a particular conduct, the Commission shall determine whether there is reason to suspect that there is a contravention of these regulations or a condition under the licence or frequency authorisation and if so shall proceed to investigate the complaint;
- (c) in determining whether to proceed with investigating a complaint, the Commission shall give priority to matters where—
  - (i) there has been a breach of these Regulations,
  - (ii) there has been a breach of a condition in the licence or frequency authorization,
  - (iii) there appears to be substantial damage or risk of substantial damage arising from that breach,
  - (iv) there appears to be significant public detriment;
- (d) where the Commission has determined there is reason to suspect that there is a contravention of these Regulations or any condition of a licence or frequency authorisation, the Commission shall, in writing, issue an investigation notice;
- (e) the Commission shall make the decision to issue an investigation notice after giving proper consideration to the merits of the case and deciding whether it has reason to believe that the licensee or frequency authorisation holder concerned has contravened these Regulations or a condition under the licence or frequency authorisation;
- (f) the investigation notice shall state -
  - (i) that the Commission is investigating a possible breach of these Regulations, a condition of the licence or frequency authorization,
  - (ii) the reasons for the suspicion of a contravention or breach, including any matter of fact or law which is relevant to the investigation,
  - (iii) that information is required from the licensee or frequency authorisation holder in order to proceed with the investigation;

- (g) In determining matters concerning the breach of a condition of a licence or frequency authorisation, the Commission in arriving at its decision-
  - (i) shall provide the licensee or frequency authorisation holder with an opportunity to make representation on the matter before the Commission,
  - (ii) may provide an opportunity for the public to make representation in connection with the material issues,
  - (iii) shall give consideration to the representations of the licensee or frequency authorisation holder,
  - (iv) shall, where there has been a public consultation, give consideration to the public comments received,
  - (v) shall not be bound by technicalities, legal forms or rules of evidence,
  - (vi) shall act as expeditiously as a proper consideration of the matters may allow, having regard to the need to carefully and quickly inquire into and investigate the breach and all matters affecting the merits and fair settlement of the matter,
  - (vii) may inform itself of any matter relevant to the reach in any way it thinks appropriate;
- (h) the Commission's decision and directions shall be nondiscriminatory and shall treat similarly situated parties in the same manner and on the same basis;
- (i) at any time during the investigation the Commission may issue an interim order directing the licensee or frequency authorisation holder to cease and desist from a specified conduct, if the Commission is satisfied that—
  - (i) there is prima facie evidence that the licensee or frequency authorisation holder contravened the provision of the these Regulations or a condition in the licence or frequency authorization,
  - (ii) continuation of the licensee or frequency authorization holder's conduct is likely to cause serious harm to other licensees or frequency holders, consumers or the general public,
  - (iii) the potential harm in allowing the licensee or frequency authorisation holders to continue its conduct outweighs the burden on the licensee or frequency authorization holder,
  - (iv) issuance of the order is in the public interest;
- (j) where the Commission determines that the licensee or frequency authorisation holder has contravened any of the conditions under these Regulations, the licence or frequency authorisation, the Commission after consultation with ECTEL may take any of the following enforcement actions-
  - (i) direct the licensee or frequency authorisation holder to cease engaging in the provision of the service or use of the particular frequency,
  - (ii) direct the licensee or frequency authorisation holder to take specific remedial action and provide proof to the satisfaction of the Commission that such remedial action has been undertaken,
  - (iii) refer the matter to the Director of Public Prosecutions for the instituting of criminal proceedings;
- (k) where the licensee or frequency authorisation holder fails to comply with paragraph (j) (i) and (ii) the Commission shall advise ECTEL by submitting a full report on the matter;

- (l) ECTEL, upon review of the report submitted in accordance with paragraph (k), shall make further recommendations to the Commission.

## **PART 11 GENERAL PROVISIONS**

### **23. Terms for issuance of licence**

(1) The Minister shall issue an individual licence, class licence and frequency authorisation on terms that are non-discriminatory.

(2) For the purpose of subregulation (1), an individual licence, class licence or frequency authorisation is issued on non-discriminatory terms if—

- (a) telecommunications providers of similar types of telecommunications networks or telecommunications services are treated similarly;
- (b) the licence or frequency authorisation does not favour any one telecommunications provider or class of telecommunications providers; and
- (c) the issuance of the licence or frequency authorization is likely to enhance competition in any market.

### **24. Notice to the Minister**

The holder of a licence or frequency authorisation shall notify the Minister in writing if either of the following occurs—

- (a) any of the matters forming part of the application for licence or frequency authorisation changes in a material respect;
- (b) the licensee or frequency authorisation holder enters into any agreement to merge part or all of its telecommunications activities in Saint Lucia with any person.

### **25. Revocation of licence**

(1) Where the Minister proposes to vary suspend or revoke a licence or frequency authorisation, he shall notify the licensee or frequency authorisation holder—

- (a) of the reasons for the proposed variation, suspension or revocation; and
- (b) specifying the date on which the variation, suspension or revocation is proposed to take effect, and the period within which representations on the Proposal may be made.

(2) Where the Proposal is the result of a breach of these Regulations or a term, provision or limitation of the licence or frequency authorisation the notice given to the licensee or frequency authorization holder shall state that the proposal shall be withdrawn if the breach is remedied within the period of 30 days commencing from the date of the notice.

(3) Where the licensee or frequency authorisation holder fails to remedy the breach as stated in sub-regulation (2), the Minister shall not later than 7 days after the last day for remedy by the licensee or frequency authorisation holder—

- (a) suspend the licence or frequency authorisation for a period not exceeding 3 months during which period the licensee or frequency authorisation holder shall cease all activity related to his licence or frequency authorisation and shall remedy the breach;
- (b) revoke the licence or frequency authorisation where the licensee or frequency authorisation holder fails to remedy the breach during the suspension period.

## **26. Register**

(1) The Commission shall maintain Registers at its principal office containing—

- (a) each individual licence, class licence, special licence and frequency authorisation;
- (b) the names, registered office or principal place of business of each person licensed or authorised to operate.

(2) The registers shall be open to public inspection during normal working hours and may be made available electronically or in any format, as the Commission considers appropriate.

(3) The Commission shall make copies of entries in the register available to members of the public on payment of a prescribed fee.

## **27. (*Spent*)**

## **28. Transitional provisions**

(1) Notwithstanding the revocation of the Telecommunications (Licensing and Authorisation) Regulations 2002, No. 13 licences or frequency authorisations granted under those Regulations shall remain valid.

(2) An application for a renewal of a licence or frequency authorisation issued pursuant to the Telecommunications (Licensing and Authorisation) Regulations, Cap. 8.11 shall be made in accordance with the provisions of these Regulations.

(3) An application for a licence or frequency authorisation or for the transfer of a licence or frequency authorisation made prior to the passage of these Regulations, for which a recommendation has not been made by ECTEL, or the Commission as the case may be to the Minister, shall be processed in accordance with these Regulations.

### **Schedule 1**

(Regulation 2)

#### Class Licence Type A Service

Restricted Internet Service Provider Licence  
Full Internet Service Provider Licence  
International Simple Voice Resale Licence  
Value Added Service Licence  
Audiotext Licence  
Videotext Licence

### **Schedule 2**

(Regulation 2)

#### Class Licence Type B Service

Aeronautical Mobile Radio Licence  
Aircraft Station Licence  
Amateur Radio Licence  
Citizen Band Radio Licence

Community Radio Licence  
Family Radio Licence  
Land Mobile Radio Licence  
Maritime Mobile Radio Licence  
Private Telecommunications Network Licence  
Ship Station Licence  
Short Term Telecommunications Licence

### **Schedule 3**

(Regulation 6(1)(a))

### **APPLICATION FORM FOR AN INDIVIDUAL LICENCE**

Under section 29 of the Telecommunications Act, Cap. 8.11

SAINT LUCIA

Name of Applicant.....

Type of Application    ☐ New Application

☐ Application to Modify/Amend an Existing Licence

☐ Application to Renew Licence

Please tick as appropriate

☐ Fixed Mobile Telecommunications Licence

☐ Public Mobile Telecommunication Licence

☐ Public Radio Paging Licence

**National Telecommunications Regulatory Commission**

**[Insert Address]**

**[ECTEL Member State]**

#### **Guidance Notes**

- Only one licence shall be applied for on each application form. A person wishing to apply for more than one licence shall be required to use the requisite number of forms.
- Please note that this form may also be used for an application to modify an existing licence under section 39 of the Telecommunications Act, Cap 8.11.
- [3] copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Individual Licence Application" addressed to Secretary, National Telecommunications Regulatory Commission, [Insert Address], [ECTEL Member State].
- For a renewal of licence please attach a copy of the present or existing licence to the completed application form.
- The completed application form must be accompanied by a fee of one thousand Eastern Caribbean dollars (EC\$1000) for each licence applied for, payable to the National Telecommunications Regulatory Commission, [ECTEL Member State].

- For questions or sections, which are not applicable, write or type "NOT APPLICABLE" in bold or print.
- Incomplete applications or applications with conditional statements may be summarily rejected.
- Please indicate which, if any, information provided by the applicant in this application is to be considered confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act, Cap 8.11.
- The contents of this application form do not constitute legal advice. Applicants are urged to seek independent confirmation and professional advice with respect to any matter pertaining to the telecommunications licensing regime.

## **1. Part I -THE APPLICANT**

(Please complete fully in type or block letters)

### **1.1 Contact Details**

1.1.1 Name and business address of applicant

1.1.2 Postal address (if different from above)

1.1.3 Designated contact person

1.1.4 Telephone number

1.1.5 Fax number

1.1.6 E-mail address (if available)

### **1.2. Business Details**

1.2.1 If the applicant is a company, partnership, or other body corporate please give the name(s) and private address of each of the current directors, company secretary, or partners:

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____

1.2.2 State the name under which applicant proposes to trade, and registered office address if different to above:

_____
_____
_____

1.2.3 In the case of a company or other body corporate, please provide copies of the company's/entity's articles of incorporation.

1.2.4 Address in [ECTEL Member State] for service of process or other notices (in case of overseas applicant)<sup>1</sup>

### **1.3 History of the Applicant**

1.3.1 Has the applicant ever applied for a licence or registration under any Act in [ECTEL Member State] and been refused?

[YES]

[NO]

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1.3.2 Has the applicant ever been licensed under the Telecommunications Act, Cap. 8.11?

[YES]

[NO]

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1.3.3 If the answer to question 1.3.2 is YES, has any such licence been revoked?

[YES]

[NO]

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1.3.4 Has any Affiliate of the applicant previously been granted a licence under the Telecommunications Act, Cap. 8.11 which was revoked?

Where the applicant is located overseas, the application must include an address for service of process and any other notice in [ECTEL Member State]

[YES]

[NO]

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1.3.5 Is the applicant the holder of a telecommunications licence in any other country?

[YES]

[NO]

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1.3.6 Has the applicant or any Affiliate been refused a licence mentioned in question 1.3.5 above, or had a licence revoked?

[YES]

[NO]

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1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

[YES]

[NO]

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## **2. PART II - APPLICANT'S BUSINESS AND PROPOSED NETWORK AND/OR SERVICE(S)**

### **2.1 Financial Information and Business Plan**

2.1.1 Please provide a business plan. The plan should outline any major assumptions used and should cover a period of at least [five] years. The information provided should include:

- Source of funds including amount and type of funding supported by independent confirmation as appropriate including by official letter of credit from a financial institution, or affidavit with supporting official bank statements;
- Proforma financial statements for [five] years to include balance sheet, statement of cash flow and income statements; and
- Market forecasts.

2.1.2 For a going concern, please provide Audited Financial Reports or certified financial statements for the last three years in respect of the Company on whose behalf the application is being submitted.

2.1.3 Please provide a diagrammatic representation of the applicant's group structure, including the percentage of shares held. Please indicate which affiliates have, or intend to apply for, other telecommunications licences.

2.1.4 Does the applicant have any shareholdings of over 5% in any other licensed telecommunications provider in the OECS?

[YES]

[NO]

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2.1.5 Does the applicant have any other trading activities in or outside the telecommunications market?

[YES]

[NO]

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If the answer is YES, please provide details of any arrangements made to ensure no cross-subsidization between the applicants:

- (a) telecommunications and non-telecommunications activities
- (b) wholesale and retail activities
- (c) telecommunications equipment production or supply and other telecommunications activities.

2.1.6 Please provide brief résumés of key managerial staff, indicating relevant prior experience, qualifications and other sources of expertise as appropriate, and also explain what technical resources exist to help complete plans.

2.1.7 Has any member of the applicant's managerial staff been bankrupt, or been a director of a company which has become insolvent?

[YES]

[NO]

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If the answer is YES, please attach a certified copy of the discharge.

- 2.1.8 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving dishonesty, fraud, theft or violence, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for [contravention of any law or for] any conduct involving dishonesty, fraud, theft or violence?

[YES]

[NO]

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## **2.2 Applicant's Current Activities**

Please provide answers to the following questions in relation to (a) the applicant's activities in the OECS; (b) the applicant's activities elsewhere in the Caribbean; and (c) the applicant's activities elsewhere in the world.

### **Networks**

- 2.2.1 Please provide a summary of the infrastructure that the applicant has in place, including radio-based infrastructure.
- 2.2.2 If the applicant is using radio frequency spectrum, please provide details of the frequency authorisations held, including the number of frequency authorisations and the reference number of each Frequency Authorization

### **Services**

- 2.2.3 Please provide details of the products and services being provided by the applicant and the terms (including prices) on which they are available. In particular, please provide details on the number of customers and lines installed.
- 2.2.4 Please provide details of current contracts with all classes of customers, as well as copies of all such contracts.

### **Licence obligations**

- 2.2.5 Please provide details of how the applicant currently complies with the following obligations in relation to its existing networks and/or services (where relevant):
- (a) any build-out obligations
  - (b) any public payphone obligations
  - (c) any obligations to provide access to emergency services
  - (d) any universal service obligations
  - (e) any customer obligations, including the provision of information services, quality of service obligations, and dispute resolution procedures
  - (f) any interconnection or facility-sharing obligations, including details of the cost accounting system to be adopted by the applicant in order to allow unbundling of interconnection charges and the calculation of component costs
  - (g) any leased line and resale obligations
  - (h) any privacy and confidentiality obligations
  - (i) any non-discrimination obligations

## **2.3 Applicant's Proposed Activities**

### **Networks**

- 2.3.1 Please provide a summary of the infrastructure that the applicant is planning to put in place within the next three years, including radio based infrastructure.
- 2.3.2 If the applicant is planning to use radio frequency spectrum, please indicate whether an application has been submitted for a frequency authorisation and provide details (copies may be enclosed if preferred).

### **Services**

- 2.3.3 Please provide a description of each proposed service, including details on the following:
- (a) all technical aspects of the services (including equipment)
  - (b) how access to the service is to be provided (e.g. indirect access, direct access, leased lines, etc.)
  - (c) targeted customer base, including number of customers targeted
- 2.3.4 Please provide details of any proposed supply relationships in respect of the proposed network and/or services.

### **Licence obligation**

- 2.3.5 Please provide details of how the applicant proposes to comply with the following obligations in relation to its proposed networks and/or services (where relevant):
- (a) any build-out obligations
  - (b) any public payphone obligations
  - (c) any obligations to provide access to emergency services
  - (d) any universal service obligations
  - (e) any customer obligations, including the provision of information services, quality of service obligations, and dispute resolution procedures
  - (f) any interconnection or facility-sharing obligations, including details of the cost accounting system to be adopted by the applicant in order to allow unbundling of interconnection charges and the calculation of component costs
  - (g) any leased line and resale obligations
  - (h) any privacy and confidentiality obligations
  - (i) any non-discrimination obligations

## **3. PART III - DECLARATION2**

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed:

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Full name of signatory: Post held:

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Date:

2 This declaration must be signed:

- (i) in the case of an individual, by the person in whose name the application is made;
- (ii) in the case of a sole proprietorship, by the sole proprietor, or
- (iii) in the case of a partnership, by a partner; or
- (iv) in the case of a company or other body corporate, by a director of the company or other body corporate

#### **Schedule 4**

#### **APPLICATION FOR A SUBMARINE CABLE LICENCE**

(Regulation 6 (2))

Name of Applicant \_\_\_\_\_

Type of Application      ↑ New Application  
    ↑ Application to Modify/Amend and Existing Licence  
    ↑ Application to Renew Licence

#### **National Telecommunications Regulatory Commission**

**[Insert Address]**

**[ECTEL Member State]**

#### **Guidance Notes**

- Please note that this form may also be used for an application to modify an existing licence under section 39 of the Telecommunications Act, Cap. 8.11.
- [3] copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Submarine Cable Licence Application" addressed to Secretary, National Telecommunications Regulatory Commission, [Insert Address], [ECTEL Member State].
- For a renewal of licence please attach a copy of the present or existing licence to the completed application form
- The completed application form must be accompanied by a fee of one thousand Eastern Caribbean dollars (EC\$1000) for each licensable service, payable to the National Telecommunications Regulatory Commission, [ECTEL Member State].
- For questions or sections which are not applicable, write or type "NOT APPLICABLE" in bold or print.
- Incomplete applications or applications with conditional statements may be summarily rejected
- Please indicate which, if any, information provided by the applicant in this application is to be considered confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act, Cap 8.11.
- The contents of this application form do not constitute legal advice. Applicants are urged to seek independent confirmation and professional advice with respect to any matter pertaining to the telecommunications licensing regime.

#### **1. Part I - THE APPLICANT**

(Please complete fully in type or block letters)

## **1.1 Contact Details**

1.1.1 Name and business address of applicant

1.1.2 Postal address (if different from above)

1.1.3 Designated contact person

1.1.4 Telephone number

1.1.5 Fax number

1.1.6 E-mail address (if available)

## **1.2. Business Details**

1.2.1 If the applicant is a company, partnership, or other body corporate please give the name(s) and private address of each of the current directors, company secretary, or partners:

Name

Address


1.2.2 State the name under which applicant proposes to trade, and registered office address if different to above:


1.2.3 In the case of a company or other body corporate, please provide copies of the company's/entity's articles of incorporation.

1.2.4 Address in [ECTEL Member State] for service of process or other notices (in case of overseas applicant)<sup>2</sup>

## **1.3 History of the Applicant**

1.3.1 Has the applicant ever applied for a Licence or registration under any Act in [ECTEL Member State] and been refused?

[YES]

[NO]


1.3.2 Has the applicant ever been licensed under the Telecommunications Act, Cap. 8.11?

[YES]

[NO]


1.3.3 If the answer to question 1.3.2 is YES, has any such licence been revoked?

[YES]

[NO]

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1.3.4 Has any Affiliate of the applicant previously been granted a licence under the Telecommunications Act, Cap. 8.11 which was revoked?

[YES]

[NO]

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1.3.5 Is the applicant the holder of a telecommunications licence in any other country?

[YES]

[NO]

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1.3.6 Has the applicant or any Affiliate been refused a Licence mentioned in question 1.3.5 above, or had a Licence revoked?

[YES]

[NO]

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1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

[YES]

[NO]

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## **2 PART II - APPLICANT'S BUSINESS AND PROPOSED NETWORK AND/OR SERVICE(S)**

### **2.1 Financial Information and Business Plan**

2.1.1 Please provide a business plan. The plan should outline any major assumptions used and should cover a period of at least [five] years. The information provided should include:

- (a) Sources of funding, debt levels, equity and independent confirmation as appropriate;
- (b) Financial statements/projections for [five] years to include cash flow and income statements; and
- (c) Market forecasts.

2.1.2 For a going concern please provide Audited Financial Reports including certified Income Statements and Balance Sheets for the last three years in respect of the Company on whose behalf the application is being submitted.

2.1.3 Please provide a diagrammatic representation of the applicant's group structure, including the percentage of shares held. Please indicate which affiliates have, or intend to apply for, other telecommunications licence.

2.1.4 Does the applicant have any shareholdings of over 5% in any other licensed telecommunications provider in the OECS?

[YES]

[NO]

---

---

2.1.5 Does the applicant have any other trading activities in or outside the telecommunications market?

[YES]

[NO]

---

---

If the answer is YES, please provide details of any arrangements made to ensure no cross-subsidization between the applicants:

- (a) telecommunications and non-telecommunications activities
- (b) wholesale and retail activities
- (c) telecommunications equipment production or supply and other telecommunications activities.

2.1.6 Please provide brief résumés of key managerial staff, indicating relevant prior experience, qualifications and other sources of expertise as appropriate, and also explain what technical resources exist to help complete plans.

2.1.7 Has any member of the applicant's managerial staff been bankrupt, or been a director of a company which has become insolvent?

[YES]

[NO]

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---

If the answer is YES, please attach a certified copy of the discharge.

2.1.8 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving dishonesty, fraud, theft or violence, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for [contravention of any law or for] any conduct involving dishonesty, fraud, theft or violence?

[YES]

[NO]

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### **3 PART III Technical Information**

3.1 Please provide information on:

- (a) the intended route of the cable and in the case of a terminating cable the landing points of the cable in [Contracting State]

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- (b) the technical description of each proposed cable network, including details on the following:

- (i) all technical aspects of the cable, including type, capacity and accessory equipment;
- (ii) cable route with proposed landing point(s);
- (iii) how access to the cable is to be provided (e.g. indirect access, direct access, leased lines, etc.);
- (iv) support mechanisms for the cable landing and maintenance;
- (iv) targeted customer base, including type and number of customers targeted.

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- (c) documentation indicating compliance with the requirements of the Ministry of Planning (or its equivalent)

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#### 4. PART IV - DECLARATION

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed:

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Full name of signatory: Post held:

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Date:

---

<sup>2</sup> 

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- (i) in the case of an individual, by the person in whose name the application is made;
- (ii) in the case of a sole proprietorship, by the sole proprietor, or
- (iii) in the case of a partnership, by a partner; or
- (iv) in the case of a company or other body corporate, by a director of the company or other body corporate

#### **Schedule 5**

CLASS LICENCE(S) APPLICATION FORM – TYPE A SERVICE

(Regulation 9(a))

Under section [32] of the Telecommunications Act, Cap. 8.11

[ECTEL Member State]

Name of Applicant: 

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Type of Application:     ↑ New Application

                                  ↑ Application to Modify/Amend an Existing Licence

                                  ↑ Application to Renew Licence

Please tick ( / ) the licence that is being applied for:

Value-Added Services

Internet Services Provision (1-5 Units)

Internet Services Provision (6-25 Units)

International Simple Voice Resale

Short Term (< 15 days)

Audio-text Services

Video-text Services

**National Telecommunications Regulatory Commission**

**[NTRC ADDRESS]**

**Guidance Notes**

- Three (3) completed application forms are required to be submitted for each type of licence applied for. Each application should carry an original signature.
- A non-refundable application fee of five hundred (EC\$500.00) Eastern Caribbean dollars per licence application is payable to the National Telecommunications Regulatory Commission, [ECTEL Member State].
- Applications are to be submitted in an envelope marked "Telecommunications Class Licence Application" addressed to the Secretary, National Telecommunications Regulatory Commission, [NTRC ADDRESS].
- Incomplete applications will not be accepted by the Commission
- The contents of this application form do not constitute legal advice. Applicants are urged to seek legal advice with respect to any matter pertaining to the telecommunications licensing regime.
- For questions or sections that are not applicable, write "NOT APPLICABLE" in bold or in print.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act, Cap. 8.11.

**Part I –The applicant**

**1.1 Contact Details**

Registered Business address


Postal address


Designated contact person: \_\_\_\_\_ Position: \_\_\_\_\_

Telephone number

Fax number

Email address

Website:

**1.2 Business Details**

1.2.1 State whether the applicant is a company, partnership, joint venture or other body

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- 1.2.2 If the applicant is a company, partnership, joint venture or other body please give the name(s), private address (es) and nationality of each of the current directors, company secretary, or partners:

Name & Nationality Address

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- 1.2.3 If not incorporated in [ECTEL Member State], please provide any registration number, which the Registry of Companies in [ECTEL Member State] may have issued.

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In support of 1.2.3 above, please provide certified copies of the Certificate and Memorandum of Incorporation

- 1.2.4 Address in [ECTEL Member State] for service of process or other notices (in case of overseas applicant) 1

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### 1.3 History of the Applicant

- 1.3.1 Has the applicant ever applied for a licence or registration under any Act in [ECTEL Member State]?

YES

NO

If NO, proceed to question 1.3.2

If YES, was the licence granted?

YES

NO

If YES, under what Act(s) was/were the licence(s) granted?

(Provide the details of each such licence)

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If NO, on what grounds was/were the licence(s) refused?

- 1.3.2 Has the applicant ever been licensed under the Telecommunications Act, Cap. 8.11?

YES

NO

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---

- 1.3.3 If the answer to question 1.3.2 is YES, has any such licence been revoked?

YES

NO

If YES, on what grounds was the licence revoked?

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1.3.4 Has any Affiliate of the applicant previously been granted a licence under the Telecommunications Act, Cap. 8.11, which was revoked?

YES

NO

If YES, state reasons

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---

1.3.5 Is the applicant the holder of a telecommunications licence in any other country?

YES

NO

If YES, state which other countries

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1.3.6 Has the applicant or any Affiliate been refused a telecommunications licence mentioned in question 1.3.5 in any country, or had a licence revoked?

YES

NO

If YES, state the grounds for refusal or revocation

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1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

YES

NO

If YES, state the other name of the business

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## **2. PART II - APPLICANT'S BUSINESS AND PROPOSED SERVICE(S)**

### **2.1 Financial Information and Business Plan**

2.1.1 Please provide a business plan covering a five (5) year span outlining:

2.1.2 Details of the market studies identifying the target market(s) to be served by the proposed operations, perceived market risks and proposed strategies for mitigation of risks;

2.1.3 Statement showing capital cost of the operation

2.1.4 Forecast Balance Sheets, Income Statements and Statements of Cash Flow for each of the five (5) years following the commencement of operation;

2.1.5 Detailed assumptions underlying all aspects of the projections made;

2.1.6 (Evidence of the availability of financial resources to establish and maintain the proposed service. *(Such evidence might include letters of commitment from financial institutions, and a statement of net worth supported by an affidavit/statutory declaration)*)

2.1.7 If the applicant is a going concern, please provide Approved, Audited Balance Sheets and Income Statements for the three (3) most recent years.

2.1.8 If the applicant is a member of an operating group, please provide Approved, Audited Balance Sheets and Income Statements of its parent company or consolidated group, for the three (3) most recent years.

2.1.9 Please provide a diagrammatic representation of the applicant's group structure

2.1.10 Evidence as to whether the applicant, or any of its related entities, hold more than 5% in the equity of any other licensed telecommunications provider in the OECS

YES

NO

If YES, give the name(s) of provider(s) and percentage shareholding

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2.1.11 Has any member of the applicant's managerial staff been bankrupt, or filed for bankruptcy?

YES

NO

If the answer is YES, please attach a certified copy of the discharge.

2.1.12 Has any member of the applicant's managerial staff been a director of a company, which has become insolvent or has filed bankruptcy proceedings?

YES

NO

If the answer is YES, please provide the name of the company.

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2.1.13 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving violence or dishonesty, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for contravention of any law or for any conduct involving dishonesty, fraud, theft or violence?

YES

NO

If YES, provide details

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## **2.2 Applicant's Current Activities**

2.2.1 Please provide answers to the following questions in relation to:

- (a) the applicant's activities in the OECS;
- (b) the applicant's activities elsewhere in the Caribbean; and (c) the applicant's activities elsewhere in the world.

2.2.2 Please provide a summary of any infrastructure the applicant has in place, including radio-based infrastructure.

2.2.3 If the applicant is using radio frequency spectrum, please provide details of the frequency authorisations held, including the number of frequency authorisations and the reference number of each frequency authorisation.

2.2.4 Please provide details of the products and services being provided by the applicant and the terms (including prices) on which they are available. In

particular, please provide details on the number of customers and lines installed.

2.2.5 Please provide details of current contracts with all classes of customers, as well as copies of all such contracts.

### **2.3 Applicant's Proposed Activities**

2.3.1 Please provide a summary of any infrastructure the applicant is planning to put in place within the next three (3) years, including radio-based infrastructure.

2.3.2 If the applicant is planning to use radio frequency spectrum, please indicate whether an application has been submitted for a frequency authorisation and provide details (copies may be enclosed if preferred).

2.3.3 Please provide a description of each proposed service, which schematic drawings as necessary, and including details on the following:

- (a) all technical aspects of the services (including equipment)
- (b) how access to the service is to be provided (e.g. indirect access, direct access, leased lines, etc.)
- (c) targeted customer base, including number of customers targeted

2.3.4 Please provide details of any proposed supply relationships in respect of the proposed network and/or services.

Where the applicant is located overseas, the application must include an address for service of process and any other notice in [ECTEL Member State].

<sup>2</sup> This declaration must be signed:

- (a) in the case of an individual, by the person in whose name the application is made;
- (b) in the case of a sole proprietorship, by the sole proprietor, or
- (c) in the case of a partnership, by a partner; or
- (d) in the case of a company or other body corporate, by a director, company secretary or other authorised officer signed

### **3 PART III - DECLARATION<sup>2</sup>**

(Delete the option that does NOT apply)

On behalf of the applicant, I declare that the information provided is accurate and complete in all respects.

Signed:

---

Full name signatory: Position held:

---

---

Date: \_\_\_\_\_

### **Schedule 6**

(Regulation 9(a))

### **FORM 1**

## **Class Licence(s) Application Form – Type B Service**

Under section 32 of the Telecommunications Act, Cap. 8.11

**[ECTEL Member State]**

**Name of Applicant:** \_\_\_\_\_

**Type of Application:**   ↑ New Application

                                  ↑ Application to Modify/Amend an Existing Licence

                                  ↑ Application to Renew Licence

Please tick (Ö) the licence that is being applied for:

Amateur Radio Licence

Citizen's Band Radio Licence

### **National Telecommunications Regulatory Commission**

**[NTRC Address]**

**[ECTEL Member State]**

#### **Guidance Notes**

- This application form can be used for first issue and renewal of licences.
- Three (3) copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Class Licence Application" addressed to the Secretary of the [Commission], [address]
- The completed application form must be accompanied by a fee of Twenty-five Eastern Caribbean Dollars (EC\$ 25.00), per licence, payable to the National Telecommunications Regulatory Commission, [Country]
- For renewal of licence(s), please attach a copy of the present or existing licence to completed application form.

Two (2) passport-sized photographs should be attached.

Documentary proof that applicant has passed the Radio Amateur

Examination must be enclosed.

For questions or sections that are not applicable, write "NOT APPLICABLE" in bold or in print.

Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act, Cap. 8.11.

- Applications should include schematic of the network where applicable
- Copies of technical details of equipment and approval certificates may be requested. (Photocopies of technical specifications of equipment should be attached)

#### **1. PART 1 – The Applicant**

(Please complete fully in type or block letters)

##### **1.1 Contact Details**

1.1.1 Name of applicant:

\_\_\_\_\_

1.1.2 Address of applicant:

**Home/Business Address**

**Postal Address**

\_\_\_\_\_

1.1.3 Telephone number: \_\_\_\_\_

\_\_\_\_\_

1.1.4 Fax Number: \_\_\_\_\_

1.1.5 Email address: \_\_\_\_\_

1.1.6 Date of Birth: \_\_\_\_\_ Age on last birthday: \_\_\_\_\_

1.1.7 Nationality \_\_\_\_\_

1.1.8 Registration Number of Identification Card (if applying for a renewal: \_\_\_\_\_

1.1.9 Passport Number: \_\_\_\_\_

1.1.10 Occupation: \_\_\_\_\_

## **2 PART II - Licence Details**

2.1 Select as appropriate

☐ New Licence ☐ Equipment Upgrade/Replacement

☐ Renewal ☐ Class Upgrade

☐ Visitor

2.2 Licence No.<sup>1</sup> \_\_\_\_\_

2.3 Handle/Call Sign<sup>2</sup> \_\_\_\_\_

2.4 Place of Issue: \_\_\_\_\_

2.5 Date of Issue: \_\_\_\_\_

## **3 PART III – Technical Details**

3.1 Do you own or have in your possession telecommunications equipment to engage in amateur radio operations and/or citizen band radio operations?

☐ YES

☐ NO

If YES, answer all sections within this Part. If NO, go to Part IV.

3.2 Details of Communication Equipment:

**(please attach copies of technical specifications of equipment)**

### **3.2.1 MOBILE**

(In the event that you have more than 4 (four) mobile radios please photocopy this table or request a copy from NTRC to include the additional radios.)

	1	2	3	4
Transmit Power (W)				
Band width (MHz)				
Antenna Gain (dBi)				
Polarization				
Bands to be used				
Radio Make and Model				
TX Low Frequency Limit				
TX High Frequency Limit				
RX Low Frequency Limit				
RX High Frequency Limit				

1 For Renewal of licence

2 For Renewal of licence

Ant. Make and Model				
Ant. EIRP (dBm)				
Ant. Low limit Frequency				
Ant. High limit Frequency				
Ant. Type				
Ant. Gain (dBi)				
Polarization				

### 3.2.2 BASE/FIXED STATIONS AND REPEATERS (If Applicable)

#### 3.2.2.1 Site

(Indicate at the top of the columns whether the data refers to a Base station or a Repeater)

	1	2	3	4
Base Station or Repeater				
Station Name/Location				
Longitude				
Latitude				

#### 3.2.2.2 Antenna

Ant. Make and Model				
Ant. EIRP (dBm)				
Ant. Low limit Frequency				
Ant. High limit Frequency				
Ant. Type				
Ant. Gain (dBi)				
Polarization				

#### 3.2.2.3 Equipment

(Indicate at the top of each column base station or repeater as appropriate)

Base Station/Repeater				
Make and Model				
TX Low Frequency Limit				
TX High Frequency Limit				
RX Low Frequency Limit				
RX High Frequency Limit				

#### 3.2.2.4 Station

(Indicate at top of column "base station or repeater")

Base Station/Repeater				
Station ERP				
Station TX Power				
Stations Antenna height				
Band width Frequency				
Number of Channels				

### 3.3 Additional Equipment and Supplementary Information

Details of additional equipment, especially, custom-built equipment and their purpose of use:

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**Note: For custom-built equipment, photographs may be requested.**

Please furnish any other details and supplementary information:

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#### 4 PART IV - DECLARATION<sup>3</sup>

*(Delete the option that does NOT apply)*

*(Delete the option that does NOT apply)*

On behalf of the applicant, I declare that the information provided is accurate and complete in all respects.

Signed

---

Full name of signatory:    Position held:

---

Date: \_\_\_\_\_

#### FOR OFFICIAL USE ONLY:

Examination Required:

↑ YES    ↑ NO

Examination Details (If Applicable)

Call Sign Issued:	Date:
Signed	

<sup>3</sup>This declaration must be signed:

- (a) in the case of an **individual**, by the person in whose name the application is made;
- (b) in the case of a **sole proprietorship**, by the sole proprietor, or
- (c) in the case of a **partnership**, by a partner; or
- (d) in the case of a **company or other body corporate**, by a director, company secretary or other authorized officer signed.

## FORM 2

### Class Licence(s) Application Form - Type B Service

Under section 32 of the Telecommunications Act, Cap. 8.11

[ECTEL Member State]

**Name of Applicant:** \_\_\_\_\_

**Type of Application:**   ↑ New Application

                                  ↑ Application to Modify/Amend an Existing Licence

                                  ↑ Application to Renew Licence

Please tick (Ö) the licence that is being applied for:

      ↑ Aeronautical Mobile Radio Licence

      ↑ Land Mobile Radio Licence

      ↑ Maritime Mobile Radio Licence

National Telecommunications Regulatory Commission

**[NTRC ADDRESS]**

**[ECTEL Member State]**

#### Guidance Notes

- This application form can be used for first issue and renewal of licences.
- Three (3) copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Class Licence Application" addressed to the Secretary of the [Commission], [address]
- The completed application form must be accompanied by a fee of Two Hundred Eastern Caribbean Dollars (EC\$200.00), per licence, payable to the National Telecommunications Regulatory Commission, [Country]
- For renewal of licence(s), please attach a copy of the present or existing licence to completed application form.
- For questions or sections that are not applicable, write "NOT APPLICABLE" in bold or in print.
- Please indicate which, if any, information provided by the applicant in this application is confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act 2000.
- Applications should include schematic of the network where applicable
- Copies of technical details of equipment and approval certificates may be requested. (Photocopies of technical specifications of equipment should be attached).

#### 1. PART 1 – The Applicant

(Please complete fully in type or block letters)

##### 1.1 Contact Details

1.1.1 Name and address of applicant \_\_\_\_\_

1.1.2 Address of Applicant:

***Business/Home Address***

***Postal Address:***

1.1.3 Licence No: - \_\_\_\_\_.

1.1.4 Designated contact person: \_\_\_\_\_

1.1.5 Telephone number: \_\_\_\_\_

1.1.6 Fax Number: \_\_\_\_\_

1.1.7 Email address: \_\_\_\_\_

1.1.8 Website: \_\_\_\_\_

1.1.9 State whether the licence is required for a (registered) business:

☐ YES

☐ NO

If YES answer (a) and (b) below if NO proceed to question 1.1.10

(a) State whether the applicant is a company, partnership, sole proprietorship

\_\_\_\_\_

(b) Business's registration number. *(Please supply a copy of the Business Registration Certificate and/or Certificate of Incorporation):*

\_\_\_\_\_

1.1.10 If a licence is being applied for personal use, please answer the following questions:

Date of Birth: \_\_\_\_\_ Age on last birthday: \_\_\_\_\_

Nationality \_\_\_\_\_

Registration Number of Identification Card: \_\_\_\_\_

Passport Number: \_\_\_\_\_

Occupation: \_\_\_\_\_

## **2. PART II - Licence Details**

2.1 Select as appropriate

☐ New Licence      ☐ Equipment Upgrade/Replacement

☐ Renewal

2.2 Licence No.1 \_\_\_\_\_

2.3 Place of Issue: \_\_\_\_\_

2.4 Date of Issue: \_\_\_\_\_

## **3. PART III – Technical Details**

3.1 Frequency Band:-

LF - Low Frequency      VHF - Very High Frequency

MF - Medium Frequency      UHF - Ultra High Frequency

HF - High Frequency      SHF - Super High Frequency

EHF - Extra High Frequency

3.2 Class of Station:-

Aeronautical Mobile Radio

Land Mobile Radio

Maritime Mobile Radio

### 3.3 Details of Communication Equipment:

#### 3.3.1 MOBILE

*(In the event that you have more than 4 (four) mobile radios please photocopy this table or request a copy from NTRC to include the additional radios.)*

	1	2	3	4
Transmit Power (W)				
Band width (MHz)				
Antenna Gain (dBi)				
Polarization				
No: of channels (indicate simplex or duplex)				
General Area of Use				
Radio Make and Model				
TX Low Frequency Limit				
TX High Frequency Limit				
RX Low Frequency Limit				
RX High Frequency Limit				
Ant. Make and Model				
Ant. EIRP (dBm)				
Ant. Low limit Frequency				
Ant. High limit Frequency				
Ant. Type				

#### 3.3.2 BASE/FIXED STATIONS AND REPEATERS (If Applicable)

##### 3.3.2.1 Site

**(Indicate at top of columns Base station or Repeater)**

Base Station or Repeater	1	2	3	4
Station Name/Location				
Longitude				
Latitude				

##### 3.3.2.2 Antenna

**(Indicate at top of columns Base station or Repeater)**

Base Station/Repeater				
Ant. Make and Model				
Ant. EIRP (dBm)				
Ant. Low limit Frequency				
Ant. High limit Frequency				
Ant. Type				
Ant. Gain (dBi)				
Polarization				

##### 3.3.2.3 Equipment

**(Indicate at top of columns Base station or Repeater)**

Base Station/Repeater				
Make and Model				

TX Low Frequency Limit				
TX High Frequency Limit				
RX Low Frequency Limit				
RX High Frequency Limit				

### 3.3.2.4 Station

(Indicate at top of columns Base station or Repeater)

Base Station/Repeater				
Station ERP				
Station TX Power				
Stations Antenna height				
Band width Frequency				
Number of Channels				

### 3.4 Frequencies requested

Specific Frequency/Frequencies Required: \_\_\_\_\_

Nature of Service: \_\_\_\_\_

Number of Channels Required: Simplex \_\_\_\_\_ Repeater \_\_\_\_\_

Voice: \_\_\_\_\_ VFT2: \_\_\_\_\_ Data: \_\_\_\_\_ Others: \_\_\_\_\_

Details of Communication Points:-

(If this space is not sufficient, please use extra paper to indicate the stations)

Type of Station	Location of Station or/Registration No. of Vehicle/Boat/Aircraft	Number of Units	Call Sign
Base/Fixed			
Mobile			
Portable / Handheld			
Repeater			
Any Other Equipment			

Name and address of the manufacture of Equipment:

\_\_\_\_\_  
\_\_\_\_\_

### PART IV - DECLARATION1

(Delete the option that does NOT apply)

On behalf of the applicant, I declare that the information provided is accurate and complete in all respects.

Signed \_\_\_\_\_

Full name of signatory: \_\_\_\_\_ Position held: \_\_\_\_\_

Date:- \_\_\_\_\_

\_\_\_\_\_

<sup>2</sup> VFT-Voice Frequency Telegraphy

<sup>3</sup>This declaration must be signed:

- (a) in the case of an **individual**, by the person in whose name the application is made;

- (b) in the case of a **sole proprietorship**, by the sole proprietor, or
- (c) in the case of a **partnership**, by a partner; or
- (d) in the case of a **company or other body corporate**, by a director, company secretary or other authorised officer.

### **FORM 3**

#### **Class Licence(s) Application Form – Type B Service**

Under section 32 of the Telecommunications Act, Cap. 8.11

[ECTEL Member State]

**Name of Applicant:** \_\_\_\_\_

**Type of Application:**    ☐ New Application  
    ☐ Application to Modify/Amend an Existing Licence  
    ☐ Application to Renew Licence

Please tick (Ö) the licence that is being applied for:

☐ Family Radio Service Licence

National Telecommunications Regulatory Commission

**[NTRC ADDRESS]**

#### **Guidance Notes**

This application form can be used for first issue and renewal of licences.

Three (3) copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Class Licence Application" addressed to the Secretary, National Telecommunications Regulatory Commission, [NTRC ADDRESS]

The completed application form must be accompanied by a fee of Twenty-five Eastern Caribbean Dollars (EC\$25.00), per licence, payable to the National Telecommunications Regulatory Commission, [ECTEL Member State].

For renewal of licence(s), please attach a copy of the present or existing licence to completed application form.

For questions or sections that are not applicable, write "NOT APPLICABLE" in bold or in print.

- Photocopies of the technical specifications of the equipment must be furnished.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act, Cap. 8.11.

#### **1. PART 1 – The Applicant**

(Please complete fully in type or block letters)

##### **1.1 Contact Details**

Name of applicant: \_\_\_\_\_

1.1.1 Address of applicant:

**Home/Business Address                      Postal Address**

1.1.2 Telephone number: \_\_\_\_\_

1.1.3 Fax Number: \_\_\_\_\_

1.1.4 Email address: \_\_\_\_\_

1.1.5 Date of Birth: \_\_\_\_\_ Age on last birthday: \_\_\_\_\_

1.1.6 Nationality \_\_\_\_\_

1.1.7 Registration Number of Identification Card: \_\_\_\_\_

1.1.8 Passport Number: \_\_\_\_\_

1.1.9 Occupation: \_\_\_\_\_

Make	Model	Serial No	Type Approval
			Agency Reference No

1.1.10 Number of FRS units: \_\_\_\_\_

1.1.11 Frequencies and/or number of channels on each unit:  
\_\_\_\_\_

1.1.12 Purpose for which the units will be used:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 2 PART II – Technical Details

2.1 Do you own or have in your possession telecommunications equipment to engage in amateur radio operations and/or citizen band radio operations?

↑ YES

↑ NO

If YES, answer all sections within this Part. If NO, go to Part III.

2.2 Details of Communication Equipment:

### 2.2.1 MOBILE

	1	2	3	4
Transmit Power (dBm)				
Band width (MHz)				
Antenna Gain (dBi)				
Polarization				
No: of channels (indicate simplex or duplex)				
General Area of Use				

## PART III - DECLARATION1

(Delete the option that does NOT apply)

On behalf of the applicant, I declare that the information provided is accurate and complete in all respects.

Signed \_\_\_\_\_

Full name of signatory: \_\_\_\_\_ Position held: \_\_\_\_\_

Date:- \_\_\_\_\_

\_\_\_\_\_

<sup>1</sup>This declaration must be signed:

- (a) in the case of an **individual**, by the person in whose name the application is made;
- (b) in the case of a **sole proprietorship**, by the sole proprietor, or
- (c) in the case of a **partnership**, by a partner; or
- (d) in the case of a **company or other body corporate**, by a director, company secretary or other authorized officer.

#### FORM 4

##### Class Licence(s) Application Form – Type B Service

Under section 32 of the Telecommunications Act, Cap. 8.11

[ECTEL Member State]

Name of Applicant: \_\_\_\_\_

Type of Application:     ↑ New Application  
                                  ↑ Application to Modify/Amend an Existing Licence  
                                  ↑ Application to Renew Licence

Please tick (Ö) the licence that is being applied for:

                                  ↑ Aircraft Station Radio Licence

[ECTEL Member State]

National Telecommunications Regulatory Commission

**[NTRC ADDRESS]**

#### Guidance Notes

- This application form can be used for first issue and renewal of licences.
- **Three (3) copies** of the completed application form should be submitted in an envelope clearly marked “Telecommunications Class Licence Application” addressed to the Secretary, National Telecommunications Regulatory Commission, [NTRC ADDRESS].
- The completed application form must be accompanied by a fee of Two Hundred Eastern Caribbean Dollars (EC\$200.00), per licence, payable to the National Telecommunications Regulatory Commission, [ECTEL Member State].
- For questions or sections that are not applicable, write “NOT APPLICABLE” in bold or in print.
- For renewal of licence(s), please attach the following documents to the completed application form:

A copy of the present or existing

- Aircraft Station Radio Licence,
- Equipment Installation Certificate
- Radio Operator’s Certificate
- Ship’s Registration Certificate issued by the Registrar of Ships.

#### 1. PART I – AIRCRAFT DETAILS

1.1 Name of aircraft: \_\_\_\_\_

1.2 Country of registration: \_\_\_\_\_

1.3 Name of the owner: \_\_\_\_\_

1.4 Address of owner: \_\_\_\_\_

**Home/Business Address**

**Postal Address**

1.5 Name of Agent: \_\_\_\_\_

1.6 Address of the Agent: \_\_\_\_\_

**Home/Business Address**

**Postal Address**

1.7 Name of Accounting Authority: \_\_\_\_\_

1.8 Address of Accounting Authority: \_\_\_\_\_

**Home/Business Address**

**Postal Address**

1.9 Accounting Authority Identification Code: \_\_\_\_\_

1.10 Class of aircraft: \_\_\_\_\_

1.11 Gross Tonnage: \_\_\_\_\_

1.12 Size of aircraft: \_\_\_\_\_

1.13 Distance of operation from nearest land mass: \_\_\_\_\_

## **2 PART II – DETAILS OF PRESENT AIRCRAFT STATION LICENCE**

(Certified copy of the aircraft station license should be attached)

2.1 Call Sign: \_\_\_\_\_

2.2 MMSI/DSC Number: \_\_\_\_\_

2.3 Inmarsat ID: \_\_\_\_\_

2.4 Country of Issue: \_\_\_\_\_

2.5 Country of Registration: \_\_\_\_\_

2.6 Period of Validity: \_\_\_\_\_

2.7 Public Correspondence Category: \_\_\_\_\_

2.8 Supplemental Information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3.4 Details of Radio Operator's Certificates \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **3 PART III – EQUIPMENT INSTALLATION**

(Certified copy of the installation certificate should be attached)

EQUIPMENT TYPE	MAKE & MODEL	Tx POWER (Watts)	CLASS OF EMISSION	FREQUENCY BANDS
HF Transceiver				
VHF Transceiver				
ADF Transceiver				
EPIRB				

Marker Receiver				
VHF NAV Receiver				
Glide Slope Receiver				
DME TX				
DME RX				
ATC TX				
ATC RX				
WRT – C Band				
WRT - X Band				
GPC RX				
Radio Altimeter				
Transceiver				
Other				

#### 4 PART IV - DECLARATION1

Delete the option that does NOT apply)

On behalf of the applicant, I declare that the information provided is accurate and complete in all respects.

Signed \_\_\_\_\_

Full name of signatory: \_\_\_\_\_ Position held: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

1 This declaration must be signed:

- (a) in the case of an **individual**, by the person in whose name the application is made;
- (b) in the case of a **sole proprietorship**, by the sole proprietor, or
- (c) in the case of a **partnership**, by a partner; or
- (d) in the case of a **company or other body corporate**, by a director, company secretary or other authorised officer.

#### FORM 5

##### Class Licence(s) Application Form – Type B Service

Under section 32 of the Telecommunications Act, Cap. 8.11

[ECTEL Member State]

Name of Applicant: \_\_\_\_\_

Type of Application:    ↑ New Application  
                                       ↑ Application to Modify/Amend an Existing Licence  
                                       ↑ Application to Renew Licence

Please tick ( ) the licence that is being applied for:

↑ Ship Station Radio Licence

**National Telecommunications Regulatory Commission**

**[NTRC ADDRESS]**

**Guidance Notes**

- This application form can be used for first issue and renewal of licences.
- Three (3) copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Class Licence Application" addressed to the Secretary, National Telecommunications Regulatory Commission, [NTRC ADDRESS].
- The completed application form must be accompanied by a fee of Two Hundred Eastern Caribbean Dollars (EC\$200.00), per licence, payable to the National Telecommunications Regulatory Commission, [ECTEL Member State].
- For questions or sections that are not applicable, write "NOT APPLICABLE" in bold or in print.
- For renewal of licence(s), please attach the following documents to the completed application form:

A copy of the present or existing

- Ship Station Radio License,
- Equipment Installation Certificate
- Radio Operator's Certificate
- Ship's Registration Certificate issued by the Registrar of Ships.

## 1. PART I – SHIP DETAILS

1.1 Name of ship/vessel: \_\_\_\_\_

1.2 Country of Registration: \_\_\_\_\_

1.3 Name of the owner: \_\_\_\_\_

1.4 Address of owner: \_\_\_\_\_

<b>Home/Business Address</b>	<b>Postal Address</b>
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1.5 Name of Agent: \_\_\_\_\_

1.6 Address of the Agent: \_\_\_\_\_

<b>Home/Business Address</b>	<b>Postal Address</b>
------------------------------	-----------------------

1.7 Name of Accounting Authority: \_\_\_\_\_

1.8 Address of Accounting Authority: \_\_\_\_\_

<b>Home/Business Address</b>	<b>Postal Address</b>
------------------------------	-----------------------

1.9 Accounting Authority Identification Code: \_\_\_\_\_

1.10 Class of Ship/Vessel: \_\_\_\_\_

1.11 Gross Tonnage: \_\_\_\_\_

1.12 Size of Ship/Vessel: \_\_\_\_\_

1.13 Distance of operation from nearest land mass: \_\_\_\_\_

## 2 PART II – DETAILS OF PRESENT SHIP STATION LICENCE

(Photocopy of the ship station license should be attached)

2.1 Call Sign: \_\_\_\_\_

2.2 MMSI/DSC Number: \_\_\_\_\_

2.3 Inmarsat ID: \_\_\_\_\_

2.4 Country of Issue: \_\_\_\_\_

- 2.5 Country of Registration: \_\_\_\_\_
- 2.6 Period of Validity: \_\_\_\_\_
- 2.7 Public Correspondence Category: \_\_\_\_\_
- 2.8 Supplemental Information:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 2.9 Details of Radio Operator's Certificates

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### 3 PART III – EQUIPMENT INSTALLATION

(Certified copy of the installation certificate should be attached)

EQUIPMENT TYPE	MAKE & MODEL	Tx POWER (Watts)	CLASS OF EMISSION	FREQUENCY BANDS
MF/HF				
MF/HF DSC				
VHF				
VHF DSC				
HAND VHF				
INMARSAT				
E.P.I.R.B				
RADAR				
SART				
EGC				
WATCH Rx				
GPS				
DIRECTON FINDER				
NAVTEX				
SATNAV				
OTHER				

### PART IV - DECLARATION<sup>1</sup>

(Delete the option that does NOT apply)

On behalf of the applicant, I declare that the information provided is accurate and complete in all respects.

Signed \_\_\_\_\_

Full name of signatory: \_\_\_\_\_ Position held: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

<sup>1</sup>This declaration must be signed:

- (a) in the case of an **individual**, by the person in whose name the application is made;

- (b) in the case of a **sole proprietorship**, by the sole proprietor, or
- (c) in the case of a **partnership**, by a partner; or
- (d) in the case of a **company or other body corporate**, by a director, company secretary or other authorised officer.

### **Schedule 7**

#### **APPLICATION FORM FOR A FREQUENCY AUTHORIZATION**

(Regulation 17(a))

Under section 35 of the Telecommunications Act, Cap. 8.11

**SAINT LUCIA**

Name of Applicant \_\_\_\_\_

Type of Application      ☐ New Application  
    ☐ Application to Modify/Amend and Existing Licence  
    ☐ Application to Renew Licence

#### **National Telecommunications Regulatory Commission**

**[Insert Address]**

#### **Guidance Notes**

- Three [3] copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Frequency Authorisation Application" addressed to Secretary, National Telecommunications Regulatory Commission, [ECTEL Member State].
- Please note that this form may also be used for an application to modify an existing Frequency Authorisation under section 39 of the Telecommunications Act, Cap. 8.11 or for the renewal of a Frequency Authorisation under the Telecommunications Act, Cap. 8.11.
- For a renewal of a Frequency Authorisation please attach a copy of the present or existing Frequency Authorisation to the completed application form
- The completed application form must be accompanied by a fee of [ ] Eastern Caribbean dollars (EC\$[ ]), payable to the National Telecommunications Regulatory Commission, [ECTEL Member State]. The following exceptions apply:
  - Radio/TV broadcast \$[ ]
  - Community Radio \$[ ]
  - Land Mobile \$ [ ]
  - Special licence \$ [ ]
- For questions or sections that is not applicable, write or type "NOT APPLICABLE" in bold or print.
- Please indicate which, if any, information provided by the applicant in this application is confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act, Cap. 8.11.
- The contents of this application form do not constitute legal advice. Applicants are urged to seek independent confirmation and professional advice with respect to any matter pertaining to the telecommunications licensing regime.

#### **1. PART I - THE APPLICANT**

(Please complete fully in type or block letters)

1.1 Contact Details \_\_\_\_\_

1.1.1 Name and business address of applicant \_\_\_\_\_

\_\_\_\_\_

Mailing address of applicant (if different from above) \_\_\_\_\_

\_\_\_\_\_

1.1.3 Designated contact person \_\_\_\_\_

1.1.4 Telephone number \_\_\_\_\_

1.1.5 Fax number \_\_\_\_\_

1.1.6 E-mail address (if available) \_\_\_\_\_

## 1.2 Business Details

1.2.1 If the applicant is a company, partnership, or other body please give the name(s) and private address (es) of each of the current directors, company secretary, or partners:

Name

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1.2.2 State the name under which applicant proposes to trade, and registered office address if different to above:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1.2.3 In the case of a company or other body corporate, please supply the company's registered number. If not incorporated in [ECTEL Member State], please provide any registration number, which the [companies registration office] in [ECTEL Member State] may have issued.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1.2.4 Address in [ECTEL Member State] for service of process or other notices (in case of overseas applicant)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 1.3 History of the Applicant

1.3.1 Has the applicant ever applied for a Frequency Authorisation or registration under any Act in [ECTEL Member State] and been refused?

[YES]

[NO]

---

---

1.3.2 Has the applicant ever been issued a Frequency Authorisation under the Telecommunications Act, Cap. 8.11?

[YES]

[NO]

---

---

1.3.3 If the answer to question 1.3.2 is YES, has any such Frequency Authorisation been revoked?

[YES]

[NO]

---

---

1.3.4 Has any Affiliate of the applicant previously been granted a Frequency Authorisation under the Telecommunications Act, Cap. 8.11, which was revoked

[YES]

[NO]

---

---

1.3.5 Is the applicant the holder of a frequency authorisation in any other country

[YES]

[NO]

---

---

1.3.6 Has the applicant or any Affiliate been refused a frequency authorisation mentioned in question 1.3.5 above, or had a frequency authorisation revoked?

[YES]

[NO]

---

---

1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

[YES]

[NO]

---

---

## **2. PART II - THE APPLICANT'S BUSINESS AND THE PROPOSED NETWORK AND/OR SERVICE(S)**

### **2.1 The Applicant**

2.1.1 Please provide a diagrammatic representation of the applicant's group structure, including the percentage of shares held. Please indicate which affiliates have, or intend to apply for, other telecommunications licences or frequency authorisations.

2.1.2 Does the applicant have any shareholdings of over 5% in any other licensed telecommunications provider or frequency authorization holder in the OECS?

[YES]

[NO]

---

---

2.1.3 Has any member of the applicant's managerial staff has been bankrupt, or been a director of a company which has become insolvent ?

[YES]

[NO]

---

---

If the answer is YES, please attach a certified copy of the discharge.

2.1.4 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving dishonesty, fraud, theft or violence, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for [contravention of any law or for] any conduct involving dishonesty, fraud, theft or violence?

[YES]

[NO]

---

---

## 2.2 Applicant's Current Activities

Please provide answers to the following questions in relation to (a) the applicant's activities in the OECS; (b) the applicant's activities elsewhere in the Caribbean; and (c) the applicant's activities elsewhere in the world.

### Networks

2.2.1 Please provide a summary of any radio-based infrastructure, which the applicant currently has in place.

2.2.2 Frequency authorisations held, including the number of frequency authorisations and the reference number of each frequency authorisation.

### Services

2.2.3 Please provide details of the services currently being provided by the applicant through its existing radio-based infrastructure.

### Obligations

2.2.4 Please provide details of how the applicant currently complies with any obligations in respect of harmful interference and any other emissions of electromagnetic radiation from equipment of any description.

## 2.3 Applicant's Proposed Activities

2.3.1 Radio communications Station

Please provide details of any Radio communications Station the applicant has in place, in addition to a summary of any radio-based infrastructure that the applicant is planning to put in place within the next [three] years.

#### 2.3.2 Radio communications Characteristics

- (a) Geographical location (latitude and longitude)
- (b) Type of equipment and system (including manufacturer and model number)
- (c) Radio frequency and direction of transmission [whether link applied for is uni-directional or bi-directional, and relevant transmission details?
- (d) Transmission power level (Watts or dBm)
- (e) [Preferred polarisation of emissions (i.e. vertical or horizontal)]
- (f) [Preferred equipment carrier frequency range for channel assignment]
- (g) [Whether system is intended to be duplicated]
- (h) Type of antenna, including details of antenna height
- (i) Antenna Gain (dBi)
- (j) [Call signs]
- (k) Address of location from where equipment is to be operated (if different from Radio communications Station location) (l) [Radio frequency feeder loss and hot-standby loss, rounded up to nearest dB. Any radio frequency feeder loss over 10 dB or hot-standby loss over 4 dB must be justified.]

#### 2.3.3 Is the Frequency Authorisation for which the applicant is applying to be used in relation to a satellite earth station?

[YES]

[NO]

---

---

If the answer is NO, please proceed to question 2.3.5.

#### 2.3.4 If the answer to question 2.3.3 is YES, please provide the following information:

- (a) A letter from the satellite provider, indicating the name and address of the satellite provider, indicating assigned frequencies for the proposed service and the station to be communicated with.
- (b) A copy of the manufacturer's technical specification for the transmitter, receiver and antenna.
- (c) The following information in respect of the satellite earth station Receive characteristics:
  - (i) Make and model
  - (ii) Assigned frequencies (downlink)
  - (iii) Assigned frequency band
  - (iv) Date of bringing into use
  - (v) Location of station, including country and geographic coordinates

- (vi) Class of emission
- (vii) Antenna size, antenna gain and receive G/T
- (viii) Horizontal elevation angle and min/max elevation angle
- (ix) Azimuth
- (x) Altitude (a.m.s.l)
- (xi) Polarisation
- (xii) Receive noise temperature
- (xiii) Regular hours of operation
- (xiv) Maintenance of system
- (d) The following information in respect of the satellite earth station transmitting characteristics:
  - (i) Make and model
  - (ii) Assigned frequencies (uplink)
  - (iii) Assigned frequency band
  - (iv) Proposed date of bringing into use
  - (v) Transmitter power, including saturated transmitter power and maximum radiated power
  - (vi) Antenna gain
  - (vii) Polarisation
  - (viii) Modulation (including FDM-FM, PCM/PSK, TV, and other)
  - (ix) Regular hours of operation
  - (x) Agreements with satellite provider
  - (xi) Operating satellite
  - (xii) Name of receiving earth station

### **Services**

2.3.5 Please provide a description of the service, which the applicant proposes to provide using the frequency band for which it is applying.

### **Obligations**

2.3.6 Please provide details of how the applicant proposes to comply with the obligations in the frequency authorisation [and in the Frequency Authorisation Regulations] in respect of harmful interference, and any other technical regulations in respect of emissions of electromagnetic radiation from equipment of any description.

## **3. PART III – DECLARATION2**

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed: \_\_\_\_\_

Full name of signatory: \_\_\_\_\_

Post held: \_\_\_\_\_

Date: \_\_\_\_\_

---

<sup>1</sup>Where the applicant is located overseas, the application must include an address for service of process and any other notice in [ECTEL Member State]. 2

This declaration must be signed:

- (i) in the case of an individual, by the person in whose name the application is made;
  - (ii) in the case of a sole proprietorship, by the sole proprietor; or
  - (iii) in the case of a partnership, by a partner; or
  - (iv) in the case of a company or other body corporate, by a director, company secretary or other authorized office.
- For questions or sections that is not applicable, write or type "NOT APPLICABLE" in bold or print.
  - Please indicate which, if any, information provided by the applicant in this application is confidential.
  - Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act, Cap. 8.11.
  - The contents of this application form do not constitute legal advice.

Applicants are urged to seek independent confirmation and professional advice with respect to any matter pertaining to the telecommunications licensing regime.

## **1. PART I - THE APPLICANT**

(Please complete fully in type or block letters)

1.1 Contact Details \_\_\_\_\_

1.1.1 Name and business address of applicant \_\_\_\_\_

\_\_\_\_\_

Mailing address of applicant (if different from above)

\_\_\_\_\_

\_\_\_\_\_

1.1.3 Designated contact person \_\_\_\_\_

1.1.4 Telephone number \_\_\_\_\_

1.1.5 Fax number \_\_\_\_\_

1.1.6 E-mail address (if available) \_\_\_\_\_

### **1.2 Business Details**

1.2.1 If the applicant is a company, partnership, or other body please give the name(s) and private address (es) of each of the current directors, company secretary, or partners:

Name

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1.2.2 State the name under which applicant proposes to trade, and registered office address if different to above:

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1.2.3 In the case of a company or other body corporate, please supply the company's registered number. If not incorporated in [ECTEL Member State], please provide any registration number, which the [companies registration office] in [ECTEL Member State] may have issued.

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---

1.2.4 Address in [ECTEL Member State] for service of process or other notices (in case of overseas applicant)

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---

---

### 1.3 History of the Applicant

1.3.1 Has the applicant ever applied for a Frequency Authorisation or registration under any Act in [ECTEL Member State] and been refused?

[YES]

[NO]

---

---

1.3.2 Has the applicant ever been issued a Frequency Authorisation under the Telecommunications Act, Cap. 8.11?

[YES]

[NO]

---

---

1.3.3 If the answer to question 1.3.2 is YES, has any such Frequency Authorisation been revoked?

[YES]

[NO]

---

---

1.3.4 Has any Affiliate of the applicant previously been granted a Frequency Authorisation under the Telecommunications Act, Cap. 8.11, which was revoked

[YES]

[NO]

---

---

1.3.5 Is the applicant the holder of a frequency authorisation in any other country

[YES]

[NO]

---

1.3.6 Has the applicant or any Affiliate been refused a frequency authorisation mentioned in question 1.3.5 above, or had a frequency authorisation revoked?

[YES]

[NO]

---

1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

[YES]

[NO]

---

## **2. PART II - THE APPLICANT'S BUSINESS AND THE PROPOSED NETWORK AND/OR SERVICE(S)**

### **2.1 The Applicant**

2.1.1 Please provide a diagrammatic representation of the applicant's group structure, including the percentage of shares held. Please indicate which affiliates have, or intend to apply for, other telecommunications licences or frequency authorisations.

2.1.2 Does the applicant have any shareholdings of over 5% in any other licensed telecommunications provider or frequency authorization holder in the OECS?

[YES]

[NO]

---

2.1.3 Has any member of the applicant's managerial staff has been bankrupt, or been a director of a company which has become insolvent ?

[YES]

[NO]

---

If the answer is YES, please attach a certified copy of the discharge. 2.1.4 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving dishonesty, fraud, theft or violence, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for [contravention of any law or for] any conduct involving dishonesty, fraud, theft or violence?

[YES]

[NO]

---

---

## **2.2 Applicant's Current Activities**

Please provide answers to the following questions in relation to (a) the applicant's activities in the OECS; (b) the applicant's activities elsewhere in the Caribbean; and (c) the applicant's activities elsewhere in the world.

### **Networks**

2.2.1 Please provide a summary of any radio-based infrastructure, which the applicant currently has in place.

2.2.2 Frequency authorisations held, including the number of frequency authorisations and the reference number of each frequency authorisation.

### **Services**

2.2.3 Please provide details of the services currently being provided by the applicant through its existing radio-based infrastructure.

### **Obligations**

2.2.4 Please provide details of how the applicant currently complies with any obligations in respect of harmful interference and any other emissions of electromagnetic radiation from equipment of any description.

## **2.3 Applicant's Proposed Activities**

### **2.3.1 Radio communications Station**

Please provide details of any Radio communications Station the applicant has in place, in addition to a summary of any radio-based infrastructure that the applicant is planning to put in place within the next [three] years.

### **2.3.2 Radio communications Characteristics**

- (a) Geographical location (latitude and longitude)
- (b) Type of equipment and system (including manufacturer and model number)
- (c) Radio frequency and direction of transmission [whether link applied for is uni-directional or bi-directional, and relevant transmission details?
- (d) Transmission power level (Watts or dBm)
- (e) [Preferred polarisation of emissions (i.e. vertical or horizontal)]
- (f) [Preferred equipment carrier frequency range for channel assignment]
- (g) [Whether system is intended to be duplicated]
- (h) Type of antenna, including details of antenna height
- (i) Antenna Gain (dBi)
- (j) [Call signs]
- (k) Address of location from where equipment is to be operated (if different from Radio communications Station location)
- (l) [Radio frequency feeder loss and hot-standby loss, rounded up to nearest dB. Any radio frequency feeder loss over 10 dB or hot-standby loss over 4 dB must be justified.]

2.3.3 Is the Frequency Authorisation for which the applicant is applying to be used in relation to a satellite earth station?

[YES]

[NO]

---

If the answer is NO, please proceed to question 2.3.5.

2.3.4 If the answer to question 2.3.3 is YES, please provide the following information:

- (a) A letter from the satellite provider, indicating the name and address of the satellite provider, indicating assigned frequencies for the proposed service and the station to be communicated with.
- (b) copy of the manufacturer's technical specification for the transmitter, receiver and antenna.
- (c) The following information in respect of the satellite earth station Receive characteristics:
  - (i) Make and model
  - (ii) Assigned frequencies (downlink)
  - (iii) Assigned frequency band
  - (iv) Date of bringing into use
  - (v) Location of station, including country and geographic coordinates
  - (vi) Class of emission
  - (vii) Antenna size, antenna gain and receive G/T
  - (viii) Horizontal elevation angle and min/max elevation angle
  - (ix) Azimuth
  - (x) Altitude (a.m.s.l)
  - (xi) Polarisation
  - (xii) Receive noise temperature
  - (xiii) Regular hours of operation
  - (xiv) Maintenance of system
- (d) The following information in respect of the satellite earth station transmitting characteristics:
  - (i) Make and model
  - (ii) Assigned frequencies (uplink)
  - (iii) Assigned frequency band
  - (iv) Proposed date of bringing into use
  - (v) Transmitter power, including saturated transmitter power and maximum radiated power
  - (vi) Antenna gain
  - (vii) Polarisation
  - (viii) Modulation (including FDM-FM, PCM/PSK, TV, and other)
  - (ix) Regular hours of operation

- (x) Agreements with satellite provider
- (xi) Operating satellite
- (xii) Name of receiving earth station

### **Services**

2.3.5 Please provide a description of the service, which the applicant proposes to provide using the frequency band for which it is applying.

### **Obligations**

2.3.6 Please provide details of how the applicant proposes to comply with the obligations in the frequency authorisation [and in the Frequency Authorisation Regulations] in respect of harmful interference, and any other technical regulations in respect of emissions of electromagnetic radiation from equipment of any description

## **3. PART III – DECLARATION 2**

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed: \_\_\_\_\_

Full name of signatory: \_\_\_\_\_

Position held: \_\_\_\_\_

Date: \_\_\_\_\_

1. Where the applicant is located overseas, the application must include an address for service of process and any other notice in [ECTEL Member State]. 2

This declaration must be signed:

- (i) in the case of an individual, by the person in whose name the application is made;
- (ii) in the case of a sole proprietorship, by the sole proprietor; or
- (iii) in the case of a partnership, by a partner; or
- (iv) in the case of a company or other body corporate, by a director, company secretary or other authorized office.

\_\_\_\_\_

## **Telecommunications (Dispute Resolution) Regulations – Section 73**

### **(Statutory Instrument 122/2008)**

Statutory Instrument 122/2008 in force 29 December 2008

### **ARRANGEMENT OF REGULATIONS**

#### **PART 1 PRELIMINARY**

1. Citation
2. Interpretation
3. Application

**PART 2  
DISPUTE RESOLUTION**

4. Procedure for seeking redress
5. Tracking by respondent telecommunications provider
6. Application for assistance of Commission
7. Recording and tracking by the Commission and notice to complainant
8. Restriction on Commission's assistance
9. Response by respondent telecommunications provider
10. Notice of discontinuance and liability for costs
11. Consultations with ECTEL
12. Disposition of application
13. Expeditious resolution of disputes
14. Extension of time
15. Ongoing activities of the Commission
16. Selection of alternative dispute resolution process
17. Responsibilities of alternative dispute resolution personnel
18. Duties of the Commission relating to mediation
19. Non-discrimination and transparency
20. Responsibility of parties in alternative dispute resolution process
21. Information to ECTEL
22. Burden of proof
23. Format for presentation of information
24. Continuation of service during alternative dispute resolution process
25. Issuance of dispute resolution order upon determination by Commission
26. Issuance of dispute resolution order etc. upon determination by alternative dispute resolution personnel
27. Continuation of networks during dispute
28. Dispute Resolution Orders Register
29. Content of the Dispute Resolution Orders Register
30. Access to Dispute Resolution Order Register
31. Treatment of confidentiality requests
32. Reporting by Commission

**PART 3  
COMMISSION AS A TRIBUNAL**

33. Guidelines for resolving disputes as a tribunal

**PART 4  
ARBITRATION**

34. Submitting a dispute to arbitration
35. Number of arbitrators
36. Decisions of arbitrators
37. Conduct of proceedings
38. Decisions to be in writing
39. Recording of awards

**PART 5  
COSTS**

40. Payment of costs
41. Cost structure

**PART 6  
MISCELLANEOUS**

42. Filing and service of documents
  43. Effective date of filing or service
  44. Appeals
- Schedule 1  
Schedule 2  
Schedule 3

## **PART 1 PRELIMINARY**

### **1. Citation**

These Regulations may be cited as the Telecommunications (Dispute Resolution) Regulations.

### **2. Interpretation**

(1) In these Regulations, unless the context otherwise requires—

“**Act**” means the Telecommunications Act;

“**alternative dispute resolution personnel**” means persons appointed as mediators, conciliators or arbitrators pursuant to these Regulations;

“**alternative dispute resolution process**” means the process, method or technique employed or requested pursuant to these Regulations by parties to resolve a dispute that is intended to avoid the delay, expense, formalities or complexity of a litigation and includes arbitration, conciliation mediation and tribunal hearing;

“**arbitration**” means the alternative dispute resolution process as outlined in these Regulations in which an arbitrator, or panel of arbitrators, renders a binding decision on a dispute between the parties after reviewing the arguments presented by all parties;

“**arbitration panel**” means an arbitration panel constituted in accordance with these Regulations;

“**arbitrator**” means a neutral person appointed pursuant to these Regulations, to hear the claims and arguments respecting the dispute and to render a binding decision thereon;

“**Commission**” means the National Telecommunications Regulatory Commission established pursuant to the Act;

“**Commission complaint tracking number**” means the Commission complaint tracking number assigned pursuant to regulation 7(3)(a);

“**Commission Complaint Record Register**” means the Commission Complaint Record Register maintained pursuant to regulation 7(1);

“**Commission Complaint Record Tracking System**” means the Commission Complaint Record Tracking System kept and maintained pursuant to regulation 7(2);

“**complainant**” means an aggrieved party who files a statement of complaint pursuant to regulation 4;

“**complainant telecommunications provider**” means a telecommunications provider who files a statement of complaint pursuant to regulation 4;

“**conciliation**” means the adjusting and settling of a dispute in an amicable manner as set out in the Second Schedule to these Regulations;

“**Contracting State**” means a country listed in the First Schedule;

“**disputes between members of the public and telecommunications providers**” include billing disputes, service order delays disputes and disputes respecting service;

**"disputes between telecommunications providers"** include disputes concerning interconnection, contracts, billing, service order delays and service and frequency use;

**"Dispute Resolution Order Register"** means the Dispute Resolution Order Register kept and maintained pursuant to regulation 28;

**"dispute resolution order"** means a dispute resolution order issued pursuant to regulation 25 or 26;

**"document"** includes a statement of complaint, an application or other information required pursuant to these Regulations;

**"ECTEL"** means the Eastern Caribbean Telecommunications Authority established under Article 2 of the Treaty;

**"licensee"** means a telecommunications provider who is licensed to operate a telecommunications network or provide telecommunications services within Saint Lucia;

**"litigation"** means the process of taking a dispute before a court of law where one party files a lawsuit against another party and both parties appear before the court;

**"mediation"** means a dispute resolution process in which a mediator helps parties to reach an agreement;

**"mediator"** means a neutral third person who helps parties to reach an agreement; but has no power to impose a decision on the parties;

**"Minister"** means the Minister responsible for Telecommunications;

**"notice of discontinuance"** means a notice of discontinuance pursuant to regulation 10;

**"negotiation"** means bargaining efforts by which parties attempt to resolve a dispute;

**"parties"** means the persons directly involved in a dispute or complaint under these Regulations;

**"person"** includes a body corporate or an unincorporated body;

**"Register"** means the Dispute Resolution Order Register, which the Commission keeps and maintains pursuant to regulation 28;

**"respondent telecommunications provider"** means a telecommunications provider against whom a complaint has been lodged;

**"retail customer"** means a consumer, other than a licensee, who is obliged to pay periodically or on demand for a telecommunications service;

**"statement of complaint"** means a statement of complaint submitted to the telecommunications pursuant to regulation 4;

**"telecommunications provider complaint tracking number"** means the telecommunications provider complaint tracking number assigned pursuant to regulation 5(3)(b);

**"Telecommunications Provider Complaint Record Tracking System"** means the Telecommunications Provider Complaint Record Tracking System kept and maintained pursuant to regulation 5(2);

**"Telecommunications Provider Complaint Record Register"** means the Telecommunications Provider Complaint Record Register kept and maintained pursuant to regulation 5(1);

**"Treaty"** means the Treaty establishing ECTEL signed at St. George's, Grenada on 4th of May, 2000 and includes the Treaty as amended from time to time;

**Tribunal**” means a tribunal appointed pursuant to section 17 of the Act.

(2) Except so far as the contrary intention appears, an expression used in the Act and in these Regulations, whether or not a particular meaning is assigned to the expression by the Act, has in these Regulations the same meaning as in the Act.

### **3. Application**

(1) These Regulations apply to all disputes concerning the operation of telecommunications facilities and provision of telecommunication services arising in Saint Lucia including, but not limited to, complaints initiated by—

- (a) subscribers or other members of the public against a telecommunications provider;
- (b) a licensee against another licensee;
- (c) persons using frequencies authorization.

(2) Where appropriate, references in these Regulations to the Commission include references to the staff of the Commission.

(3) Where a dispute arises between 2 telecommunications providers on matters related to a duly executed interconnection agreement or a reference interconnection offer, the parties to the dispute shall, prior to seeking redress under these Regulations, first exhaust such dispute resolution process as may be incorporated in the said interconnection agreement or reference interconnection offer.

(4) Subject to subregulation (3), where there is conflict between these Regulations and any other Regulations in relation to an issue provided for pursuant to these Regulations, these Regulations shall prevail.

## **PART 2 DISPUTE RESOLUTION**

### **4. Procedure for seeking redress**

(1) Despite the provisions of regulation 3(3), where a dispute arises between a retail customer and a telecommunications provider, or between two or more telecommunications providers, the aggrieved party, shall first seek redress from the respondent telecommunications provider, by, subject to subregulations (2) and (3), filing a statement of complaint on the respondent telecommunications provider.

(2) A statement of complaint pursuant to subregulation (1) shall be in the form prescribed in Form 1 of Schedule 3 and shall contain as much of the following information as possible—

- (a) the name, address, telephone number, e-mail and key contact information of the complainant;
- (b) where available, the name, address, telephone number, e-mail and key contact information of the respondent telecommunications provider;
- (c) a list of the disputes numbered in order so as to enable the respondent telecommunications provider to address each dispute separately;
- (d) a brief description of the basic facts surrounding each dispute;
- (e) as far as is practicable, such supporting information for each dispute; and
- (f) a statement of the desired resolution requested for each dispute.

(3) For the purpose of subregulation (1), a telecommunications provider shall make available to its retail customers the form referred prescribed as Form 1 in Schedule 3.

## **5. Tracking by respondent telecommunications provider**

(1) A telecommunications provider shall keep and maintain a Telecommunications Provider Complaint Record Register for the purpose of registering statements of complaints filed pursuant to regulation 4.

(2) A telecommunications provider shall keep and maintain a Telecommunications Provider Complaint Record Tracking System for the purpose of tracking the status of resolution of disputes between itself and its retail customers, and between itself and other telecommunications providers.

(3) Upon receipt of a statement of complaint filed pursuant to regulation 4, the respondent telecommunications provider shall—

- (a) enter the details of the statement of complaint into its Telecommunications Provider Complaint Record Register including the name and address of the complainant and the nature of the dispute and the relief sought;
- (b) assign to each statement of complaint a telecommunications provider complaint tracking number;
- (c) send, within 3 business days, a confirmation of receipt of the statement of complaint, with the telecommunications provider complaint tracking number, to the complainant;
- (d) respond to the complainant within 30 days, giving evidence of sincere or “good faith” effort to amicably resolve the dispute.

(5) A telecommunication provider shall take all reasonable steps to amicably resolve a complaint filed pursuant to sub-regulation (1) within 30 days of the date of filing of the statement of complaint.

(6) A telecommunications provider shall make monthly reports to the Commission concerning the number of statements of complaints and the nature of disputes in statements of complaints filed and the status of the resolution of such disputes.

## **6. Application for assistance of Commission**

(1) Where after 30 days of the date of filing of a statement of complaint pursuant to regulation 4, the parties have made reasonable efforts in good faith and are unable to amicably resolve the dispute for which the statement of complaint was filed, either party may, subject to subregulation (2), file an application with the Commission for assistance with the resolution of the matter.

(2) An application pursuant to subregulation (1), shall—

- (a) be in the form prescribed in Form 2 of Schedule 3;
- (b) be filed in triplicate with one copy being addressed to the Commission, the second copy to ECTEL, and the third copy to the other party to the dispute;
- (c) contain, if any, such information or evidence describing the status of any negotiation between the parties to resolve the dispute during the 30-day time limit; and
- (d) contain, if any, such information as to the form of alternative dispute resolution process preferred in the circumstances.

## **7. Recording and tracking by the Commission and notice to complainant**

(1) The Commission shall keep and maintain a Commission Complaint Record Register for the purpose of registering applications made pursuant to regulation 6.

(2) The Commission shall keep and maintain a Commission Complaint Record Tracking System for the purpose of tracking the status of resolution of disputes relating to applications made pursuant to regulation 6.

(3) Upon receipt of an application filed pursuant to regulation 6, the Commission shall—

- (a) assign a Commission complaint tracking number to the application by adding a prefix to the existing telecommunications provider complaint tracking number assigned pursuant to regulation 5(3)(b);
- (b) enter the details of the application into the Commission Complaint Record Register;
- (c) send to the complainant, telecommunications provider and ECTEL, a confirmation of receipt of the application with the Commission complaint tracking number.

## **8. Restriction on Commission's assistance**

The Commission shall not provide any assistance to parties to resolve a matter unless the Commission is satisfied that the parties have made reasonable efforts in good faith to resolve the dispute.

## **9. Response by respondent telecommunications provider**

(1) The respondent telecommunications provider shall, within 10 days or such longer period as the Commission may specify, file with the Commission a response to the application made pursuant to regulation 6(1) together with such information or evidence describing the status of any negotiation between the parties to the dispute to resolve the dispute during the 30-day time limit.

(2) Where the respondent telecommunications provider fails to file a response or request additional time within the time and the Commission considers that the application warrants investigation, the Commission may request comments from that responding party; and the responding party shall submit its comments within 10 days of receipt of that request or such longer period as the Commission may specify.

## **10. Notice of discontinuance and liability for costs**

(1) The parties to a dispute may notify the Commission by notice of discontinuance in the form prescribed in Form 3 of Schedule 3 that they wish to discontinue proceedings.

(2) Notwithstanding the provisions of subregulation (1), the parties shall be liable for all cost incurred up to the date of discontinuance.

(3) A notice of discontinuance pursuant to subregulation (1) shall be signed by all parties to the dispute.

## **11. Consultations with ECTEL**

(1) Within 15 days of receipt of an application filed pursuant to regulation 6, the Commission shall—

- (a) review the application and request such additional information from a party as may be required; and
- (b) where appropriate, consult with ECTEL as regards the best alternative dispute resolution process to resolve the dispute.

(2) Where pursuant to sub-regulation (1) the Commission consults with ECTEL, the Commission and ECTEL shall consider the resources respecting alternative dispute resolution that are available and any alternative dispute resolution process requested by the parties.

(3) If the application indicates that a serious issue has arisen or a sufficient number of complaints indicate that a policy issue has arisen, the Commission shall forward such issue and documentation to ECTEL for consideration and advice concerning impact on regional policy issues.

(4) Notwithstanding sub-regulation (3), where an application is filed pursuant to regulation 6, the Commission may submit the dispute for alternative dispute resolution by arbitration—

- (a) if the parties do not agree to mediation and request the use of the arbitration process; or
- (b) if within 60 days of the matter being submitted to the mediation process, the dispute is not resolved.

## **12. Disposition of application**

(1) In responding to an application filed pursuant to regulation 6, the Commission shall within 60 days choose any of the following actions—

- (a) direct the parties to continue negotiations;
- (b) request from a party such additional information as may be required;
- (c) issue a decision;
- (d) issue and publish an order noting a resolution and due date to be implemented;
- (e) enter the order referred to in paragraph (d) and supporting information into the Commission Complaint Record Tracking System for the necessary follow-up action;
- (f) determine that mediation is appropriate and appoint a mediator to the dispute;
- (g) determine the alternative dispute resolution technique other than mediation which is appropriate in the circumstances and appoint a qualified person to facilitate that process;
- (h) decide to operate as a tribunal to resolve the dispute; or
- (i) approve an arbitration panel to resolve the dispute.

(2) Where the Commission decides to issue a decision pursuant to subregulation (1) (c) the Commission may—

- (a) determine an application on the basis of the written documentation before it;
- (b) prior to making a determination, require further information to be furnished by one or more of the parties; or
- (c) issue such directions on procedure if it considers an oral hearing or other form of proceeding warranted.

## **13. Expeditious resolution of disputes**

(1) The Commission shall, subject to regulation 14, use its best efforts to resolve a dispute within 60 days from the date an application is filed pursuant to regulation 6.

(2) Without limiting the generality of subregulation (1), the Commission shall take steps to resolve a dispute as expeditiously as practicable having regard to—

- (a) the matters in dispute;
- (b) preserving any agreements between the parties over issues that are not in dispute; and
- (c) any time limits for resolving the dispute as set out in these Regulations.

(3) The Commission may use such alternative dispute resolution process wherever practicable in resolving a dispute, but the Commission shall in resolving any dispute endeavour to first use mediation where it is appropriate, and if within the period

referred to in subregulation (1) the dispute is not resolved by means of the alternative dispute resolution process, the Commission may subject to section 18(2) of the Act operate as a tribunal in order to resolve the dispute.

(4) Where the parties agree or the Commission decides that mediation is the appropriate alternative dispute resolution process the provisions of Part 1 of Schedule 2 to these Regulations applies.

(5) Where the parties agree that conciliation is the appropriate alternative dispute resolution process, the provisions of Part 2 of Schedule 2 applies.

(6) Where the Commission decides to operate as a tribunal, the provisions of Part III of these Regulations and Part 3 of Schedule 2 applies.

#### **14. Extension of time**

(1) Notwithstanding the provisions of these Regulations, the Commission may, on the application of a party to a dispute or by its own motion, and if the Commission determines it necessary to a fair resolution and in the best interests of the public, extend the time limit for the resolution of a dispute.

(2) The Commission shall set out—

- (a) the reasons for extending any time limit as well as the new time limit;
- (b) the actions to be taken during any extended time limit so as to encourage efficiency;
- (c) the steps to be taken if agreement is not reached within the extended time limit by means of an alternative dispute resolution process.

#### **15. Ongoing activities of the Commission**

The Commission shall—

- (a) establish a calendar or tracking process for the alternative dispute resolution process in relation to each application made pursuant to regulation 6 and notify all parties of the same;
- (b) subject to section 14 of the Act and regulations 30 and 31, make such weekly, monthly or annual report to the Minister and to ECTEL.

#### **16. Selection of alternative dispute resolution process**

Once the appropriate alternative dispute resolution process is determined after consultation pursuant to regulation 11, the Commission shall, subject to these Regulations—

- (a) appoint the appropriate mediator or arbitration panel or designate the Commission as a tribunal as the case may be;
- (b) notify the parties of the alternative dispute resolution process and personnel determined and selected;
- (c) forward the application filed pursuant to regulation 6 and other documents to the appropriate alternative dispute resolution personnel referred to in paragraph (b);
- (d) require the appropriate alternative dispute resolution personnel to establish a calendar and advise all parties; and
- (e) inform ECTEL of the calendar and process determined to be used.

#### **17. Responsibilities of alternative dispute resolution personnel**

Once appointed, the alternative dispute resolution personnel shall—

- (a) establish a process and calendar to enable resolution within 60 days;
- (b) notify all parties of the alternative dispute resolution process and calendar;
- (c) ensure that the selected alternative dispute resolution process and calendar are activated and managed in the most efficient manner possible;
- (d) request such information and resources from the Commission or ECTEL as the alternative dispute resolution personnel considers necessary for the purpose of resolving the dispute;
- (e) ensure that the parties have an opportunity to know the case to be met and to respond to it;
- (f) in the cases of the Commission, tribunal or arbitration panel, make a decision based on the evidence and mandate a fair resolution to each issue in dispute within the 60-day time limit;
- (g) record the resolution to each issue in dispute;
- (h) complete a report respecting the resolution of the dispute and file a copy thereof with the Commission and ECTEL.

## **18. Duties of the Commission relating to mediation**

(1) The Commission shall keep and maintain a list of approved mediators selected from—

- (a) retired Judges of any Commonwealth Country;
- (b) retired Magistrates of the Magistrates Court or District Court in any Contracting State;
- (c) persons recognised by the High Court in a Contracting State as being qualified in mediation;
- (d) any other person who has three years practical experience in mediation and holds qualifications recognised by ECTEL.

(2) Where mediation is used to resolve a dispute, the parties to the dispute shall, within a period specified by the Commission together select a mediator or co-mediators from the list of approved mediators kept by the Commission pursuant to regulation (1).

(3) Where the parties to the dispute agree, the parties may, within a period of time specified by the Commission, select a mediator whose name does not appear on the list of approved mediators kept by the Commission.

(4) Where the parties fail to agree to select a mediator or comediators within the specified time, the Commission may select and appoint a mediator from the approved list of mediators to carry out the mediation.

(5) The Commission shall—

- (a) provide a copy of the documentation concerning the dispute to the mediator;
- (b) establish a calendar to ensure timely resolution of issues in dispute;
- (c) advise the parties of the calendar;
- (d) ensure that a report of the resolution of the dispute is submitted to ECTEL within 30 days from the date of resolution.

(6) Where mediation is applied but the dispute is not resolved, the Commission may, on the request of either party or of its own motion, recommend such other alternative dispute resolution process and continue to track developments respecting

the resolution of that dispute and report the issues in the general statistics concerning alternative dispute resolution.

## **19. Non-discrimination and transparency**

(1) An alternative dispute resolution process including quality of process, provided pursuant to these Regulations, shall be provided to the parties on a non-discriminatory basis.

(2) Subject to section 17 of the Act and to regulations 15, 30 and 31, the details of an alternative dispute resolution process used in the resolution of a dispute pursuant to these Regulations shall be included in the final report made available to the public.

## **20. Responsibility of parties in alternative dispute resolution process**

(1) During the alternative dispute resolution process, the parties shall—

- (a) act in a responsible manner that enables resolution of the dispute within the shortest time possible without prejudicing the interests of other parties;
- (b) provide, upon request and subject to any claim for confidentiality, any additional and relevant information or document as may be required.

(2) The information provided pursuant to subregulation (1) shall be accurate and complete and furnished in a timely manner.

(3) Where the Commission finds that such information has not been provided in accordance with this regulation, the Commission may report the matter to the Director of Public Prosecutions for necessary action.

## **21. Information to ECTEL**

The Commission shall inform ECTEL on a regular basis concerning—

- (a) the nature of disputes being heard;
- (b) the alternative dispute resolution process being applied in the resolution of a dispute; and
- (c) the impact of such alternative dispute resolution process on national and regional telecommunications policies.

## **22. Burden of proof**

In an alternative dispute resolution process, save as in mediation and conciliation proceedings—

- (a) the burden of proof respecting each complaint or concern is on a balance of probabilities and rests with the party making the assertion; and
- (b) the Commission or other relevant appointed dispute resolution body shall determine the accuracy and veracity of the information presented by the parties.

## **23. Format for presentation of information**

Where in respect of the resolution of a dispute the Commission requires evidence or information in writing, the Commission may prescribe the format for presentation of such evidence or information including—

- (a) technical standards;
- (b) access charges;

- (c) area of operation;
- (d) consumer related information;
- (e) downtimes;
- (f) fault resolving procedures;
- (g) interconnection;
- (h) port charges;
- (i) quality of service; and
- (j) revenue sharing arrangements.

#### **24. Continuation of service during alternative dispute resolution process**

Notwithstanding any provision of a customer agreement, a telecommunications provider which is a party to a dispute shall not terminate its service to a subscriber or any member of the public for breach of contract or non-payment during the period of the dispute, unless specifically approved by the Commission after notice of the termination in writing to the subscriber or member of the public of not less than 7 days and an opportunity for the subscriber to be heard by the Commission.

#### **25. Issuance of dispute resolution order upon determination by Commission**

(1) Where the Commission determines an application pursuant to these Regulations, the Commission may issue a dispute resolution order—

- (a) dismissing the application;
- (b) approving the relief sought; or
- (c) approving the relief sought with such amendment or variation as it considers fit.

(2) A dispute resolution order made pursuant to sub-regulation (1) shall—

- (a) be in the form prescribed in Form 5 of the Schedule 3 to these Regulations;
- (b) specify the date within which it must be complied with; and
- (c) be binding on the parties to the dispute.

(3) The Commission shall—

- (a) register the dispute resolution order issued pursuant to this regulation in the Dispute Resolution Order Register referred to in regulation 28;
- (b) serve the dispute resolution order on the parties to the dispute; and
- (c) subsequent to service of the dispute resolution order pursuant to paragraph (b) comply with regulation 32(2).

(4) The Commission shall, subsequent to the issue of the dispute resolution order, take such action so as to verify that the proper action is taken by the appropriate party as of the date ordered by the Commission.

(5) A person who fails to comply with a dispute resolution order is liable—

- (a) in the case of a telecommunications provider, to suspension or revocation of its telecommunications licence in accordance with the Act; and
- (b) in the case of a retail customer, to termination of its telecommunication service.

## **26. Issuance of dispute resolution order etc. upon determination by alternative dispute resolution personnel**

Upon making a determination or upon receipt of a report from alternative dispute resolution personnel the Commission shall—

- (a) review the findings and recommendations;
- (b) subject to Part IV, issue a dispute resolution order based on the findings and recommendations referred to in paragraph (a);
- (c) inform ECTEL on the dispute resolution order;
- (d) serve the dispute resolution order on the parties to the dispute;
- (e) register the information into the Commission Complaint Record Tracking System; and
- (f) comply with regulation 32 (2).

## **27. Continuation of networks during dispute**

(1) Save as may be provided in any contractual arrangement between Telecommunications Providers, a dispute between parties shall not cause the partial or total disconnection of a relevant network, unless the Commission determines that such partial or total disconnection is necessary and so advises in the dispute resolution order.

(2) Where the Commission determines that partial or total disconnection of the relevant network is necessary, the Commission shall recommend and instruct the measures to be applied so as to minimise any negative effects on the users of that network or any other network.

## **28. Dispute Resolution Orders Register**

(1) The Commission shall keep and maintain a Dispute Resolution Order Register for the purpose of registering dispute resolution orders issued pursuant to these Regulations.

(2) A copy of every dispute resolution order shall be kept in the Dispute Resolution Order Register.

(3) The Dispute Resolution Order Register shall be kept and maintained by the Commission in both print form and as a database in electronic medium, and in any other form as may be prescribed by the Minister on the recommendation of ECTEL.

(4) The Dispute Resolution Order Register shall be held at the principal office of the Commission but an authenticated copy of the Register shall be provided to ECTEL.

## **29. Content of the Dispute Resolution Orders Register**

The Dispute Resolution Order Register shall be maintained in four parts as follows—

- (a) Part I containing a list of all disputes filed with the names of the parties, service areas of their operation, and the dates of the dispute resolution process, and shall be open to the public inspection;
- (b) Part II containing the supporting information and documentation provided by the parties on each issue;
- (c) Part III containing the contents of the dispute resolution order and, subject to these Regulations, related documents, which shall be open to public inspection;
- (d) Part IV containing such information or documentation which the Commission may direct to be kept confidential.

### **30. Access to Dispute Resolution Order Register**

(1) Parts I and III of the Dispute Resolution Order Register shall be open for inspection by the public on payment of the fee set out in the Telecommunications (Fees) Regulations and on the fulfillment of any other conditions as the Commission may consider just.

(2) A person seeking inspection of Part I or III of the Dispute Resolution Order Register shall apply to the officer designated by the Commission who shall—

- (a) allow inspection; and
- (b) on payment of the fee referred to in sub-regulation (1), make available extracts of the relevant portions of the Dispute Resolution Order Register.

(3) Notwithstanding subregulations (1) and (2), the Commission may, through the website maintained by it, allow access to Part I or III of the Dispute Resolution Order Register.

### **31. Treatment of confidentiality requests**

(1) In all cases of alternative dispute resolution pursuant to these Regulations including alternative dispute resolution processes such as mediation and arbitration that may not involve the Commission, a party may request that certain information provided be considered confidential.

(2) Subject to the provisions of this regulation, where in a proceeding a document is filed with the Commission, the Commission shall place the document on the public record unless the party filing the document asserts a claim of confidentiality.

(3) A party shall not be required to produce statements, information or give evidence in a proceeding unless that proceeding relates to the enforcement of this Act.

(4) A party claiming confidentiality in connection with a document shall file with the Commission an abridged version of the document, that is to say, a non-confidential description of the relevant portion of the dispute and requested resolution, to be placed on the public record or his reason for objecting to the filing of an abridged version thereof.

(5) Any claim for confidentiality made in connection with a document filed with the Commission or requested by the Commission or any party shall be accompanied by reasons therefore, and, where it is asserted that specific direct harm would be caused to the party claiming confidentiality, sufficient details shall be provided as to the nature and extent of such harm.

(6) A claim for confidentiality referred to in subregulation (5) shall be placed on the public record and a copy of such a claim shall be provided on request by any party.

(7) Where a claim for confidentiality is made in connection with a document that has not been filed by a party, the Commission may require the party to file the document and, after the document has been filed, the Commission shall review the document in confidence, and deal with it in the manner as provided in subregulation (12).

(8) A party wishing the public disclosure of a document in respect of which there is a claim for confidentiality may file with the Commission—

- (a) a request for such disclosure setting out the reasons for the disclosure including the public interest in the disclosure of the confidential information; and
- (b) any material in support of the reasons for the disclosure.

(9) A copy of a request for public disclosure of a document shall be served on the party claiming confidentiality and except where the Commission concludes that such disclosure is not required, that party will be permitted to file a reply with the Commission within ten days after the date of service of the request and shall, where a reply is filed serve a copy thereof with the party requesting disclosure.

(10) Where the Commission of its own motion requests that a document be placed on the public record, the party claiming confidentiality shall have 10 days to file a reply, unless the Commission otherwise determines.

(11) Where the Commission is of the opinion that, based on all the material before it—

- (a) no specific harm would be likely to result from disclosure; or
- (b) if any specific harm is shown, such harm is not sufficient to outweigh the public interest in disclosing, in part or in whole, the document; the document shall be placed on the public record and the Commission shall record its reason for doing so and furnish a copy of its decision to the applicant.

(12) Before making any decision not to keep requested information confidential, the Commission shall afford a hearing to the party claiming confidentiality; but such hearing may be held after the resolution of the dispute and shall not delay its timely resolution although the document for which the confidentiality claim is made may not be made public until such time as the hearing has taken place.

(13) Whenever a party requests that any part of a dispute should be kept confidential, that portion of the dispute shall remain confidential until the Commission determines the matter otherwise.

(14) Where the Commission is of the opinion that, based on all material before it, the specific direct harm likely to result from public disclosure justifies a claim for confidentiality, the Commission may order—

- (a) the document not be placed on the public record;
- (b) disclosure of an abridged version of the document; or
- (c) that the document be disclosed to parties at a hearing to be conducted in camera.

(15) The Commission may, on the request of any party to an interconnection agreement, direct that any part of the dispute resolution process be kept confidential.

## **32. Reporting by Commission**

(1) The Commission shall place the details of a dispute and such information respecting the resolution of the dispute in the appropriate weekly, monthly, quarterly or annual report to—

- (a) the Minister;
- (b) ECTEL;
- (c) the public;
- (d) telecommunications providers.

(2) Notwithstanding subregulation (1), the Commission shall in disputes between telecommunications providers, make the dispute resolution order pursuant to regulations 25 or 26 available to the public by notice published in the *Gazette* and by such other means as the Commission may consider appropriate, within ten days of the service of the dispute resolution order on the parties to the dispute pursuant to regulation 25 or 26.

## **PART 3 COMMISSION AS A TRIBUNAL**

### **33. Guidelines for resolving disputes as a tribunal**

(1) Where the Commission establishes itself as a tribunal respecting the resolution of a dispute the Commission shall, within ten days of the receipt of all materials

submitted to it by the parties, review such materials and notify the parties of its findings.

(2) The findings of the Commission pursuant to subregulation (1) shall include any immediate decision, calendar established for the proceedings and any other recommendations respecting the resolution of the dispute.

(3) Where the Commission establishes itself as a tribunal respecting the resolution of a dispute, the Commission shall, in exercising its duties as a tribunal, take into account the—

- (a) the interest of all parties to the dispute;
- (b) interests of the users as well as the interest of telecommunications providers;
- (c) public interest;
- (d) regulatory obligations or constraints imposed on any of the parties to the dispute;
- (e) any other relevant matter.

(4) Despite subregulation (2) herein where the Commission operates as a tribunal, the provisions of Part 3 of Schedule 2 shall apply.

## **PART 4 ARBITRATION**

### **34. Submitting a dispute to arbitration**

Where a dispute arises between parties to which these Regulations apply, the parties may:

- (a) by instrument in writing agree to submit their dispute to arbitration; or
- (b) be directed to arbitration by the Commission.

### **35. Number of arbitrators**

The parties to an arbitration agreement may determine the number of arbitrators to be appointed, but where no such determination is made the number of arbitrators shall be 3.

### **36. Decisions of arbitrators**

In arbitration proceedings comprising three arbitrators, unless otherwise agreed by the parties, any decision of the arbitration panel shall be by majority of all its members.

### **37. Conduct of proceedings**

(1) The parties to a dispute shall determine the procedure for the conduct of arbitration proceedings.

(2) Where the parties fail to agree on their procedure Part 4 of Schedule 2 shall apply.

### **38. Decisions to be in writing**

(1) An award made by an arbitration panel shall be in writing and signed by the arbitrator or arbitrators.

(2) Where the arbitration panel comprises of more than one arbitrator, the signatures of a majority of all the members of the arbitration panel shall suffice if the reason for the absence of any signature is stated.

(3) The arbitration panel shall state on the award:

- (a) the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms;
- (b) the date it was made;
- (c) the place where the arbitration took place.

(4) A copy of the award made and signed by the arbitrators in accordance with subregulations (1) and (2) shall be delivered to the parties to the dispute and the Commission.

### **39. Recording of awards**

The Commission shall record the details of the award in the Dispute Resolution Order Register.

## **PART 5 COSTS**

### **40. Payment of costs**

Except as otherwise provided, the Commission, a tribunal or ECTEL as the case may be, may, on an application by a party or of its own motion, make an order as to costs of any matter or proceedings or part thereof before it.

### **41. Cost structure**

(1) Except as otherwise provided, the costs of alternative dispute resolution shall include—

- (a) costs of filing;
- (b) costs of the Commission mediator, conciliator or arbitrator;
- (c) costs of copying or documenting the dispute;
- (d) expenses of witnesses;
- (e) administrative costs arising out of the investigation of the dispute; and
- (f) such other costs as the Commission, a tribunal or ECTEL as the case may be, considers fair and reasonable.

(2) In deciding what would be reasonable, the Commission shall take into account all the circumstances respecting the matter, including—

- (a) the care, speed and accuracy with which the matter was prepared;
- (b) the conduct of the parties before as well as during the proceedings; and
- (c) the manner in which the parties pursued –
  - (i) a particular allegation,
  - (ii) a particular issue,
  - (iii) the dispute as a whole.

**PART 6  
MISCELLANEOUS**

**42. Filing and service of documents**

A document may be filed or served in any one of the following ways—

- (a) by delivering it personally;
- (b) by courier service;
- (c) by e-mail;
- (d) facsimile service; or
- (e) by regular postal mail.

**43. Effective date of filing or service**

(1) Where a document is couriered or posted, the filing or service date of the document shall be the date on which the document is couriered or posted as determined by the date of the post office stamp or courier stamp affixed to a proof of posting or proof of courier.

(2) Despite subregulation (1), a document pursuant to this Part is filed or served on the day when it is received at the office of the party to whom it is directed, or if it is received outside of normal business hours, on the next business day in which that office is open.

**44. Appeals**

(1) An appeal against a decision made under Part 4 shall lie to the Court of Appeal at the instance of any party with respect to whom the decision was made and the appeal shall be made within six weeks after the date of service of a copy of the decision on that party.

(2) An appeal against a decision made under Part 4 shall lie to the High Court at the instance of any party with respect to whom the decision was made and the appeal shall be made within 6 weeks after the date of service of a copy of the decision on that party.

**Schedule 1**

(Regulation 2)

1. The Commonwealth of Contracting State Dominica;
2. Grenada;
3. Saint Christopher and Nevis;
4. Saint Lucia; and
5. Saint Vincent and the Grenadines.

**Schedule 2**

(Regulations 13 and 37)

**PART 1**

**Mediation**

1. Mediation is a private, informal alternative dispute resolution process by which the parties with the assistance of a neutral third party called a mediator try to reach a voluntary agreement on the matter in dispute and to end the conflict.
2. Mediation is justifiable when:
  - (a) here is a written agreement to submit conflicts to mediation;
  - (b) At least one of the parties requests mediation;
  - (c) notwithstanding sincere or "good faith" effort to amicably resolve the dispute the parties have failed to arrive at an amicable settlement.
3. The parties may agree to exclude or vary these paragraphs at any time.
4. (1) A mediator may be selected in any of the following ways:
  - (a) The parties to the dispute agree on the name of a sole mediator to mediating between them; or
  - (b) Where the parties are unable to agree on a sole mediator each party shall nominate a mediator. These mediators shall act as co-mediators during the mediation proceedings; or
  - (c) In the event that a mediator is not selected in accordance with paragraph (a) or (b) the Commission shall select a Mediator (2) Once selected, the Commission shall appoint the Mediator.
5. (1) The Commission shall for the purpose of appointing mediators between parties in disputes prepare a list of mediators and first publish the same in the *Gazette* within 90 days of the coming into force of these Regulations.
  - (2) The Commission shall, from time to time, revise the list and shall no later than March 31st of each year publish the list of approved mediators.
  - (3) The consent of the persons whose names are included in the panel shall be obtained before being included on the list.
  - (4) The list of names shall contain a detailed annexure giving details of the qualifications of the mediators and their professional or technical experience.
6. (1) Notwithstanding the provisions of paragraphs 4 and 5 herein the parties to a dispute may select a mediator(s) whose name (s) do not appear on the list published by the Commission.
  - (2) Where such a selection is made the parties shall notify the Commission in writing of the name(s) of the mediator(s) and shall submit the qualifications such person(s) to the Commission.
  - (3) The notification to the Commission shall be signed by all parties to the dispute.
7. The following persons shall be treated as qualified and eligible for being enlisted in the panel of mediators under paragraph 4, namely:
  - (a) retired Judges of any Commonwealth Country;
  - (b) retired Magistrates of the Magistrates Court in any Contracting State;
  - (c) persons recognised by the High Court in any Contracting State as being qualified in mediation;
  - (d) any other person who has 3 years practical experience in mediation and holds qualifications recognised by ECTEL.
8. A person whose name has been included in the list referred to in paragraph 5 may be removed or his or her name may be deleted by the Commission which appointed him or her if:

- (a) he or she resigns or withdraws his name from the list for any reason;
  - (b) he or she dies;
  - (c) he or she is declared insolvent or bankrupt by any court of competent jurisdiction or is declared of unsound mind;
  - (d) he or she exhibits or displays conduct, during the continuance of the mediation proceedings, which is unbecoming of a mediator;
  - (e) the Commission which appointed, upon receipt of information, if it is satisfied, after conducting such inquiry it deems fit, is of the view, that it is not possible or desirable to continue the name of that person in the panel, provided that, before removing or deleting his or her name, under paragraphs (c) and (d) the Commission shall hear the mediator whose name it is proposed to be removed or deleted from the list and shall pass a reasoned order.
9. (1) The parties may agree on the procedure to be followed by the mediator in the conduct of the mediation proceedings.
- (2) Where the parties do not agree on any particular procedure to be followed by the mediator, the mediator shall follow the procedure hereinafter mentioned, namely:
- (a) he or she shall fix, in consultation with the parties, a time schedule, the dates and time of each mediation session, where all the parties must to be present;
  - (b) he or she shall determine the place of the mediation after consultation with the parties;
  - (c) each party shall, 14 days before the first session, provide to the mediator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position with respect to those issues and all information reasonably required for the mediator to understand the issue. Such memoranda shall also be mutually exchanged between the parties;
  - (d) each party shall furnish to the mediator such other information as may be required by him or her in connection with the issues to be resolved.
- (3) Where there is more than one mediator, the mediator nominated by each party shall first confer with the party that nominated him or her and shall thereafter interact with the other mediators, with a view to resolving disputes.
10. The mediator shall not be bound by the Civil Procedure Rules, Code of Civil Procedure or the Evidence Act, but shall be guided by principles of fairness and justice, having regard to the rights and obligations of the parties, the potential impact on the telecommunications sector and the circumstances of the disputes.
11. (1) The parties to a dispute shall be present personally or through their legal counsel or power of attorney holders at the meeting or sessions notified by the mediator.
- (2) If a party or its appointed legal counsel or power of attorney fails to attend a session or a meeting notified by a mediator, other parties or the mediator can request the Commission to issue appropriate directions to that party to attend before the mediator, if the Commission finds that that party is absenting himself or herself before the mediator without sufficient reason, the Commission may make such determination as meets the justice of the case.
12. In order to facilitate the conduct of the mediation proceedings the Commission shall provide required administrative assistance.

13. Any party to a dispute may at any stage in the meetings or sessions make a "without prejudice" or "a conditional" offer of settlement to the other party with or without notice to the mediator.
14. Where parties to a dispute arrive at a settlement after mediation proceedings have commenced but outside the mediation sessions, the parties may still be liable for the costs of the mediator and the mediation proceedings.
15. The role of the mediator shall be to attempt to facilitate voluntary resolution of the dispute between the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to resolve the dispute, emphasising that it is the responsibility of the parties to take decisions which affect them; he or she shall not impose any terms of settlement on the parties.
16. The parties must understand that the mediator only facilitates arriving at a decision to resolve disputes and that he will not and cannot impose any settlement nor does the Commission or mediator warrant that the mediation will result in a settlement. The mediator shall not impose any decisions on the parties.
17. (1) On the expiry of 60 days from the date fixed for the first appearance of the parties before the mediator, the mediation shall stand terminated, unless the mediator or the parties are of the view that an extension of time is necessary or may be useful; but such extension shall not be beyond a further period of 30 days unless both parties agree to a longer extension.  
(2) Where an extension of time is provided or agreed to pursuant to this Part, the mediator shall inform the Commission of the extension of time.
18. While no one can be compelled to commit to settle his case in advance of mediation, all parties shall commit to participate in the proceedings in good faith with the intention to settle the dispute if possible.
19. (1) Receipt or perusal, or preparation of records, reports or other documents by the mediator while serving in that capacity shall be confidential and the mediator shall not be compelled to divulge information, including to a Commission, regarding those documents nor as to what transpired during mediation.  
(2) Parties shall remain confidential in respect of events that transpired during mediation and shall not rely on or introduce in any other proceeding:
  - (i) views expressed by a party in the course of the mediation proceeding;
  - (ii) documents obtained during the mediation which were expressly required to be treated as confidential or other notes, drafts or information given by parties or mediators;
  - (iii) proposals made or views expressed by the mediator;
  - (iv) any admission made by a party in the course of mediation proceedings;
  - (v) the fact that a party had or had not indicated a willingness to accept a proposal.
- (3) (a) There shall be no permanent stenographic or other hand written notes, audio or video recordings of the mediation proceedings.  
(b) At the end of every mediation session and in the presence of the other parties and the Mediator all notes or records made during the sessions shall be destroyed.
20. Mediation sessions and meetings are private; only the concerned parties or their counsel or power of attorney holders can attend. Other persons may attend only with the consent of the parties and with the permission of the mediator.

21. No mediator shall be held liable for anything bona fide done or omitted to be done by him during the mediation proceedings nor shall he be summoned by any party to the mediation proceedings to appear in any court of law or any other authority to testify or provide information in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation proceedings.
22.
  - (1) In order to preserve the confidence of the parties in the mediation proceedings and the neutrality of the mediator, there shall be no communication between the mediator and the Commission except as provided in paragraphs (b) and (c) herein.
  - (2) If any communication between the Commission and the mediator is necessary, it shall be in writing and copies of the same shall be given to the parties or their counsel or power of attorney.
  - (3) Communication between the mediator and the Commission shall be limited to communication by the mediator:
    - (a) with the Commission about the failure of a party to attend;
    - (b) with the Commission with the consent of the parties;
    - (c) regarding his assessment that the case is not suited for settlement through mediation;
    - (d) that the parties have settled the dispute or disputes.
23.
  - (1) Where an agreement is reached between the parties in regard to all the issues in dispute or some of the issues, the same shall be reduced to writing in the prescribed form and signed by the parties or their power of attorney holder. If any legal counsel has represented the parties, they shall attest the signature of their respective clients. Where legal counsel has not represented the parties, the Mediator shall record the identification number of the party below their Signature. (Identification number may be obtained from any form of picture identification including passport, drivers licence or national identification card).
  - (2) The agreement of the parties so signed and attested shall be submitted to the Mediator who shall, with a covering letter signed by him, forward the same to the Commission.
  - (3) Where no agreement is arrived at or the mediator is of the view that no settlement is possible, he shall report the same to the said Commission in writing.
  - (4) Where no agreement is reached as in paragraph (3) herein, proposed or discussed formula shall not affect any arbitration or subsequent court process.
24.
  - (1) Where all the issues in dispute have been settled, the Commission shall within 5 days of receipt of any settlement, issue a Dispute Resolution Order in prescribed forms on all the parties to the proceedings.
  - (2) Where some issues have been settled and other issues remain unresolved, the Commission shall, within 10 days of receipt of such notification from the mediator, issue a Dispute Resolution Order in prescribed form reflecting the resolution agreed to by the parties and giving further directive for settlement of the outstanding issues.
  - (3) Where none of the issues have been settled, the Commission in consultation with the parties, shall, within 21 days of such notification from the mediator, issue a Dispute Resolution Order in prescribed form giving further directions on the procedure to be taken to settle the dispute.
25. The mediator shall:

- (a) not carry on any activity or conduct which would reasonably be considered as conduct unbecoming of a mediator;
- (b) uphold the integrity and fairness of the mediation process;
- (c) ensure that the parties involved in the mediation are properly informed and have an adequate understanding of the procedural aspects of the process;
- (d) satisfy himself that he is qualified to undertake and complete the assignment in a professional manner;
- (e) disclose any interest or relationship likely to affect impartiality or which might reflect an appearance of partiality or bias;
- (f) avoid, while communicating with the parties, any impropriety or appearance of impropriety;
- (g) be faithful to the relationship of trust and confidentiality imposed on the office of mediator;
- (h) conduct all proceedings related to the resolution of a dispute in a fair manner;
- (i) recognise that mediation is based on principles of self-determination by the parties and that the mediation process relies upon the ability of the parties to reach a voluntary, undisclosed agreement;
- (j) maintain the reasonable expectations of the parties as to confidentiality;
- (k) refrain from promises or guarantees of results.

## **PART 2 CONCILIATION**

1. Any dispute between parties may be submitted to conciliation by unilateral or joint application of the parties.
2. The parties may agree to exclude or vary these paragraphs at any time.
3. The party seeking conciliation shall send to the other party a written invitation to conciliate under these paragraphs, briefly identifying the subject matter of the dispute.
4. Conciliation proceedings shall commence when the other party accepts the invitation to conciliate. Acceptance should be in writing.
5. If the other party rejects the invitation, there will be no conciliation proceedings.
6. If the party initiating the conciliation does not receive a reply within 14 days from the date on which he or she sends the invitation, or within such other period of time as specified in the invitation, he may elect to treat this case as a rejection to conciliate. If he or she so elects he or she must inform the other party accordingly.
7. There shall be one conciliator unless the parties agree that there shall be two or more conciliators. Where there is more than one conciliator, they ought, as a general principle act jointly.
8.
  - (a) In conciliation proceedings with one conciliator, the parties shall endeavour to reach agreement on the appointment of a sole conciliator;
  - (b) In conciliation proceedings with two conciliators, each party appoints one conciliator;
  - (c) In conciliation proceedings with more than 2 conciliators, each party appoints one conciliator and the others appointed jointly by the two conciliators.

- (2) The parties may enlist the assistance of the Commission or ECTEL in connection with the appointment of conciliators. In particular -
  - (a) a party may request the Commission or ECTEL to recommend the names of suitable individuals to act as conciliators;
  - (b) the parties may agree that the appointment of one or more conciliators be made by the Commission or ECTEL.

In recommending or appointing individuals to act as Conciliators, the Commission or ECTEL shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator.

9. The conciliator, upon his or her appointment, shall request each party to submit to him or her brief written statement describing the general nature of the dispute and the points at issue. Each party shall send a copy of his or her statement to the other party.
10. The conciliator may request each party to submit to him or she a further written statement of his or her position and the facts and grounds in support thereof, supplemented by any documents and other information that such party deems appropriate. The party shall send a copy of this further written statement to the other party.
11. At any stage of the conciliation proceedings the conciliators may request a party to submit to him or her such additional information, as he or she deems appropriate.
12. The parties may be represented or assisted by persons of their choice. The names and addresses of these persons shall be communicated in writing to the other party and to the conciliator; such communication is to specify whether the appointment is made for purposes of representation or assistance.
13.
  - (1) The conciliator shall assist the parties in an independent and an impartial manner in their attempt to reach an amicable settlement to their dispute.
  - (2) The conciliator shall be guided by principles of objectivity, fairness and justice giving consideration to, among other things, the rights and obligations of the parties, the business of the telecommunications industry and the circumstances surrounding the dispute, including any other previous business relationship between the parties.
  - (3) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.
  - (4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefore.
14. In order to facilitate the conduct of conciliation proceedings, the parties, or the conciliator with the consent of the parties may arrange for administrative assistance by a suitable person or institution.
15. The conciliator may invite the parties to meet with him or may communicate with them orally or in writing. He or she may meet with or communicate with the parties together or with each of them separately.
16. Unless the parties have agreed upon the place where the meetings with the conciliator are to be held, the conciliator shall determine such place after consulting with each of the parties having regard to the circumstances of the conciliation proceedings.

17. When the conciliator receives factual information concerning the dispute from a party, he or she shall disclose the substance of that information to the other party in order that the other party may have the opportunity to present any explanation, which he or she considers appropriate.
18. The parties to a dispute shall, in good faith, co-operate with the conciliator and in particular, shall endeavour to comply with requests by the conciliator to submit written material, provide evidence and attend meetings.
19. Each party may of its own initiative or at the invitation of the conciliator submit to the conciliator suggestions for the settlement of the dispute.
20. (a) When it appears to the conciliator that there exist elements of a settlement, which would be acceptable to the parties, he or she shall formulate the terms of this possible settlement and submit them to the parties for comment by a stated date. After receiving the observations of the parties, the conciliator may reformulate the terms of a possible settlement in light of such observations. Where the conciliator receives no comment or comment from only one party the proposal shall be deemed to have been rejected.
  - (b) If the parties reach agreement on a settlement of the dispute, they shall draw up and sign a written settlement agreement. If requested by the parties, the conciliator shall draw up or assist the parties in drawing up the settlement agreement.
  - (c) The parties by signing the settlement agreement indicate that the dispute is resolved and that they are bound by the agreement.
  - (d) A copy of the settlement agreement shall be sent to the Commission.
21. (a) On the expiry of 30 days from the date fixed for the commencement of the conciliation proceedings, the conciliation shall stand terminated, unless the conciliator or the parties are of the view that an extension of time is necessary or may be useful; but such extension shall not be beyond a further period of 15 days unless the parties agree to a longer extension.
  - (b) The conciliator, if necessary shall inform the Commission of the extension of time.
22. The conciliation proceedings are terminated:
  - (a) by the signing of the settlement agreement by the parties on the date of the agreement; or
  - (b) by written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified; or
  - (c) by a written declaration of the parties addressed to the conciliator to the effect that conciliation proceedings are terminated;
  - (d) by a written declaration of a party to the other and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated;
  - (e) by effluxion of time as specified in paragraph 21 above.
23. The parties shall not initiate during the conciliation proceedings any other proceedings in respect of a dispute that is subject to conciliation proceedings.
24. The conciliator shall not act as arbitrator or as a representative or counsel of a party in any arbitration or judicial proceedings where he previously acted as conciliator, nor shall the conciliator be presented as a witness in any such proceedings.
25. The parties and the conciliator shall keep confidential all matters relating to the conciliation proceedings and in particular undertake not to rely on or introduce as evidence in any arbitration or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of conciliation proceedings:

- (a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- (b) admissions made by the other party in the course of the conciliation proceedings;
- (c) proposals made by the conciliator;
- (d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the conciliator.

### **PART 3 TRIBUNAL**

1. Upon receipt of a complaint by the Commission, the Commission shall determine:
  - (a) whether a tribunal is the appropriate mechanism for resolving that dispute and if so, the Commission shall establish itself as a tribunal; or
  - (b) determine what is the appropriate method of dealing with the matter.
2. Subject to the provisions of section 17 of the Act, the tribunal shall comprise three members of the Commission one of whom shall be the Chairperson of the Commission.
3. A matter shall be instituted by an Applicant presenting to the Chairperson of the Commission a complaint set out in the prescribed form which shall set out:
  - (a) the name and address of the applicant and, if different, an address within the Member State to which he requires notices and documents relating to the proceedings to be sent;
  - (b) the names and addresses of the person or persons against whom relief is sought; and
  - (c) the relief and the grounds with particulars thereof, on which such relief is sought.
4. Where the Commission is of the opinion that the complaint does not seek or on the facts stated, cannot entitle the applicant to a relief which a tribunal has power to adjudicate on, it may give notice to that effect to the applicant stating the reasons for its opinion and informing him that the complaint will not be heard.
5. (1) Upon determining that it is appropriate to establish itself as a tribunal the Commission shall, within 14 days of receipt of the complaint:
  - (a) send a copy of the complaint to the respondent;
  - (b) give every party notice in writing of the complaint number, which shall constitute the title of the proceedings, the address to which notices and other communications to the Tribunal shall be sent; and
  - (c) send to the respondent a notice in writing, which includes information, as appropriate to the complaint, as to the means and time for entering an appearance, the consequences of failure to do so, that a tribunal has been established to hear the complaint and the right to receive a copy of the decision.
- (2) The Commission shall cause to be entered such details of the complaint as are referred to in paragraph 3 in a Register either within 28 days of receiving it, or, if that is not practicable, as soon as is reasonably practicable thereafter.
- (3) The details of the complaint to be entered in the Register are:
  - (a) the complaint number;

- (b) the date that the application was received by the Commission;
  - (c) the name and address of the applicant;
  - (d) the name and address of the respondent;
  - (e) the type of claim brought in general terms without reference to its particulars.
6. (1) A respondent shall, within 18 days of receiving a copy of the complaint enter an appearance to the proceedings by presenting to the tribunal a notice of appearance in the prescribed form:
- (a) setting out his or her full name and address and, if different, an address within the jurisdiction to which he or she requires notices and documents relating to the proceedings to be sent;
  - (b) stating whether or not he or she intends to resist the application; and
  - (c) if he or she does intend to resist it, setting out with sufficient particulars to show on what grounds.
- (2) Upon receipt of a notice of appearance the Commission shall cause to be sent a copy of such notice to each other party.
- (3) A respondent who has not entered an appearance shall not be entitled to take any part in the proceedings except:
- (a) to apply under paragraph 16(1) for an extension of the time appointed by this paragraph for entering an appearance;
  - (b) to make an application under paragraphs 7(3) and 16 herein for a direction requiring the applicant to provide further or better particulars of the ground on which he relies and of any facts and contentions relevant thereto;
  - (c) to be called as a witness by another party; or
  - (d) in the discretion of the Tribunal where no harm or prejudice would be caused to the applicant.
7. (1) The tribunal may at any time, on the application of a party to the proceedings or of its own motion, give such directions on any matter arising in connection with the proceedings as appear to the Tribunal to be appropriate.
- (2) An application under paragraph (1)-
- (a) may be made by presenting to the Tribunal a notice of application, which shall state the title of the proceedings and set out the grounds for the application; or
  - (b) may be made at the hearing of the complaint.
- (3) Directions under paragraph (1) may include any requirement relating to evidence, the provision of further particulars and the provision of written answers to questions put to a party by the tribunal.
- (4) The Tribunal may appoint the time at or within which and the place at which any act required in pursuance of this paragraph is to be done and may direct that a copy of any document furnished pursuant to any requirement imposed under this paragraph be presented to the Tribunal.
- (5) The tribunal may, on the application of either of the parties to the proceedings or of its own motion: -
- (a) require the attendance of any person in the jurisdiction either to give evidence or to produce documents or both and may appoint the time and place at which the person is to attend and, if so required, to produce any document; or

(b) require one party to grant to another such disclosure or inspection (including taking of copies) as might be granted by a court under Part 28 of the Civil Procedure Rules.

(6) Where a requirement has been imposed under paragraph (1) or (5) herein:

(a) on a party in his absence; or

(b) on a person other than a party;

that party or person may apply to the tribunal by notice to the Chairperson to vary or set aside the requirement. Such notice shall be given before the time at which, or as the case may be, the expiration of the time within which the requirement is to be complied with. The party making this application shall give notice of the application to all parties to the proceedings.

(7) If a requirement under paragraph (1) or (5) is not complied with, the tribunal, may, before or at the hearing, strike out the whole or part of the complaint, or as the case may be, the notice of appearance, and where appropriate, direct that a respondent be debarred from defending altogether.

(8) Notwithstanding paragraph (7) a tribunal shall not exercise its powers unless it has sent notice to the party who has not complied with the requirement giving him an opportunity to show cause why the tribunal should not do so, or the party has been given an opportunity to show cause orally or in writing why the powers conferred by this paragraph should not be exercised.

8. (1) The Chairperson shall fix the date, time and place of the hearing of the complaint and shall cause a notice of hearing as prescribed in Form 6 of Schedule 3, together with information and guidance, if necessary, as to attendance at the hearing, witnesses and submission of documents, representation by another person and the making of written representations.

(2) The notice of hearing shall be sent to every party not less than 14 days before the date fixed for the hearing except where the Chairperson has agreed to a shorter time with the parties.

9. (1) A tribunal may at any time before the hearing of a complaint, on the application of a party made by notice to the Chairperson or of its own motion hear and determine any issue relating to the entitlement of a party to bring or contest the proceedings to which the complaint relates.

(2) A tribunal shall not determine such an issue unless the Chairperson has sent notice to each of the parties giving them an opportunity to submit representations in writing and to advance oral argument before the tribunal.

10. (1) A tribunal may at any time before the hearing of a complaint on the application of a party made by notice to the Chairperson or of its own motion, conduct a pre-hearing review, consisting of a consideration of:

(a) the contents of the complaint and notice of appearance;

(b) any representations in writing; and

(c) any oral argument advanced by or on behalf of a party.

(2) If a party applies for a pre-hearing review and the tribunal determines that there shall be no review, the Chairperson shall cause to be sent notice of the determination as prescribed by Form 9 of Schedule 3 to that party.

(3) A pre-hearing review shall not take place unless the Chairman has caused to be sent to all parties' notice of the pre-hearing giving all parties to the

proceedings an opportunity to submit representations in writing and to advance oral argument at the review.

11. (1) Any hearing of a complaint shall be heard by a tribunal composed in accordance with paragraph 2.
- (2) If a party wishes to submit representations in writing for consideration by the Tribunal, he shall present his or her representations to the Chairman not less than 10 days before the hearing and shall at the same time send a copy to the other party.
- (3) The Tribunal shall, if it deems it appropriate, consider representations in writing, which have been submitted to the Chairman less than 10 days before the hearing.
12. (1) The Tribunal shall, so far as it appears to be appropriate, seek to avoid formality in its proceedings and shall not be bound by any law relating to admissibility of evidence in proceedings before any court of law. The tribunal shall make such enquiries of persons appearing before it and witnesses that it considers appropriate and shall otherwise conduct the hearing in such manner, as it considers most appropriate for the clarification of the issues before it and generally to the just determination of the proceedings.
- (2) Subject to paragraph (1) herein, at the hearing of the complaint a party shall be entitled to give evidence, call witnesses, to question any witness and to address the tribunal.
- (3) If a party fails to attend or be represented at the time and place fixed for the hearing, the tribunal may, proceed to adjudicate fully on the case as if that party had duly appeared or may adjourn the hearing to a later date; provided that before adjudicating on any application in the absence of a party, the tribunal shall consider the complaint or notice of appearance, any representations in writing presented by him in pursuance of paragraph 13(2)(3) and any written response furnished to the tribunal pursuant to paragraph 8 (1).
- (4) The Tribunal may require any witness to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.
13. (1) The decision of the Tribunal shall be determined by majority vote.
- (2) The Chairman of the Tribunal shall record and sign the decision of the Tribunal, which may be given orally at the end of a hearing or reserved, in prescribed form in Form 5 Dispute Resolution Order in Schedule 3.
- (3) The Tribunal shall give reasons for its decision in a document signed by its Chairman.
- (4) Where the Tribunal:
  - (a) makes an award for compensation, or
  - (b) comes to any other determination by virtue of which one party is required to pay a sum to another the document shall also contain a statement of the amount of compensation awarded, or of the sum required to be paid, followed either by a table showing how the amount or sum has been calculated or by a description of the manner in which it was calculated.
- (5) The Chairman of the tribunal shall cause the decision of the tribunal to be recorded in the Register.
- (6) Clerical mistakes in the documents referred to in paragraphs (2), (3) and (4) herein or errors arising in those documents from an accidental slip or omission, may at any time be corrected by the Chairman of the Tribunal by certificate.

- (7) If a document is corrected by certificate, the Chairman of the tribunal shall cause the entry in the Register to be corrected to conform with the certificate and send a copy of any entry so corrected to each of the parties.
  - (8) Where this paragraph requires a document to be signed by the Chairman of the Tribunal but by reason of death or incapacity the Chairman is unable to sign it, the document shall be signed by the other members of the tribunal, who shall certify why the Chairman is unable to sign.
14. (1) Subject to the provisions of this paragraph, a tribunal shall have power, on the application of a party to the proceedings or of its own motion, to review any decision on the grounds that:
- (a) the decision was wrongly made as a result of an error on the part of the staff of the Commission;
  - (b) a party did not receive notice of the proceedings leading to the decision;
  - (c) the decision was made in the absence of a party;
  - (d) new evidence has become available since the conclusion of the hearing to which the decision relates, provided that its existence could not have been reasonably known of or foreseen at the time of the hearing; or
  - (e) the interests of justice require such a review.
- (2) The tribunal may only review a decision of its own motion if:
- (a) it has sent notice to each of the parties explaining in summary form the ground upon which and reasons why it is proposed to review the decision and giving them an opportunity to show cause why there should be no review; and
  - (b) such notice has been sent on or after the date of the hearing, but within fourteen days of the date on which the decision was sent to the parties.
- (3) An application for the purposes of paragraph (1) may be made at the hearing. If no application is made at the hearing, an application may be made to the Chairman on or after the date of the hearing, but within twenty-eight days of the date on which the decision was sent to the parties. Such application must be in writing and must state the grounds in full.
- (4) An application for purposes of paragraph (1) herein may be refused by the tribunal which decided the matter if in their opinion it has no reasonable prospect of success.
- (5) On reviewing its decision the tribunal may confirm the decision or vary or revoke the decision; and if it revokes the decision, the tribunal shall order a re-hearing before either the same or a differently constituted tribunal.
15. (1) Subject to the provisions of these paragraphs, the tribunal may regulate its own procedure.
- (2) The tribunal may:
- (a) if the applicant at any time gives notice of the withdrawal of his complaint, dismiss the proceedings;
  - (b) if both or all the parties agree in writing upon the terms of a decision to be made by the tribunal, decide accordingly;
  - (c) subject to paragraph (3), at any stage of the proceedings, order to be struck out or amended, any complaint or notice of appearance,

or anything in such complaint or notice of appearance on that grounds that it is scandalous, misconceived or vexatious;

- (d) subject to paragraph (3) herein at any stage of the proceedings, order to be struck out any complaint or notice of appearance on the grounds that the manner in which the proceedings have been conducted on behalf of the applicant or, as the case may be, respondent has been scandalous, unreasonable or vexatious; and
- (e) subject to paragraph (3) herein on the application of the respondent or of its own motion, order a complaint to be struck off for want of prosecution;
- (f) with the agreement of the parties determine a dispute
  - (i) solely on written submissions; or
  - (ii) a combination of written and oral submissions.
- (3) Before making an order under sub-paragraph (c), (d), or (e) of paragraph 2, the tribunal shall send notice to the party against whom it is proposed that the order should be made giving him an opportunity to show cause why the order should not be made; but this paragraph shall not be taken to require the tribunal to send such notice to that party if the party has been given an opportunity to show cause orally why the order should not be made.
- (4) Where a notice required by paragraph (3) is sent in relation to an order to strike out a complaint for want of prosecution, service of the notice shall be treated as having been effected if it has been sent by registered post, courier or delivered by hand and the tribunal may strike out the complaint.
- (5) The tribunal may, before determining an application under paragraph 7 or paragraph 14 require the party making the application to give notice of it to every other party. The notice shall give particulars of the application and indicate the address to which and the time within which any objection to the application shall be made being an address and time specified for the purposes of the application by the tribunal.
- (6) The Chairman of a tribunal may postpone the day or times fixed for, or adjourn any hearing and vary any such postponement or adjournment.
- 16. (1) The Tribunal may, on the application of a party or of its own motion, extend the time appointed for doing any act by or under these paragraphs and may do so whether or not the time so appointed has expired.
- (2) An application under paragraph (1) shall be made by presenting to the Chairman of the tribunal a notice of application on the prescribed Form 7 of Schedule 3, which shall state the title of the proceedings and shall set out the grounds for the application.
- (3) The Chairman shall cause to be given notice to the parties of any extension of time granted under this paragraph.
- 17. (1) The tribunal may at any time during the course of the proceeding, on the application of any person made by notice to the Chairman or of its own motion, direct any person against whom relief is sought to be joined as a party, and give such directions as it considers necessary.
- (2) The tribunal may likewise, on such application or of its own motion, order that any respondent named in the complaint, or subsequently added, who appears to the tribunal not to have been, or to have ceased to be directly interested in the subject of the complaint, be dismissed from the proceedings.
- (3) Where there are a number of persons having the same interest in an originating application, one or more of them may be cited as the person or persons against whom relief is sought, or may be authorised by the

tribunal, before or at the hearing, to defend on behalf of some or all of the persons so interested.

18. (1) Where, in relation to two or more complaints pending before the tribunal it appears to the Tribunal on the application of a party made by notice to the Chairman or of its own motion, that:
    - (a) a common question of law or fact arises in some or all of the complaints; or
    - (b) the relief claimed in some or all of those complaints is in respect of or arises out of the same set of facts; or
    - (c) for any other reason it is desirable to make an order under this paragraph;
    - (d) the tribunal may order that some or all the complaints in respect of which it so appears to the tribunal shall be considered together, and may give such consequential directions as may be necessary.
  - (2) The Tribunal shall only make an order under this paragraph if:
    - (a) each of the parties concerned has been given an opportunity at a hearing to show cause why such an order should not be made; or
    - (b) it has sent notice to all the parties concerned giving them an opportunity to show such cause.
  - (3) The tribunal may, on the application of a party made by notice to the Chairman of the Tribunal or of its own motion, vary or set aside an order made under this paragraph but shall not do so unless it has given each party an opportunity to make either oral or written representations before the order is varied or set aside.
19. (1) The Chairman of the Commission shall cause to be created and shall maintain a Register of matters pending before a tribunal. This Register shall be open to inspection by the public.
  - (2) The Register shall contain details of the complaint and response in accordance with paragraphs 5(3) and 6, documents recording the decisions of tribunals and reasons therefore.

#### **PART 4 ARBITRATION**

1. (a) The party initiating recourse to arbitration (hereinafter called the "claimant") shall give to the other party (hereinafter called the "respondent") a notice of arbitration.
- (b) Where the Commission directs the parties to arbitration these paragraphs shall apply as far as practicable.
2. Arbitral proceedings shall be deemed to commence on the date on which the respondent receives the notice of arbitration.
3. The notice of arbitration shall include the following:
  - (a) a demand that the dispute be referred to arbitration;
  - (b) the names and addresses of the parties;
  - (c) a reference to the arbitration clause or the separate arbitration agreement that is invoked;
  - (d) a reference to the contract out of or in relation to which the dispute arises;
  - (e) the general nature of the claim and an indication of the amount involved, if any;

- (f) a description of the basic facts surrounding each issue or complaint;
  - (g) as far as practicable such supporting information for each issue or complaint;
  - (h) the relief or remedy sought;
  - (i) a proposal as to the number of arbitrators (i.e. one or three), if the parties have not previously agreed thereon.
4. The parties may be represented or assisted by legal practitioners of their choice. The names and addresses of such legal practitioners must be communicated in writing to the other party. Such communication must specify whether the appointment is being made for purposes of representation or assistance.
  5. If the parties have not previously agreed on the number of arbitrators (i.e. one or 3), and if within 15 days after the receipt by the respondent of the notice of arbitration the parties have not agreed that there shall be only one arbitrator, 3 arbitrators shall be appointed.
  6. If a sole arbitrator is to be appointed, either party may propose to the other the names of one or more persons, one of whom would serve as the sole arbitrator.
  7. If within 30 days after receipt by a party of a proposal made in accordance with paragraph 6, the parties have not reached agreement on the choice of a sole arbitrator, the sole arbitrator shall be appointed by the Commission.
  8. Where the Commission is entitled to appoint an arbitrator the Commission shall, at the request of one of the parties appoint the sole arbitrator as promptly as possible; and in making the appointment the Commission shall use the following list-procedure, unless both parties agree that the list procedure should not be used or unless the Commission determines in its discretion that the use of the list-procedure is not appropriate for the case:
    - (a) at the request of one of the parties the Commission shall communicate to both parties an identical list containing at least 3 names;
    - (b) within 15 days after receipt of this list, each party may return the list to the Commission after having deleted the name or names to which he objects and numbered the remaining names on the list in the order of preference;
    - (c) after the expiration of the above period of time the Commission shall appoint the sole arbitrator from among the names approved on the lists return to it and in accordance with the order of preference indicated by the parties;
    - (d) if for any reason the appointment cannot be made according to this procedure, the Commission may exercise its discretion in appointing the sole arbitrator.
  9. In making the appointment, the Commission shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator.
  10. If 3 arbitrators are to be appointed, each party shall appoint one arbitrator; and the 2 arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the panel.
  11. If within 30 days after the receipt of a party's notification of the appointment of an arbitrator the other party has not notified the first party of the arbitrator he has appointed the first party may request the Commission to appoint the second arbitrator.
  12. If within 30 days after the appointment of the second arbitrator the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the Commission in the same way as a sole arbitrator would be appointed under paragraph 8.

13. When the Commission is requested to appoint an arbitrator pursuant to paragraph 11 or paragraph 12, the party which makes the request shall send to the Commission an affidavit together with a copy of the notice of arbitration, a copy of the contract out of or in relation to which the dispute has arisen and a copy of the arbitration agreement if it is not contained in the contract. The Commission may require from either party such information, as it deems necessary to fulfill its functions.
14. Where the names of one or more persons are proposed for appointment, as arbitrators, their full names and addresses shall be indicated, together with a description of their qualification.
15. A prospective arbitrator shall disclose to those who approach him in connection with his possible appointment any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, once appointed or chosen, shall disclose their circumstances to the parties unless they have already been informed by him of these circumstances.
16. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
17. A party may challenge the arbitrator appointed by him only for reasons of which he becomes aware after the appointment has been made.
18. A party who intends to challenge an arbitrator shall send notice of his challenge within 15 days after the appointment of the challenged arbitrator has been notified to the other party or within 15 days after the circumstances mentioned in paragraphs 16 or 17 became known to that party.
19. The challenge shall be notified to the other party, to the arbitrator who is challenged and to the other members of the arbitration panel. The notification shall be in writing and shall state the reason for the challenge.
20. When an arbitrator has been challenged by one party, the other party may agree to the challenge, in which case the challenged arbitrator shall withdraw from his office. This does not imply acceptance of the validity of the grounds for the challenge. The procedure provided in paragraphs 6 through to 12 shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party had failed to exercise his right to appoint or to participate in the appointment.
21. If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge shall be made by the Commission.
22. If the Commission sustains the challenge, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in paragraphs 6 through to 12 except that, when this procedure would call for appointment by the Commission, the appointment of the arbitrator shall be made by the Commission which decided on the challenge.
23. In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in paragraphs 6 through to 12 that was applicable to the appointment or choice of the arbitrator being replaced.
24. In the event that an arbitrator fails to act or in the event of de jure or de facto impossibility of his performing his functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the proceeding paragraph shall apply.
- 25.1 If a presiding arbitrator is replaced, any hearings held previously shall be repeated at the discretion of the arbitration panel.
- 25.2 Where a sole arbitrator has been replaced the proceedings shall recommence de novo unless the parties to the arbitration agree that the notes of the previous arbitrator shall be adopted.

26. Subject to these paragraphs, the arbitration panel may conduct the arbitration in such manner, as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity of presenting his or her case.
27. At any stage of the proceedings and if either party so requests the arbitration panel shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitration panel shall decide whether to hold such hearing or whether the proceedings shall be conducted on the basis documents and other materials.
28. All documents or information supplied to the arbitration panel by one party shall at the same time be communicated by that party to the other party.
29. Unless the parties have agreed upon the place where the arbitration is to be held, such place shall be determined by the arbitration panel, having regard to the circumstances of the arbitration.
30. The arbitration panel may meet at any place it deems appropriate for the inspection of goods, other property or document. The panel shall give sufficient notice to enable the parties to be present at such inspection.
31. Within a period of time to be determined by the arbitration panel, the respondent shall communicate his response in writing to the claimant and to each of the arbitrators.
32. The respondent shall reply to the claimant's written statement. The respondent may annex to his response the documents on which he relies for his defence or may add a reference to the documents or other evidence he will submit.
33. In his response or at a later stage in the arbitral proceedings if the arbitration panel decides that the delay was justified under the circumstances, the respondent may make a counter-claim arising out of the same facts.
34. During the course of the arbitral proceedings, either party may amend or supplement his claim or response unless the arbitration panel considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim falls outside the scope of the arbitration proceedings.
35. The arbitration panel shall decide which further written statements, in addition to the claim and the response, shall be required from the parties or may be presented by them and fix the periods of time for communicating such statements.
36. Each party shall have the burden of proving the facts relied on to support his claim or response, and arbitration panel may, if it consider it appropriate, require a party to deliver to the panel and the other party within such a period of time as the panel shall decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in his claim or response.
37. At any time during the arbitral proceedings the arbitration panel may require the parties to produce documents, exhibits or other evidence within such a period of time as the arbitration panel shall determine.
38. In the event of an oral hearing, the arbitration panel shall give the parties adequate advance notice of the date, time and place thereof.
39. If witnesses are to be heard, at least 15 days before the hearing each party shall communicate to the arbitration panel and to the other party the names and addresses of the witnesses he intends to the present, the subject upon and the languages in which such witnesses will give their testimony.
40. Evidence of witnesses may also be presented in the form of written statements signed by them.

41. The arbitration panel shall determine the admissibility, relevance, materiality and weight of the evidence offered.
42. If, within the period of time fixed by the arbitration panel, the claimant has failed to communicate his claim without showing sufficient cause for such failure, the arbitration panel shall issue an order for the termination of the arbitral proceedings. If, within the period of time fixed by the arbitration panel, the respondent has failed to communicate his response without showing sufficient cause for such failure, the arbitration panel shall order that the proceedings continue.
43. If one of the parties duly notified under these paragraphs, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitration panel may proceed with the arbitration.
44. If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitration panel may make an award on the evidence before it.
45. The arbitration panel may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.
46. The arbitration panel may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to re-open the hearings at any time before the award is made.
47. A party who knows that any provision of, or requirement under, these paragraphs has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance shall be deemed to have waived his right to object.
48. When there are three arbitrators, any award or other decision of the arbitration panel shall be made by a majority of the arbitrators.
49. In addition to making a final award, the arbitration panel shall be entitled to make interim, interlocutory, or partial awards.
50. The award shall be made in writing and shall be final and binding on the parties. The parties shall carry out the award without delay.
51. The arbitration panel shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
52. The arbitrators shall sign an award and it shall contain the date on which and the place where the award was made. Where there are three arbitrators and one of them fails to sign, the award shall state the reason for the absence of signature.
53. The award may be made public only with the consent of both parties.
54. Copies of the award signed by the arbitrators shall be communicated to the parties and the Commission by the arbitration panel.
55. The arbitration panel shall apply the law designated by the parties as applicable to the substance of the dispute.
56. In all cases, the arbitration panel shall decide in accordance with the terms of the contract and shall take into account the usage of the trade applicable to the transaction.
57. If, before the award is made, the parties agree on a settlement of the dispute, the arbitration panel shall either issue an order for termination of the arbitral proceedings or, if requested by both parties and accepted by the panel, record the settlement in the form of an arbitral award on agreed terms. The arbitration panel is not obliged to give reasons for such an award.
58. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason, the arbitration panel shall

inform the parties of its intention to issue an order for termination of the proceedings. The arbitration panel shall have the power to issue such an order unless a party raises justifiable ground for objection.

59. Copies of the order for termination of the arbitral proceedings or of the arbitral award signed by the arbitrators shall be communicated by the arbitration panel to the parties and the Commission.
60. Within 30 days after receipt of the award, either party, with notice to the other party, may request that the arbitration panel give an interpretation of the award.
61. The interpretation shall be given in writing within 45 days after receipt of the request. The interpretation shall form part of the award and the provisions of paragraphs 50 and 54, shall apply.
62. Within 30 days after receipt of award, either party, with notice to the other party, may request the arbitration panel to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The arbitration panel may within 30 days after the communication of the award make such corrections on its own initiative.
63. Such corrections shall be in writing, and the provisions of paragraph 50 and 54, shall apply.
64. Within 30 days after the receipt of the award, either party, with notice to the other party, may request the arbitration panel to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.
65. If the arbitration panel considers the request of an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within 60 days after the receipt of the request.
66. When an additional award is made, the provisions of paragraphs 50 and 54, shall apply.
67. Prior to commencement of arbitration proceedings the parties to the proceedings and the arbitrator shall agree to the rate, terms and conditions relating to the remuneration of the arbitrator.
68. In addition to the provisions of paragraph 67 the arbitrator shall be entitled to:
  - (a) any necessary travel expenses and the cost of hotel accommodation;
  - (b) reasonable administrative costs associated with the conduct of the arbitration proceedings;
  - (c) reimbursement of any other reasonable cost arising out of or associated with the arbitration proceedings at cost without mark-up.
69. No additional fees may be charged by an arbitration panel for interpretation or correction or completion of its award under paragraphs 60 to 65.
70. Subject to the provisions of these paragraphs, the panel may regulate its own procedure.

Date received: .....

Telecommunications Provider's Complaint No .....

Prefixed Complaint No .....

Date sent to respondent .....

### **Schedule 3**

### **FORM 1**

**COMPLAINT FORM**

**Please insert your details:**

1. Mr. ☐ Mrs. ☐ Miss ☐ Ms ☐ Other  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address  
.....  
.....  
.....  
.....
5. Postal Address (if different from above)  
.....  
.....
6. Address for service of documents (if different from above)  
.....
7. Daytime telephone contact number(s)  
.....
8. Fax number(s)  
.....
9. Email address  
.....
10. If an Attorney or Legal Counsel is acting for you please give details (all documents will be sent to your representative)  
  
Name  
.....  
.....  
  
Address  
.....  
.....  
.....  
.....  
  
Postal address (if different from above)  
.....  
  
Address for service (if different from above)  
.....  
  
Daytime telephone number (s)  
.....  
  
Email address  
.....

11. Please give the name and address of the Telecommunications Provider against whom this complaint is being brought Name  
 .....  
 Address  
 .....  
 .....  
 .....  
 Postal address (if different from above)  
 .....  
 Address for service (if different from above)  
 .....  
 Daytime telephone number(s)  
 .....  
 Fax number(s)  
 .....  
 Email address  
 .....

12. Please give details/grounds of your complaint  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....

(Please use additional paper if necessary)

.....

Signature

## FORM 2

(Regulation 6)

### APPLICATION TO COMMISSION

Pre-fix ..... Complaint number  
 .....

[to be completed by the Commission] [the complaint number provided by the Telecommunications Provider]

#### Particulars of Applicant:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
 .....

2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

**Particulars of Respondent:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

Application is hereby made to the Commission pursuant to regulation 6 of the Telecommunications (Dispute Resolution) Regulations to assist the parties in the resolution of a dispute.

Attached to this application are the following documents: -

1. Statement of Complaint
2. (any other relevant documents)

Having regard to the nature of the complaint I hereby request that this matter be determined by... [Please tick appropriate box]

- ☐ Commission to review documents and make a decision
- ☐ Mediation
- ☐ Tribunal
- ☐ Arbitration
- ☐ No preferred option

Dated this ..... day of ....., .....

**Applicant/Applicant's representative**

**FORM 3**

(Regulation 10)

**NOTICE OF DISCONTINUANCE**

Pre-fix ..... Complaint number  
.....

[to be completed by the Commission]

[the complaint number provided by the Telecommunications Provider]

**Particulars of Applicant:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First ..... Names  
.....
3. Surname  
.....  
.....
4. Address for service of documents  
.....

**Particulars of Respondent:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] other [ ]  
.....
2. First ..... Names  
.....
3. Surname  
.....  
.....
4. Address for service of documents  
.....

Take Notice that the parties to this dispute hereby discontinue [state here the ADR process which was utilised for resolution of the dispute] pursuant to regulation 10 of the Telecommunications (Dispute Resolution) Regulations.

Dated this ..... day of ....., .....

Applicant

Respondent

**FORM 4**

**NOTICE OF APPEARANCE**

Pre-fix ..... Complaint ..... number

[to be completed by the Commission] [the complaint number provided by the Telecommunications Provider]

**Particulars of Applicant:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] other [ ]  
.....
2. First ..... Names  
.....
3. Surname  
.....  
.....
4. Address for service of documents  
.....

**Particulars of Respondent:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] other [ ]  
.....
2. First ..... Names  
.....
3. Surname .....  
.....
4. Address for service of document  
.....

**WARNING: If this form is not fully completed and returned to the Commission at the address below within 10 days of service of the complaint form on you, the claimant will be entitled to have the tribunal adjudicate on this matter in your absence. If the claimant does so, you will have no right to be heard by the Commission except as to matters set out in paragraph 8(3) of Part 3 of Schedule 2**

1. Have you received the complaint form with the above claim number?  
YES/NO
2. If so, when? \_\_\_\_/\_\_\_\_/\_\_\_\_
3. Are your names properly stated on the complaint form?  
If not, what are your full names? ..... YES/NO
4. Is your contact information on the complaint form correct?  
If no please proceed to number 5 YES/NO
5. Insert here correct contact information for you
6. Do you intend to defend the complaint? If so give the particulars and grounds on which you intend to resist the application (use extra sheet if required) YES/NO
7. Will you be represented by Legal Counsel, Attorney or self  
(please circle your choice of representation)
8. If an Attorney or Legal Counsel is acting for you please give details (all documents will be sent to your representative)  
Name .....  
.....  
Address .....  
.....  
Postal address (if different from above) .....  
Address for service (if different from above) .....  
Daytime telephone number (s) .....  
Fax ..... number(s) .....  
Email ..... address .....

Dated .....

Signed .....

[respondent in person] respondent's legal practitioner/Attorney]

The Commission's office is at [\*\*\* \*\*] telephone number \*\*\* \*\*\*, FAX \*\*\* \*\*\*. The office is open between [... a.m.] and [... p.m.] ..... to ..... except public holidays.

## FORM 5

(Regulation 25)

### DISPUTE RESOLUTION ORDER

Pre-fix ..... Complaint ..... number .....

[to be completed by the Commission] [the complaint number provided by the Telecommunications Provider]

#### Particulars of Applicant:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First ..... Names  
.....
3. Surname  
.....
4. Address for service of documents  
.....  
.....  
.....

#### Particulars of Respondent:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] other [ ]  
.....
2. First ..... Names  
.....
3. Surname  
.....
4. Address for service of document  
.....

Upon hearing the parties or their representatives/reading the [insert here the documents referred to]/upon hearing the parties or representatives and reading [insert documents being referred] to the Tribunal hereby orders:

1 .....

2 .....

3 .....

Dated this ..... day of ....., .....

.....

Chairman

## FORM 6

### NOTICE OF HEARING

Pre-fix ..... Complaint ..... number  
.....

[to be completed by the Commission] [the complaint number provided by the  
Telecommunications Provider]

#### Particulars of Applicant:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] other [ ]  
.....
2. First ..... Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

#### Particulars of Respondent:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] other [ ]  
.....
2. First ..... Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

Take notice that the above captioned matter shall be heard the [Mediator, Tribunal,  
Arbitration panel on ..... day the ..... day of .....  
200[ ] at ..... O'clock in the fore/after noon.

Dated the ..... day of ....., .....

.....

Mediator/Chairman

## FORM 7

### NOTICE OF APPLICATION FOR AN EXTENSION OF TIME

Pre-fix ..... Complaint ..... number  
.....

[to be completed by the Commission] [the complaint number provided by the  
Telecommunications Provider]

#### Particulars of Applicant:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

**Particulars of Respondent:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

Take notice that the Applicant/Respondent in the above captioned matter has applied to [Mediator, Tribunal, Arbitration panel] for an extension of time to [state here the purpose or the reason for the application] and that the application will be heard on ..... day the ..... day of ..... 200[ ] at ..... o'clock in the fore/after noon.

Dated the ..... day of ....., .....  
.....

Mediator/Chairman

**FORM 8**

**NOTICE OF PRE-HEARING**

Pre-fix ..... Complaint number  
.....

[to be completed by the Commission] [the complaint number provided by the Telecommunications Provider]

**Particulars of Applicant:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

**Particulars of Respondent:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

Take notice that the tribunal in the above captioned matter has received an application from the Applicant/Respondent for a pre-hearing on [where applicable attach any written submissions for the review of the respondent to the application for the pre-hearing or state which part of the complaint or notice of appearance is being referred to].

Should you wish to make representation on this issue before the tribunal you may:

1. file written submission within 10 days of service of this notice on you or
2. attend before the tribunal on the date stated below where you will be heard

Take further notice that the matter shall be heard by the Tribunal on ..... day the ..... day of ..... 200[ ] at ..... o'clock in the fore/after noon.

Dated the ..... day of ....., .....

.....

Mediator/Chairman

**FORM 9****NOTICE OF DETERMINATION**

Pre-fix ..... Complaint number  
.....

[to be completed by the Commission] [the complaint number provided by the Telecommunications Provider]

**Particulars of Applicant:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

**Particulars of Respondent:**

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....

2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

Take notice that the tribunal in the above captioned matter has considered the application by the Applicant/Respondent for a pre-hearing of [state here the nature of the application] and has denied the application on the following ground(s)

1. ...
2. ...
3. ...

Dated the ..... day of ....., .....

.....

Chairman

## FORM 10

### WITNESS SUMMONS

Pre-fix ..... Complaint number  
.....

[to be completed by the Commission] [the complaint number provided by the Telecommunications Provider]

#### Particulars of Applicant:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

#### Particulars of Respondent:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First Names  
.....  
.
3. Surname  
.....  
.....
4. Address for service of documents  
.....

Pursuant to section [ ] of the Telecommunications Act No [ ] of 200[ ] you are hereby summoned to attend a sitting of the Tribunal in the above captioned matter at [insert here venue] on ..... day the ..... day of ..... 200[ ] to give evidence and to bring with you the following documents:

1. ....
2. ....
3. .... ( or indicate not applicable/NA)

Dated the ..... day of ....., .....

.....

Chairman

## FORM 11

### ORDER

#### (all other orders made by tribunal)

Pre-fix ..... Complaint ..... number

[to be completed by the Commission] [the complaint number provided by the Telecommunications Provider]

#### Particulars of Applicant:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First ..... Names  
.....
3. Surname  
.....  
.....
4. Address (for service of documents)  
.....

#### Particulars of Respondent:

1. Mr. [ ] Mrs. [ ] Miss [ ] Ms [ ] Other [ ]  
.....
2. First ..... Names  
.....
3. Surname  
.....  
.....
4. Address (for service of documents)  
.....

Upon hearing the parties or their representatives OR reading the [insert here the documents referred to] OR upon hearing the parties or representatives and reading [insert documents being referred to] on an application for [insert here what the nature of the application was] the Tribunal hereby orders:

1. ....

2. ....

3. ....

Dated this ..... day of ....., 200[ ]

.....

Chairman

\_\_\_\_\_

**Telecommunications (Universal Service Fund Contribution) Order – Section 43(3)**

**(Statutory Instrument 45/2009)**

Statutory Instrument 45/2009 in force 6 April 2009

**ARRANGEMENT OF ORDER**

1. Citation
2. Interpretation
3. Universal Service Fund contribution
4. Due date for payment

\_\_\_\_\_

**TELECOMMUNICATIONS (UNIVERSAL SERVICE FUND CONTRIBUTION) ORDER – SECTION 43(3)**

Commencement [6 April 2009]

**1. Citation**

This Order may be cited as the Telecommunications (Universal Service Fund Contribution) Order.

**2. Interpretation**

In this Order, “Gross Annual Revenue”—

- (a) means the gross revenue earned in the provision of telecommunications services for the reporting year, received by, or due to the licensee and its affiliates, from whatever source derived before any deductions for expenses, discounts returns, or offsets of any kind;
- (b) does not include domestic interconnection payments, taxes and charges collected for and on behalf of the Government.

**3. Universal Service Fund Contribution**

A telecommunications provider shall contribute to the Universal Service Fund as follows—

- (a) in respect of the first year, 0.25% of Gross Annual Revenue of licence;
- (b) in respect of the second year, 0.5% of Gross Annual Revenue of licence;
- (c) in respect of the third year, 1.0% of Gross Annual Revenue of licence and throughout the duration of the licence.

#### **4. Due date for payment**

The due date for payment shall be within 45 days of the reporting year and shall be accompanied by a gross annual revenue report and supporting attachments that provide details of the calculation.

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### **Telecommunications (Interconnection) Regulations – Section 73(2)**

#### **(Statutory Instrument 72/2009)**

Statutory Instrument 11/2002 in force 1 April 2001

Replaced by Statutory Instrument 72/2009 in force 22 June 2009

#### **ARRANGEMENT OF REGULATIONS**

1. Citation
2. Commencement
3. Interpretation
4. Rights and obligations of public network operators
5. Obligations of dominant fixed public network operators
6. Number portability
7. Non-discrimination and transparency
8. Confidentiality
9. Access to facilities
10. Dominant interconnection provider
11. Publication of information
12. Rate structure
13. Reference interconnection offer
14. Publication of reference interconnection offer
15. Payment for interconnection
16. Calling line identity
17. Form and contents of interconnection agreements
18. Connectivity
19. Non-inclusion
20. Notice of request
21. Procedures for application
22. Interconnection not permitted
23. Amendment or modification of agreement
24. Suspension of an interconnection agreement
25. Termination of an interconnection agreement
26. Register
27. Contents of Register
28. Confidential portion of Register
29. Format for separating information
30. Access to Register
31. Dispute resolution
32. Disputes regarding existing agreements
33. Amendment due to dispute resolution
34. Renewal of interconnection agreements
35. Power of referral
36. Interconnection Code
37. Revocation

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### **TELECOMMUNICATIONS (INTERCONNECTION) REGULATIONS – SECTION 73(2)**

Commencement [22 June 2009]

## 1. Citation

These Regulations may be cited as the Telecommunications (Interconnection) Regulations.

## 2. Spent

## 3. Interpretation

(1) In these Regulations—

**“Act”** means the Telecommunications Act;

**“access deficit”** means the difference between the costs incurred by the incumbent fixed public network operator for providing domestic telecommunications services whose prices are regulated, and the maximum revenue that the operator can secure for providing those services under price regulation;

**“calling line identity”** means the information generated by a telecommunications network that identifies the calling number;

**“call termination”** means the completion of a call that is originated on one public network and terminated on another;

**“cost-oriented”** means the charges equal to the long-run incremental cost of an efficient provider plus an appropriate portion of shared and common costs;

**“dominant fixed public network operator”** means a public network operator who is designated by the Commission as dominant for the purposes of providing interconnection services under regulation 10;

**“dominant interconnection provider”** means a public network operator who is designated by the Commission as dominant for the purposes of providing interconnection services under regulation 10;

**“interconnection provider”** means a public network operator who receives a request to provide interconnection under the Act or these Regulations;

**“interconnection services”** means services provided by public network operators to other public network operators linking the public telecommunications networks or telecommunications services of both parties to—

- (a) allow the users of the public telecommunications services of either party to communicate with the users of the telecommunications services of the other; and
- (b) access the services provided by the other operator or service provider;

**“joining service”** means a service consisting of a transmission facility connecting the points of interconnection of two public network operators, one of which may or may not be the provider of the joining service;

**“number portability”** means the ability of a customer to retain the same telephone number on changing telecommunications providers;

**“phased manner”** means to reduce or increase gradually or in stages;

**“point of interconnection”** means the locations where the exchange of telecommunications between the telecommunications network of an interconnection provider and the telecommunications network of a public network provider takes place;

**“public network operator”** means a person licensed under the Act to operate a public telecommunications network;

**“reference interconnection offer”** means a document setting out the terms on which the dominant interconnection provider proposes to offer interconnection to a public network operator requesting interconnection;

**"Register"** means the register maintained under regulations 24, 25, 26 and 28;

**"transit service"** means a network service for carrying traffic between two public network operators that are unaffiliated with the provider of the transit service.

(2) Unless otherwise specified, terms used in these Regulations have the meanings assigned to the terms under the Act.

#### **4. Rights and obligations of public network operators**

A public network operator has the following rights and obligations with respect to interconnection—

- (a) to act in a manner that enables interconnection to be established as soon as reasonably practicable;
- (b) to promptly provide interconnection at cost-oriented rates to any other public network operator that requests it;
- (c) to promptly receive interconnection at cost-oriented rates from any other public network operator;
- (d) to provide timely forecasts of usage to the interconnection provider and shall be required to cover the costs that the interconnection provider incurs to meet forecasted needs even if the forecasted traffic fails to materialize;
- (e) to configure its network to enable—
  - (i) transmission, and
  - (ii) switching or routing,of voice, data and images over its networks;
- (f) to exchange signalling information using standard signalling systems;
- (g) to provide call-termination services to any other public network operator that requests the call-termination services;
- (h) to provide to an interconnecting operator written notice of any breach of an interconnection agreement and a reasonable period of time to cure the breach before terminating an interconnection agreement in accordance with the procedure set out in regulation 23;
- (i) to make it possible for customers to complete international calls using public network operators of the customer's choice, and the choice is to be available on a call-by-call basis, with the call being completed without the requirement either of second dial tone or manual intervention.

#### **5. Obligations of dominant fixed public network operators**

In addition to the obligations placed on all public network operators set out in regulation 5, a dominant fixed public network operator shall—

- (a) provide joining services to any other public network operator that requests the joining services;
- (b) provide usage-based transit services to other public network operators that request the usage-based transit services;
- (c) where it provides broadband Internet access as a retail service, it shall arrange to carry the broadband information to unaffiliated Internet service providers of the end user customer's choice.

## **6. Number portability**

A public network operator shall configure networks to facilitate number portability between similar networks as and when directed by the Commission, acting on the recommendation of ECTEL.

## **7. Non-discrimination and transparency**

(1) When providing interconnection, a public network operator shall act in accordance with the following principles—

- (a) interconnection is to be provided to other public network operators under no less favourable terms, rates and quality as the interconnection provider provides similar services for itself, its affiliates or both itself and its affiliates;
- (b) interconnection is to be provided with regard to the types of users to be served or the types of services to be provided by the public network operator requesting interconnection;
- (c) public network operators shall provide on request information reasonably necessary to other public network operators considering interconnection, in order to facilitate the conclusion of any agreements.

(2) The information provided under subregulation 1 (c) is to include planned charges for implementation within the 6 months following a request, unless otherwise agreed by the Commission.

(3) Once a public network operator concludes an interconnection agreement, it shall—

- (a) offer the terms and conditions of such an agreement to any other public network operator requesting interconnection; and
- (b) offer the terms and conditions of such an agreement, upon request, to any other public network operator with which it has an existing interconnection agreement, except to the extent that it can prove to the satisfaction of the Commission that it is not technically feasible to replicate the same level of quality of the interconnection or to provide interconnection under the same terms and conditions as it provides under such an agreement.

(4) The Commission shall take such steps as may be necessary to ensure that the requirements under this regulation are being met.

## **8. Confidentiality**

A public network operator shall not knowingly communicate, or allow access to any confidential, proprietary, or competitive information (including but not limited to, customer orders, market forecasts, plans for development of new services, network plans, current or proposed business plans, and new customers) received from another public network operator in respect of interconnection, except to the extent authorized by the operator in writing, or by the Act or these Regulations.

## **9. Access to facilities**

(1) Where access to any facility is required to effect interconnection such access is to be provided on a non-discriminatory and equitable basis and this includes access with respect to charges, location and other commercial matters, together with the interconnection.

(2) Pending the conclusion of any agreement between parties to a negotiation for access to facilities, and subject to the provisions of regulation 31, the Commission may, acting on the recommendation of ECTEL, issue such orders or directions for the sharing of any facilities or with respect to providing access to such facilities on an interim basis.

## **10. Dominant interconnection provider**

(1) The Commission, acting on the recommendation of ECTEL, shall designate a public network operator as a dominant interconnection provider in a particular market for telecommunications services if the Commission has determined, after a public consultation process, that a public network operator—

- (a) enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers in a market for telecommunications services; and
- (b) it is in the long-term interests of consumers of telecommunications services that the public network operator be so designated.

(2) The Commission shall undertake a consultation process which will commence with a preliminary determination of market dominance and the designation of one or more dominant interconnection providers,

(3) The Commission shall issue its final determination of market dominance no later than 90 days after its preliminary determination of dominance under subregulation (2).

(4) Notwithstanding subregulations (1), (2) and (3), a public network operator may consent to being treated as a dominant interconnection provider solely for the purpose of providing interconnection and filing a reference interconnection offer at the time it files a reference interconnection offer.

## **11. Publication of information**

(1) The Commission shall have available, for the use of the general public, documentation on interconnection that is adequate and current.

(2) The Commission shall use any medium that it considers appropriate to inform the public of the documentation available under subregulation (1).

(3) The Commission may impose an administrative fee for providing the documentation to any person.

## **12. Rate structure**

(1) The Commission shall, acting on the recommendation of ECTEL, determine upon its own motion or upon an application by any person, the interconnection rate of any person who provides or offers to provide interconnection.

(2) Interconnection rates are to be cost-oriented and imposed in a transparent manner and identify clearly—

- (a) charges for interconnection services; and
- (b) any contribution to the access deficit of the interconnection provider, where applicable.

(3) Where an interconnection agreement is negotiated before the Commission has determined any rates, or where, after the conclusion of any interconnection agreement, the Commission establishes new rates for interconnection for any reason, the agreement shall be amended by the parties to comply with such rates as may subsequently be determined.

(4) Notwithstanding subregulation (2), the Commission may impose cost-oriented rates in a phased manner and on such terms and conditions as may be determined by the Commission, acting on the recommendation of ECTEL.

## **13. Reference interconnection offer**

(1) Each dominant interconnection provider requested to provide a reference interconnection offer shall provide such an offer within 60 days of its receipt of such request by the Commission.

(2) A reference interconnection offer provided under subregulation (1) is to make available to public network operators the services and network elements necessary for the provision of competing retail services.

(3) The reference interconnection offer provider may set different rates, terms and conditions for different interconnection services, where such differences can be objectively justified and do not result in the unfair distortion of competition.

(4) The reference interconnection offer provider shall apply the appropriate interconnection tariffs, terms and conditions when providing interconnection for its own services or those of its affiliates, subsidiaries or partners.

(5) The charges of the reference interconnection offer are to be sufficiently unbundled to ensure that the public network operator requesting interconnection is not required to pay for services not related to the service requested.

(6) Interconnection rates set out in the reference interconnection offer are to be cost-oriented.

(7) A reference interconnection offer is to contain specific provisions for dispute resolution procedures including the appropriate contact persons whose names and other contact information is to be updated at least quarterly, precise time frames for resolution of complaints, clear and concise escalation procedures that allow for prompt resolution of disputed issues and rules that are to be used for arbitrating any unresolved issues.

(8) The Commission shall have the authority to ensure that a reference interconnection offer is compliant with the Act and these Regulations and contains rates that are cost-oriented.

#### **14. Publication of reference interconnection offer**

Within 7 days of approval of a reference interconnection offer by the Commission, a dominant interconnection provider shall publish its offer by—

- (a) posting the offer on its website; and
- (b) making printed and electronic copies of the offers available to any public network operator upon request.

#### **15. Payment for interconnection**

Subject to the right of the Commission, acting on the recommendation of ECTEL, to determine that every cost imposed on a public network operator in respect of interconnection is just and reasonable, a public network operator shall pay for the investment, operations and maintenance expenses of the facilities necessary to reach the point of interconnection.

#### **16. Calling line identity**

Every public network operator shall provide upon request to other public network operators, the calling line identity and all necessary signalling data, in accordance with accepted international standards and any technical standards set by and published by the Commission from time to time.

#### **17. Form and contents of interconnection agreements**

(1) An interconnection agreement and a reference interconnection offer are to be in writing and the following matters specified in the agreements except where a particular matter is irrelevant to the specific form of the interconnection requested—

- (a) access to ancillary, supplementary and advanced services;
- (b) adequate service levels including the remedies for any failure to meet those service levels;

- (c) a provision that deals with regulatory change, including determinations by the Commission;
- (d) duration and renegotiation of interconnection agreements;
- (e) forecasting, ordering, provisioning and testing procedures;
- (f) dispute resolution procedures, including identification of points of contact, time frames and an escalation process;
- (g) geographical and technical characteristics and locations of the points of interconnection;
- (h) information handling and confidentiality provisions;
- (i) intellectual property rights;
- (j) measures anticipated for avoiding interference or damage to the networks of the parties involved or third parties;
- (k) national and international appropriate indexes for service quality;
- (l) procedures in the event of alterations being proposed to the network or service offerings of one of the parties;
- (m) provisions for the formation of appropriate working groups to discuss matters relating to interconnection and to resolve any disputes;
- (n) provision of network information;
- (o) technical specifications and standards;
- (p) terms of payment, including billing and settlement procedures; the procedures to detect and repair faults, as well as an estimate of acceptable average indexes for detection and repair times;
- (q) the scope and description of the interconnection services to be provided;
- (r) the technical characteristics of all the main and auxiliary signals to be transmitted by the system and the technical conditions of the interfaces;
- (s) transmission of calling line identity, where available to be transmitted;
- (t) provisions for call termination;
- (u) provisions for transit facilities;
- (v) provisions for joining links;
- (w) ways and procedures for the supply of other services that the parties agree to supply to each other, such as operation, administration, maintenance, emergency calls, operator assistance, automated information for use, information on directories, calling cards and intelligent network services;
- (x) the obligations and responsibilities of each party in the event that inadequate or defective equipment is connected to their respective networks;
- (y) provisions for notice and for remedying any breach that may arise from the agreement; and
- (z) any other relevant issue.

(2) A public network operator shall make available to interested parties, any reference interconnection offer or the portions of the approved interconnection agreement that have not been designated as confidential by the Commission under regulation 26.

## **18. Connectivity**

An interconnection agreement is to include provision for any-to-any connectivity to allow any end-user of that network to communicate with any other end-user of public telecommunications services, regardless of whether the end-users are connected to the same, or different networks.

## **19. Non-inclusion**

An interconnection agreement is not to contain any provision which has the effect of—

- (a) imposing any unfair or discriminatory penalty or disadvantage upon a person in the exercise of the person's right to be provided with interconnection;
- (b) precluding or frustrating the exercise of a person's rights or privileges afforded under the Act or these Regulations; and
- (c) preventing a telecommunications provider from lawfully providing an interconnection service to another public network operator.

## **20. Notice of request**

(1) A public network operator shall make a request for interconnection in writing to an interconnection provider and shall forward 2 copies of the written request to the Commission, one of which shall be addressed to ECTEL.

(2) A request for interconnection is to contain at least the following information—

- (a) a copy of the licence of the public network operator;
- (b) the services with respect to which interconnection is sought;
- (c) a declaration by the public network operator that it accepts the rights and obligations of all public network operators as set out in regulation 4; and
- (d) any other information as specified in the reference interconnection offer or reasonably required in order for the telecommunications provider to respond to that request.

(3) Notwithstanding subregulation (1), any person who has applied for a telecommunications licence under the Act, but whose application is still pending may make an interconnection request and conclude an interconnection agreement, except that a notice of request from such an applicant is not to include a copy of a licence under subregulation (2).

(4) The effecting of interconnection in accordance with a request under subregulation (3) is conditional upon a grant of a licence to the applicant.

## **21. Procedures for application**

(1) Within 30 days after the parties to a negotiation regarding interconnection have concluded an interconnection agreement, the parties shall submit the proposed agreement to the Commission for its approval.

(2) The Commission shall approve the proposed interconnection agreement if it is satisfied that the proposed interconnection agreement is consistent with the Act, these Regulations, the terms and conditions of the parties' licenses or other provisions of law.

(3) The Commission shall consult with ECTEL for its advice and recommendations concerning the application, before determining whether to approve the proposed interconnection agreement.

(4) The Commission may request additional information from the parties to a proposed interconnection agreement where it considers it necessary to further

evaluate the terms, conditions and charges contained in the proposed interconnection agreement.

(5) Where the Commission notifies the parties that it does not consider that the proposed interconnection agreement or any part of the agreement should be approved, the parties to that agreement shall negotiate and submit a revised proposed interconnection agreement to the Commission, within a period, having regard to the matters being the subject of the Commission's request.

(6) Notwithstanding the Commission's right to approve an interconnection agreement, where a proposed interconnection agreement is substantially the same as an existing agreement already approved by the Commission, such an agreement may provide that it will be effective upon submission to the Commission and will remain effective unless the Commission informs the parties to such agreement, within 60 days of its submission, or such longer period as the Commission may reasonably require, that it has not approved the agreement.

(7) Subregulation (6) does not apply where the parties to an interconnection negotiation have concluded an agreement after the effective date of any interim interconnection decision imposed by the Commission, under the procedures described in regulation 31.

## **22. Interconnection not permitted**

A party shall not negotiate or propose to enter into an interconnection agreement where the Commission determines and rules that—

- (a) the proposed interconnection is contrary to the Act, these Regulations, the terms and conditions of the parties' licences or other provisions of law; or
- (b) the requested interconnection is not technically feasible.

## **23. Amendment or modification of agreement**

(1) The parties to an interconnection agreement may amend or modify an agreement which has been approved by the Commission by—

- (a) giving not less than 30 days written notice prior to the effective date of the amendment or modification; and
- (b) submitting a copy of the proposed amendment or modification to the Commission.

(2) An amendment or modification to any interconnection agreement is not to take effect unless approved by the Commission within 30 days of its submission, or such longer period as the Commission may in any case determine.

## **24. Suspension of an interconnection agreement**

(1) An interconnection agreement is to include provision for the suspension of the agreement in the event of—

- (a) conduct that is illegal or interferes with the obligations of the interconnection provider, under the relevant licence, the Act or these Regulations;
- (b) requirements that are not technically feasible;
- (c) health or safety problems; or
- (d) circumstances that pose an unreasonable risk to the integrity or security of the network or services of the interconnection provider, from which interconnection is requested.

(2) An interconnection agreement is to include a provision to allow for the suspension of interconnection where it is necessary to deal with a material degradation of the interconnection provider's telecommunications network or services.

(3) A party to an interconnection agreement shall provide at least 15 days notice to the Commission prior to suspending the agreement.

(4) A suspension of an interconnection agreement is not to take effect unless approved by the Commission, acting on the recommendation of ECTEL.

## **25. Termination of an interconnection agreement**

(1) A party to an interconnection agreement shall provide at least 30 days notice to the Commission and to customers before terminating any interconnection agreement.

(2) The notice in subregulation (1) is to inform customers of the date upon which any services will be interrupted and is also to inform the customers of appropriate steps that can be taken to obtain such services from another operator.

(3) Notwithstanding the right of the party to terminate an interconnection agreement, the Commission, acting on the recommendation of ECTEL, shall have the authority to require any party to provide interconnection on such terms and conditions and at such rates as the Commission may deem appropriate, pending renewal or replacement of the interconnection agreement.

## **26. Register**

(1) All copies of an interconnection agreement are to be kept in a register maintained by the Commission in print form, or as a database in electronic medium, and in any other form determined by the Commission.

(2) The Register is to be kept at the principal office of the Commission and Parts I and III of the Register are to be open to public inspection during normal working hours.

(3) A copy of the Register shall be provided to ECTEL.

## **27. Contents of Register**

The Register shall be maintained in 3 parts—

- (a) Part I containing a list of all interconnection agreements with the names of interconnection providers, service areas of their operation, and the dates of the execution of the agreements and is to be open for inspection by the public;
- (b) Part II containing portions of interconnection agreements which the Commission has directed to be kept confidential; and
- (c) Part III containing the contents of interconnection agreements excluding those directed by the Commission to be kept confidential which shall be open for inspection by the public.

## **28. Confidential portion of Register**

(1) The Commission may, on the request of any party to an interconnection agreement, direct that any part of the interconnection agreement be kept confidential.

(2) Any request to keep part of an interconnection agreement confidential shall be accompanied by a non-confidential description of the relevant portion of the interconnection agreement.

(3) Where the Commission is satisfied that the interests of a telecommunications provider could be adversely affected if the relevant part were not kept confidential, it may direct that the relevant part of the interconnection agreement be kept confidential and the non-confidential description of that part must be incorporated in Part III of the Register.

(4) Where the Commission declines the request of any public network operator to keep any portion of the interconnection agreement confidential, it shall record its reason for doing so and furnish a copy of its decision to the applicant.

(5) Before making any decision to disclose confidential information, the Commission shall afford a hearing to the public network operator who has requested the information be kept confidential.

(6) Whenever a public network operator requests that any part of an interconnection agreement should be kept confidential, that portion of the agreement shall remain confidential until the matter is determined by the Commission.

## **29. Format for separating information**

(1) The Commission may, from time to time, determine the format for seeking disaggregated information of parts of an interconnection agreement relating to technical standards or specifications from the Register in respect of—

- (a) access charges;
- (b) area of operation;
- (c) consumer related information;
- (d) downtimes;
- (e) fault resolving procedures;
- (f) interconnection;
- (g) port charges;
- (h) quality of service; and
- (i) revenue-sharing arrangements.

(2) Each licensee shall offer such assistance to the Commission in relation to disaggregating information under this regulation as it may reasonably require.

## **30. Access to Register**

(1) Parts I and III of the Register is to be open for inspection by the public on payment of an administrative fee and on the fulfillment of any other condition determined by the Commission.

(2) Any person seeking inspection of Parts I or III of the Register shall apply to the officer designated by the Commission who shall allow inspection and also make available extracts of portions of the Register, on payment of the administrative fee.

(3) The Commission may in accordance with subregulations (1) and (2) of this regulation also allow access to Parts I and III of the Register through the website maintained by it.

## **31. Dispute resolution**

(1) Notwithstanding anything to the contrary contained in any other law, where the parties to any proposed interconnection agreement are unable to agree on the terms of the interconnection agreement within 60 days from the date of a request for interconnection under regulation 20, either party may submit the matter to the Commission for resolution in accordance with such procedures as the Commission may adopt, acting on the recommendation of ECTEL.

(2) Where a request has not been received by the Commission after 60 days under subregulation (1), the Commission may, acting on its own motion, direct the parties to submit the matter for resolution.

(3) Notwithstanding subregulation (2), the Commission may withhold from directing the parties for an additional 30 days where it is reasonably satisfied by both parties that an interconnection agreement is likely to be concluded within that time.

(4) Any decision made by the Commission under subregulations (1) and (2) is binding on the parties pending agreement between the parties on the terms of any proposed interconnection agreement.

(5) The decision by the Commission is to—

- (a) be made within 60 days from the date of a request under subregulation (1) or a direction by the Commission under subregulation (2), or such longer period as the Commission may in any case determine; and
- (b) specify—
  - (i) the facilities and the network covered by the decision,
  - (ii) the extent of any network which one party is required to carry information and communication messages including telecommunication messages to enable another party to supply services,
  - (iii) the points of, and the technical standards for, interconnection,
  - (iv) the rates of interconnection,
  - (v) the effective date of the decision; and
  - (vi) any other matters it deems appropriate.

(6) The parties to the decision under subregulation (5) shall submit to the Commission a copy of an interim interconnection agreement implementing the terms and conditions of the decision, together with any other information the Commission may require.

(7) An interim interconnection agreement ceases to have effect on the date a proposed interconnection agreement agreed between the parties is approved by the Commission.

(8) The existence of an interim interconnection agreement is not to prejudice, vary, or diminish the right of the Commission to review, approve or reject any proposed interconnection agreement between the parties.

(9) The Commission may, acting on the recommendation of ECTEL, make the terms and conditions of an interim interconnection agreement final where the parties are unable to conclude any agreement prior to the expiration of one year from the effective date of the Commission's decision under subregulation (5).

(10) In the exercise of any of the functions conferred upon it under subregulations (1)-(9), the Commission shall have the authority, acting on the recommendation of ECTEL, to make such orders and issue such directions to the parties as it deems appropriate.

### **32. Disputes regarding existing agreements**

(1) In any dispute involving an approved interconnection agreement between parties, notwithstanding the terms of any dispute resolution procedures described in the agreement, a party may refer the dispute to the Commission for a binding resolution in accordance with such procedures and upon such terms and conditions as the Commission, acting on the recommendation of ECTEL, may determine.

(2) In referring any dispute under subregulation (1), a party may request the Commission to issue an interim decision on providing interconnection, and the interim decision may address prices and any other terms or conditions for interconnection which the Commission, acting on the recommendation of ECTEL, may determine.

(3) Where the parties to an interconnection agreement are unable to agree as to whether or not a particular term or requirement of an interconnection agreement or

reference interconnection offer is being met, either party may refer the matter to commercial arbitration.

### **33. Amendment due to dispute resolution**

Where a decision arising from a dispute resolution process modifies the terms and conditions on which interconnection is provided, the Commission may require a public network operator to amend a relevant agreement in order to comply with the decision and submit the amended agreement to the Commission for approval.

### **34. Renewal of interconnection agreements**

(1) At least 90 days prior to the expiration of an approved interconnection agreement, a public network operator shall submit a revised interconnection agreement to the Commission for approval where such an agreement is to be renewed or extended.

(2) A renewal or extension of an interconnection agreement under subregulation (1) is not to take effect unless approved by the Commission, acting on the recommendation of ECTEL.

### **35. Power of referral**

If a public network operator refuses to obey any order, decision or direction by the Commission under these Regulations, the Commission may apply to a judge of the High Court for an order compelling the public network operator to comply with the order, decision or direction of the Commission and for such costs and other relief as the Court may allow.

### **36. Interconnection Code**

The Commission, acting on the recommendation of ECTEL—

- (a) may issue an Interconnection Code to give purpose and effect to these Regulations, setting out such guidelines, procedures, standards and other requirements as the Commission may issue or specify;
- (b) shall publish the Code, or parts of the Code, in the Gazette and on its website;
- (c) may amend, add to or replace the Code at any time.

### **37. Revocation**

The Telecommunications (Interconnection) Regulations are hereby repealed.

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## **Telecommunications (Exemption) Order – Section 5(2) and (4)**

### **(Statutory Instrument 59/2014)**

Statutory Instrument 59/2014 in force 9 June 2014

Commencement [9 June 2014]

### **1. Citation**

This Order may be cited as the Telecommunications (Exemption) Order.

## 2. Commencement

This Order is deemed to have come into force on the 9<sup>th</sup> day of June, 2014.

## 3. Interpretation

In this Order —

**“aeronautical mobile satellite service”** means a mobile satellite service in which mobile earth stations are located on board an aircraft, aeroplane, emergency position- indicating radio beacon station or a survival craft station;

**“aircraft”** means a power driven machine that derives its lift in flight chiefly from the aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

**“apparatus”** means all stations located on board an airplane, aeroplane or ship that is used for the purpose of providing satellite services;

**“customer premises wireman”** means a person licensed by the Commission to wire a customer’s premises;

**“earth station”** means a station located either on the earth’s surface or within the major portion of the earth’s atmosphere and intended for communication with one or more space stations or with one or more stations of the same kind by means of one or more reflecting satellites or other objects in space;

**“maritime mobile satellite service”** means a mobile satellite service in which mobile earth stations are located on board ships, survival craft stations and emergency position-indicating radio beacon stations;

**“mobile earth station”** means an earth station in the mobile satellite service intended to be used while in motion or during halts at unspecified points;

**“owner”** includes the legal owner, an agent or any person in whom an owner of a ship vests authority to manage and operate a ship;

**“ship”** means every description of a vessel used in navigation engaged in a voyage within the territorial waters of Saint Lucia;

**“survival craft station”** means a mobile station in the maritime mobile service or aeronautical mobile service intended solely for survival purposes and located on any lifeboat, life craft or other survival equipment.

## 4. Exemption

Subject to section 5 the following category of ship, aircraft, person or type of network or service is exempted from the requirement of obtaining an Individual Licence, Class Licence or Frequency Authorisation under the Telecommunications Act, Cap. 8.11 —

- (a) an aeronautical mobile satellite service provider;
- (b) a maritime mobile satellite service provider;
- (c) a citizen band radio network or service;
- (d) a customer premises wireman;
- (e) a satellite phone service provider;
- (f) an internet or cyber café provider; and
- (g) a telecommunications equipment dealer.

## 5. Conditions

(1) For the purposes of section 4(a) and (b), a person must first submit a written request to the Minister, and copied to the Commission for an exemption under section 4, that states the following —

- (a) the name, email address, telephone number, fax number and location of the business place;
- (b) the type of telecommunications service the service provider wishes to offer;
- (c) the area where the telecommunications service will be provided;
- (d) the type of customers that the service provider intends to serve; and
- (e) the type of equipment to be utilized in the provision of a telecommunications service.

(2) A request made under subsection (1) must have the following documents attached —

- (a) a certified copy of a valid licence authorising the person to provide an aeronautical or maritime mobile satellite service;
- (b) a certified copy of the Certificate of Incorporation of the service provider; and
- (c) a certified copy of Good Standing for the service provider.

(3) An aeronautical or maritime mobile satellite service provider must —

- (a) register with the Commission before providing any service;
- (b) have and maintain a contact number which is readily available;
- (c) provide access for inspection and testing of apparatus used for the provision of that service on the request of the Commission or a duly authorised officer of the Commission;
- (d) comply with any direction given by the Commission for avoiding interference with other telecommunications apparatus or any licensed telecommunications network;
- (e) not use the apparatus in a manner that would cause harmful interference with other telecommunications apparatus or any licensed telecommunications network;
- (f) not violate any existing policy, code or international standard governing the use of aeronautical or maritime mobile satellite services;
- (g) provide evidence that the installation and operation of the apparatus used for the provision of the aeronautical or maritime mobile satellite service has been certified by the State in which the aircraft, aeroplane or ship is registered.

(4) Unless specifically authorised by the Eastern Caribbean Civil Aviation Authority or any other authority responsible for civil aviation, an aeronautical or a maritime mobile satellite service provider shall not provide an aeronautical or maritime mobile satellite service when an aircraft or aeroplane is —

- (a) below 7000 ft altitude;
- (b) taking off or during take-off;
- (c) in its initial climb out;
- (d) in final approach position;
- (e) landing or taxiing.

(5) An aeronautical or maritime mobile satellite service provider must ensure that transmissions from apparatus shall automatically be terminated on the loss or significant degradation of the downlink signal from the relevant geostationary satellite.

(6) For the purposes of section 3(c), (d), (e), (f) and (g) a service provider must register with the Commission, prior to the provision of any service in Saint Lucia and provide the following information and documents to complete the registration process

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- (a) the name, email address, telephone number, fax number and location of the business place;
- (b) the type of telecommunications services that the provider wishes to offer;
- (c) the area where the telecommunications service will be provided;
- (d) the type of customers the service provider intends to serve;
- (e) the type of equipment to be utilised in the provision of the telecommunications service;
- (f) a certified copy of the Certificate of Incorporation of the service provider; and
- (g) a certified copy of the Certificate of Good Standing of the service provider.

## **6. Transition**

A person who carries out a service that may be exempted under this Order shall, within one year of the date of commencement of this Order, register immediately with the Commission.

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