

TELECOMMUNICATIONS ACT 2007

Seal of Liberia

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);



“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

“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





- (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

## 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

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:

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 deemsuivs the LTA uies;





## 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

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

(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

(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;

## 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

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

(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



(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;

(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

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





- (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;





(b) periodically update the reference interconnection offer as prescribed by order of the LTA; and

#### 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,

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

- (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

(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

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.



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 provideron, ther9 TD33 TD-.0009

(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 EMdIE

(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

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 .00ert1(n)20ergit speechw[(g) use,mly)7.9()6.9(i)-6.1(on-1..2 cL3.44i

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(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

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 filling 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

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

### 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.

