

**Decree-Law 72/95
Of 20 November 1995**

Regulates Complementary Telecommunication Services ...

This legislation defines the rules that regulate the regime of the establishment, management and exploration of the infrastructures and the rendering of complementary telecommunications services foreseen in Article 22 of Decree-Law 5/94, of 7 February.

The complementary telecommunications infrastructures to be integrated into the concept of fundamental services, should be satisfied in the region. In the use of the fa Constitution, the Government decrees the following:

**CHAPTER I
Article 1
Ambit and Object**

The legislation defines the regime for the establishment, management and exploration of the infrastructures of and the rendering of complementary telecommunications services.

**Article 2
Definitions**

For the purpose of application of this legislation, the following definitions apply:

- a) **Complementary Telecommunication infrastructures:** All the telecommunication infrastructures defined in No. 1 of Article 23 of Decree-Law 5/94, of 7 February;
- b) **Complementary telecommunication services:** Telecommunication services whose exploration involves the utilization of complementary telecommunications structures;
- c) **Complementary telecommunication operators:** Operators of public services designated as such by No. 2 of Article 11 of Decree-Law 5/94, of 7 February and complementary telecommunication enterprises that explore

- d) **Fixed complementary telecommunication services:** Telecommunications services in which the access of the participant is made through a fixed access system of participants in the basic telecommunications network;
- e) **Complementary mobile telecommunication services:** Complementary telecommunication services to which the access of the participant is done through a system of non-fixed participants access, utilizing radio-electric propagation in space.

Article 3 **Access**

1.

- b) Comply with the national and international legal provisions, in the domain of telecommunication;
- c) Utilize equipment duly approved by the competent authority;
- d) Provide verification of the equipment duly approved by the competent entity;
- e) Proceed to the necessary corrections with a view to the regular operation of the installation and the adequate rendering of the licensed services;
- f) , Guarantee, in terms of equality, access to the services provided upon payment of the prices applied;
- g) Notify the General Directorate of Communications of any alterations to the respective contractual agreement.

CHAPTER II

Licensing

Article 7

License

1. It behooves the member of the government responsible for the area of communications, once verified the requisites of Article 4 and reviewed the elements referred to in number that follows, to attribute the license for the rendering of complementary telecommunication services and practice the other acts that involves its authorization and cancellation:

2.

- d. Applicable regulation of the exploration, when available;
- e. Conditions for providing the service;
- f. Appropriate complementary telecommunications infrastructure that is permitted to be installed to provide the service;
- g. Geographic area of coverage;
- h. Duration and term of the license;
- i. Fee referred to in No. 2 of Article 11;

Article 8 Alteration of the License

1. Any alteration or modification to be introduced in the license during its validity period, solicited by the licensed entity, may be authorized by the General Directorate of Communications, which will proceed to the corresponding annotation in the respective title.
2. The alteration request must be fundamented and accompanied by the elements deemed necessary; with the due adaptations, the provisions of subparagraphs a) and b) No. 2 of the preceding Article are applicable.

Article 9 Transmissibility of the License

1. Three years after it is issued, the license may be transmitted to provide a complementary telecommunication service by prior authorization by the member of the government responsible for the area of communications.
2. The entity to which the license is transmitted has to meet all the requisites and limits contained in Articles 4 and 5 and assume all the rights and obligations inherent in the respective title from the vigilance of the same.

Article 10 Beginning of Activity

The activity foreseen in the licensing title must be initiated within a maximum of 18 months, counted from the date of its emission, save for duly justified reasons of *force-major* and as such recognized by the General Directorate of Communications.

Article 11
Fee

1. The emission of a license to provide complementary telecommunication services, as well as the eventual alterations, renovations and substitutions in case of loss, are subject to the payment of a fee to be established by dispatch of the member of the government responsible for Communications.
2. The licensed entity is subject to the payment of an annual fee to be fixed dispatch of the member of the government referred to in the preceding number.

CHAPTER III
Document, Equipment and Oversight

Article 12
Model of the Documents

The General Directorate of Communications approves the models of the documents necessary for the application of the provisions of this legislation.

Article 13
Equipment

1. All the equipment utilized in the complementary telecommunication equipment has to comply with the technical specifications required for the interoperation with the basic grid.
2. The interface of access to the complementary telecommunication services shall have to be clearly defined and the licensee should publish its technical specifications.
3. The acquisition, installation and conservation of the necessary terminal equipment to accede the service in question, is free.
4. The manufacturer should certify the equipment referred to in the preceding number, in the event of request by the licensed entity, as complying with the certification referred to in No. 2.

Article 14
Oversight

The General Directorate of Communications, through agents and representatives credentialed to that effect, performs the oversight of the conditions of the establishment, exploration and management of the complementary infrastructures.

CHAPTER IV
Sanctions Regime

Article 15
Cancellation of the License

1. The license to provide complementary telecommunication services may be cancelled by dispatch of the member of the government responsible for the communications area when its holder:

- a) Does not abide by the conditions and limits contained in the respective title;
- b) Opposes to the oversight and verification of the equipment;
- c) Refuses to apply corrective measures for the good operation of the installation and adequate rendering of the licensed service;
- d) In the case of a public service operator, it does not comply with the provisions of

- c) From ecv 100,000\$00 to ecv 1,500,000\$00, in the case of violation of the provisions of Article 11 and in Nos. 2 and 2 of Article 13.
2. In the infractions foreseen in the preceding number, negligence is punishable.

Article 17
Processing Application of the Fines

1. The decision to apply the fine is the competence of the member of the government responsible for the area of communication.
2. Processing of the fines is the competence of the General Directorate of Communications.
3. The amount of the fines applied reverts in 75% to the State and 15% to the acting entity.

CHAPTER V
Final and Transitory Provisions

Article 18
Exceptional Norm

1. Cabo Verde Telecom, Sarl shall provide the complementary telecommunication service it has been operating currently, under its statutes, until the respective licensing under the terms foreseen in this legislation, exempt of public bidding. To that end, it should initiate the corresponding process within 60 days, counting from the date this legislation goes into effect.
2. The licensing titles are non-transmissible to provide the mobile complementary services attributed under the terms of this legislation.

Article 19
Regulating the Exploration

The regulations for the exploration of the complementary telecommunication services shall be approved by ordinance from the member of the government responsible for the area of communication,

Article 20
Practices that Restrict Competition

The actions considered to be restrictive competition practices in the ambit of providing complementary telecommunication services are subject to special legislation on the matter.

Article 21
Effective Date

This legislation goes into effect 30 days after its publication in the Official Bulletin

Viewed and approved in Council of Ministers
Carlos Veiga, António Gualberto do Rosário – Teófilo Figueiredo Silva

Promulgated 8 November 1995

Publish it.

The President of the Republic, ANTÓNIO MASCARENHAS GOMES MONTEIRO

Referenced 8 November 1995

The Prime Minister, *Carlos Veiga*