

# TELECOMMUNICATIONS ACT 2007



**REPUBLIC OF LIBERIA**

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AN ACT to amend the *1973 Act to Amend the Public Authorities Law to create the Liberia Telecommunication Corporation*; to amend the ‘1978 Executive Law’ creating The Ministry of Posts and Telecommunications; to repeal Act No.18 of the National Transitional Legislative Assembly of Liberia, establishing an interim framework for telecommunications regulation; and to establish a legislative framework for policy making, regulation and development of the telecommunications sector in the Republic of Liberia,

IS ENACTED by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

## **PART I PRELIMINARY**

### **1. Short Title**

- (1) This Act may be cited as the *Telecommunications Act 2007*.

### **2. Definitions and Interpretation**

- (1) In this Act,

“Act” means this *Telecommunications Act of 2007*;

“affiliate” means, in relation to any one person, any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person;

“Board” means the governing board of the Liberia Telecommunications Corporation appointed pursuant to Section 13(1) and Schedule A to this Act;

“broadcasting service” means the transmission of radio or video programming to the public on a free, pay, subscription or other basis, whether by cable television, terrestrial or satellite means, or by any other means of telecommunication;

“Cabinet” means the Minister and other ministers of the Government appointed to Cabinet by the President and confirmed by the Senate;

“Chairman” means the person appointed, from among the five Commissioners, to head the Commission pursuant to Section 9 (2);

“class licence” means a licence issued pursuant to Part IV of this Act to a defined class of service providers and which applies to a person falling within the defined class without that person having to apply for the licence;

“commencement date” means the date on which this Act comes into force, as specified in Section 1 (2);

“Commission” means the governing body of the Liberia Telecommunications Authority (“LTA”) appointed pursuant to Section 9 (1);

“Commissioner” means any of the five persons appointed to the Commission pursuant to Sections 9 (1) to 9 (4);

“confirm” means confirmation of any appointment by the Senate;

“control” means the power to determine the actions of another person in any manner, whether directly through the ownership of shares or other securities or indirectly through an agreement or arrangement of any type;

“customer”, except as otherwise indicated, means any subscriber or consumer of telecommunications services, whether an individual, corporation, governmental body or other public or private legal entity and regardless of whether the services are acquired for the customer’s own use;

“decision” means any decision rendered by the LTA pursuant to this Act, or any regulation, rule or order;

“dominant service provider” means a service provider designated to have significant market power or otherwise to be dominant in one or more telecommunications service markets pursuant to Sections 27 (d) and 36 of the Act;

“exemption order” means an order made by the LTA pursuant to Section 17;

“Government” means the then current and duly authorized government of the Republic of Liberia;

“individual licence” means a licence issued pursuant to Part IV of this Act to an individual person upon the application of that person;

“interconnection” means the physical and logical linking of telecommunications networks used by the same or a different service provider in order to allow the users of one service provider to communicate with users of the same or another service provider, or to access the facilities and/or services of another service provider. For the purposes of this Act, the term interconnection includes ‘access’, meaning the making available of telecommunications facilities or services by one service provider to another for the purpose of providing telecommunications services. To facilitate this, government will tax all international calls. Rate of tax to be determined by the LTA;

“interference” for the purposes of Part VI of this Act, means the effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception by radiocommunication equipment or in a radiocommunication system, manifested by any performance degradation, misinterpretation, or loss of information resulting from such unwanted energy;

“Internet Protocol” means any of the set of communications protocols defining standards for Internet network interoperability, transmissions and related applications, including the “Transmission Control Protocol” (“TCP”) and the “TCP/IP” protocol suite;

“Liberia” means the Republic of Liberia;

“Liberia Telecommunications Authority” or “LTA” means the regulatory authority established and empowered pursuant to Part III of this Act;

“licence” means an individual licence or a class licence issued pursuant to Part IV of this Act;

“licensee” means a person who holds a licence under this Act;

“Minister” means the Minister of Posts and Telecommunications, or such other Minister as is designated by regulation under this Act from time to time;

“Ministry” means the Ministry of Posts and Telecommunications, or such other Ministry as is designated by regulation under this Act from time to time;

“National Operator” means any licensee designated as having identified telecommunications policy or telecommunications service obligations, pursuant to Sections 12 (3) and 12 (4) of this Act;

“notice” means any administrative, procedural, interpretive or other notice published by the LTA pursuant to this Act or any regulation or rule;

“number portability” means a facility by which a customer can retain an existing number when switching from one service provider to another, without impairment of service quality or reliability;

“order” means a written order made by the LTA pursuant to this Act, a regulation or rule;

“person” means a natural or other legally recognized person or entity, and includes a joint stock company, a limited liability company, a partnership, a sole proprietorship, a joint venture, or other form of entity whether incorporated or unincorporated;

“President” means the then current President of the Republic of Liberia;

“prior licence” means an authorization for the operation of a telecommunications network or provision of a telecommunications service issued prior to the commencement date, that has not expired, been terminated or been surrendered prior to the commencement date;

“public voice telephony services” means the commercial provision to the public of the direct transport, switching or routing of voice telephony, experienced by the user as occurring in real time, between network termination points;

“radiocommunication” means any transmission, emission or reception of signs, signals, writing, images, sounds, pictures, data or information of any kind by means of electromagnetic waves transmitted using the radio spectrum;

“radio spectrum licence” means a licence to use identified radio spectrum issued pursuant to Section 25 (1);

“reference interconnection offer” has the meaning identified in Section 39;

“regulation” means a regulation made by the LTA pursuant to this Act;

“rule” means a rule made by the LTA pursuant to this Act;

“Senate” means the Senate of the Republic of Liberia;

“service provider” means a person or entity under permit or license by the LTA that provides a telecommunications service to the public or that owns or operates a telecommunications network used to provide telecommunications services to the public;

“significant market power” means a position of economic strength, acting either individually or jointly with others, permitting a service provider to act to an appreciable extent independently of customers or competitors, or otherwise constituting a position of dominance in one or more identified telecommunications service markets;

“telecommunications” means any transmission, emission or reception of signs, signals, writing, images, sounds, pictures, data or information of any kind by wire, radio, optical or other electromagnetic means of communications;

“telecommunications equipment” means equipment intended to be connected directly or indirectly to a telecommunications network in order to send, transmit or receive telecommunications services;

"telecommunications facility" means any facility, apparatus or other thing that is used or is capable of being used for telecommunications or for any operation directly connected with telecommunications;

“telecommunications network” means any wire, radio, optical or other electromagnetic system for routing, switching or transmitting telecommunications services between network termination points;

“telecommunications service” means any provision of the voice and data transmission; SIM cards and Pre-paid accessories; equipments and facilities to customers; or any form of transmission of signs, signals, text, images or other intelligence by means of a telecommunications network, but does not include a broadcasting service;

“universal access” means ensuring the provision of telecommunications services and telecommunications facilities to residents and other members of the general public in Liberia, in accordance with a universal access policy developed and approved pursuant to Section 22; and

“Universal Access Fund” means the fund established pursuant to Section 23.

- (2) The use of the masculine gender denotes the feminine gender, and the use of the singular denotes the plural where appropriate.
- (3) References to any other laws or regulations shall be interpreted as references to those laws or regulations as amended or replaced from time to time.
- (4) As indicated by the definitions and other provisions set out in this Act, telecommunications includes the transmission of broadcasting services using any form of telecommunications; and the transmission of broadcasting services is a telecommunications activity subject to this Act. Broadcasting services remain subject to any other content or programming related regulation, under otherwise applicable laws, regulations, standards or guidelines.
- (5) The delivery of data or information, including audio-visual or multi-media content, by means of Internet Protocol telecommunications networks, and any use of Internet Protocol telecommunications networks for public voice telephony services, are subject to regulation under this Act as a telecommunications activity. Any data, information or content so delivered remain subject to otherwise applicable laws, regulations, standards or guidelines.

### **3. Objectives of this Act**

The objectives of this Act are to:

- (a) facilitate development of the telecommunications sector in order to promote social and economic development throughout Liberia;
- (b) promote the efficient and reliable provision of telecommunications services, relying as much as possible on market forces such as competition and private sector investment to achieve this objective;

- (c) promote affordable telecommunications access in all parts and regions of Liberia, relying on market forces and private sector investment when feasible and Government initiatives where appropriate;
- (d) ensure that national security policies, applicable to both domestic and international activities, are adhered to including through regulations, rules or orders under this Act;
- (e) establish a fair, objective and transparent regulatory regime for service providers, including the licensing of service providers;
- (f) establish a framework for the control of anti-competitive conduct in the telecommunications sector, and otherwise protect the interests of subscribers and other customers of telecommunications services;
- (g) ensure the safety of telecommunications networks and users of telecommunications services, and the privacy and proper use of customer information;
- (h) promote the use of new and more efficient technologies and efficient management and use of radio spectrum and other scarce resources;
- (i) encourage sustainable foreign and domestic investment in the telecommunications sector;
- (j) establish measures to enforce the implementation of this Act and to prohibit certain types of conduct contrary to the orderly development and regulation of the telecommunications sector;
- (k) encourage participation of Liberians in the ownership, control and management of communications companies and organizations; and
- (l) promote and safeguard national interests in the development and implementation of telecommunications policies.

#### **4. Act to Bind the State**

This Act shall be binding on all authorities and institutions of the Republic of Liberia, including all branches, ministries, departments and representatives of the Government as constituted from time to time.

#### **5. Repeal and Amendment of Acts**

Schedule B to this Act identifies the earlier legislation that is repealed, in whole or in part, or otherwise amended by this Act.

**PART II**  
**THE MINISTRY**

**6. Functions of the Ministry**

- (1) The Ministry of Posts and Telecommunications shall continue to exercise the functions and responsibilities provided for in the *Ministry of Posts and Telecommunications Act*, except as altered by the amendments identified in Schedule B to this Act.
- (2) Subject to the exercise of functions, powers and regulatory authority by the LTA pursuant to this Act and other applicable laws, the Ministry shall undertake such functions and responsibilities as are appropriate for the development of telecommunications in Liberia, and in particular the Ministry shall have the capacity and responsibility under this Act to:
  - (a) provide policy advice to the Government of Liberia on matters relating to the telecommunications sector, including both domestic and international matters;
  - (b) develop policy of general application to the telecommunications sector;
  - (c) encourage and promote the provision and availability of high quality and affordable telecommunications services to the public in all parts and regions of Liberia;
  - (d) represent the telecommunications policy interests of Liberia in international telecommunications organizations;
  - (e) support the establishment of a regulatory environment that facilitates the development of telecommunications services in Liberia, in accordance with the objectives and other provisions of this Act; and
  - (f) take such other actions as are needed to co-ordinate Government policies and programs affecting the telecommunications sector generally.

**7. Responsibilities of the Ministry**

- (1) Prior to adopting any policy applicable to the telecommunications sector, or exercising any other authority that is likely to have any substantial impact on the telecommunications sector, the Ministry shall:
  - (a) seek the views and recommendations of the LTA; and
  - (b) conduct a process of public consultation appropriate to the circumstances, and take account of the results of the public consultation in determining the relevant policy, decision or other exercise of authority.
- (2) The Ministry shall facilitate, and shall not interfere with, the proper exercise of authority by the LTA under this Act, including by considering the recommendations of the LTA

regarding policy development or any other Government initiative relevant to the telecommunications sector.

### **PART III**

#### **THE LIBERIA TELECOMMUNICATIONS AUTHORITY**

#### **8. Establishment of the Authority**

- (1) A public authority called the Liberia Telecommunications Authority (“LTA”) is hereby established.
- (2) The LTA shall be an independent legal entity, and shall undertake the regulation of telecommunications services and the telecommunications sector in Liberia in accordance with the provisions of this Act. Specifically, the LTA shall have the right to:
  - (a) exercise all powers and functions given to it under this Act;
  - (b) own movable and immovable property; and
  - (c) enter into contracts and take any legal actions, including the right to commence legal proceedings, to defend any claim against the LTA, and to participate and represent itself in any arbitration or similar legal proceeding.
- (3) The LTA shall have the benefit of any other capabilities enjoyed by public authorities under the laws of Liberia.
- (4) The LTA shall be exempt from the payment of income taxes and all customs duties and charges, as well as property and capital taxes. It shall also be exempt from payment of trade or similar levies.

#### **9. The Commission**

- (1) The President shall appoint a Commission consisting of five (5) Commissioners to oversee the operation of the LTA and to exercise the functions and powers of the LTA. The appointment of Commissioners pursuant to this Section 9 (1) shall be subject to Senate confirmation.
- (2) The President shall designate one of the five appointed Commissioners to be Chairman of the Commission.
- (3) The term of office for the Commissioners shall be four (4) years. The appointment of any Commissioner may be renewed by the President for another term of four (4) years. No member of the Commission shall serve for more than two (2) terms.
- (4) The Commissioners shall be persons with telecommunications sector or other relevant experience, and otherwise of appropriate qualification.

- (5) The Commission shall prepare an annual budget for the operation of the LTA, to be submitted for approval by the Executive Branch of Government. The budget of the LTA shall be subject to compliance with all national accounting and budgetary laws.
- (6) All decisions of the Commission shall be subject to simple majority of the Commissioners, based on the quorum established by the bylaws or operating rules adopted by the Commission from time to time.
- (7) All decisions of the Commission shall be supported by a statement of reasons or other explanation sufficient to explain the basis of the decision.

## **10. Disqualification and Removal**

- (1) A person may not be removed from office as a Commissioner or Chairman, or from any other office that is made subject to this Section, prior to the completion of his or her term of appointment unless the person:
  - (a) at the time of appointment, or while holding the position of Commissioner, Chairman or other office, has a conviction or is convicted for any offence in Liberia or elsewhere:
    - i) under criminal law;
    - ii) involving dishonesty or corruption; and
    - iii) where the penalty for such offence includes imprisonment for one year or longer (irrespective of whether such penalty has been or is imposed concerning such conviction);
  - (b) acts contrary to Section 10 (3), and does not remedy the default to the satisfaction of the Minister;
  - (c) is an undischarged bankrupt; or
  - (d) is determined by two medical practitioners to be unable to perform the responsibilities, functions, duties and powers of a Commissioner or other office due to any physical or mental incapacity.
- (2) If it becomes necessary to replace the Chairman or a Commissioner as a result of death, resignation or where the person is removed as permitted by Section 10 (1) above, the replacement will be appointed using the process described in Sections 9 (1) to 9 (4) or such other process as is approved by Cabinet.
- (3) No Commissioner or member of permanent staff of the LTA may have a direct or indirect financial interest or maintain any investment in any telecommunications company with operations or interests in Liberia during the tenure of his or her office or employment. Commissioners and permanent staff shall also ensure they have no other interests and undertake no other activities that are contrary to the proper exercise of their responsibilities

as members of the LTA, and shall not engage in any other employment or receive any other form of compensation or remuneration while they are members of the LTA.

## **11. Functions and Operation of the Authority**

- (1) The LTA shall have the capacity and responsibility under this Act to:
  - (a) advise the Minister on policy for the telecommunications sector;
  - (b) implement this Act, the regulations and other elements of the legal and regulatory framework for the telecommunications sector;
  - (c) issue individual and class licences, including licences for international telecommunications facilities and services, and design and implement the processes for issuing such licences;
  - (d) monitor and enforce compliance by licensees with the conditions of their licences;
  - (e) amend, modify, suspend or revoke licences in accordance with this Act and the regulations;
  - (f) implement tariff regulation, in accordance with Part IX of this Act;
  - (g) define network termination points, if required for the proper interpretation and administration of this Act, the regulations and rules;
  - (h) prescribe procedures for the approval of telecommunications equipment for attachment to telecommunications networks in Liberia, using the least onerous method available, such as approval of equipment previously approved for attachment in specified countries or regions;
  - (i) establish a radio spectrum plan and manage radio spectrum allocated to the telecommunications sector;
  - (j) regulate interconnection between telecommunications networks of different service providers;
  - (k) establish and manage a numbering plan and allocate numbers to service providers;
  - (l) resolve disputes between service providers, and between customers and service providers;
  - (m) institute and maintain appropriate measures for the purpose of preventing service providers from engaging in or continuing anti-competitive practices, including the identification of telecommunications markets, determining

dominance and abuse of dominance in identified telecommunications markets and responding to anti-competitive agreements;

- (n) represent Liberia in international telecommunications regulatory organizations;
- (o) carry out any responsibilities, functions and powers assigned to the LTA in any universal access policy or program established pursuant to Part V of this Act;
- (p) maintain records of licences and licence applications, equipment approvals and applications and interconnection agreements and, except where the LTA considers it justified for reasons of commercial confidentiality, make the documents in such records available to the public;
- (q) make regulations and rules for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof by the LTA;
- (r) make orders respecting any matter or thing within the jurisdiction of the LTA under this Act, a regulation or rule, including orders to compel a person to comply with or implement the purposes of this Act, a regulation, rule or licence, and, upon publication by the LTA such orders shall have the same legal force as a rule;
- (s) publish notices, including procedures and interpretations, to facilitate the implementation of this Act;
- (t) require information to be provided that the LTA needs in order to exercise its powers or perform its functions under this Act, including network or service development plans, financial, technical and statistical information, accounting records and any other information that the LTA reasonably requires;
- (u) on the initiative of the LTA or upon request by another person, investigate complaints against licensees or other service providers, and conduct such other investigations as the LTA deems necessary to ensure compliance with this Act, a regulation, rule or order, and issue an order in respect of anything prohibited, required or permitted to be done under this Act, a regulation, rule or order;
- (v) in exercising the LTA's powers and performing its duties under this Act, a regulation, rule or order, determine any question of law or fact, and the LTA's determination on a question of fact is binding and conclusive; and
- (w) take such other actions as are reasonably required to carry out this Act, and all related regulations, rules and orders, and to perform such other

responsibilities, functions, and powers conferred on the LTA under any other law.

- (2) The LTA shall carry out its responsibilities, functions and powers with a view to implementing the objectives set out in Section 3 of this Act.
- (3) The LTA shall act independently in performing the responsibilities, functions and powers set out in this Act and other applicable laws, and in this regard:
  - (a) the LTA shall act in a manner that is separate from, and not accountable to, any service provider, including a service provider owned by the Government of Liberia;
  - (b) the orders and rules made and the procedures used by the LTA shall be impartial with respect to all service providers and other market participants, provided however that nothing in this Section shall be interpreted to prevent the LTA from
    - i) consulting with any person or organization on any matter related to the LTA's responsibilities, functions and powers; or
    - ii) making a decision that is otherwise in accordance with this Act but that takes account of the different circumstances of a service provider or other market participant.
- (4) The LTA shall ensure that, prior to issuing any order or any other exercise of its authority that is likely to have any substantial impact on network operators, service providers, any other market participant or the general public, it conducts a process of public consultation appropriate to the circumstances and shall take account of the results of the public consultation in the final exercise of its authority.
- (5) All regulations, decisions, rules, orders, notices and other public documents issued by the LTA in performing the responsibilities, functions and powers set out in this Act and other applicable laws shall be posted on the LTA's official web site, and published in any other media that the Commission deems necessary or appropriate to provide adequate notice to interested persons. The Minister may issue directions to the LTA regarding the publication of regulations, decisions, rules, orders, notices or other public documents, as needed to provide adequate notice to interested persons.
- (6) The LTA shall prepare and submit to Minister an annual report on the circumstances and activities of the LTA. The LTA shall provide any other information relevant to its circumstances or activities as the Minister may request.

**PART IV  
LICENSED SERVICE PROVIDERS**

**12. Telecommunications Licensees and National Operators**

- (1) Telecommunications licensees shall have rights and responsibilities for the operation of telecommunications networks and the provision of telecommunications services in the Republic of Liberia determined in accordance with this Act, applicable regulations and telecommunications sector policies, the terms and conditions of their licences and related decisions, rules and orders issued by the LTA.
- (2) The LTA shall regulate all licensees in a fair and non-discriminatory manner, and in accordance with the objectives set out in Section 3, the other provisions of this Act and applicable telecommunications sector policies.
- (3) A licensee may be designated by the LTA to be a “National Operator”. The purpose of National Operator designation is to ensure that identified national or public interests, such as the provision of secure telecommunications networks and services to Government departments, are met and that sector policies are achieved. Designations of National Operator status may be reviewed, revised or revoked, in accordance with the direction and consultation procedures described in Section 12(4);
- (4) The particular rights, responsibilities and consequences of being designated a National Operator shall be defined in directions issued jointly by the Minister and the LTA. Those directions shall be determined following an assessment of whether market forces are sufficient to meet the identified national or public interests, including any consultation to be conducted pursuant to Sections 7(1) or 11(4).
- (5) A National Operator shall not be granted any competitive advantage over other service providers; and except as otherwise specifically provided in this Act, a National Operator shall subscribe to and be governed by all provisions of this Act and all regulations, rules and orders promulgated by the LTA.

**13. Liberia Telecommunications Corporation**

- (1) It is hereby recognizes the existence of a corporation to be known and to do business as the Liberia Telecommunications Corporation (LTC). The capacities and other features of the (LTC) are identified in Schedule A to this Act.
- (2) As indicated in Schedule A to this Act, the Liberia Telecommunications Corporation is designated a National Operator as of the commencement date. The Liberia Telecommunications Corporation’s rights, responsibilities and consequences of being designated a National Operator shall be defined in directions issued jointly by the Minister and the LTA pursuant to Section 12 (4).
- (3) As provided for in Section 5 and Schedule B to this Act, the *1973 Act to Amend the Public Authorities Law to create the Liberia Telecommunication Corporation* is amended.

#### **14. Licence, Radio Spectrum and Numbering Fees**

- (1) The LTA may issue regulations to establish:
  - (a) licence fees, including licence application fees and annual licence fees;
  - (b) radio spectrum usage and radiofrequency authorization fees; and
  - (c) fees for the use of telecommunications numbers.
- (2) Fees regulations issued pursuant to Section 14 (1) shall identify the date or dates upon which the fees take effect, and related payment and administration procedures. Regulations issued pursuant to Section 14 (1) shall be subject to the approval of Government of Liberia.
- (3) Fees regulations issued pursuant to Section 14 (1) shall take account of the following principles:
  - (a) fees may be used to fund, in whole or in part, the expenses of the LTA incurred in exercising responsibilities, functions and powers under this Act and other laws, and shall be proportionate to those expenses;
  - (b) fees shall be levied on different licensees and users of spectrum and numbers in an impartial and competitively neutral manner; and
  - (c) licence fees may be based on a percentage of the revenues of licensees from the provision of their licensed telecommunications services.
- (4) Fees required to be paid under this Section constitute a debt due to the Government of Liberia and may be recovered in a court of competent jurisdiction.
- (5) The payment and deposit of fees established under this Section, and any subsequent transfer, withdrawal or other transaction involving such fees, shall be subject to specific reporting, accounting and audit requirements established by the Ministry of Finance. Fees shall only be paid out or otherwise used to meet the demonstrated and appropriate expenses of the LTA in its exercise of regulatory authority under this Act, or to undertake any specific telecommunications sector project initiated by the Government or the LTA following a process of public consultation appropriate to the circumstances.

#### **15. Requirement to Hold Licence**

- (1) No person shall:
  - (a) provide a telecommunications service to the public for direct or indirect compensation; or
  - (b) own or operate a telecommunications network used to provide a telecommunications service to the public for direct or indirect compensation,

except under and in accordance with a licence or an exemption order issued by the LTA.

- (2) For the purposes of this Act, the provision of telecommunications services to the public includes the provision or offering of such a service to any segment of the public, including the resale of telecommunications services obtained from another person, even if only one person is provided or offered such a service.
- (3) All telecommunications services and telecommunications networks other than those described in Section 15 (1) and 15 (2) may be provided with a licence or permit issued by the LTA.

## **16. General Provisions Related to Licences**

- (1) The LTA shall determine the terms, conditions, procedures and criteria for granting telecommunications licences, in accordance with this Act and any related regulations, rules, orders or notices.
- (2) The LTA may issue regulations, rules, orders or notices clarifying the requirements of telecommunications licensing from time to time.
- (3) Licences shall be issued by the LTA, and shall be signed by a simple majority of the Commissioners or another representative of the LTA to whom authority has been delegated in accordance with the bylaws or operating rules adopted by the Commission from time to time.
- (4) A licence is a unilateral grant of permission from the LTA to provide a telecommunications service or operate a telecommunications network, and shall not be regarded as a contract or bilateral agreement.
- (5) Licences shall be in writing, and the LTA shall make copies of them available for inspection by the public.
- (6) In all circumstances where a licence is required, the following will be made publicly available by the LTA:
  - (a) the applicable licensing procedures and licensing criteria; and
  - (b) the time periods within which the LTA is expected to assess applications, notify applicants and reach any related decision.
- (7) If a license application is denied, the reasons for denial shall be provided in writing by the LTA.
- (8) Licences for service providers that provide substantially the same telecommunications services or own or operate substantially the same telecommunications networks shall not unfairly discriminate between such licensees.

- (9) The LTA shall retain at least one copy of each application and copies of all correspondence and decisions regarding the application, and shall make them available to the public upon reasonable request.

## **17. Exemption Orders**

- (1) The LTA may issue an order (an “exemption order”) exempting specified activities or classes of persons from the requirement to hold a licence.
- (2) An exemption order may be made subject to such conditions as the LTA deems necessary and that are consistent with this Act and any applicable regulations and rules.

## **18. Types of Licences**

- (1) The LTA may issue two types of licences:
  - (a) individual licences; and
  - (b) class licences.
- (2) The LTA shall specify which types of telecommunications services require individual licences, and which types of telecommunications services require class licences. The specification of licence types shall be included in a regulation, rule, order or notice issued by the LTA pursuant to Section 16 (2).

## **19. Licensing Procedures and Conditions**

- (1) The procedures for issuing licences, including applicable licence terms and conditions, shall be transparent, fair and objective.
- (2) Once established, licence procedures and conditions shall be published by the LTA in accordance with Section 11 (5).
- (3) It is a long-term objective to regulate licensees using rules of general application rather than conditions of individual licences. The LTA may seek to amend licences from time to time to achieve this objective.

## **20. Changes to Licences**

- (1) The LTA may amend, modify, suspend or revoke a licence (a licence “change”) if:
  - (a) the change has been requested or agreed to by the licensee;
  - (b) the licensee has been in breach of a material licence condition, this Act, a regulation, rule or order;
  - (c) changes to international treaties, commitments, recommendations, standards or the laws of Liberia require the change; or

- (d) the LTA decides that the change is required to implement this Act in a manner consistent with the objectives listed in Section 3.
- (2) Prior to implementing a licence change pursuant to this Section, the LTA shall notify the licensee in writing that it is considering the change, and consider any comments made by the licensee in a timely manner. The notice:
  - (a) shall give the licensee sufficient time to prepare comments on the identified change;
  - (b) shall set out any procedures the LTA will use in considering the change; and
  - (c) may invite comments from other interested parties or the general public.
- (3) If the LTA implements a licence change pursuant to this Section, it shall provide the licensee with sufficient time to implement any other changes needed to comply with the licence change.
- (4) The LTA shall not suspend or revoke a licence without giving the licensee sufficient time to remedy any breach or misconduct that is the basis for the revocation.
- (5) Where a licence is suspended, revoked or not renewed, the LTA shall take into account continuity of service to customers and include in its order such terms and conditions as it deems appropriate.

## **21. Term and Renewal**

- (1) The term of a licence shall be stated in the licence.
- (2) Upon application for renewal by a licensee, and except as otherwise determined by the LTA pursuant to Section 21 (3), a licence shall be renewed by the LTA on substantially the same conditions.
- (3) The LTA may renew a licence on new conditions or deny the renewal of a licence if:
  - (a) the licensee has been in breach of one or more material licence conditions, this Act, a regulation, a rule or an order;
  - (b) changes to international treaties, commitments, recommendations, standards or the laws of Liberia require a renewal on new conditions or the denial of a renewal; or
  - (c) the LTA decides that a renewal on new conditions or the denial of a renewal are required to implement this Act in a manner consistent with the objectives listed in Section 3.

**PART V**  
**UNIVERSAL ACCESS**

**22. Universal Access Policy**

- (1) After consultation with service providers, the LTA may propose, and the Minister may approve, a policy setting out specific objectives and related principles and service obligations relating to the provision of universal access to telecommunications services in Liberia.
- (2) In proposing a universal access policy, and in any implementation of that policy once approved by the Minister, the LTA shall consider:
  - (a) the objectives for the development of universal access;
  - (b) the basic telecommunications services to be included in universal access offerings;
  - (c) the geographical areas in which specified levels of universal access should be achieved; and
  - (d) the costs of the universal access service obligations.
- (3) In implementing a universal access policy approved by the Minister the LTA shall also ensure that any universal access obligations of service providers:
  - (a) are administered in a legally transparent, non-discriminatory and competitively neutral manner; and
  - (b) are not more burdensome than necessary for the universal access objectives to be achieved.
- (4) The LTA shall consult with service providers and other interested parties when preparing a universal access policy.

**23. Universal Access Fund**

- (1) Following approval of a universal access policy the Minister may approve a regulation prepared by the LTA to establish a Universal Access Fund to be used to subsidize, in whole or in part, the net costs of providing universal access.
- (2) An account called the Universal Access Fund shall be established as an “Escrow Account” in a registered and recognized bank in Liberia. Any disbursement from the Universal Access Account shall be in line with the Universal Access Policy and shall meet the approval of the Legislature.
- (3) Operation of the Universal Access Fund shall be subject to specific reporting, accounting and audit requirements established by the Ministry of Finance; and to include budget approval process to the Legislature established by other laws.

**PART VI  
RADIO SPECTRUM MANAGEMENT**

**24. Spectrum Management Functions**

- (1) The LTA shall be responsible for the orderly and efficient management, allocation, assignment and use of radio frequencies, including all civilian, non-civilian and commercial uses of radio frequencies.
- (2) In relation to radio spectrum management, the LTA shall:
  - (a) advise the Minister on matters relating to the use or management of the radio spectrum;
  - (b) conduct public inquiries relating to the use or management of radio spectrum, where the LTA determines such inquiries to be necessary or useful for its management of the radio spectrum;
  - (c) prepare and publish:
    - i) a national table of frequency allocations and national frequency register;
    - ii) a national radio spectrum plan; and
    - iii) any other radio spectrum plans, frequency band plans, commercialization plans or plans for the migration of spectrum users that the LTA deems necessary;
  - (d) ensure that the use of the radio spectrum is consistent with any applicable international treaties, commitments, protocols and standards;
  - (e) intervene in and resolve interference disputes, where such disputes are not resolved by the disputing parties to the satisfaction of the LTA;
  - (f) issue advisory notices relating to the use of radio spectrum, where the LTA determines such notices to be necessary or useful for its management of the radio spectrum;
  - (g) issue radio spectrum licences and radio frequency authorizations to authorize persons to use the radio spectrum and make transmissions by radio;
  - (h) administer matters related to radio spectrum fees, including fees established by regulation under Section 14;

- (i) determine, allocate and assign radio frequencies and frequency bands, or determine any other matters relating to the transmission of radio communications (whether by satellite, terrestrial or other transmissions); and
  - (j) perform such other radio spectrum-related functions as are conferred on the LTA by any other applicable laws, regulations or rules.
- (3) In exercising the spectrum management functions identified in this Section, the LTA shall also be responsible for establishing, and for overseeing the operation of, any committee or other body needed to coordinate uses of radio frequencies, including all civilian, non-civilian and commercial uses. The LTA may issue any regulations, rules, orders or notices required for the establishment or operation of such a radio frequency committee or coordinating body.

## **25. Radio Spectrum Authorization**

- (1) No person shall operate radiocommunication equipment or make any use of radio frequencies except in accordance with a radio spectrum licence or radio frequency authorization issued by the LTA.
- (2) The LTA shall develop regulations and rules to implement an efficient approach to management of the radio spectrum in Liberia. The regulations and rules may prescribe, among other things:
  - (a) classes or types of radio spectrum and radiocommunication equipment;
  - (b) requirements for radio spectrum licences authorizing the use of the radio spectrum;
  - (c) requirements for authorization for the use of radiocommunication equipment or other radio apparatus;
  - (d) technical requirements and standards in relation to radiocommunication equipment, interference-causing equipment and radio-sensitive equipment; and
  - (e) procedures, conditions and restrictions applicable to the use of the radio spectrum and radiocommunication equipment.
- (3) The regulations and rules described in Section 25 (2) shall be binding on all users of the radio spectrum or radiocommunication equipment in Liberia, including government and military users.

## **26. Interference Disputes and Coordination**

- (1) In resolving radio spectrum interference disputes, the LTA may:

- (a) assign its professional staff or technical experts retained by the LTA to attempt to mediate the dispute, and failing successful mediation to report to the LTA on possible resolutions of the dispute;
  - (b) appoint an arbitrator to settle the dispute in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (the UNCITRAL Rules), or such other international arbitration rules or processes as the LTA shall select; or
  - (c) issue an order to resolve the dispute, with or without receipt of a report pursuant to subsection (1) (a).
- (2) The LTA shall consult with and coordinate the use of the radio spectrum with other countries, international users, and international organizations, such as the International Telecommunications Union, as required by law, treaty in force or as otherwise determined by the LTA.

## **PART VII COMPETITION POLICY**

### **27. Functions and Duties of LTA Regarding Competition**

- (1) The LTA shall perform the following functions and duties in relation to competition among service providers in telecommunications markets in Liberia:
- (a) promote efficient and sustainable competition for the benefit of end-users;
  - (b) establish and maintain an open and transparent regulatory framework that minimizes regulatory and other barriers to entry into telecommunications markets;
  - (c) make orders defining markets for the purpose of this Act;
  - (d) make orders designating dominant service providers in relevant markets in Liberia, based on their market share and other factors as determined in accordance with regulations, rules and orders;
  - (e) monitor and prevent abuses of a service provider's dominant position, pursuant to Section 28;
  - (f) monitor and prevent practices that would restrict competition, in accordance with Section 29;
  - (g) review and decide upon proposed transfers of control of service providers, in accordance with Section 32;

- (h) undertake market reviews from time to time, to evaluate market conditions and the state of competition in those markets; and
  - (i) dispose of complaints and resolve disputes related to anti-competitive practices in a timely and impartial manner.
- (2) Wherever a conflict arises between the provisions of this Part VII and the provisions of any other legislation regulating competition in telecommunications markets in Liberia, the provisions of this Part VII shall prevail.

## **28. Abuse of Dominance**

Dominant service providers are prohibited from undertaking activities or actions that abuse their dominant position. The following types of actions and activities shall be considered an abuse of dominant position:

- (a) failing to supply essential facilities to a competitor within a reasonable time after a request and on reasonable conditions, or discriminating in the provision of interconnection or other telecommunications services or facilities to other service providers; except under circumstances that are objectively justified based on differences in supply conditions, including different costs or a shortage of available facilities or resources;
- (b) bundling of telecommunications services, whereby the service provider requires, as a condition of supplying a service to a competitor, that the competitor acquire another service that it does not require;
- (c) offering a competitor more favourable terms or conditions that are not justified by cost differences if it acquires another service that it does not require;
- (d) pre-emptively acquiring or securing scarce facilities or resources, including rights of way, required by another service provider for the operation of its business, with the effect of denying the use of the facilities or resources to the other service provider;
- (e) supplying competitive telecommunications services at prices below long run average incremental costs or such other cost standard as is established by the LTA;
- (f) using revenues or the allocation of costs from one telecommunications service to cross-subsidize a competitive telecommunications service with the objective of lessening competition, except where such cross subsidy is specifically approved by order of the LTA or by approval of tariffs for relevant telecommunications services;
- (g) failing to comply with the interconnection obligations of a dominant service provider that are specified in Part VIII of this Act;

- (h) performing any of the following actions, where such actions have the effect of impeding or preventing the competitor's entry into, or expansion in, a market:
  - i) deliberately reducing the margin of profit available to a competitor that requires wholesale telecommunications services from the dominant service provider, by increasing the prices for the wholesale telecommunications services required by that competitor, or decreasing the prices of the retail telecommunications services in markets where they compete, or both;
  - ii) requiring or inducing a supplier to refrain from selling to a competitor;
  - iii) adopting technical specifications for networks or systems to deliberately prevent interoperability with a network or system of a competitor;
  - iv) failing to make available to other service providers on a timely basis technical specifications, information about essential facilities, or other commercially relevant information which is required by such other service providers to provide telecommunications services and which is not available from other sources; and
  - v) using information obtained from competitors, for purposes related to interconnection or supply of telecommunications services by the dominant service provider, to compete with such competitors;
- (i) any other action or activity engaged in by a dominant service provider that the LTA determines in accordance with Section 29 to have the effect, or to be likely to have the effect, of materially restricting or distorting competition in a telecommunications market.

## **29. Other Anti-Competitive Practices**

No person shall engage in a practice restricting or distorting competition in telecommunications markets, including the following:

- (a) arrangements between two or more service providers that directly or indirectly fix the prices or other terms or conditions of telecommunications service in telecommunications markets;
- (b) arrangements between two or more service providers that directly or indirectly determine which person will win a contract or business opportunity in a telecommunications market; and

- (c) arrangements between two or more service providers to apportion, share or allocate telecommunications markets among themselves or other service providers.

### **30. Determination of Abuse of Dominance and Anti-Competitive Practices**

The LTA may, on application by any person, or on its own initiative, determine:

- (a) whether or not the actions or activities of a dominant service provider constitute an abuse of its dominant position, within the meaning of Section 28;
- (b) whether or not the actions or activities of any service provider amount to an anti-competitive practice within the meaning of Section 29; and
- (c) that an action or activity of a service provider under Sections 28 or 29 are authorized and shall not be considered to contravene this Act, on the grounds that such actions or activities are in the public interest and are otherwise consistent with the objectives set out in Section 3 of this Act.

### **31. Remedies for Abuse of Dominance and Anti-Competitive Practices**

If the LTA determines that in a particular case, or in a number of cases, the actions or activities of a service provider constitute an abuse of its dominant position or an anti-competitive practice within the meaning of this Act, a regulation or rule, the LTA may issue an order to:

- (a) require one or more persons named in the order to take one or more of the following actions:
  - i) cease the actions or activities specified in the order immediately, or at such time prescribed in the order, and subject to such conditions prescribed in the order; and
  - ii) make specific changes in actions or activities specified in the order, as a means of eliminating or reducing the abusive or anti-competitive impact;
- (b) impose a fine for breach of this Act pursuant to Sections 77 and 79;
- (c) require the service provider involved in the abusive actions or activities or anti-competitive practices, and the persons affected by such actions, activities or practices, to meet and attempt to determine remedies to prevent or eliminate continuation of such actions, activities or practices, and to resolve any remaining dispute;
- (d) require the service provider responsible for the abusive or anti-competitive actions or activities specified in the order to publish an acknowledgement and

apology for such actions, in such form and at such times as the LTA specifies in the order; and

- (e) require the service provider to provide periodic reports to the LTA to assist in determining whether the actions or activities are continuing and to determine their impact on telecommunications markets, competitors and customers.

### **32. Transfers of Control of Service Providers**

- (1) Subject to this Section, no approvals shall be required for the transfer of control of a service provider.
- (2) No transfer of control of a service provider shall be effected without the prior approval of the LTA if:
  - (a) a dominant service provider, or an affiliate of a dominant service provider is:
    - i) the person ultimately acquiring control of the service provider; or
    - ii) the person whose control is being transferred; or
  - (b) as a result of the transfer, a person, alone or with its affiliates, would become a dominant service provider according to any applicable criteria, methodology or processes for the designation of dominant service providers published by the LTA.
- (3) No transfer of control that requires approval under Section 32 (2) shall be completed or have any legal force or effect unless the person applying for approval of the transfer has received written approval for the transfer from the LTA.
- (4) Applications for transfers of control that require approval under Section 32 (2) shall include detailed information on the proposed transfer transaction. Such information shall, at a minimum, include:
  - (a) the identification of all persons involved in the transfer transaction, including buyers and sellers, their shareholders and affiliated companies, and any other persons that have a greater than five per cent (5%) ownership interest in all such persons;
  - (b) a description of the nature of the transaction and a summary of its commercial terms;
  - (c) financial information on the persons involved in the transaction, including their annual revenues from telecommunications markets, identified by specific markets, value of assets devoted to telecommunications business and copies of any recent annual or quarterly financial reports; and

- (d) a description of the relevant telecommunications markets in which the persons involved in the transaction operate.
- (5) The LTA may request additional information regarding an application for a transfer of control that requires approval under Section 32(2) at any time.
- (6) Within sixty (60) days of receipt of a duly completed application for a transfer of control that requires approval under Section 32(2), the LTA shall:
  - (a) approve the transfer of control without conditions;
  - (b) approve the transfer of control with such conditions as are reasonably related to promoting the development of open and competitive telecommunications markets in Liberia, and maximizing the benefits of the transaction for telecommunications customers;
  - (c) deny the transfer of control; or
  - (d) issue a notice initiating an investigation of the proposed transfer of control, and following such investigation it shall take one of the actions set out in subsections (6) (a), (b) or (c).

## **PART VIII INTERCONNECTION**

### **33. Functions and Duties of the LTA Regarding Interconnection**

The LTA shall perform the following functions and duties in relation to interconnection of telecommunications networks:

- (a) promote adequate, efficient and cost-oriented interconnection of telecommunications networks and access by service providers to telecommunications facilities of other service providers in order to permit interoperability of telecommunications services that originate or terminate in Liberia and to promote the development of competitive telecommunications service markets;
- (b) establish and maintain an open, transparent, non-discriminatory and commercially viable regulatory framework for interconnection and access with a view to minimizing regulatory and other barriers to entry into telecommunications markets;
- (c) promote interconnection arrangements, including by facilitating negotiations between the parties to reach interconnection agreements;

- (d) ensure that interconnection agreements otherwise meet the objectives of this Act;
- (e) determine which service providers are dominant service providers in a telecommunications market for interconnection;
- (f) if considered appropriate by the LTA, regulate the prices for interconnection and access services by dominant service providers in a telecommunications market for interconnection;
- (g) ensure that dominant service providers in a telecommunications market for interconnection publish a reference interconnection offer in accordance with Section 39 of this Act and any regulations, rules and orders applicable to interconnection;
- (h) resolve disputes related to interconnection in a timely and impartial manner; and
- (i) make orders specifying the terms of interconnection that shall be provided by one or more LTA service providers in accordance to the LTA regulations, rules and orders.

#### **34. Interconnection by All Service Providers**

- (1) Upon receipt of a written request by another service provider, a service provider shall enter into good faith negotiations to enter into an interconnection agreement to:
  - (a) connect and keep connected the telecommunications networks of both service providers; and
  - (b) provide access to such telecommunications facilities, including central offices and other equipment locations, mast sites, towers, conduits, poles, subscriber access lines and underground facilities, as are reasonably requested in order for the service providers to provide telecommunications service to their customers.
  - (c) agree that interconnection is to be facilitated by the installation of appropriate interconnection equipment, with each LTA licensed service provider responsible for its own equipment to facilitate interconnection, and provided that the equipment and infrastructure is such that the LTA can monitor calls originating from Liberia and terminating in Liberia.
- (2) The following actions or practices shall be deemed to violate the duty in Section 34 (1) to negotiate in good faith:
  - (a) obstructing or delaying negotiations, or failing to make reasonable efforts to resolve outstanding disputes;

- (b) refusing to provide information about a service provider's own telecommunications services or telecommunications network or other facilities that are necessary for the interconnection arrangements;
  - (c) misleading or coercing a party into reaching an agreement it would not otherwise have made;
  - (d) interfering in any way with a service provider's ability to communicate with the LTA, including having a service provider sign a non-disclosure agreement that precludes it from providing information requested by the LTA; or
  - (e) refusing to permit amendment of the interconnection agreement to take into account changes in circumstances, including changes to this Act or any applicable regulation or rule.
- (3) A service provider shall not be required to enter into an interconnection agreement on terms that would, in its reasonable opinion, and where the LTA has not made an order otherwise:
- (a) cause or be likely to cause material danger, damage or injury to any person or to any property;
  - (b) cause material damage or otherwise interfere with the operation of its telecommunications network, telecommunications facilities or the provision of its telecommunications services; or
  - (c) not be reasonable, having regard to technical or economic constraints.
- (4) Service providers and other interested parties may at any time request the LTA to issue an order that clarifies or interprets the interconnection rights or obligations set out in this Act or any applicable regulations or rules.

### **35. Interconnection by Dominant Service Providers**

- (1) Sections 36, 37, 38 and 39 apply only to service providers that the LTA has designated as dominant service providers in one or more telecommunications markets relevant to interconnection.
- (2) The LTA may issue a regulation, rule or order clarifying the interconnection related obligations of any dominant service provider.

### **36. Requests for Interconnection**

- (1) Interconnection arrangements offered by dominant service providers, in addition to meeting the requirements of Section 34, shall:

- (a) be consistent with this Act and any regulations, rules and orders made by the LTA before the date of the offer, including any requirements prescribed therein relating to interconnection charges and quality of service;
  - (b) be no less favourable than any reference interconnection offer that has been approved by the LTA for the service provider;
  - (c) meet all reasonable requests for interconnection with the dominant service provider's telecommunications network at any technically feasible point; and
  - (d) in all other respects, incorporate reasonable terms and conditions, including technical standards and specifications.
- (2) In addition, every dominant service provider shall ensure that:
- (a) it applies similar conditions to all interconnecting service providers under similar circumstances;
  - (b) it provides interconnection to interconnecting service providers under substantially the same conditions and of substantially the same quality as it provides for its own telecommunications services, or those of its affiliates;
  - (c) it makes available on request all necessary or reasonably required information and specifications to service providers requesting interconnection; and
  - (d) it only uses information received from a service provider seeking interconnection for the purposes for which it was supplied and does not disclose the information or otherwise use the information to obtain a competitive advantage.

### **37. Interconnection Charges**

- (1) Interconnection charges of dominant service providers shall be cost-based and shall comply with any regulations, rules or orders issued by the LTA, including any pricing, costing and cost separation requirements so prescribed.
- (2) The LTA may require the interconnection charges of any dominant service provider to be approved by the LTA in advance, including the power to direct dominant service providers to implement charges determined by the LTA.

### **38. Reference Interconnection Offers**

- (1) Dominant service providers shall:
  - (a) prepare a reference interconnection offer for approval by the LTA within the time period prescribed by order of the LTA;

- (b) periodically update the reference interconnection offer as prescribed by order of the LTA; and
  - (c) publish its approved reference interconnection offer by:
    - i) filing a copy with the LTA, who shall publish the reference interconnection offer on the LTA's official web site;
    - ii) making a copy available to the public in its principal business offices; and
    - iii) sending a copy to any service provider on request.
- (2) Every reference interconnection offer shall:
- (a) comply with any regulations, rules or orders issued by the LTA, including any requirements for the form and content of a reference interconnection offer so prescribed; and
  - (b) include a full list of services to be supplied to service providers, setting out the associated terms and conditions, including the charges for each such service.

### **39. Publication of Interconnection Agreements**

- (1) Dominant service providers shall, within ten (10) days after execution of an interconnection agreement, file a copy of the agreement with the LTA.
- (2) Subject to Section 39 (3), the LTA shall place a copy of all interconnection agreements filed in accordance with Section 39 (1) on its official web site, and shall make copies of filed interconnection agreements available on request by any service provider seeking interconnection.
- (3) A dominant service provider may designate information contained in an interconnection agreement that it has filed with the LTA in accordance with Section 39 (1) as confidential, and request that such confidential information be excluded from the copy of the interconnection agreement placed on the LTA's official web site. However:
  - (a) details of interconnection charges and all other essential terms and conditions shall not be considered confidential; and
  - (b) the LTA shall determine what other information will be treated as confidential, and resolve in a final and binding manner all disputes regarding disclosure of information designated as confidential.

#### **40. Non-compliant Interconnection Agreements**

If the LTA decides that an interconnection agreement is not in compliance with this Act, or the requirements of any regulation, rule, order or licence, it may issue an order requiring one or more of the parties to the interconnection agreement to amend the agreement.

#### **41. Co-location**

- (1) If not otherwise addressed in interconnection or access terms determined pursuant to Sections 34 to 38, and subject to any regulation, rule or order issued by the LTA, service providers with existing telecommunications network facilities shall allow other service providers to co-locate their telecommunications network facilities on those existing facilities, including central office premises and other equipment locations, land and roof tops, mast sites, towers, conduits, poles and underground facilities, where such co-location is technically and economically feasible and where no significant additional construction work is required.
- (2) The party requesting co-location shall compensate the party required to provide co-location for such an amount as the parties may agree or, where the parties are unable to agree, as may be determined by the LTA.
- (3) Where the parties are unable to agree on the terms and conditions of co-location, either or both of the parties may submit the matter for dispute resolution pursuant to Section 73.

### **PART IX TARIFFS**

#### **42. Tariff Filing and Approval**

- (1) Dominant service providers shall file with and obtain the approval of the LTA for all tariffs, rates or charges for telecommunications service in markets in which the LTA has designated them as dominant.
- (2) The LTA may issue an order to remove any requirement for dominant service providers to file and obtain approval of tariffs under this Part IX where the LTA determines that:
  - (a) competitive market forces will be sufficient to protect the interests of customers; and
  - (b) there is not a significant risk of harm to competitive markets as a result of the removal of the requirement to file and obtain approval of tariffs.
- (3) The LTA may issue an order to require a change in the tariffs for telecommunications services provided by a dominant service provider where the LTA determines, following a process of consultation with the dominant service provider, that such tariffs include

excessive charges resulting from the service provider's dominant position. Such an order shall prescribe the tariff change to be made and shall identify the basis and reasons for the required change.

- (4) Tariffs that are subject to filing with and approval by the LTA shall enter into force only after they have been approved by an order of the LTA. Any agreement or other commercial arrangement between service providers and any customer to apply any tariff other than one approved by the LTA, or to apply any terms or conditions contrary to a tariff approved by the LTA, is prohibited and unenforceable.

#### **43. Publication of Tariff Information**

- (1) The LTA may publish tariffs or tariff related information filed by a dominant service provider pursuant to Section 42 (1), including for the purpose of obtaining customer or other public comment on the proposed tariff.
- (2) The tariffs of all service providers shall be published as required pursuant to Section 56.

#### **44. Tariffs for Services to Other Service Providers**

Tariffs charged by a dominant service provider to other service providers:

- (a) shall be filed with and subject to approval by the LTA in accordance with Section 42 (1); and
- (b) shall comply with any orders made by the LTA in relation to such tariffs.

#### **45. General Principles for Tariff Regulation**

- (1) The LTA may issue an order to adopt any method of tariff regulation that is consistent with this Act, including, but not limited to, price cap regulation, rate-rebalancing and other forms of cost-based regulation.
- (2) The LTA shall consult with service providers before it adopts any new method of tariff regulation pursuant to Section 45 (1).

#### **46. Cost Studies**

- (1) The LTA may issue an order requiring a dominant service provider to prepare or otherwise participate in the development of a cost study of its telecommunications services, if the LTA determines that a cost study would be an effective and appropriate means of preventing anti-competitive conduct or implementing any scheme of tariff regulation.
- (2) The LTA shall consult with the service provider required to participate in a cost study, and other interested parties, before it makes an order requiring the study.

**PART X**  
**RELATIONS BETWEEN SERVICE PROVIDERS AND CUSTOMERS**

**47. Application**

Unless the LTA issues an order specifically exempting any service provider or category of service provider from the application of this Part X, in whole or in part, the provisions of this Part X shall apply to all service providers.

**48. Fair Dealing Practices**

- (1) A service provider shall only charge a customer for the specific telecommunications service or equipment that the customer has ordered. The customer shall have no liability to pay for any telecommunications service or equipment that the customer has not ordered.
- (2) Service providers shall ensure that any bills, statements or invoices issued to customers:
  - (a) are in writing (although they may be provided electronically if the customer consents);
  - (b) are issued on a regular basis;
  - (c) provide accurate information on the services provided and the amounts due for each service;
  - (d) clearly indicate the method of calculation of tariffs for any service for which invoices are based on the length of calls or other measure of usage; and
  - (e) comply with this Act and any regulations, rules, and orders dealing with customer invoices.
- (3) Service providers shall retain accurate records of all customer charges and invoices for a period of at least twelve (12) months from the later of the date the charge was incurred or the billing date, and shall make those records available to the LTA upon request.
- (4) Where the LTA has a concern about a problem relating to billing practices, it may require service providers to publish information on billing systems or billing practices or to take such other steps relating to their billing systems or billing practices as the LTA may consider appropriate.
- (5) No service provider shall make, or cause to be made, any false or misleading claim or suggestion regarding:

- (a) the availability, price or quality of its telecommunications services or equipment; or
  - (b) the telecommunications services or equipment of another service provider.
- (6) For the purposes of Section 48 (5), a claim or suggestion is misleading if, at the time it was made, the service provider knew or reasonably ought to have known that it was false or misleading in any material respect or that it was reasonably likely to confuse or mislead the person to whom it was made.

**49. Confidentiality of Customer Information**

- (1) A service provider shall not disclose information other than the customer's name, address and listed telephone number to anyone without the customer's written consent, unless disclosure is required or permitted pursuant to this Act or other applicable law.
- (2) Upon request, a customer may review a service provider's records regarding the customer's service. Customers shall have the right to require that any customer information contained in their records that they can demonstrate is incorrect, be corrected or removed by the service provider.
- (3) All customer-specific information, and in particular billing-related information, shall be retained by a service provider only for billing purposes and retained only for so long as is permitted by rule or order made by the LTA, or as otherwise permitted by the laws of Liberia.

**50. Confidentiality of Customer Communications**

- (1) Service providers shall take all reasonable steps to ensure the confidentiality of customer communications.
- (2) Service providers shall not intercept, monitor, alter or modify the content of any customer communication, except as provided for in Section 50 (3) or as otherwise provided for in this Act.
- (3) For the purposes of tracing and locating a source of harassing, offensive or illegal telecommunications, or as otherwise provided under the laws of Liberia:
  - (a) the LTA or other duly authorized authority in Liberia may direct a service provider to monitor telecommunications to and from a customer's telephone and the service provider shall comply with any such direction;
  - (b) the service provider shall provide the LTA or other duly authorized authority in Liberia the information resulting from its monitoring of the customer's telecommunications, including the telephone numbers or other electronic identifiers that indicate the source of the harassing, offensive, or illegal telecommunications and the time and dates of occurrence of such telecommunications; and

- (c) the LTA may undertake any other appropriate action to protect the public from harassing, offensive or illegal telecommunications in accordance with this Act, including referring the matter to other appropriate authorities for further action.
- (4) The LTA may issue an order to regulate or prohibit the use by any person, whether or not that person is a service provider, of the telecommunications network of a service provider to provide unsolicited telecommunications, to the extent that the LTA considers it necessary to reduce or eliminate the nuisance caused by such telecommunications.

## **51. Protection of Personal Information**

- (1) A service provider shall be responsible for customer information and customer communications in the custody or control of the service provider or its agents.
- (2) A service provider shall operate its telecommunications network with due regard for the privacy of its customers. Except as permitted or required by law, or with the consent of the person to whom the personal information relates, a service provider shall not collect, use, maintain or disclose customer information or customer communications for any purpose.
- (3) The purposes for which customer information is collected by a service provider shall be identified at or before collection, and a service provider shall not, subject to this Section, collect, use, maintain or disclose customer information for undisclosed purposes.
- (4) Service providers shall ensure that customers' information is accurate, complete and up to date for the purposes for which it is to be used.
- (5) Service providers shall ensure that customer information and customer communications are protected by security safeguards that are appropriate to their sensitivity.

## **52. Access by Government Authorities**

Nothing in this Act shall be interpreted to prohibit or infringe upon the rights of interested Government authorities to access otherwise confidential information or communications relating to a customer. Such access shall be made pursuant to Section 71 (1), (2) and in accordance with the laws of Liberia.

## **53. Customer Complaints**

- (1) Service providers shall establish procedures to deal with complaints of customers other than service providers. The procedures and any amendments thereto, shall be subject to approval by the LTA. The procedures shall be published in a suitable manner that is approved by the LTA.

- (2) Disputes between a service provider and a customer shall also be subject to Sections 74 and 75.
- (3) Service providers shall not disconnect or otherwise change any of the telecommunications services provided to a customer, and which are the subject of a complaint or dispute, other than in accordance with the terms of service approved by the LTA pursuant to Section 55(3) or as permitted by an order made by the LTA.

#### **54. No Unjustified Discrimination**

- (1) Unless otherwise specifically permitted by the LTA, dominant service providers shall offer all customers the same terms and quality of service, including tariffs charged, unless different terms are objectively justified, based on differences in supply conditions, including different costs or a shortage of available facilities or resources. This prohibition shall apply as between:
  - (a) customers of the dominant service provider who are the end users or consumers of the services;
  - (b) customers of the dominant service provider who rely on services from the dominant service provider, in order to provide telecommunications service to other customers; and
  - (c) customers of the dominant service provider and the dominant service provider itself.
- (2) Where any discrimination is shown, the dominant service provider shall be obliged to justify it to the satisfaction of the LTA, or to cease the discrimination upon receipt of an order from the LTA requiring the dominant service provider to do so.

#### **55. Terms of Service**

- (1) The LTA may issue an order requiring a service provider to submit draft terms of service to the LTA for approval. The order shall prescribe the schedule for preparation, approval and implementation of the terms of service.
- (2) Draft terms of service must be consistent with this Act, any applicable regulations, rules, and orders made by the LTA, and all licence conditions, and shall describe the basic terms of the business relationship between the service provider and its customers in the provision and use of telecommunications services.
- (3) The LTA shall approve all draft terms of service with or without changes, after consultation with the service provider and other interested parties, as determined by the LTA. Once approved, these terms of service will replace the customer terms then in use by a service provider and shall become binding on the service provider and its customers.

- (4) The LTA may issue an order discontinuing the requirement for a service provider to submit draft terms of service to the LTA for approval where it determines that its approval is no longer required to protect the interests of customers.

## **56. Information on Terms of Service**

- (1) Each Service Provider shall publish the following information on its website:
  - (a) the current version of any approved terms of service or other standard customer terms;
  - (b) all of its tariffs, rates and charges for any equipment or services, including all approved tariffs and proposed tariffs or tariff changes which have been filed with the LTA in accordance with Section 42 (1);
  - (c) the official web site address and other contact information for the LTA, together with a clear statement that the service provider is regulated by the LTA under this Act and that customers and other service providers may contact the LTA if they are unable to resolve disputes with the service provider; and
  - (d) an easy to follow navigation system that allows a customer to locate the above information.
- (2) Service providers shall also maintain current paper copies of the information described in Section 56 (1) at all business offices. The information shall be made available for public inspection, without charge, during normal business hours.
- (3) If required by an order of the LTA, a service provider shall include the current version of its terms of service or other standard customer terms, a reference to copies of its tariffs, rates and charges being available for review at its business offices and the information described in Section 56 (1)(c) in the introductory pages to every telephone directory published by it or on its behalf.
- (4) Service providers shall provide, upon request and at a reasonable charge, paper copies of their terms of service, and all applicable tariffs, rates and charges to any customer who requests them.

## **57. Telephone Directories**

- (1) The LTA may issue regulations, rules or orders requiring service providers to provide customers with a telephone directory and access to directory services.
- (2) Service providers shall provide customers with a telephone directory and access to directory services in accordance with any regulations, rules or orders issued by the LTA.

- (3) Service providers shall also exchange and compile customer information as required to facilitate the production of telephone directories or the provision of directory services in accordance with any regulations, rules or orders issued by the LTA.

**58. Quality of Service**

- (1) Service providers may be required to provide telecommunications services that meet specific quality of service standards. These standards shall be developed by the LTA in consultation with service providers and may be included in service provider licences or established by regulation, rule or order of the LTA.
- (2) The LTA may amend, add or delete quality of service standards established pursuant to Section 58 (1), following consultation with affected service providers.
- (3) Service providers shall also comply with any quality of service reporting or remedial requirements established by regulations, rules or orders published by the LTA.

**59. Access to Customer Premises**

- (1) The service obligations of service providers described in this Part X shall extend to the installation, operation, maintenance and repair of all telecommunications facilities that are owned or provided by the service provider and located on the customer's premises.
- (2) A service provider shall have the right to enter a customer's premises or property if its telecommunications facilities are located on the customer's premises, subject to the following conditions:
  - (a) the service provider has given the customer notice that is reasonable in the circumstances;
  - (b) the service provider dispatches only properly identified and qualified personnel; and
  - (c) the service provider has received the consent of the customer for such access.

**60. Liability, Refunds and Damages**

The LTA may issue regulations, rules or orders regarding the liability of service providers to customer, and related refund, credit or limitation of liability provisions. Alternatively, these provisions may be considered by the LTA in the course of approving terms of service pursuant to Section 55

**PART XI  
TELECOMMUNICATIONS EQUIPMENT**

**61. Equipment Certification**

- (1) The LTA may issue regulations, rules or orders regarding one or more of the following:
  - (a) requiring that certain types of telecommunications equipment be certified or approved prior to being imported, commercially supplied or attached to any telecommunications network;
  - (b) identifying criteria for certification and/or standards for approval of telecommunications equipment for use in connection with telecommunications services or telecommunications networks;
  - (c) identifying domestic or foreign organizations or testing facilities for certification or approval of telecommunications equipment for use in connection with telecommunications services or telecommunications networks; or
  - (d) establishing a register of certified or approved types of telecommunications equipment, criteria for certification and standards for approval.
- (2) The LTA may enter into mutual recognition or similar agreements with authorities in other countries to provide for the recognition of equipment certification or type approvals conducted in the other country and/or in Liberia.

**PART XII  
NUMBERS**

**62. National Numbering Plan**

- (1) The LTA shall prepare, publish and manage a National Numbering Plan and shall assign numbers and number ranges to service providers and customers in accordance with the National Numbering Plan.
- (2) In preparing and managing the National Numbering Plan, the LTA shall have due regard for the existing allocation of numbers.
- (3) The LTA may modify the National Numbering Plan by publishing a notice to customers and service providers at a reasonable time prior to the date when the modification is to be effected.

- (4) The National Numbering Plan shall be consistent with the requirements of international agreements, commitments, conventions, regulations and recommendations to which Liberia has subscribed.
- (5) All service providers shall be required to use numbers assigned to them by the LTA in accordance with the National Numbering Plan and shall ensure that these numbers are used efficiently and in accordance with the National Numbering Plan.
- (6) Service providers shall also implement and maintain emergency service access and location identification services in accordance with any regulations, rules, orders or notices issued by the LTA.

### **63. Use of Numbers**

- (1) Service providers and customers shall not have any property rights in numbers.
- (2) A Service Provider shall only change a customer's number:
  - (a) on request of the customer;
  - (b) if a fixed service customer's location changes; or
  - (c) if it has reasonable grounds for doing so and if it has given reasonable advance written notice to the customer in question, stating the reason and anticipated date of change. In cases of emergency, oral notice with subsequent written confirmation shall be sufficient.

### **64. Number Portability**

- (1) The LTA may, after consultation with the affected service providers and other interested parties, issue an order directing one or more service providers to develop or to assist in the development of a number portability implementation plan, for approval and implementation by order of the LTA.
- (2) In considering whether to implement number portability, the LTA shall have due regard to the costs of such portability, and the availability of technology that permits such portability in Liberia on a cost-effective basis.
- (3) The costs of introducing number portability systems and the ongoing costs of administering number portability shall be recovered from service providers in accordance with applicable rules or orders of the LTA.
- (4) No service provider, whether acting unilaterally or in collaboration with other service provider(s), shall offer number portability to any customer except in accordance with an implementation plan approved by the LTA, or as otherwise specifically approved by the LTA.

**65. Service Provider Selection**

- (1) The LTA may, after consultation with the affected service providers and other interested parties, issue an order directing one or more service providers to develop or to assist in the development of a service provider selection or service provider pre-selection plan, for approval and implementation by order of the LTA.
- (2) In considering whether to implement service provider selection or service provider pre-selection, the LTA shall have due regard to the costs of such capabilities, and the availability of technology that permits the intended capabilities on a cost-effective basis.
- (3) The costs of introducing service provider selection or service provider pre-selection systems and the ongoing costs of administering service provider selection or service provider pre-selection shall be recovered from service providers in accordance with applicable rules or orders.

**PART XIII  
ACCESS TO PROPERTY**

**66. Access to Government Land and Facilities**

- (1) Where a service provider cannot, on commercially reasonable terms:
  - (a) obtain the consent of the government authority having jurisdiction over government land or a government facility to construct, maintain or operate telecommunications network facilities on that government land or facility; or
  - (b) gain access to the pole, duct, tower or other supporting structure of a telecommunications, electrical power, or other utility transmission system constructed on government land or a government facility, that is owned or controlled by a government authority,the service provider may apply to the LTA for assistance.
- (2) Upon receipt of an application for assistance in accordance with Section 66 (1), the LTA shall consult with the concerned government authority and attempt to find a solution acceptable to both the service provider and the government authority.

**67. Access to Private Land and Facilities**

- (1) Where a service provider:
  - (a) requires access to private land or private facilities to construct, maintain or operate telecommunications network facilities or to provide telecommunications services; and

- (b) cannot, on commercially reasonable terms, reach an agreement with the owner of the private land or private facility for such access,

the service provider may apply to the LTA for assistance either in reaching an agreement with the owner of the private land or private facility or for the exercise of other powers to obtain the desired access.

- (2) Upon receipt of an application for assistance in accordance with Section 67 (1), the LTA shall take the steps it deems necessary to mediate between the concerned parties.
- (3) If the LTA's mediation pursuant to Section 67 (2) fails to produce an agreement between the concerned parties:
  - (a) the LTA may exercise such other powers under this Act or other applicable laws as it considers appropriate to resolve the matter; or
  - (b) the matter may be submitted to a court of competent jurisdiction, with a request for expedited resolution, and the LTA may provide such reasonable assistance as it considers appropriate as part of that court process.

#### **68. Compliance with Planning Requirements**

- (1) A service provider shall, in exercising any rights of access that result from Sections 66 or 67, comply with all other applicable laws and with all applicable planning and approvals processes.
- (2) Service providers shall indemnify property owners for any damage to property, injury or expense caused by the service provider acting contrary to any applicable terms of access, laws or planning and approvals processes.

### **PART XIV NATIONAL SECURITY AND PUBLIC EMERGENCIES**

#### **69. National Security**

- (1) Service providers shall comply with any directions, regulations, rules, orders or other requirements communicated by the Attorney General, following consultation with the LTA, regarding access to any part of the service provider's telecommunications network or telecommunications services or related information in connection with national security requirements or the detection or prevention of illegal activities.
- (2) The Government of Liberia shall finance and pay for any equipment or other telecommunications infrastructure for compliance for compliance with Section 69 (1).

- (3) No customer shall have a legal or other right of recourse against a service provider for complying with any directives, regulations, rules, order or other requirements from the Attorney General regarding access of the Liberian Government to a service provider's telecommunications network or telecommunications services for information related to national security or detection or prevention of illegal activities.

## **70. Public Emergencies**

- (1) In case of a public disaster or state of emergency, service providers shall comply with any directions relating to telecommunications services issued by the government ministry responsible for disaster co-ordination to alleviate problems faced by the public or the Government related to such disaster or emergency.
- (2) Service providers may apply to the Government of Liberia through the appropriate Ministry responsible for disaster co-ordination for compensation or other assistance with the demonstrated costs of complying with Section 70 (1), but not for loss of revenues during any period of service suspension. The Government of Liberia shall consider any such application in accordance with the LTA regulations, rules and order; this Act and other applicable laws of Liberia in approving compensation regarding the recovery of such costs by service providers.

## **71. Traffic Monitoring and Interception**

- (1) Service providers shall, in addition to any other traffic monitoring or customer information related obligations under this Act, establish and maintain traffic monitoring and interception capabilities in accordance with standard technical specifications or guidelines issued from time to time by the LTA.
- (2) Service providers shall also retain traffic information in accordance with LTA specifications and guidelines, and shall provide traffic information in accordance with an order from a Circuit Court Judge. In the case of the content of customer communications, a service provider shall give such information only upon a court order based upon probable cause presented to a Circuit Court Judge for the reason that the customer is engaged in criminal activities; and provided however, the court order shall not be for a period of more than ninety (90) days at a time.
- (3) In the event that it becomes necessary to continue to provide information on the content of a customer's communications in excess of the first ninety (90) days, a second court order may be obtained upon presentation to a Circuit Court Judge that there is some actual evidence of the engagement of the customer in activities adverse to national security interest or engaged in any other criminal activities.
- (4) No third court order on the content of a customer's communication in respect to the same activity or activities for which two (2) court orders have already been issued shall be issued without a formal charge against the customer for commission of a criminal offence in respect of said previous activity or activities.

- (5) Upon the expiry of one hundred eighty (180) days after a court order of information on the content of a customer's communication, the Circuit Court Judge shall order the Clerk of Court, which issued the order to inform the said customer on the issuance of the court order and the purpose and time frame of said court order.

**72. Enforcement**

Failure to comply with any national security, public emergency or traffic monitoring and interception requirements established pursuant to Sections 69, 70 or 71 shall, in addition to being subject to any other enforcement provisions of this Act, be grounds for the suspension or revocation of a service provider's licence.

**PART XV  
DISPUTES, OFFENCES AND ENFORCEMENT**

**73. Service Provider Disputes**

- (1) Where service providers have been unable to agree on the resolution of a matter that is subject to the LTA's powers under this Act or other laws of Liberia, and following reasonable efforts to reach an amicable settlement, one or more service providers may apply to the LTA for assistance in resolving the dispute.
- (2) In response to any request under Section 73 (1), the LTA may:
- (a) assign members of its staff or an expert consultant to attempt to mediate the dispute;
  - (b) refer the dispute to a court of competent jurisdiction, in accordance with the practices and procedures of that court; or
  - (c) issue an order to resolve the dispute.

**74. Customer Disputes**

- (1) Where a customer other than a service provider has a dispute with a service provider that the parties have been unable to resolve among themselves, by means of the service provider's customer complaint process or otherwise, including any process approved by the LTA pursuant to Section 53, either party may refer the dispute to the LTA for assistance.
- (2) In response to any request under Section 74 (1), the LTA may:
- (a) assign members of its staff or an expert consultant to attempt to mediate the dispute;

- (b) refer the dispute to a court of competent jurisdiction, in accordance with the practices and procedures of that court; or
- (c) issue an order to resolve the dispute.

## **75. Alternative Dispute Resolution**

- (1) Any order or other exercise of authority by the LTA that gives rise to a dispute that is not otherwise resolved may be submitted by the licensee to arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law (UNICITRAL Rules).
- (2) Any arbitration shall be by three arbitrators unless the parties agree to a single arbitrator. Each party shall select an arbitrator and the two arbitrators so selected shall select the third, who shall be the Chairman. In the event the two arbitrators are unable to select the third arbitrator, the third arbitrator shall be selected by the President of the Liberia Bar Association, Republic of Liberia. The place of Arbitration shall be in Monrovia, Liberia and the proceedings shall be in English. Liberian Law shall be the law applicable to the proceedings. The arbitration award shall be final and binding on the parties.
- (3) For dispute between two or more service providers that is not telecommunications sector related, the parties may agree to submit to arbitration or mediation. If the parties agree to submit such dispute to arbitration, same shall be governed as provided in Sub-section (1) above; provided that the arbitration panel shall sit in Monrovia, Liberia and if a third arbitrator can not be agreed upon, the LTA shall appoint the third arbitrator. All telecommunications sector related disputes between service providers shall be resolved within the regulations, rules and orders of the LTA.
- (4) All costs of alternative dispute resolution, including any travel or other expenses incurred by the LTA in connection with any assistance of the LTA requested by the parties to a dispute, shall be paid for by the parties to the dispute.

## **76. Telecommunications and Computer Offences**

- (1) No person shall:
  - (a) fraudulently, maliciously, or with dishonest intent, use any telecommunications facility or obtain any telecommunications service without payment of a lawful charge thereof;
  - (b) intentionally, without right and with dishonest intent, access the whole or any part of a telecommunications network or computer system by infringing security measures, with the intent of obtaining telecommunications or computer data;
  - (c) intentionally, without right and with dishonest intent, intercept by technical means a transmission not intended for public reception of

telecommunications or computer data to, from or within a telecommunications network or computer system;

- (d) intentionally, without right and with dishonest intent, damage, delete, deteriorate, alter or suppress telecommunications or computer data without right, where this results in harm to any other person;
  - (e) intentionally, without right and with dishonest intent, interfere with the functioning of a telecommunications network or computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing telecommunications or computer data;
  - (f) intentionally, without right and with dishonest intent, possess, produce, sell, procure for use, import, distribute or otherwise make available a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in subsections (1) (a), (b), (c), (d) or (e); or a computer password, access code, or similar data by which the whole or any part of a telecommunications network or computer system is capable of being accessed with intent that it be used for the purpose of committing any of the offences established in subsections (1) (a), (b), (c), (d) or (e);
  - (g) use, or cause or suffer to be used, any telecommunications network or telecommunications service for the purpose of disturbing, annoying, irritating, offending or harassing any person, including by means of a call with or without speech or other sounds, data or video images; or
  - (h) wilfully damage any telecommunications network or related telecommunications facility.
- (2) Every person who acts in contravention of this Section commits an offence and is liable to the penalties prescribed in Section 77.

## **77. Offences and Penalties**

- (1) Every person who contravenes Section 76 of this Act, and is found guilty of the same after being accorded due process of the law, and is guilty of the offence and liable:
- (a) in the case of a natural person, to a fine not exceeding one hundred thousand Liberian Dollars for a first offence and two hundred and fifty thousand Liberian Dollars for a subsequent offence;
  - (b) in the case of a company or any person other than a natural person, to a fine not exceeding one million Liberian Dollars for a first offence and five million Liberian Dollars for a subsequent offence; or

- (c) in the case of a natural person who is an officer, employee or agent of a company and who is responsible for the contravention, breach or failure by the company, imprisonment for a Term to be decided in accordance with the New Penal Code of the Republic of Liberia..
- (2) Where an offence under Section 77 (1) is committed or continued on more than one day, the person who committed the offence is liable for a separate offence for each day on which the offence is committed or continued.
- (3) The LTA may make regulations identifying other specific offences and penalties, including any fines or other penalties or sanctions that the LTA may impose on licensees for breach of licence conditions, regulations, this Act or any rule or order of the LTA.

#### **78. Judicial Enforcement**

- (1) Any order, direction or any other exercise of authority under this Act by the LTA may be enforced by the appropriate remedial writ or other court order in accordance with the practices and procedures of the applicable court in such matters.
- (2) The LTA may rely on and take steps to enforce any order of the LTA whether or not the order has been made an order of a court.

#### **79. Monitoring and Enforcement**

In addition to any other powers contained in this Act, regulations, rules, licences or under any other laws, the LTA shall collaborate with the appropriate government agency or ministry, for the purposes of exercising its responsibilities, functions and powers under this Act, have the power to:

- (a) require the production of documents and other recorded information by licensees and any other persons;
- (b) search premises and seize documents, equipment and other items, subject to obtaining any necessary warrant and compliance with any other procedural requirements;
- (c) require the attendance of persons, including for the purpose of answering questions;
- (d) require the disclosure of technical information or the provision of technical assistance, particularly in connection with the functioning of telecommunications equipment or systems;
- (e) require persons to undertake specific actions or to cease specific actions in the event of a breach of this Act, a regulation, rule, order or licence condition, including permitting the LTA or its authorized representatives access to

records, premises or equipment to determine occurrence of a breach or for the purpose of acquiring relevant information to facilitate the duties of the LTA;

- (f) appoint any person as an inspector or other authorized representative of the LTA, and authorize that person to exercise any of the information gathering or other monitoring or enforcement powers of the LTA; and
- (g) issue fines, penalties or other sanctions as provided for in any regulations made pursuant to Section 77 (3).

**80. Civil Liability**

- (1) Subject to any limitation of liability imposed in accordance with this Act or any other act, a person who has sustained loss or damage as a result of any act or omission that is contrary to this Act, or contrary to any regulation, rule or order made under this Act may bring a civil action against any person who engaged in, directed, authorized, consented to or participated in the act or omission.
- (2) Any action brought pursuant to this Section shall be subject to the practices and procedures of the applicable court in such matters.

**81. Judicial Review**

- (1) Any party dissatisfied with any decision, order or other exercise of authority by the LTA pursuant to the Act may take an appeal by filing a petition for review in the court of competent jurisdiction.
- (2) Any petition for judicial review shall be brought within sixty (60) days as the date of the LTA's decision, order or other exercise of authority that give rise to the petition
- (3) A petition for judicial review, once filed, shall stay all further proceedings and/or actions in the matter until a final determination thereof is made.

**82. Civil Protection for the LTA**

No civil action or suit for any act or omission in connection with the duties imposed on the LTA by this Act shall be brought or maintained against any person who has been or is a member or authorized representative of the LTA.

**PART XV  
MISCELLANEOUS**

**83. Savings and Transitional Provisions**

- (1) Every document and act of authority, so far as they are subsisting or in force at the time of the repeal of the legislation set out in Schedule B to this Act, shall continue

and have effect under the corresponding provisions of this Act until such time as they are altered, amended or cancelled by the exercise of powers or authority pursuant to this Act.

- (2) All applications and other matters arising out of or under the provisions of the legislation set out in Schedule B to this Act, which are not determined or otherwise dealt with under such provisions as of the commencement date, shall be determined or otherwise dealt with under the corresponding provisions of this Act and with such modifications, adaptations or alterations as are determined by the exercise of powers or authority pursuant to this Act.
- (3) Where this Act does not provide or provides insufficient or inadequate provision for the transition from the legislation set out in Schedule B to this Act, the Minister may issue such additional transitional provisions as are deemed necessary in order for all matters under or concerning the repealed legislation to be properly and effectively determined or otherwise dealt with.

#### **84. Transitional Provisions for Prior Licences**

- (1) Any person who has obtained a service provider licence or radiofrequency authorization issued prior to the enactment of Act No. 18 or Any person who has obtained a license or radiofrequency authorization issued under Act No. 18 of the National Transitional Legislative Assembly of Liberia (*An Act to Amend the Public Authorities Law Creating the Liberia Telecommunications Corporation and the Executive Law Creating the Ministry of Posts and Telecommunications, and to Establish an Interim Framework for Telecommunications Regulation*), dated 5 September 2005, prior to the commencement date of this Act shall continue to have the benefit of that licence or radiofrequency authorization, and or any other Permit or benefits granted pending standardization of licences based on the regulations rules and orders of the LTA.
- (2) Any other person operating a telecommunications network, providing a telecommunications service or making any related use of radiofrequencies under a prior licence may continue to operate under that licence for up to six (6) months following the commencement date of this Act and pending standardization of licences.
- (3) Within ninety (90) days of the commencement date of this Act, the LTA shall publish a statement of licence terms and procedures for the standardization of licenses, including radiofrequency authorizations, to all service providers who are continuing to operate under prior licences pursuant to Section 84 (2).
- (4) In all other respects, the operation of telecommunications networks and the supply of telecommunications services under prior licences, radiofrequency authorizations and other benefits shall be subject to the requirements of this Act, other laws of Liberia and all applicable regulations, rules, orders and notices issued by the LTA.

**85. Effective Date**

This Act shall take effect immediately upon the publication into Handbill.

**ANY LAW TO THE CONTRARY NOTWITHSTANDING**

## **SCHEDULE A**

### **Functions and Structure of the Liberia Telecommunications Corporation**

#### **1. The National Operator Designee**

It is hereby established that the Liberia Telecommunications Corporation shall continue to exist and do business in accordance to the purpose, powers and capacities specified in SCHEDULE A; SECTION 2.

#### **2. Purposes, Powers and Capacities of the Corporation**

- (a) The general purpose and capacity of the Corporation is to establish and operate all manner of telecommunications facilities, and to provide telecommunications services, as provided for in one or more licences issued by the LTA.
- (b) The Corporation shall have the power and capacity to:
  - (i) establish subsidiaries or affiliated companies, and to enter into partnerships or joint ventures including with private investors;
  - (ii) own, lease and otherwise acquire, use and dispose of lands and all other forms of tangible or intangible properties;
  - (iii) borrow money and engage in other financial transactions, in accordance with the Articles and Memorandum of Incorporation, bylaws and other applicable rules of the corporation;
  - (iv) enter into all other contracts and transactions, in accordance with the Articles and Memorandum of Incorporation, bylaws and other applicable rules of the corporation;
  - (v) sue and be sued, and to represent itself in any other legal process or proceedings;
  - (vi) do all other things determined by the Board of Directors of the corporation, in accordance with the Articles and Memorandum of Incorporation and the bylaws and other applicable rules of the corporation; and
  - (vii) do all other things provided for in the *Public Utilities Authority Law* or the *Liberia Corporation Law*.
- (c) The Corporation shall be solely responsible for revenue collection, its own expenditures and other financial administration and all related financial obligations of the corporation.

### **3. Structure and Operation of the Corporation**

- (a) The Corporation shall have the ownership and capital structure identified in the Articles and Memorandum of Incorporation, as amended from time to time.
- (b) As of the commencement date of this Act, the Liberia Telecommunications Corporation shall be wholly owned by the Government. However, the Government will examine privatization of the corporation from time to time and with the objective of selling all or part of the Corporation at such time as private ownership is determined to be in the interests of the corporation and the general public.
- (c) As of the commencement date of this Act, the Liberia Telecommunications Corporation is designated to be a National Operator. The Corporation's rights, responsibilities and consequences of being designated a National Operator shall be defined in directions issued jointly by the Minister and the LTA pursuant to Sections 13(2) and 12(4) of the Act.
- (d) The formulation of policies and direction of management of the Corporation shall be vested in a Board of Directors, consisting of a Chairman and six (6) other members appointed by the President of Liberia.
- (e) In other respects, the operation of the Board of Directors of the corporation shall be as stated in the Articles and Memorandum of Incorporation and the bylaws of the corporation.
- (f) The management of the corporation, including responsibility for implementing Board policies and directions, shall be conducted by a Managing Director to be appointed by resolution of the Board of Directors. So long as the Liberia Telecommunications Corporation is majority owned by the Government, appointment of the Managing Director shall require confirmation by the President of Liberia. The Managing Director shall receive such salary and other compensation and benefits as shall be established by the Board of Directors.
- (g) The Managing Director shall be appointed to the Board of Directors and shall serve as secretary to the Board.
- (h) The Board of Directors may adopt bylaws and other applicable rules of the corporation as needed from time to time.

### **4. Licensing of the Corporation**

As provided for in Sections 15 (1) and 25(1) of the Act, the Liberia Telecommunications Corporation will require operating licences and radio frequency authorizations issued by the LTA. The Minister, the LTA and representatives of the Corporation shall endeavour to cooperate and to resolve issues relating to the issuance of licences or radio frequency authorizations to the Corporation, with the objective of facilitating commercial operation as soon as the circumstances of the Corporation otherwise permit.

## **SCHEDULE B**

### **Repealed and Amended Acts**

1. Act No. 18 of the National Transitional Legislative Assembly of Liberia (*An Act to Amend the Public Authorities Law Creating the Liberia Telecommunications Corporation and the Executive Law Creating the Ministry of Posts and Telecommunications, and to Establish an Interim Framework for Telecommunications Regulation*), dated 5 September 2005, is hereby repealed in its entirety.
2. The *1973 Act to Amend the Public Authorities Law to create the Liberia Telecommunication Corporation* is hereby amended.