

Justification Note

The principles consecrated in Decree-Law n° 5/94, of 7 February, point to the implementation of an economic and entrepreneurial organization of the telecommunications sector aiming at the perfect differentiation and autonomy of the activity developed by the operators in the ambit of providing diverse services in telecommunications.

Such principles seek especially to assure the conditions of sound competition in the telecommunications market, which is important for the Government to guarantee and control.

Under these terms, Decree-Law n. ° 72/95, of 20 November, defined the regime for the establishment, management and exploration of the infrastructures and provision of telecommunications complementary services, allowing these services to be provided, under a competitive regime, by Cabo Verde Telecom, SARL, in the quality of operator of telecommunications public service, and by complementary telecommunications enterprises, in any of the duly licensed cases.

Opening the market to the competitive complementary services is done, however, with the natural safeguard for the already acquired rights, reason why n° 1 of article 18 of the cited Decree-Law n° 72/95, foresaw the possibility of Cabo Verde Telecom, SARL, continuing to provide the complementary services it had been operating, as long as it initiated, to that effect, the respective licensing process. No. 2 of the same article determines, for the same reasons, that the licenses thus emitted, when they pertain to cellular telephone services, would not be transmissible.

The rules of a transparent competitive market advise, however, that in specific situations, the figure of a fundamental services operator should unequivocally be distinguished from that of complementary services operator.

In effect, such rules impose a clear definition of the form of the costs and access to the basic grid, specifically under the conditions of equality on the part of all the complementary services operators. Thus, it is clarified here that the Cape Verde Telecom, SA, operator in fundamental services that provides complementary services must make such services entrepreneurially autonomous, creating to that effect juridical distinct entities, whose capital may be open to third parties.

Thus, it is necessary to alter article 19 of Decree-Law n. ° 72/95, of 20 November.

**Proposal of Decree-Law n°...../2004,
of**

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In the use of the faculty conferred by subparagraph a) of n. °2 of article 203 of the Constitution, the Government decrees the following:

Article 1

Article 19 of Decree-Law n. ° 72/95, of 20 November, will hereinafter read as follows:

Article 19
Exceptional norm

1.
2. For the purpose of the provisions of the preceding number, Cabo Verde Telecom, SA, make its licenses services autonomous, creating to that effect juridical distinct entities.
3. Without prejudice to the provisions of the preceding number, the licensing titles are not transferable to provide mobile complementary telecommunication services attributed under the terms of this article.

Article 2

This law goes into effect in the second day following that of its publication.