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In exercise of the powers conferred on the Board of National Communication Authority under section 41 of the National Communication Authority Act, 1996 (Act 524) these Regulations are made this day of2003.

PART I – PRINCIPLES APPLICABLE TO COMMUNICATIONS INDUSTRY**General principles**

1. The following general principles apply to both the Authority and operators for the achievement of the objects and the performance of the functions specified under sections 2 and 3 respectively of the Act:

- (a) universal coverage;
- (b) non-discrimination;
- (c) fair competition
- (d) privacy and secrecy of communications;
- (e) priority of public over private communications services;
- (f) priority of national security and defence;
- (g) the public interest obligations of private operators, and
- (h) the development of the communications industry

Universal coverage

2. In pursuit of the principle of universal coverage, every operator or provider of communications service to the public shall subject to the terms of its licence, provide and extend its services to the entire geographical market for which it is licensed to serve, including rural and remote parts of its geographical market and other areas of low population density.

Non-discrimination in provision of service

3. (1) Every operator of public communications service shall having regard to the service authorized by its licence, offer and provide uniform, non-preferential service on a first-come, first-served basis to all persons within its geographical market area who request the service and who meet any predetermined conditions approved by the Authority for the provision of the service.

(2) It is not a violation of the principle of non-discrimination for an operator in deciding whether to provide the service to a person

- (a) to consider the ability of a prospective customer to pay for the service;
- (b) to make other reasonable classifications of customers such as business and residential customers and to provide the service on the basis of the classification, except that any classification applied by an operator shall
 - (i) be approved by the Authority; and
 - (ii) be such that the service provided to persons within a given class is on a non-preferential, first-come-first-served basis.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Fair competition**

4. An operator who own or controls a network or other essential facility upon which other competing cooperators depend for the efficient provision of their services, or who has a dominant position in a geographical market specified in its licence, shall not resort to conduct or practices that unfairly disadvantage rival operators or that are calculated to keep out competition such as

- (a) limiting access to a network or interconnection;
- (b) providing sub-standard access;
- (c) permitting access only under onerous terms;
- (d) subsidizing competitive services by revenues obtained from non-competitive services;
- (e) linking the provision of a monopolized service to the purchase of other services;
- (f) the use of fraudulent reporting and spurious accounting declaration and processes to impede the financial commercial growth of competitors or any such act that limits competition; or
- (g) unilaterally linking commercial disputes with interconnection issues to cause undue harm and injury to end-users.

Privacy and secrecy of communication

5. (1) Where a person, other than the sender or the intended recipient of a transmitted message or data, steals, intercepts, interferes with, alters or modifies, diverts. Unlawfully discloses, decodes or attempts to decode a transmitted principle of privacy and secrecy of communication.

(2) Subregulation (1) applies to operators and consumers of communications services including employees and agents of operators as well as persons who gain or obtain access to the contents of any transmitted message or data in the course of their work.

(3) Operators must employ international best practices in the industry to promote privacy, secrecy and security of communications carried or transmitted by them or through their communications system and of the personal and account data related to their subscribers.

Priority of public over private communications services

6. (1) The provision of communications services to the general public has priority over the provision of private communications services.

- (2) This principle shall be borne in mind by the Authority in
- (a) granting licence under the Act;
 - (b) allocating or assigning frequencies; an
 - (c) matters in which the Authority has to ration a limited resource between the needs of public and private communications services.

Priority of national security and defence

7. (1) In all cases of emergency declared pursuant to article 31 of the Constitution, all operators of communications systems shall give priority to the Ministry

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of defence or any person authorized by the President considers necessary in the interest of national security and defence.

(2) In the event of a war, the President may assume direct control of the communications systems and issue operating directives.

Obligations of private communications operators in the public interest

8. (1) Any person authorized to operate radio communications services for private use in places where no public communications services are available shall, upon request from the Government or from a third party authorized by the Government, carry or transmit messages to designated audiences, where the message is required to protect life and preserve public order.

(2) Private operators who are called upon to perform such public interest functions shall honour the principle of privacy and secrecy of communications.

Training and development obligations of operators

9. Operators or providers of public or private communications services shall implement training and development programmes to ensure the suitability and technical competence of the personnel in charge of the operation and maintenance of equipment, and the development of communication service engineering capabilities.

Sanctions for breach of principles

10. A person who acts in breach on any of the principles stipulated under Part I of these Regulations commits an offence and is liable

- (a) on summary conviction to a fine not exceeding 500 penalty units;
or
- (b) to a fine as indicated in that person's licence which is higher.

PART II – CLASSIFICATION OF COMMUNICATIONS SERVICES**Classes of communications services**

11. (1) For the purposes of the Act, communication services are classified as follows:

- (a) telecommunications services (Telecom);
- (b) broadcasting services;
- (c) cable services;
- (d) satellite services;
- (e) value added services;
- (f) aeronautical services;
- (g) maritime services;
- (h) amateur services; and
- (i) any other services as shall be determined by the ITU.

(2) The communications services specified in subregulation (1) may be provided as public or private services.

(3) A public communications service is a service made available to a general public for a fee or charge without discrimination and includes a communication service offered directly or indirectly to a third party in exchange for compensation.

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(4) A private communications service is a service established by an individual, a body corporate or other legal entity to satisfy its own communication needs within the country

(5) A person who provides equipment and incidental services to operators of private communications services on an individual contract basis, and who either does or does not itself request and use radio spectrum allocation from the Authority, shall require a dealers licence to provide the equipment or services.

New services

12. (1) The Authority may as it considers necessary add new communications services not specified in regulation 11 (1) having regard to future scientific and technological development.

(2) A person who wishes to have the Authority classify and regulate a new service may make proposals to the Authority by submitting an application containing the following information:

- (a) a description of the service and its classification according to its use and its nature;
- (b) the proposed applicable technical standards; and
- (c) proposals on administrative regulations, if necessary

(3) The Authority shall refer an application under suregulation (2) to the appropriate division of the Authority for review and may hold a public hearing to receive comments on the Application.

(4) The Authority shall issue a written decision granting or denying the application within 60 days following the filing of the application, or if a public hearing is held, within 30 days of the conclusion of the hearing.

PART III – TELECOMMUNICATIONS SERVICES (TELECOM SERVICES)**Sub-Part I – General provisions on telecom Services****Fixed and mobile telecom services**

13. (1) Telecom services may be fixed or mobile and may be public or private.

(2) Fixed telecom service is provided by a network or system in fixed points and is classified as

- (a) land fixed service, that is, a communication service provided by terminal stations and networks or systems installed in fixed land points which may use wire or wireless transmission facilities;
- (b) aeronautical fixed service, that is, a communications service provided by terminal stations installed in airports for the purpose of carrying traffic signals related to data on air navigation, flight preparation and safety, report on cargo, passengers and any other information regarding airport services; or
- (c) satellite fixed service, that is, communications service between earth stations located in fixed points, using one or more satellite systems and may include links between satellites.

(3) Mobile service is provided by fixed radio stations with mobile and portable stations and is classified as

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- (a) land mobile service, that is, a communications service provided by fixed earth stations to mobile stations in land, vehicles or to portable stations;
 - (b) aeronautical mobile service, that is, a communications service provided between fixed air stations and mobile or portable stations in a flying aircraft or in aircraft manoeuvring in airports, as well as between fixed aeronautical stations and portable equipment used by airport personnel in charge of air traffic control;
 - (c) maritime mobile service, that is, a communications service provided between
 - (i) coast stations and stations located in any fishing boat or vessel
 - (ii) stations located in any fishing boat or vessel and stations located on other boats or vessels
 for the purpose of establishing communications between the vessel and coastal ports and stations and carrying radio telephone and telegraph traffic other than maritime radio navigation traffic and includes radio communications facilities for vessels operating in lakes and rivers; and
 - (d) satellite mobile services, that is, a communications service provided between mobile earth stations and one or several space stations, or between space stations used for the service, or between mobile earth stations through one or more space stations.
- (4) A land mobile service may comprise
- (a) base stations established at such locations as may be approved by the Authority;
 - (b) Mobile stations authorized to communicate with base stations and in exceptional cases with each other; and
 - (c) low powered VHF mobile stations authorized by the Authority for communication with base or mobile stations
- (5) Unless otherwise authorized by the Authority, a land mobile serve shall operate in frequencies in VHF and UHF band but where the distances involved or the nature of the terrain traversed by the mobile units makes direct VHF and UHF communication between the units and base stations impracticable, communication may be effected by the use of a VHF or UHF relay station or HF radio system with a low power output and the number of station in the HF radio system with low power output and the number of stations in the HF radio system shall be kept to a minimum to ensure satisfactory communication.
- (6) Unless otherwise authorized by the Authority the use of low powered “personal mobile units” as base station shall not be permitted.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Transmitter power for land mobile service station**

- 14.** (1) Subject to subregulation (2), the transmitter power for a land mobile service station shall be approved by the Board.
- (2) The maximum transmitter power output shall not exceed
- (a) in the case of a base station 100 watts;
 - (b) in the case of a mobile station, 60 watts;
 - (c) in the case of low powered “personal mobile” station, 5 watts.
- (3) Where the Authority authorizes use of frequencies in the high frequency bands, the power of both base and mobile stations shall be limited to 100 watts.

Maintenance and operation of land mobile stations

- 15.** (1) A licensed land mobile station may be operated by a person employed solely on the transmission and reception of message through radio telephone installations shall be performed by a person who in the opinion of the Authority is qualified to carry out the work.
- (2) Except where the Authority otherwise directs, there shall be kept in the station log in which there shall be recorded the times of transmission and reception, the station or stations with which messages are exchanged, the operating frequency and the type of emission.

Public Coast Stations

- 16.** (1) A public coast station shall, with the written authorization of the Authority communicate with
- (a) any ship or aircraft station operating a maritime mobile service for the transmission and reception of safety communications;
 - (b) any land station for the purpose of facilitating the transmission or reception of safety communication to or from a ship or an aircraft station; and
 - (c) ships and other maritime mobile stations for the transmission and reception of public correspondence.

A public coast station shall with the written authorization of the Authority, transmit meteorological and marine.

Limited Cost Station

- 17.** (1) Where a national station cannot provide the required facilities, a licence for a limited coast station may be granted by the Authority to
- (a) any agency of the Government;
 - (b) any person who is engaged regularly in the operation, docking, direction, servicing or management of one or more commercial transport vessel;
 - (c) any fishing enterprise engaged in full time operation and in control of a minimum of three vessels; or

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- (d) any agency responsible for the operation, control, maintenance or development of a harbour, port or waterway used by commercial transport vessels.
- (2) Except as may be specifically provided in the licence, a limited coast station shall not be
- (a) Open to public correspondence
 - (b) used to transmit programme material of any kind for use in connection with radio broadcast; or
 - (c) used to transmit media material or new items which are not required to serve the needs of ships specified in the licence.
- (3) A limited coast station shall be used exclusively in an emergency to serve the need of the Government and ships including the transmission of safety messages.
- (4) Subject to subregulation (5), and except with the permission in writing of the Authority, telecommunication apparatus on board any sea-going vessel (including fishing vessel) shall not be put into operation while such a vessel is at any port or harbour within Ghana.
- (5) Subregulation (4) does not apply to the use of any apparatus for VHF communication between masters of ships, ship owners, agents or dock officials who are concerned with the berthing or departure of vessels or the handling of cargo or other port operational matters.

Sub-Part II – Public Telecom Services**Public telecom services (Fixed and Mobile)**

18. The following are public telecom services:

- (a) carrier services;
- (b) voice telephone services
- (c) cellular services;
- (d) telex services;
- (e) paging services;
- (f) Mobile Multichannel Service of Automatic Selection (in a trunk radio);
- (g) Telegraph Services;
- (h) Data Transmission Exchange Services; and
- (i) any other service classified as such by the authority.

*Carrier Services***Carrier Services and Network Interconnection**

19. (1) A carrier service is a communications service which uses carrier system to provide the necessary capacity to carry and route communications signals, that constitute the main interconnection between communications systems and networks and allows the provision of final services, distribution services and value added services.

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(2) A Carrier system includes a series of transmission and exchange media that constitute an open network both at national and international levels and interconnect public communications services.

(3) Carrier Services may be provided over a fixed or mobile network and must comply with technical standards approved by the Authority.

Types of Carrier Services

20. (1) Carrier Services include services that

- (a) the exchange communications networks to link the networks terminating point, including Carrier Services for data exchange by package, circuit exchange by package, circuit exchange services, telephone or telex services; and
- (b) use non-exchange communications networks, including lease of point-to-point and point-to-multipoint circuits.

(2) The Carrier Services mentioned under subregulation (1) may according to their scope be classified as

- (a) local carrier services;
- (b) national long-distance carrier services; or
- (c) international long-distance carrier services.

Local Carrier Services

21. (1) Local carrier services are services that provide the necessary capacity to carry

- (a) communications signals and interconnect the public communications network and services of different operators in a local area; or
- (b) private communications signals in the same local area.

(2) A local area is, a given urban or rural area, as determined by the licence issued to the operator.

National long-distance carrier services

22. National long-distance carrier services are services that provide the necessary capacity to carry communications signals and interconnect communications networks and services within and throughout the country.

International long-distance services

23. International long-distance carrier services are those that provide the necessary capacity to carry communications signals originating or terminating in Ghana, to or from international locations.

Authorisation to provide incoming and outgoing lines

24. Operators of local carrier services for national and international long-distance communications shall be authorized to provide local, national and international incoming and outgoing links, as the case may be, to the extent technically possible without discriminating among customers.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Interconnection of border areas**

25. Operators of carrier services who provide service to customers located in the country's border areas may, upon the prior written approval of the Authority, enter into special interconnection agreements with the persons providing the same services located within areas of a neighbouring country.

*Voice telephone services***Nature of voice telephone services**

26. (1) Voice telephone services are communications services that provide real time telephone communication, both incoming and outgoing, to customers through a fixed or mobile network.

(2) Voice telephone service are provided by contract to customers from fixed or mobile public telephones through telephone stations, fixed or mobile terminals, public booths or taken telephones.

Scope and classes of voice telephone services

27. Voice telephone services are of the following classes

- (a) local service to customers through communications system capable of carrying communications signals and interconnecting the public communications networks as well as services of different operators in the given locality;
- (b) national long distance services through which customers may communicate with each other within the country; and
- (c) international long-distance services through which customers in the country may communicate with customers in any other country.

Integrated telephone service

28. Voice telephone services must be provided as an integrated system, regardless of whether or not there is more than one operator rendering the services.

Register of applicants in chronological order

29. Operators of local telephone services shall keep a register of all applications from prospective subscribers for the installation of telephone lines in chronological order.

30. The provision of telephone services shall be a contract entered into between the operator and the customer or subscriber and the general terms and conditions of the contract shall be approved by the Authority and published in a telephone directory.

Telephone directory

31. (1) Subject to subregulation (5), an operator of a fixed service shall publish at least once every two years, a telephone directory for the customers it provides the service.

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(2) Operators shall also publish annual supplements of telephone directory in the year in which the directory is not to be published, listing new customers or subscribers and any change in telephone numbers.

(3) Operators serving the same customers may co-operate in the publication of telephone directory and supplements and share any related cost.

Exclusion of names from telephone directory

32. Customers or subscribers who do not want their names and telephone numbers listed in telephone directories may upon written request to their respective operators have their names and numbers excluded from telephone directories subject to such charges as the operators may determine in the contract referred to in regulation 30.

33. (1) Cellular communications services are services provided through communications system that

- (a) includes mobile service switching centers, each of which specifically serves a number of cells and other switching centers as are necessary to connect and carry traffic within the operator's network; and
- (b) enables calls to be made to and from mobile subscribers in their respective call service area and thereby, generally allowing calls to be transferred from cell to cell without interruption,

And includes both voice telephone and non-voice telephone service that satisfy the requirement of this regulation.

(2) Except otherwise provided by these regulations, other types of communications service using wireless technology do not qualify as cellular communications service.

*Telex Services***Nature of telex services**

34. Telex Services are communications services that provided for the interactive communications of texts between customers through teleprinting devices interconnected by telex network via transmission of codified information.

*Telegraph Services***Nature of telegraph services**

35. Telegraph services are communications services that provide customers with the means to transmit telegraphic signals in one or both directions between two points through a communications system.

*Paging Services***Nature of Paging Services**

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36. Paging services are communications services that provide customers with radio messages, through portable radio equipment used in a given zone and may be accompanied by a verbal or codified visual message.

Mobile Multichannel Services of Automatic Selection (in a Trunk radio system)

Nature of mobile multichannel services of automatic selection

37. Mobile multichannel services of automatic selection are communications services that provide individual means of communication through multiple radio communications channels which are automatically assigned

Data Transmission Exchange Services

38. Nature of data transmission exchange services are communications services that enable customers, using their own network to establish individual data communication with computers located in different places.

Sub-Part III – Private Telecom Services

Classification of private telecom services

39. Private telecom services are classified as follows;

- (a) private communications services provided by fibre optics or by wire lines which may be physical line, cable or coaxial cable; and
- (b) private communications services that do not require wire lines or fibre optics, also called private radio communications or wireless services.

Prohibition of re-sale of private telecom services

40. (1) Private telecom service once provided to a customer shall not be sold or otherwise made available for resale to any other person by the customer.

(2) Where a customer acts in breach of subregulation (1), the operator may, upon giving the customer or subscriber a notice of 14 days, withdraw the service;

Provision of facilities to install private telecom service requiring wireless or fibre optics

41. (1) For the purpose of installing a private telecom service that requires wire lines or optic fibre, the facilities of public communications service operators may be used and the operators shall in such circumstances be required to provide the technical facilities.

(2) Public communications service providers upon providing the facilities shall be entitled to compensation based on actual cost involved as determined by the Authority.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Private telecom services that do not require wire lines or fibre optics**

42. (1) The following telecom services, also known as private radio services, do not require wire lines or fibre optics.

- (a) radio navigational services;
- (b) bus channel services (citizen band);
- (c) amateur radio services;
- (d) space services;
- (e) standard-frequency signals and time signals;
- (f) radio astronomy;
- (g) meteorological aid;
- (h) radiolocation; and
- (i) any other service classified as such by the Authority

the nature and particulars of which are set out in this Sub-Part.

(2) Private telecom services are subject to:

- (a) these Regulations
- (b) the allocation or assignment of frequency;
- (c) the Radio Communications Regulations of the International Telecommunication Union; and
- (d) any specific directives that may be issued by the Authority in relation to them.

Radio navigation services

43. (1) Radio navigational services are services by which it is possible to determine the position, speed, orientation, route or other characteristics of an aircraft or vessel, or obtain information regarding such parameters, using radio waves.

(2) Radio navigation services are of two categories-

- (a) aeronautical radio navigation, being navigational services provided to aircraft for satellite, signal collection stations, located on board the aircraft; and
- (b) maritime radio navigation, being radio navigation services provided to navigable vessels and for satellite, signal collection stations located on board the vessels.

Commercial vessels operating on inland water ways

44. (1) A commercial vessel operating on an inland water way shall be equipped with a radiotelephone transmitter capable of transmitting signals with a peak envelope power of at least 20 watts or at least radio apparatus capable of transmitting alarm signals to any base station along the water way.

(2) The Authority shall determine the frequencies for use in the operations of radio apparatus for transmitting alarm signals.

Inspection of radio stations and telecommunication apparatus

45. (1) A radio Surveyor of ships, appointed under the Merchant Shipping Act, 1963 (Act 183), shall inspect and survey telecommunication apparatus installed in any

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sea-going vessel when the vessel docks at a harbour or a port in Ghana and shall at the end of each month, quarter or year, as the case may be submit to the Authority through the Minister a report on inspections and surveys carried out by the surveyor during that period.

(2) Without prejudice to subregulation (1), the telecommunication apparatus installed in any sea-going vessel which docks at a harbour or a port within Ghana may be inspected from time to time by Inspectors appointed for that purpose by the Authority.

Aeronautical mobile service

46. (1) Subject to subregulation (2), communications apparatus on board an aircraft shall not be put into operation while the aircraft is not in flight and is within the territorial limits of Ghana.

(2) Notwithstanding subregulation (1) of this regulation, an aircraft which is in flight may use any apparatus for VHF operation between the control tower or ground stations and the officers on board the aircraft.

Bus channel service (Citizen Band)

47. Bus channel service is a type of radio communication service which uses limited power equipment that operates on common frequencies, and is not protected from interference by frequency allocation as provided in these Regulations.

Amateur radio services

48. Amateur radio service is a type of radio communication service used for interconnection, leisure-time activity, testing, and research and are classified according to their output as follows:

- (a) CLASS "A" stations, that is stations the output power of which does not exceed 1000 watts;
- (b) CLASS "B" stations, that is, stations the output power of which does not exceed 250 watts; and
- (c) CLASS "C" stations, that is, stations the output power of which does not exceed 100 watts.

Classes of amateur radio operators

49. Amateur radio operators are of three classes namely

- (a) beginners, that is, person authorized to operate Class "C" stations in bands 160, 80, 6 and 2 meters with the segment of the 40 metre band included between 7,150 KHz;
- (b) intermediate, that is, persons authorized to operate Class "B" stations in bands 160, 80, 40, 10, 6, and 2 meters with a segment in the 20 metre band included between 14,000 and 14,200 KHz and a segment in the 15-metre band included between 21,00 and 21,250 KHz; and

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- (c) advanced, that is, persons authorized to operate Class “A” stations in all bands assigned to the operator subject to such limitations as may be specified by Regulations.

Amateur radio licence

50. (1) Except as provided in subregulation (3), the Authority may grant an amateur radio licence “A” or “B” to an applicant who

- (a) is not less than 14 year of age;
- (b) has passed the radio amateur examination or possesses the requisite qualifications prescribed for the purpose; and
- (c) has passed the morse test conducted by the Authority.

(2) The Authority may grant such licence to any person who is not a Ghanaian citizen if the person holds a valid amateur licence issued to the person by the government of the person’s country with which the Government of Ghana has a bilateral agreement for the operation on reciprocal basis of amateur radio stations.

(3) Subject to subregulation (1), a non Ghanaian who is not resident in Ghana and who holds a valid amateur licence may be granted a temporary licence for a period not exceeding three months or for such further period as the Authority may determine.

(4) The holder of an amateur radio licence shall keep an accurate log of operation in the station which shall include the following:

- (a) date of operations;
- (b) time of commencement of every call made from the station including all test conducted or called;
- (c) call signs of all stations contacted or called;
- (d) time of establishing and of ending contact with each station;
- (e) frequency used
- (f) type of emission (this to be entered only once until there is change in the type of emission); and
- (g) the signature of each licensed amateur radio operator and the name and signature of any person holding an amateur radio licence or amateur radio certificate recognized by the Authority who transmits by voice over a radiotelephone transmitter; and
- (h) time of closing down the station

Amateur radio examination and certificate

51 (1) The amateur radio examination and morse test shall be conducted by the Authority at such centres as the Authority may determine.

- (2) The minimum speed of the morse test shall be 12 words per minute.
- (3) There shall be charged by the Authority for each examination a prescribed fee.
- (4) The amateur radio examination shall be conducted as such times as the Authority may decide and the syllabus and other relevant details shall be determined by the Authority.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Space service**

52. (1) Space service is a type of radio communication service that enables communications to be made between earth stations and space stations where the signals are transmitted by space stations:

- (2) Space services are classified as follows:
- (a) space research, that is, a communication service that uses space Vehicles or other space objects for scientific or technological research;
 - (b) space operations service, that is, operation of space vehicles, space tracking, space telemetering and space telecommand normally within the service where the space station operates; and
 - (c) Satellite meteorology, that is, using satellites to explore the earth for meteorological purposes.

Other radio communication services

53. Other radio communication services include

- (a) standard frequency signal and time signal service, hat is a service used to transmit specific frequencies or time signals or both and is used for scientific, technical and similar purposes related to operation of radio stations;
- (b) radio astronomy service, that is, a service employed to determine scientific and related parameter in astronomy for scientific progress in general;
- (c) meteorological aid service, that is, a service by which radio communications facilities are provided for the purpose of transmitting result of weather observations; and
- (d) radiolocation service, that is, a service used to determine parameters related to the location and position of fixed or mobile objects.

Sub-Part IV – Broadcasting Services**Application for broadcasting frequency**

54. An application for a frequency authorization to provide a broadcasting service shall be made to the Authority and shall be in a form and contain information specified by the Authority including the following:

- (a) qualifications and particulars of the applicant;
- (b) the geographical area proposed to be served by the broadcasting service;
- (c) a plan of the facilities to be constructed and the construction and installation schedule;
- (d) a plan of repeater or retransmitter facilities where applicable; and
- (e) an indication of the financial resource of the applicant to operate the broadcasting service for which the frequency authorization is sought.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Procedure upon receipt of an application for a broadcasting frequency**

55. The provision of regulation 127 on the procedures for dealing with an application for a Class 1 licence shall apply to an application for a broadcasting frequency with such modifications as the Authority may determine to be necessary.

- 56.** (1) A broadcasting frequency authorization shall include the following:
- (a) the names of shareholders of the operator;
 - (b) the duration of the frequency authorization;
 - (c) the geographical area of coverage of the service to be provided under the frequency authorization;
 - (d) the rights and obligations of the operator;
 - (e) the grounds for the suspension, cancellation or termination of the frequency authorization; and
 - (f) penalties for breach of any of the terms of the frequency authorization

(2) A frequency authorization granted by the Authority may be subject to such conditions as the Authority may determine.

Construction and installation of broadcasting facilities

57. (1) The construction and installation of facilities for the provision of a broadcast service shall commence within 2 years from the date of the grant of the frequency authorization and the operator shall carry out testing for its operations within the specified period.

(2) The Authority shall cause an inspection of the construction of the proposed broadcast facility and may make technical recommendations which shall be complied with by the operator.

(3) The Authority may conduct a second inspection during the construction and installation period.

(4) When a second inspection is conducted, the Authority may issue a certificate that the construction and the installation comply with the standard set by the Authority or shall upon written notice of not less than 30 days from the date of the second inspection to the operator, cancel the frequency authorization if the operator is unable to meet the construction and installation standards.

Duration of a broadcasting frequency authorization is sought.

58. The duration of a broadcasting frequency authorization shall be as specified in an enactment on broadcasting

59. (1) An application for renewal of a broadcasting frequency authorization shall be submitted to the authority at least 3 months before the expiry of the frequency authorization.

(2) The provisions on renewal of a Class 1 licence under regulations 138 to 140 shall apply with such modifications as the Authority considers necessary to the renewal of a broadcasting frequency authorization.

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60. (1) Any transmitter employed in any broadcasting station shall conform to such frequency tolerance as the Authority may determine.

Definition of Cable Service

61. “Cable Service” means the one-way transmission via underground cable or overhead cable networks to customers or subscribers of communications services through video or other programming service with subscriber interaction required for the selection or use of the video or programming service and includes the one-way transmission by telephone service providers and other persons providing telecom services.

Licence to provide cable service

62. (1) Provision of cable service is subject to a licence and the Authority may subject provision of cable services to different conditions of licence from broadcasting.
(2) The conditions shall be set out in the licence.

Application of provisions on broadcasting to cable services.

63. Until regulations are made in respect of cable services, the provisions in these Regulations on broadcasting shall apply to cable services.

Sub-Part VI – Value Added Service**Nature of value added communications services**

64. The following communications services, the nature and particulars of which are set out in this Sub-Part, are known as value added services:

- (a) videotext;
- (b) teletex;
- (c) teletext;
- (d) teleaction;
- (e) telecommand;
- (f) telealarm;
- (g) data storage retransmission;
- (f) telealarm;
- (g) data storage retransmission;
- (h) teleprocessing and data processing
- (i) electronic mail service;
- (j) voice messaging; and
- (k) any other service classified as such by the Authority.

Videotext

65. Videotext is a communication service that involves a two-way interactive computer-base information system, in which a customer is linked to a database by telephone line or cable.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Telex**

66. Telex is a communication service by which a customer or subscriber can exchange office correspondence in the form of documents that contain the text of a telex coded information on an automatic memory to memory base.

Teletext

67. Teletext is a service that involves a two-way information system in which textual and graphic material is gradually conveyed as part of the television broadcast signal.

Teleaction

68. Teleaction is a communication service used to send short messages between customer and a communication network at a very low transmission speed.

Telecommand

69. Telecommand is a communication service by which a supervised communication system is controlled from a remote control device.

Telealarm

70. Telealarm is a service by which an electric signal is sent to a remote control device each time there is a change of the conditions in the supervised system.

Data storage and retransmission

71. Data storage and retransmission is a communication service by which message can be exchanged between customers using storage and retransmission devices.

Teleprocessing and data processing

72. Teleprocessing and data processing is an interactive communication service used for the processing of data and exchange of messages between the terminals of geographically distant customers.

Electronic mail services

73. (1) Electronic mail service is a service by which a customer may send a message to one or more addressees and receive messages using a combination of data storage and retransmission techniques so that the final customer may recover the message.

(2) Electronic mail service may be used for

- (a) Electronic Mail (X.400), that is, a service that allows a customer to send message instantaneously to another customer's directory or electronic "mailbox" (i.e., person-to-person messaging, according to the ITU-TX.400 international standard).
- (b) Electronic Document Interchange (EDI), that is, person-to-person messaging, according to EDIFACT;
- (c) Electronic Fund Transfer;
- (d) Electronic Voice Mail, that is, a storage and retrieval service

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- whereby voice messages from one customer are digitally stored in order to be received by another customer; and
- (e) Such other purposes as may be approved by the Authority.

Voice Messaging

74. Voice messaging is a service by which a customer transmits a brief message by calling one or more telephone numbers at a given time or by answering the call of another customer.

Exemption from licence for value added services

75. (1) In pursuance of subsection (1) of section 11 of the Act and subject to the provisions of these Regulations, no licence is required from the Authority for the establishment or operation of value added services except that an operator who intends to provide value added service using radio frequency shall apply to the Authority for the right to use the radio frequency.

(2) The transfer of the business of a value added service provider is not subject to the consent of the Authority, but the transfer of the radio frequency is subject to the same conditions as the transfer of Class I or Class II licence provided for under these Regulations.

(3) Notwithstanding subregulations (1) and (2), where a Class I or Class II licensee or a group of either of them enter into the communications market to provide value added services, the Authority may attach such conditions as it may determine.

Registration required to provide value added services

76. (1) Notwithstanding that no licence is required for the provision of value added service over the public communications system, a person intending to provide value added service to the public shall prior to the commencement of the service apply for registration by submitting the following information to the Authority:

- (a) the identity of the service provider;
- (b) the type of value added service to be provided;
- (c) the area of coverage of the service; and
- (d) the particulars of the equipment to be used.

(2) There shall be paid for the registration required under subregulation (1) such fee as the Authority may determine.

*Internet service provider***Registration to provide internet service**

77. (1) Internet service providers are subject to the registration required under regulation 76 and the payment of a fee determined by the Authority.

(2) The registration of an internet service provider expires after 5 years from the date of registration and may be renewed for periods of 5 years upon application by the service provider.

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(3) An internet service provider shall cease operation from the date of the expiration of the registration.

(4) An internet service provider who desires to renew the registration shall at least 3 months before the expiry of the registration apply to the Authority for the renewal of the registration.

Public hearing for renewal of registration

78. (1) Where an Internet service provider applies for re-registration, the Authority may within 30 days after receipt of the application conduct an inquiry to determine whether or not the registration should be renewed.

(2) The inquiry shall have as its terms of reference, the compliance or non-compliance by the service provider with the Act, these Regulations and any guidelines issued by the authority.

(3) For the purposes of subregulation (1), the Authority may hold a public hearing and the provisions of regulations 139 and 140 shall apply.

Internet providers subject to the Act

79. Internet service is a communications service within the meaning of the Act and is subject to these Regulations.

PART IV – RADIO FREQUENCY**Definition**

80. “Radio frequency” as defined in section 44 of the Act, means any discrete portion of electromagnetic wave that lies between 9kHz and 3,000GHz.

Use of radio frequency

81. (1) Unless otherwise provided by the Act, these Regulations or any other enactment, the use of radio frequency shall be with the authorisation from the Authority.

(2) A person shall not use an allocated frequency for any service other than that for which it was allocated.

(3) An operator shall not alter the authorized installation, operation or characteristics for the use of frequencies, the transmitting power and other technical parameters related to the use of the radio frequency except with the prior written approval of the Authority.

(5) A person shall not provide any unauthorized communications service or use a frequency beyond the limit of the geographical area assigned by the Authority.

(6) A communications service provider shall transmit its signals in accordance with the duly authorized output power, bandwidth, frequency or band.

(7) Operators holding authorization for use of the radio frequency may be required by the Authority to obtain separate permits for the construction of radio facilities and installation of radio equipment.

(8) The technical characteristics for service operation contained in radio installation permits may be changed at the request of the licensee provided there is no change in the frequency allocated or in the output power permitted under the licence.

(9) A frequency allocated by the Authority for any service shall be subject to renewal.

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- (10) A validity period for an allocated frequency shall be 5 years.
- (11) Where any person desires to re-use a frequency, the person may re-apply to the Authority.
- (12) Any person who acts in breach of any provision of this Part commits an offence and is liable on summary conviction to a fine not exceeding 500 penalty units.

National plan for frequency allocation

- 82.** (1) The Authority shall prepare a national plan for frequency allocation, which shall be the technical plan on allocation charts for radio frequencies.
- (2) The plan shall indicate the type and category of the communication services for each frequency band.
- (3) The Authority shall determine the distribution, use and type of frequency bands.
- (4) The Authority shall reserve such frequency bands as it may determine for particular purposes.

Citizen's radio services bands

- 83.** (1) Unless otherwise authorized by the Authority a person shall not operate radiotelephony or radiotelegraphy on frequencies in 26.96 – 27.28MHz bands or any other frequency prescribed for a “citizens” radio service.
- (2) Notwithstanding subregulation (1), the Authority may grant a licence for the control of remote objects or devices by radio or for remote actuation of devices to be operated on frequency in the 26.96 – 27.28 MHz bands.

Control of model aircraft

- 84.** (1) Subject to subregulation (2), the authority may grant licence for the control of model aircraft by radio on a frequency in the 72 – 73 MHz band.
- (2) Any station operating in the 72 -73 MHz band shall use a transmitting aerial which shall meet the following requirements:
- (a) the gain of the aerial shall not exceed that of half-wave dipole;
 - (b) the aerial shall be immediately attached to, and shall be an integral part of the transmitter; and
 - (c) shall use only vertical polization.
- (3) Subject to subregulation (5), a low power communication device used for radio control may operate on any frequency exceeding 70MHz and in the 73-74.6 MHz, 240-250MHz and 1710-1750 MHz frequency bands.
- (4) All frequencies exceeding 70 MHz for use in a low power communication device shall be determined by the Authority.
- (5) A low power communication device for radio control shall also be used for the purpose of opening or closing doors and operating model air-craft and shall not used for voice transmission or the transmission of any other type of message.
- (6) The average power of a low power communication device for radio control shall not exceed 5 watts.

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- (7) The holder of a licence under this regulation shall, upon receipt of a notification from the Authority of a deviation from any frequency or any other technical requirements prescribed in relation to that licence immediately suspend any radiation from the transmitter involved and except where such radiation is intended to test the transmitter, the necessary adjustments and transmission to correct the deviation shall be made by or under the immediate supervision of a person technically qualified and whose qualification is recognized by the Authority.

Priority of frequency for public services

85. The Authority shall in allocating frequencies give priority to public communications services.

Harmful interference

86. (1) Communications service providers shall operate their systems in such a manner as not to cause interference, damage, financial loss or otherwise affect the quality of service of the other authorized communications service providers.

(2) A person who suffers any financial loss or other damage as a result of interference under subregulation (1) may file a claim with the Authority and the matter shall be dealt with in accordance with the dispute resolution procedures of the Authority.

(3) The Authority may order the suspension of an operator's service where it finds that the operator is operating its system in a manner contrary to subregulation (1), until the Authority determines that the wrongful operation of the system has been eliminated or corrected to the satisfaction of the Authority.

Radio interference by equipment, appliance and other devices

87. (1) A person who operates a telephone system, therapeutic or industrial equipment, engines, power generators, electrical appliances or any other devices shall employ best international industry practices in order not to cause radio interference.

(2) The Authority shall require a person who acts in breach of subregulation (1) to desist or eliminate the interference within a stipulated period.

(3) A person who contravenes subregulation (2) commits an offence and is liable on summary conviction to a fine not exceeding 250 penalty units or imprisonment for a term not exceeding 12 months and the court may order the confiscation of the appliance or equipment used in the commission of the offence.

Station identification

88. (1) A radio station shall be identified by a call sign or other recognized means of identification and the recognized means of identification may be

- (a) the name of the station;
- (b) the location of the station;
- (c) the operating agency;
- (d) official registration mark;

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- (e) flight identification number;
- (f) ship station selective call number or signal; or
- (g) characteristic signal or characteristics of emission or other clearly distinguishing features readily recognized internationally.

(2) Except in the case of survival craft station transmitting distress signals, a person shall not operate a radio station that has no identification or has a false identification.

(3) A station shall transmit its identification as frequently as practicable during the course of transmission.

(4) Subregulation (1) does not apply to radio stations on vessels or salvage devices that automatically transmit SOS signals.

Change of allocation of frequency

89. (1) The Authority may change an allocated frequency for any of the following reasons:

- (a) to give priority to public communication service;
- (b) to solve any problem of damaging interference;
- (c) to respond to demands of new technology;
- (d) to ensure compliance with international conventions; or
- (e) as a result of an amendment to the national plan for frequency allocation.

(2) The Authority shall notify the operator concerned in writing and shall cause the alteration to be published in the Gazette and any newspaper of national circulation within 30 days of the alteration.

Experimental radio service

90. (1) An experimental radio service shall make such transmissions as are necessary and directly related to the conduct of the experiment in respect of which a licence is granted under these Regulations.

(2) The holder of an experimental radio service licence shall during the transmission ensure that energy emitted from the transmissions does not cause harmful interference with other telecommunication services.

(3) Where the holder of an experimental radio service licence becomes aware that a transmission is causing harmful interference to other telecommunication services the holder of the licence shall cease the transmission and shall not resume the transmission until the holder of the licence is satisfied that no harmful interference will be caused upon resumption.

(4) Unless expressly authorized by the Authority, an experimental radio station shall not be used

- (a) to retransmit signals to any other station except to a station which is integrated in the experiment;
- (b) to transmit programmes intended for public reception; or
- (c) to render any other telecommunications service.

(5) Any adjustment of a transmitter in an experimental station which may affect the proper operation of any radio station shall be made by or under the supervision of a person holding a valid certificate issued or recognized by the Authority.

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- (6) Unless otherwise determine by the Authority, the authority may grant licence in respect of two main classes of experimental stations, namely,
- (a) an experimental (Research) station; and
 - (b) an experimental (Developmental) station
- (7) The Authority may grant a licence under subregulation (6)(a) to any person qualified to conduct experiments utilizing radio frequencies.
- (a) for scientific or technical radio research not related to an existing or proposed service; or
 - (b) for communication in connection with research projects where existing communication facilities are inadequate.
- (8) The Authority may grant a licence under subregulation (6)(b) to any person qualified to conduct experiments utilizing radio frequencies.
- (a) for the development of equipment for using in an existing service; or
 - (b) for the development of equipment or technical operational data directly related to the use of radio

Report on experiments

91. Except in the case of those radio stations which provide essential communication for research projects, a report on the results of an experimental programme shall be furnished to the Authority but the Authority shall at the request of the licence holder, withhold from the public the report and other relevant material, unless the Authority is of the opinion that it is not in the interest of the public to do so.

Station records of experimental services

92. The holder of a license for experimental services shall maintain adequate records of the operations in the radio station and these shall include

- (a) the dates and hours of operation
- (b) the measurements of the frequencies involved and the name of the person making the measurements;
- (c) the observed deviations from the assigned frequencies expressed in hertz, kilohertz or per centum plus or minus, and a statement of any corrective action taken;
- (d) the transmitter power; and
- (e) the type of emission

Form of station records of experimental services

93. (1) The station records shall be kept in an orderly manner in a suitable form and shall contain such details as will readily provide any data required.

(2) Where letters or abbreviations are used in the records, these shall be properly explained in the records.

(3) Each entry in the station records shall be signed by the person by whom the entry is made in the records.

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(4) An alteration, cancellation or correction of an entry in the station records shall be made by the person by whom the entry is made by striking out the relevant entry and initialing and indicating the date of the alteration, cancellation or correction.

(5) A person shall not destroy the station records until after the expiration of a period of not less than one year.

PART V – STANDARDISATION OF COMMUNICATIONS EQUIPMENT AND SYSTEMS**Standardisation**

94. Communications equipment and systems must be of such standard and technical specifications as to

- (a) prevent damage to interconnected network,
- (b) avoid interference to other communications systems, and
- (c) guarantee customer safety

Importation of equipment

95. (1) Communication equipment and systems shall not be imported into the country without prior approval of the Authority.

(2) For the purpose of subregulation (1), the Authority shall only grant approval where adequate information on the equipment and systems has been provided.

(3) A person who acts in contravention of subregulation (1) commits an offence and is liable on summary conviction to a fine of not less than twice the cost of the equipment imported and exceeding five times the landed cost of the equipment.

Marketing of equipment

96. (1) Communications equipment connected to the public network or used for radio transmission from commercial operation shall be approved by the Authority.

(2) For the purpose of subregulation (1), the Authority shall put in place a mechanism for the approval.

(3) Public telecommunications systems operators shall provide the Authority with a list of acceptable international standards in relation to connection other networks or to subscriber equipment, and with technical details of any deviation by operators from those standards; and may also supply the Authority with a list of equipment purporting to support those standards but which have been found (in Ghana or elsewhere) to be incompatible.

Equipment using radio frequency

97. Any model of equipment which generates an output power greater than or equal to 10 milliwatts into a test load, or which, with its associated antenna generates an effective radiated power greater than or equal to 10 milliwatts in any plane or polarization before it may be offered for sale in Ghana, except that the Authority may accept an approval granted to such an equipment by a competent government agency in a different country or by an international industry certification group as evidence of the suitability of the equipment for sale and use in Ghana.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Application for construction of aerial mast or tower**

98. (1) A person who intends to construct an aerial mast or tower or of more than 46 meters in height from ground level in respect of that person's services shall obtain a statement from the Director General of the Ghana Civil Aviation Authority certifying that the proposed construction does not constitute a hazard to air navigation.

(2) A persons shall for the purposes of subregulation (1), in addition obtain all other necessary permits and certificates from the appropriate authority in the country.

(3) A person who constructs an aerial mast or tower in accordance with subregualtions (1) and (2), shall where technically feasible and possible allow other operators to co-locate on mutually agreeable commercial terms.

Markings

99. (1) Unless otherwise authority by the Authority an aerial mast or tower exceeding 46 meters in height shall be painted as prescribed in sub-regulation (2).

(2) An aerial mast or tower of more than 46 meters in height from ground level shall be painted throughout its height with alternate bands or aviation surface orange and white, termination with aviation surface orange bands at both the top and bottom of the mast or tower.

(3) the width of the bands shall be equal and approximately one-seventh of the height of the mast or tower but the bands shall not be more that 30 meters or less than 45 centimeters in width.

Lighting of aerial mast or tower

100. The lighting system of an aerial mast or tower exceeding 46 meters in height above ground level which is required to have obstruction light shall conform to the following requirements:

- (a) there shall be installed at the top of the mast or tower at least one 100 watt lamp enclosed in aviation red obstruction light globe; and
- (b) the light shall burn from sunset to sunrise and shall be so positioned as to ensure unobstructed visibility of the light from aircraft at any normal angle of approach.

101. (1) where the top of an aerial mast or tower is more than 46 meters above the level of the ground, an intermediate light or lights shall provided for each additional 46 meters of fraction of the 46 metres and these shall be spaced as equally as practicable between the top light and ground level.

Inspection of mast or tower lights

102. The holder of any licence granted under these Regulations in respect of any radio station equipped with obstruction lights, shall

- (a) inspect the mast or tower light at least once every 24 hours to ensure that the lights function properly as required under these Regulations;

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- (b) inspect at intervals of not more than three months all automatic or manual control devices, indicators and the alarm system connected with the mast or tower lighting system;
- (c) report immediately to the Civil Aviation Authority or to the nearest flight service station
 - (i) any observed or know improper functioning of the lighting system which cannot be corrected within thirty minutes; and
 - (ii) when the fault referred to in subparagraph (i) is corrected; and
- (d) maintain sufficient quantity of lamps for immediate replacement at all times.

Entries in station log

103. The following entries shall be made in the log of any station equipped with obstruction lights:

- (a) the times at which the mast or tower lights are turned on and off each day or in the case of lights which are turned off automatically, the time and cause of improper functioning of obstruction lights;
- (b) date, time and cause of improper functioning of obstruction lights;
- (c) date, time and nature of adjustments, repairs or replacements made; and
- (d) particulars of officials of the Civil Aviation Authority or flight service station notified of improper functioning of obstruction lights as well as the date and time such notice was given.

Conditions for seizure and confiscation of equipment

104. (1) The following conditions may result in the seizure and confiscation of communication equipment and systems by the Authority:

- (a) importation without prior approval of the Authority;
- (b) installation, establishment and operation without authorization from the Authority; and
- (c) assembling of manufacturing without authorization from the Authority

of communication equipment and systems

(2) Involvement in any illegal services not specified in a licence or authorization of an operator may result in the seizure and confiscation of the communication equipment and system used.

*Inspectors to test standardisation***Appointment of inspectors**

105. (1) Pursuant to section 39 of the Act, the Board may appoint inspectors to carry out the necessary tests for and standardization of communications equipment or systems, in accordance with the technical specifications drawn up by the Authority taking

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into consideration the technical standards stipulated by the International Telecommunication Union (ITU) and any other recognized international body.

- (2) The functions of an inspector appointed by the Board include
 - (a) a technical inspection of radio transmissions to identify and locate damaging interference and other obstructions in communications systems;
 - (b) identify individuals who operate or provide communications services under technical conditions inconsistent with their licence issued by the Authority, or without the required authorization, permit or licence.
- (3) An application for appointment as an inspector shall be made to Authority and may be made by an individual or a body corporate.
- (4) The applicant shall
 - (a) submit a work plan, a list of qualified technical staff and the method of implementing the inspection work that will be assigned;
 - (b) produce certified proof that the applicant has sufficient technical and financial standing to implement the proposed work plan; and
 - (c) any other requirements that the Board may determine.
- (5) An operator shall allow inspectors authorized by the authority access to its facilities at reasonable times to enable the inspectors carry out inspection and verification functions, including inspection of equipment and documents to ensure compliance with the Act, these Regulations and any directives issued by the Authority.
- (6) A person who obstructs an inspector in the performance of the inspector's functions under the Act and this regulation commits an offence and is liable on summary conviction to a fine not exceeding 250 penalty units or imprisonment for a term not exceeding 12 months or both.
- (7) A person who offers, directly or indirectly, an inspector or any other agent or employee of the Authority a material inducement to vary the result of an inspection, or any inspector or other agent or employee of the Authority whether or not he or she accepts the offer, commits an offence and is liable on summary conviction to a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 2 years or both.

Standardisation certificate

106. (1) The Authority shall issue a Standardisation Certificate based on a favourable report issued in writing by an inspector, confirming that the equipment or system standardized fulfils the internationally recognized technical specifications established by the International Telecommunications Union (ITU) or any other recognized international body.

(2) Standardisation certificate may be issued to cover an entire class of equipment.

Installation of terminals purchased from third parties

107. (1) Communications services operators shall connect terminal equipment acquired or rented by customers or subscribers from third parties to their networks or systems, provided the equipment is compatible and has been duly standardized, except

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that operators may refuse to connect the equipment where it has been altered, is not functioning properly or has been reported as stolen.

(2) Operators shall not compel customers or subscribers to acquire their equipment nor any other goods or services as a condition for providing communications services.

(3) A customer or subscriber who is aggrieved by a decision of a provider under this regulation may file a complaint with the Authority which may take such action as it considers appropriate.

PART VI – INTERCONNECTION OF COMMUNICATION SERVICES

Interconnection between telecom service operators

108. (1) A public telecom service operator shall permit the interconnection of its communications system with that of another public communications service provider in accordance with an agreement between the operators or as determined by the Authority.

(2) Interconnection of a communication system providing private telecom service with a communication system providing public telecom service may be effected by an agreement between the operators or as determined by the Authority.

(3) Interconnection of communication systems of private telecom operators may be effected by an agreement between the operators.

(4) Consent for interconnection shall not be unreasonably withheld.

(5) An operator who acts in breach of subregulation (1) is liable to a fine determined by the Authority.

Use of open architecture design, facilitating access

109. (1) Public telecom service operators shall use open architecture designs that facilitate interconnection of systems and inter-operation.

(2) Unless otherwise exempted by the Authority and subject to interconnection agreement between the operator and the value added service provider, all operators shall permit unhindered passage of registered value added service within their communications systems and shall not intentionally interfere with such passage.

(3) Subregulation (2) includes the universal recognition of prepaid calling cards in all public telephones of operators.

(4) The access described in subregulations (2) and (3) may be denied on grounds of technical data, national security and public safety and the grounds for the denial of access shall be communicated to the value added service operator.

Access to poles, ducts, conduits and right of way

110. (1) Subject to subregulations (2) and (3), public utility providers, operators of public telecom and cable services shall share space on their radio towers; and public utility providers shall make available to operators access to any pole, duct, conduit or right of way owned or controlled by them without discrimination.

(2) The sharing and access described in subregulation (1) may only be denied on grounds of insufficient capacity, safety, security, reliability or other technical grounds.

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(3) The rates, terms and conditions of the access shall be fair, reasonable and based on actual cost to the person permitting the access.
Fair competition on relation to interconnection of public communications service network systems.

Fair competition in relation to interconnection of public communications service network systems.

111. (1) Interconnection of public communication service systems shall be governed by fair competition and for that purpose communications services shall be interconnected under conditions that are among other things equal technically, economically and without discrimination.

(2) Subregulation(1) applies to all operators who provide the same type of service and request interconnection.

Negotiations for interconnection of systems

112. (1) Operators may negotiate among themselves the terms and conditions of interconnection agreements.

(2) The period for interconnection negotiations shall be concluded within 4 months from the date an operator request interconnection.

Interconnection agreements

113. (1) An interconnection agreement shall

- (a) be in writing
- (b) conform to the principles of fair competition, non-discrimination and universal coverage set out in Part I of these Regulations; and
- (c) be executed in accordance with terms and conditions negotiated in good faith.

(2) Every interconnection agreement shall provide for resolution of any dispute arising under the agreement to be resolved by the Authority if not amicably settled between the parties.

(3) The Authority may, at the request of an operator who intends to enter into an interconnection agreement, participate or assist in negotiations for the interconnection agreement.

Submission of interconnection agreement to the Authority

114. (1) A copy of a final interconnection agreement executed under these Regulations shall be submitted to the Authority not later than 10 working days after the effective date of the agreement.

(2) Where the Authority determines that the terms of an interconnection agreement are inconsistent with

- (a) the best operation of the public communications network; or
- (b) the provisions of the Act or these Regulations;

The Authority shall require the parties to revise the terms and may where this is refused take such action as is permitted under the Act and these Regulations.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***PART VIII – COMMUNICATIONS LICENCES
Sub-Part I – General Provisions on Grant of Licence****Conditions**

115. (1) The Authority shall grant a licence under the Act where it is satisfied that the communication system in respect of which application is made is suitable for the services intended to be rendered and can technically be provided in the country.

- (2) The Authority shall not grant a licence in the following cases:
- (a) where it decides on reasonable grounds that the grant of a licence will present a real or potential danger to public order, public morality, or the national security;
 - (b) where it determines that the applicant does not possess the requisite technical or financial capabilities to meet the terms and obligations of the licence or, in the case of an application for the provision of a public communications services, the applicant cannot carry through a required plan for the expansion of the services;
 - (c) where a licence previously granted to the applicant or any of its shareholders or partners, was cancelled by the Authority and at least 2 years have not elapsed from the date of the cancellation; except that, this ground for denial of a licence shall not apply if payment of any fees required by these or other Regulations and the applicant pays all the required fees; or
 - (d) where the licence had been cancelled on three occasions for default in the payments of sums due to the Authority

Payment of fees due

116. Subject to regulation 115(2)(d) where a licence granted by the Authority is subsequently cancelled because of a failure by the licensee or operator to pay on time any fees required to be paid in respect of the licence, a new licence may be issued to the same operator, only upon payment by the operator of the fees due and any penalties attached to the failure.

Publication of notice of modification of licence

117. (1) The Authority shall for the purposes of section 12(4) of the Act publish in the Gazette and any newspaper of national circulation, notice of modification of terms of a licence issued under the Act and these Regulations.

Cancellation or suspension of licence

118. (1) The Authority may suspend or cancel a licence granted under the Act for any of the following reasons:

- (a) where the Authority is satisfied that the operator has not complied with or is not complying with the terms of its licence, the Act, these Regulations or directives and reporting requirements of the Authority;
- (b) the operator does not fulfill expansion requirements, if any, set out in its licence;

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- (c) the operator does not pay duly and punctually the fees and penalties required under its licence or these Regulations;
 - (d) where any statements, representations or warranties made in applying for a licence prove to be incorrect or untrue when it was made;
 - (e) the operator fails to renew or to keep any letter of credit or bond required as guarantee of the obligations under the licence; or
 - (f) the operator is dissolved or enters into liquidation, bankruptcy or equivalent proceedings or makes an assignment for the benefit of creditors.
- (2) No suspension or cancellation shall be made unless the Authority has
- (a) given the operator at least 30 days' written notice stating the cause of dissatisfaction of the Authority;
 - (b) given such other information as may be required under the terms of the licence.
- (3) A copy of the notice shall be delivered to the operator and may be published in the Gazette and in such other newspaper of national circulation as the Authority may determine.
- (4) The Authority may suspend or cancel a licence unless it follows the procedure set out in the regulations 119 and 120.

Comment and hearing procedure for modification, cancellation or suspension of a licence

119. (1) Not less than 30 days after the date of the publication of the notice the licensee, interested third parties and the general public may file, written comments, representations and objections to the Authority's proposed action for consideration by the Authority.

(2) Comments from the public shall be made available to the operator by the Authority.

(3) Not later than 10 days following the end of the 30 days for submission of comments, representations or objections, the operator may submit replies.

(4) The Authority may receive further public submissions by parties interested not later than 40 days after the date of publication of the notice.

(5) Comments, representations and objections, replies and responses are part of the public record of the proceeding and the Authority shall review the submission before making its decision on its proposed action.

(6) Not less than 45 days after the date of publication of the notice, the Authority shall hold a public hearing at which the licensee and any interested third party may appear before the Authority and shall have the right to make comments on or objections to the Authority and shall have the right to make comments on or objections to the Authority's proposed action.

(7) If the proposed action is a modification to a licence, the Authority shall request the consent of the operator to the proposed modification at the public hearing.

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(8) If the operator is absent from the public hearing, the Authority shall request the consent through a written request to be delivered to the operator not later than 5 days following the hearing.

(9) The consent shall not be unreasonably withheld or delayed.

Decision on modification, suspension or cancellation

120. (1) Not less than 60 days following the date of publication of the notice to modify, suspend or cancel a licence to the public, the Authority shall make a decision.

(2) The decision shall

(a) be in writing

(state the reasons for the decision).

(3) If the decision is a modification of a licence, the failure of the operator to give its consent shall not prevent the Authority from making the decision.

(4) Subject to section 25 of the Act, modifications, suspensions and cancellation of licences shall be published in the Gazette and in such newspapers of national circulation as the Authority may determine.

Non transferability of licence or Authorisation

121. (1) A licence granted under the Act shall not be transferable except with the written approval of the Board;

(2) For the purpose of subregulation (1), the transfer of shares in a licensee company that will not result in change of control of that company and would not cause the licensee to be in violation of any terms in its licence relating to ownership or structure does not require prior approval of the Board except that the Authority must be notified of the transfer;

(3) Non compliance with subregulations (1) and (2) shall result in the cancellation of the licence by the Board after the procedure set out in regulations 118, 119 and 120 have been followed.

Holder of licence or authorization in respect of radio station not to transfer location without approval

122. (1) The holder of a licence or authorization issued under these Regulations in respect of any radio station shall not transfer the station from one location to another or effect any changes in the design of the equipment or frequency unless with the prior approval in writing of the Authority.

(2) A person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine not exceeding 500 penalty units.

Loss of certificate, licence or authorization

123. Where the holder of a certificate, licence or an authorization issued under these Regulations loses the certificate, licence or authorization the holder may apply to the Authority for a duplicate copy of the certificate, licence or authorization upon payment of the fee prescribed in respect of that certificate, licence or authorization.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Licence for public communications service**

124. A person shall not provide public communication service unless that person has been issued with a Class 1 licence by the Authority.

Scope of Class 1

125. A Class I licence may authorize the licensee to

- (a) provide public communications service;
- (b) receive permits and other radio operation authorization required to install and operate radio communication equipments; and
- (c) use radio frequencies.

Application for a Class 1 licence

126. An application for a Class 1 licence shall be made to the Authority on a form provided by the Authority and shall include the following:

- (a) in the case of a body corporate, a copy of its Certificate of Incorporation and company regulations as certified by the Registrar-General;
- (b) in the case of an individual, the person's personal details as required on the form provided by the Authority;
- (c) technical plans certified by a qualified engineer, of the communications systems to which the application relates and demonstrating the applicant's ability to provide the communications service;
- (d) forecasts of the investment plan for the first 5 years and the amount of the initial investment for the first year of operation; and
- (e) any other requirements that may be established by the Authority.

Procedure upon receipt of application for a Class 1 licence

127. (1) Upon receipt of the application, the Authority shall satisfy itself that the information required under regulation 126 and all other information have been provided.

(2) Where any required information is not supplied, the applicant shall be notified of this within 5 working days of the receipt of the application and shall be allowed 5 working days to correct the omission.

(3) The Authority shall inform the applicant in writing of its receipt of a completed application with 5 working days of receipt of the completed application form.

(4) If the applicant fails to comply with subregulation (2), the application shall be rejected and the documents submitted with the application shall be made available for collection by the applicant, except that where the applicant fails to collect the documents, the Authority may dispose of them after the expiration of 45 days from the date the information to collect the documents was conveyed to the applicant unless earlier collected.

(5) Where the Authority decides that a public hearing should be held on an application, the publication must contain a notice of the public hearing indicating the place, date and time of the public hearing which shall be held in accordance with regulation 139.

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(6) The Authority shall evaluate the application by examining comments, replies and responses submitted by the applicant, the general public and the outcome of any public hearing.

(7) After the evaluation, and not later than 50 days after publication of the notice under subregulation (5), a report on the application shall be laid before the Board recommending the grant or rejection of the application.

(8) Not later than 65 days after the publication of the application under subregulation (5), the Authority shall inform the applicant in writing of the decision of the Board on its application.

*Grant of Class 1 Licence by Public Tender***Requirement to tender**

128. A Class 1 Licence shall be granted by public tender where

- (a) the unassigned frequencies or frequency bands available in a given locality or service area for the provision of the public communications service required are limited.
- (b) so required as a result of a frequency allocation made under these Regulations; or
- (c) the number of Class 1 licences that may be granted for the public communications service is restricted under any enactment or under the direction of the Board.

Preparation and approval of bidding conditions

129. For the purpose of regulation 128, the Authority shall within 30 days of the decision to submit a Class 1 licence to public tender, prepare the bidding conditions, approve the bidding documents and set up a Bid Reception and Evaluation Committee to consider the tenders.

Notice of public tender

130. A notice of public tender, the list of entities responding to it and the results therefrom may be published in two consecutive issues in the Gazette and in two newspapers of national circulation beginning no more than one week after the information is available.

Contents of notice

131. The notice of public tender shall contain the following information:

- (a) the name of the entity calling for bids;
- (b) the purpose of the tender;
- (c) the number of the tender;
- (d) the office in which interested parties may register and obtain information;
- (e) description of the tender;
- (f) price of the bidding documents;
- (g) date, time and place where bids will be received; and

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- (h) other technical information required by the Authority for the purpose.

Contents of bidding documents

132. The bidding documents shall contain the following information:

- (a) bidding schedule;
- (b) purpose of the tender;
- (c) documents required for qualifying as a bidder;
- (d) type of licence and licence areas sought;
- (e) terms offered;
- (f) a draft technical project for the service to be installed, if relevant, certified by a qualified engineer;
- (g) a description of the tariffs structure, if applicable;
- (i) basic amount of the bid, in cash;
- (j) guarantees, including a bank letter of guarantee confirming the bidder's ability to satisfy the financial requirements if granted the licence;
- (k) other documents which the bidder considers necessary to support the bid;
- (l) project schedule;
- (m) other technical information required by the Authority to evaluate the bid;

Other formalities

133. The Authority shall establish and draw up other formalities to be followed to suit the type of public communications service required.

Grant of a Class 1 licence

134. A Class 1 Licence shall state inter alia

- (a) the name, address and particulars of the licensee;
- (b) the service to be provided under the licence;
- (c) duration of the licence and conditions for renewal;
- (d) rights and obligations of the licensee;
- (e) minimum service expansion plan and provision for public telephone service, if any;
- (f) commitment to comply with the technical characteristics of the installation described in the basic technical plans provided by the licensee to the Authority;
- (g) fees, and any other payment to be made by the licensee upon the granting of the licence;
- (h) publication of tariffs and methods by which tariffed rates may be changed;
- (i) equipment specifically approved by the Authority for the provision of the service

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- (j) obligation to keep separate accounts where several services are provided within the service area, should the Authority consider the separation necessary;
- (k) fixing of rates, service quality obligations and service interconnection obligations;
- (l) guarantees, if required by the Authority, to comply with the obligations assumed by the licensee under the licence;
- (m) grounds for modification, suspension and termination of the licence; and
- (n) penalties for breach of any of the obligations and conditions of the licence.

Rights of a Class 1 Licensee**135.** A Class 1 licensee

- (a) shall provide the service licensed and receive from its customers, in consideration, a rate determined by the licensee or otherwise fixed in accordance with the method agreed upon in the Class 1 licence;
- (b) may enter into subcontracts, in the specific cases provided for in the licence;
- (c) shall verify whether customers, of its communications systems are properly using the service provided any may, where fraudulent or improper use of the communications system is detected;
 - (i) discontinue service to the offending customer; and
 - (ii) disconnect from its communications system, any device, equipment, apparatus or system that may be seriously affecting or damaging its communications system;
- (d) may exercise any other right granted in the licence or arising out of the Act and these Regulations.

(2) A customer aggrieved by a discontinuation or disconnection under sub regulation (1), may apply to the Authority for redress and may seek legal redress against the licensee.

Obligations of Class 1 licensee**136.** (1) A Class 1 licensee shall

- (a) install, operate and manage its communications system in accordance with the terms and conditions provided in the licence;
- (b) install and expand the infrastructure of its communications systems
- (c) provide and expand public telephone service, if its licence requires it to do so;
- (d) interconnect to any other communications system to which the licence relates or to permit the connection to its system or station, of other communications systems, if its licence requires it to do so;

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- (e) provide the communications service on a permanent basis, except in the event of an act of God or force majeure, where preference shall be given to emergency communications;
 - (f) provide guarantees, representations, warranties, letters of credit or bonds, required by the authority in compliance with the Class 1 licence, the Act and these Regulations;
 - (g) publish, in such manner and at such times as may be specified in the licence, a notice specifying the method that is to be adopted for determining its charges and other terms and conditions that are to be applicable to the service provided;
 - (h) submit to the Authority, in such manner and at such times as may be reasonably requested, such documents, accounts, estimates, returns and other information as may be required under the licence and, in general, give the Authority's inspectors the necessary facilities to carry out inspections of the communications system;
 - (i) use a uniform system of accounting as specified in the licence;
 - (j) establish a process approved by the Authority to resolve claims by customers or subscribers;
 - (k) pay on time any fees, duties, rates, fixed charges and other costs relating to the licence;
 - (l) adopt measures necessary to guarantee the inviolability and secrecy of private communications;
 - (m) notify the Authority of any change of postal address and obtain the approval of the Authority for any change of physical location of all operations;
 - (n) notify the Authority of any change or modification regarding agreements with customers or subscribers, agreements relating to interconnection conditions, or change in rates;
 - (o) provide its service in accordance with the quality of service parameters specified in the licence; and
 - (p) perform all other obligations attached to the licence or arising out of the Act, these Regulations and any guidelines the Authority may specify in relation to the service licensed.
- (2) A licensee who contravenes subregulation (1) is liable to
- (a) pay to the Authority a fine; or
 - (b) any other sanction

that the Authority may determine.

Expiration of a Class I licence

- 137.** (1) A Class I licence expires
- (a) where the licensee fails to renew the licence in accordance with the Act, these Regulations or the applicable terms of the licence;
 - (b) upon mutual agreement between the Authority and the licensee; or
 - (c) at the end of the period specified for the licence.

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(2) The licensee shall cease operation immediately from the date of the expiration of the licence.

*Renewal of a Class I licence***Application for renewal of a Class I licence**

138. (1) A Class I licensee who desires to renew the licence shall at least 3 months before the expiry of the licence apply to the Authority for the renewal of the licence.

(2) Within 5 working days of receipt of the application to renew, the Authority shall notify the applicant in writing of the receipt of the application.

Evaluation report and public hearing

139. (1) Upon receipt of an application for renewal and subject to subregulation (3), the Authority shall prepare an evaluation report that indicates if and to what extent the licensee has during the preceding licence period,

- (a) complied with its obligations under the licence;
- (b) complied with the Act, the Regulations and any directives issued by the Authority; and
- (c) a date and place for a public hearing at which
 - (i) members of the public can make comments and raise any objections to the renewal; and
 - (ii) the applicant can make comments and answer issues raised.

(4) The date for a public hearing shall not be earlier than 5 working days or later than 10 working days from the expiry of the period specified in subregulation (3)(b)

(5) On the date stated in the Authority's notice mentioned in the subregulation (4), the Authority shall hold the public hearing.

Decision on renewal

140. (1) The Authority shall base its decision for renewal on the evidence and comments presented at the hearing and the evaluation report of the Authority.

(2) Where the Authority finds on the basis of the evaluation report and the public hearing that the operator has violated its obligations under the licence to an extent that does not justify denial of the renewal, the Authority may renew the licence for less than the full period for which a Class I Licence could be renewed, taking into account the nature and the degree of the violation.

(3) The Authority shall communicate to the applicant its decision on the application for renewal within 60 days from the date of receipt of the application to renew and if it fails to do so, the licence shall be deemed to be automatically renewed for the period requested in the application for renewal.

*Sub-Part III – Class II Licence***Requirement for Class II licence**

141. The Authority may grant a Class II licence for the operation of private telecommunications services other than bus channels and amateur radio services.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Duration of Class II licence**

142. A Class II licence may be for a period not exceeding 5 years at any one time.

Application for a Class II licence

143. An application for Class II licence shall be submitted to the Authority in a form determined by the Authority and shall contain the following documents and information:

- (a) in the case of a body corporate, a duly certified copy of the certificate of incorporation and company regulations in accordance with laws of the Republic and in the case of an individual, a duly certified copy of the birth certificate or other such documents necessary to establish the individual's identity;
- (b) the applicant's personal details are required on the form provided by the Authority;
- (c) a sworn statement by the applicant, or of corporate partners or shareholders as appropriate, confirming that they are qualified to apply for the licence;
- (d) technical plans for the communications service applied for, certified by a qualified engineer, indicating the applicant's ability to provide the communications services;
- (e) for radio communications systems, a technical information sheet of the radio stations submitted in the form provided by the Authority;
- (f) for land, sea or aeronautical radio communications services, a duly certified copy of the registration documents of overland vehicles, or registration numbers of vessels and aircraft;
- (g) a photocopy of the instructions handbook, including the circuit diagram and technical specifications of the equipment to be installed;
- (h) where applicable, investment forecasts for the first three years and the amount anticipated to be made during the first year of the project; and
- (i) other information that may be required by the Authority from time to time.

Processing an application for a Class II licence

144. The procedures set out in Regulation 130 for the processing of an application for a Class I licence, other than the provision on public hearing, shall apply to the processing by the Authority of an application for a Class II licence.

Contents of a Class II licence

145. A Class II licence shall be in writing and shall include the following:

- (a) the name of the licensee and its particulars;
- (b) the service approved to be provided under the licence;
- (c) the duration of the licence;
- (d) the rights and obligations of the licensee;
- (e) fees and other payments required under the licence; and

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- (f) penalties for breach of any of the terms and conditions of the licence

Rights of a Class II licensee

146. A Class II licensee shall

- (a) provide the service authorized by the licence; and
 (b) exercise any other rights granted in the licence or arising out of the Act and these Regulations.

Obligations of a Class II licensee

147. (1) A Class II licensee shall

- (a) set up and operate the service in accordance with terms of the licence;
 (b) promptly pay the fees and fixed charges required under the licence; and
 (c) comply with any other obligations that the Authority may in writing provide as guidelines for the operation of its service

(2) A Class II licensee who contravenes any of the provisions of subregulation (1) is liable to

- (a) pay to the Authority a fine; or
 (b) any other sanction

That the Authority may determine.

Termination of a Class II licence

148. A Class II licence shall be terminated on any of the following grounds:

- (a) failure to pay the annual licence fee for 2 consecutive calendar years;
 (b) failure to pay the annual fixed charge for the use of the radio frequency for 2 consecutive calendar years;
 (c) failure to provide the service licensed for 3 consecutive months without the authorization of the Authority;
 (d) upon the death, dissolution or bankruptcy of the licensee; or
 (e) upon the expiry of the licence.

Renewal of a Class II licence

149. (1) A Class II licensee intending to renew its licence shall at least 3 months before the expiry of the licence, apply in such form as the Authority shall direct for the renewal of the licence.

(2) The procedure for renewal of the licence shall be the same as the procedure for obtaining the original licence.

PART VIII - SETTLEMENT OF DISPUTES**Sub-Part I – Disputes between Operators****Interconnection disputes**

150. Where the operators do not

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- (a) reach an agreement on interconnection negotiations within the period specified in regulation 112(2); or
- (b) reach an agreement on interconnection dispute arising from interpretation of an interconnection agreement,

Either operator or both may submit a written request to the Authority for settlement within 30 days, failing which an arbitration pursuant section 20(2) of the Act shall be resorted to in accordance with the Arbitration Act, 1961 (Act 38) and upon request).

Types of interconnection disputes to be referred for settlement

151. Interconnection disputes that may be submitted to the Authority include disputes

- (a) relating to negotiation of interconnection agreements;
- (b) concerning
 - (i) the implementation, terms, conditions and obligations under interconnection agreements;
 - (ii) access to network interconnections;
 - (iii) use or abuse of network interconnections; and
 - (iv) economic and legal issues relating to network interconnections.

*Disputes other than interconnection disputes between operators***Other disputes between operators**

152. (1) Disputes other than interconnection disputes arising between operators which under the Act may be submitted to the Authority or the Board for settlement shall be dealt with as provided for under this Sub-Part for resolution.

- (2) The disputes referred to in subregulation (1) include disputes that
 - (a) allege unfair competition or abuse of dominant position in the communications industry by an operator;
 - (b) concern rates, charges and any other payments or compensations arising under agreements between operators;
 - (c) relate to technical aspects of public communications service;
 - (d) concern damaging interference to an operator's communications service caused by another operator;
 - (e) relate to any other facility or service which, under the regulations, an operator is required to provide to another operator;
 - (f) concern any direct or indirect cross-subsidy or preferential treatment of two licensed entities with some element of common ownership; and
 - (g) concern any preferential treatment given by one licensed operator to another license operator in a matter where the preferential treatment is prohibited by law or by these regulations.

Settlement of dispute

153. (1) Subject to regulations 150, 151 and subregulation (2) of this regulation, where an operator who is a party to any other dispute that arises under the Act or these

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Regulations, requires the settlement or resolution of the dispute by the Authority, the procedures set out in this Sub-Part shall apply for the purpose.

- (2) The Authority has no power to settle any dispute relating to the editorial, literary, artistic, political, religious or other content expressed or transmitted through a communications system of an operator.

Request for settlement of disputes

154. (1) The party who desires the settlement of a dispute by the procedures of this Sub-Part referred to as the “claimant” may initiate proceeding by

- (a) filing 2 copies of its claim for settlement with the Authority and paying any fee applicable; and
- (b) serving the other party to the dispute referred to as the “respondent” with a copy of the claim.

(2) The claim of the claimant shall contain

- (a) the names, addresses and telephone numbers of the parties to the dispute;
- (b) a statement of the nature of the dispute;
- (c) the remedy or relief sought, including any amount claimed; and
- (d) any other relevant information.

(3) The Authority shall within 5 days of receipt of the claim of the claimant notify both claimant and respondent of receipt of the claim.

(4) In a dispute involving multiple parties, the claimant shall subject to subregulation (1), provide copies of all documents submitted to the Authority to all documents submitted to the Authority to all the other parties on or before the date of submission of the documents to the Authority.

Response to claim and counterclaim

155. (1) Where the respondent consents to the request for settlement of the dispute by the Authority, the respondent shall submit to the claimant and the Authority an answer to the claim within 21 days of receipt of the claim.

(2) The response shall contain:

- (a) the name, address and other particulars of the respondent;
- (b) the answer to the claim;
- (c) a counterclaim, if any, against the claimant; and
- (d) any other relevant information.

(3) A respondent who makes a counterclaim in the answer shall pay a fee determined by the Authority.

Submission of documents.

156. (1) Any written communication submitted by a party to the Authority is deemed filed with the Authority from the date the document is received by the Authority/

(2) A party submitting a written document to the Authority shall provide at least 5 copies of the document.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Administrative conference**

157. (1) The Authority may upon receipt of the claim of both claimant and respondent arrange and hold an administrative conference of the parties or their representatives or both to determine

- (a) the most suitable means of appointing a hearing panel;
- (b) the number and members of the hearing panel; and
- (c) any administrative issue involved, including fees and an expeditious method of settling the dispute.

Appointment of a hearing panel

158. (1) The Authority shall within 15 days of a submission of the response set up a hearing panel.

(2) The hearing panel may consist of the Director-General or one person appointed by the Board or appointed by the Director-General on the direction of the Board.

(3) Where the parties do not agree on a sole member as a hearing panel, each party to the dispute shall within 7 days of the disagreement, appoint one person to the hearing panel and the members appointed shall appoint a presiding member failing which the Director-General or a person appointed by the Board shall preside.

(4) Upon appointment of the hearing panel, the Authority shall transfer the dispute and all related documents to the hearing panel.

Independence of hearing panel

159. The members of a hearing panel shall be independent of the parties to the dispute and shall immediately after appointment disclose to the Authority and the parties any facts or circumstances that might call their independence into question.

Nationality of members of hearing panel

160. Members of a hearing panel need not be citizen of Ghana.

Challenge of members of hearing panel

161. (1) A party may challenge the appointment of a member of the hearing panel including the Director-General on the ground of lack of independence or on any specific ground.

(2) The challenge shall be in writing that sets out the specific objection and the facts upon which the objection is based and shall unless it is received by the panel within 10 days of the date when the party was notified of the appointment of the person challenged, be rejected.

(3) The Director-General shall resolve the issue of challenge after hearing the parties involved within 10 days of receipt of the written objection; and where the objection is to the appointment made by the Director-General the matter shall be referred to the board for resolution within the period of 10 days specified in this sub-regulation.

Procedural directives

162. (1) Immediately upon the resolution of any matters relating to the appointment of the panel and the reference to the panel of the relevant documents on the

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dispute, the panel shall issue to the parties, directives setting out the date, time and place for the hearing as well as the expected duration of the hearing.

(2) The hearing panel in setting out the date and duration of the hearing shall take into consideration the complexity of the issues involved and the likelihood of harm to either party if the dispute is not promptly resolved.

(3) The hearing shall commence not later than 60 days after the filing of the submission to have the dispute resolved by the Authority.

Amendment of claim or response

163. (1) A party who has filed a claim or response may amend the claim or response by filing with the hearing panel the amendment desired and serving a copy on the other party.

(2) A party served with an amendment may within 7 days of the service file an answer.

(3) No amendment of claim or response shall be permitted by the hearing panel where it considers that the amendment could prejudice a party or unduly delay the resolution of the dispute.

Extension of time.

164. at the request of a party the hearing panel may for good and reasonable cause grant an extension of time for the taking of any action by a party.

Hearing

165. (1) Unless otherwise provided in these Regulations, the hearing panel shall conduct the hearing in a manner that it considers appropriate except that the parties shall be treated equally and fairly and shall each be given full opportunity to present its case.

(2) The hearing panel may, after consultation with the parties, decide to hear presentation of evidence by witnesses of the parties including expert witnesses and may itself call witnesses.

(3) The hearing panel may at the request of a party or on its initiative conduct the hearing on the basis of documents and other material evidence.

(4) All documents and other information supplied to the hearing panel by a party shall at the same time be communicated by the party to the other party.

(5) The hearing shall not be open to the public unless the panel and the parties agree to the hearing being opened to the public.

(6) Where notice of hearing has been given to the parties, the hearing panel may proceed with the hearing, notwithstanding the absence of any duly notified party.

(7) Parties may represent themselves or be represented by a lawyer or other expert.

(8) Persons appearing before the hearing panel may be questioned by the parties as well as the members of the panel and may be examined cross-examined and re-examined.

Conclusion of hearing and decision of hearing panel

166. (1) When the hearing panel is satisfied that all parties have had the opportunity to present their case, the panel shall declare the hearing closed.

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(2) The hearing panel shall submit its decision, which in the case of a panel with more than 3 members is the majority decision, to the Board and the parties within 14 days of close of the hearing.

(3) The decision shall be in writing and shall state the reasons on which it is based.

(4) Where there is a dissenting opinion, that opinion with reasons shall also be submitted with the majority decision to the Board.

Form of relief or remedy

167. (1) The decision of the hearing panel may include the grant of the relief or remedy sought in the claim or counterclaim or any other relief or remedy that the panel considers just, based on the evidence presented before it.

(2) The relief or remedy may include

(a) damages;

(b) a relief specified in an agreement between the parties relevant to the dispute;

(c) an order for specific performance under any relevant agreement;

(d) a modification or revocation of an agreement.

(3) Where the hearing panel concludes from the hearing that a party has acted in breach of any provision of a license issued under the Act, these Regulations or other directive of the Authority, the hearing panel may recommend that the party be proceeded with as required by the law.

Effect decision of a hearing panel

168. Where the decision of the hearing panel is acceptable to the parties, the decision shall be binding on the parties from the date of communication of the decision to the parties.

Petition to the Minister

169. (1) A person dissatisfied with the decision of the panel may within 14 days of being notified of the final decision of the panel petition the Minister against the decision.

(2) The Minister shall within 30 days after receiving a petition, decide on the petition and shall inform the Authority and the parties of the decision within 7 days of making the decision.

(3) A person dissatisfied with the Minister's decision in respect of a petition, may within 30 days of being informed of that decision, apply to the High Court for judicial review of the decision.

Sub-Part II – Disputes Between Customers or Subscribers and Operators.**Operators' procedure for dealing with complaints from customers**

170. Pursuant to section 35(1) of the Act, every operator is to establish a procedure for dealing with complaints by customers and potential customers.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Scope of disputes to be settled by the Authority**

171. (1) A dispute between a customer and an operator in which it is alleged that the operator

- (a) has exercised undue discrimination against the customer in respect of charges or terms applied or to be applied for the provision of the service in question;
- (b) has shown undue preference to any other person in respect of the charges or terms to the detriment of the customer; or
- (c) has applied or proposes to apply any charge related to the provision of communications service to the customer or subscriber which is not authorized under the Act

may be referred by either or both parties to the Authority for resolution.

(2) Failure to provide for service for which payment has been made or the provision of sub-standard quality service that amounts to a failure to provide the service may also be referred to the Authority for settlement.

Effort at settlement of dispute

172. Settlement of a dispute between operator and customer or subscriber may only be undertaken by the Authority where the customer has first made a reasonable effort to resolve the issue or complaint through the approved complaint procedures of the operator.

Informal procedure of the Authority to deal with complaints of customers against operators

173. (1) A complaint against an operator may be submitted by a customer to the Authority on forms issued by the Authority for the purpose.

(2) Two copies of the form shall be submitted by the complainant to the Authority.

(3) The following information shall be provided on the form:

- (a) the name, address, telephone number, if any, of the complainant;
- (b) the name and particulars of the operator against who the complainant is made;
- (c) a statement of the facts and circumstances of the complaint; and
- (d) the relief or remedy sought by the complainant.

(4) The Authority shall within 7 days of receipt of the complaint forward one copy of the complaint form to the operator.

(5) The operator shall investigate the complaint and shall within 30 days of receipt of the complaint,

- (a) take the appropriate steps to rectify the complaint and inform the Authority and the complainant of this in writing; or
- (b) give reasons in writing to the Authority and the complainant of its reasons for not satisfying the customer.

(6) A complainant dissatisfied with the response of the operator may initiate formal proceedings with the Authority.

*NATIONAL COMMUNICATIONS REGULATIONS, 2003***Formal proceedings**

174. (1) In any formal proceedings between an operator and a customer for the purposes of regulation 173 (6), the provisions of these Regulations on the appointment of hearing panels under Sub-Part I of this Part and the procedures specified there in respect of disputes between operators, other than disputes relating to interconnection of systems, shall apply with such modifications as may be necessary.

(2) In any formal hearing, the hearing panel may take into account as a mitigating or aggravating factor the operator's action or inaction with regard to an informal complaint on the same matter.

Forms for complaint

175. (1) Operators licensed to provide communications services to the public shall have copies of forms issued by the Authority for the filing of formal or informal complaints and shall make the forms available to customers or subscribers free of charge on request.

(2) Operators shall explain to their customers and subscribers their right to lodge formal or informal complaints with the Authority and inform the customers of the availability of the complaint forms.

PART IX – MISCELLANEOUS PROVISIONS**The register**

176. (1) Pursuant to section 38 of the Act, the register shall be in a form conducive to the retrieval and copying of the records contained in it.

(2) The register shall contain the following records:

- (a) particulars of licences issued and frequencies assigned by the Authority
- (b) particulars of suspension and cancellation of licences and frequencies including the grounds for doing so;
- (c) pending applications for licences for provision of communications services and frequencies;
- (d) designated standards of communications equipment; and
- (e) particulars of interconnection agreement submitted to the Authority;
- (f) frequencies available for allocation; and
- (g) any other records relating to operators that the Authority considers to be of interest to the public in the provision of communications services.

Records not to be put in register

177. (1) The Authority may direct that information that may otherwise be placed in the register shall not be included where it determines that public access in part or in whole is likely to:

- (a) endanger national security;
- (b) constitute an unwarranted intrusion into the personal privacy of a person or persons named or identified in the record;

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- (c) significantly frustrate implementation of a proposed action, investigation, or decision of the Authority;
 - (d) cause or lead to financial speculation in the securities of an entity identified in the record; or
 - (e) breach an agreement reached between the Authority and a party concerning certain confidential and privileged trade secrets and commercial or financial information obtained from the party.
- (2) A record excluded from the register under subregulation (a) shall be disclosed to a member of the public for inspection only upon an order of a court.

Public access during business hours

178. The register shall be open for public inspection during regular business hours and members of the public upon payment to the Authority of a reasonable fee to cover the cost of processing, shall be permitted to examine and copy the record in the register.

Submission of confidential information

179. (1) If an operator submits to the Authority information that is commercially sensitive or otherwise proprietary, the operator may request in writing for confidential treatment of the information.

(2) The Authority shall grant the request where it considers that the information is genuinely commercially sensitive or otherwise proprietary and the confidential treatment is consistent with the public interest.

(3) Where the Authority grants such confidential treatment, the information shall be kept under seal and shall not be disclosed to the public, although it may be disclosed to other parties to a proceeding before the Authority who show a need to receive the information and if the context of the proceeding justifies the disclosure.

(4) A person who receives confidential information under this regulation may be required to enter into a non-disclosure agreement by the owner of the information.

Structural separation requirement

180. (1) The Authority may for the purpose of furthering competition among operators and the protection of operators, require an operator to structurally separate divisions of its operation that provide different communications services.

(2) Upon determination by the Authority that structural separation is necessary, the Authority shall apply the following provision to the separated divisions which are referred to in these Regulations as “affiliates”.

- (a) affiliates shall be separate legal entities from each other;
- (b) affiliates may be staffed by personnel of other affiliates, housed in existing offices of other affiliates and use the marketing and other services of other affiliates, subject to paragraphs (e) and (f).
- (c) affiliates shall maintain separate books of account from each other;
- (d) if an affiliate acquires services from another affiliate, and the services are tariffed, the acquiring affiliate shall purchase the services under the tariffed rates, terms, and conditions; and
- (e) affiliates may acquire non-tariffed services from other affiliates according to arm’s length agreements, and any such agreements

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involving an exchange of more than the equivalent in Cedis of US Dollars \$100,000 shall be disclosed to the Authority.

Fees and charges

181. (1) The Authority shall print and exhibit at its premises at conspicuous places, lists of fees charged for licences, permits, other authorization and services rendered by the Authority.

(2) The Authority may modify the fees and charges as and when it considers appropriate and shall give 30 days notice of any such modification to the operators and the general public before implementing the modification.

Administrative Penalty

182. (1) Where there is a breach of any provision of these Regulations, the Authority may impose such pecuniary penalty as it may determine, unless a penalty is otherwise provided for in these Regulations.

(2) The Authority shall for the purposes of subregulation (1) publish in such manner as it determines the pecuniary penalties for breaches.

Need to provide truthful information

183. (1) An operator or the holder of any licence or authorisation issued by the Authority and officers, directors, employees or agents of such an operator; lawyers or other experts or customers, whether in proceedings before the Authority or in any other case, shall provide accurate and truthful statement in:

- (a) any response to correspondence from the Authority;
- (b) any inquiry, application, report or any written statement submitted to the Authority.

(2) A person referred to in subregulation (1) who without justifiable excuse willfully makes a misrepresentation or deliberate omission of material information under sub-regulation (1), commits an offence and is liable on summary conviction to fine not exceeding 250 penalty units and the Authority may suspend or cancel any licence any licence or other authorization, where applicable relevant to the matter.

Interpretation

184. In these Regulations unless the context otherwise require

“Act” means the National Communications Authority (NCA) Act, 1996 (Act 524);

“Authority” means the National Communications Authority (NCA) established under Section 1 of the Act 1996 (Act 524);

“Board” means the governing body of the Authority;

“chairman” means the Chairman of the Board.

“communications”, “communications equipment”, “communications system”, have the same meaning as provided under the Act;

“consumer”, “customer” or “subscriber” means any individual or body corporate or unincorporated who wishes to be provided with any relevant communications service by an operator and who is responsible for payment of all charges and rentals.

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- “earth station” means a terrestrial-based transmitting and receiving station used for communication with satellites;
- “frequency” has the same meaning as provided under the Act;
- “frequency allocation” means the entry in a table of frequency bank for the purpose of its use by one or more terrestrial or space radio communication services or radio astronomy service under specified conditions;
- “frequency assignment; means the process by which the Authority may assign the use of radio frequency to certain persons for specified purposes, pursuant to these and other Regulations of the Authority;
- “frequency band” means a portion of the radio frequency designated by the Authority to provide a specific service;
- “frequency band” means a portion of the radio frequency designated by the Authority to provide a specific service;
- “geographic market” means the geographic or demographic area, or any part of it, which an operator is authorized or licensed by the Authority to serve or in which an operator is authorized or licensed to operate;
- “interconnection” means the joining at specified points of two or more communications systems for the purpose of exchanging and completing communications traffic of users;
- “interconnection agreement” means an agreement providing for the interconnection of the communications systems of one or more holders of licences to provide public or private communications services;
- “internet service provider” means any entity that provides access to the internet to the public, regardless of the technology used and regardless of whether the entity provides any additional content to the end users apart from simple access to the internet;
- “ITU” means the International Telecommunications Union;
- “licence” means the Authority’s permission, as evidenced by a certificate to establish and operate or operate communications services or systems, including the terms and conditions relating thereto;
- “licensee” means a person to whom the Authority has granted a licence, to provide a specified communications service;
- “Minister” means the Minister assigned responsibility for Communications;
- “network” means an infrastructure, made up of communications equipment that comprises communications systems;
- “operator” has the same meaning as provided in the Act;
- “output power” means the power delivered into a test load of appropriate impedance at the output part of a transmitter or in the case of a combined transmitter-antenna system, the peak effective radiated power in any plane of polarization;
- “provider” means the same as an operator;

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“standardization” means assurance that the installation, use or operation of a communications equipment is compatible with a given communication system in accordance with given technical standards.

“VHF” means Very High Frequency.

*Transitional Provision***Existing Classes I and II licensees, broadcasting, use of radio frequency**

185. (1) Operators who on the date of the coming into force of these Regulations hold licences for the provision of communications services and have already been assigned or allocated frequencies are not required to apply for an authorization but shall, upon payment of an initial fee required by the Authority receive a Class I or Class II licence as applicable from the Authority and shall after that operate in accordance with the Act, these Regulations and the terms and conditions of the licences.

(2) Subregulation (1) applies to a person operating a broadcasting service under the licence issued by the Authority or under any other enactment.

Existing value added service providers

186. (1) A person providing value added service on the date of the coming into force of these Regulations shall where it intends to continue providing the service apply and register with the Authority within 90 days.

(2) There shall be paid for the registration such fees as the Authority shall determine.

(3) Where an operator uses frequency authorized by the Authority or a government agency, the operator shall pay to the Authority an initial fee determined by the Authority and shall after that operate in accordance with the terms and conditions provided from time to time by the Authority.

Revocation

187. The following Legislative Instruments are hereby revoked:

- (a) Telephone Regulation, 1939 (Vol. IX page528);
- (b) Telephone (Amendment) Regulations, 1957 (LN 161);
- (c) Telegraph (Amendment) Regulations, 1961 (L.I. 98);
- (d) Telephone (Amendment) Regulations, 1962 (L.I. 140);
- (e) Telegraph (Amendment) Regulations, 1962 (L.I. 219);
- (f) Post and Telecommunications (Telephone and Telegraph Charges) Regulations, 1975 (L.I. 1057);
- (g) Telecommunication (frequency Registration and Control) Regulations, 1977 (L.I. 1121);
- (h) Telecommunications (Frequency Registration and Control) (Amendment) Regulations, 1984 (L.I. 1302); and
- (i) Post and Telecommunications (Postal and Telecommunication Rates and Charges) Regulations, 1993 (L.I. 1555).

Hon. Felix K. Owusu-Adjapong	Chairman
Mr. Edward A. Boateng	Member

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Mr. Isaac K. Botwe	Member
Mr. Stephen Ayesu Gyimah	Member
Mr. W. K. Baffoe-Mensah	Member
Mr. Mohammed-Sani Abdulai	Member
Major J. R. K. Tandoh (Rtd.)	Member

National Communications Authority Board

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