

ACT

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THE TELECOMMUNICATIONS ACT, 2006

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SIGNED this 25th day of July, 2006

ALHAJI AHMAD TEJAN KABBAH,
President.

(LS)

No9

THE TELECOMMUNICATIONS ACT, 2006 Short title

Being an Act to establish the National Telecommunications Commission and to provide for the licensing and regulation of telecommunications operators and for the promotion of universal access to basic telecommunication services, fair competition for the benefit of investors in, and the users of telecommunication networks and services, to improve the national, regional and global integration of Sierra Leone in telecommunications and to provide for other related matters.

(3rd August, 2006) Date of Commencement

Enacted by the President and Members of Parliament in this present Parliament assembled.

PART 1-PRELIMINARY

Interpretation 1. In this Act, unless the context otherwise requires-

“Chairman” means the person appointed Commissioner and Chairman of the Commission;

“Commission” means the National Telecommunications Commission established by section 2;

“consumer” means a user or customer of telecommunications services;

“Executive Secretary” means the Executive Secretary appointed under section 14;

“frequency” means radio frequency;

“Government” means the Government of Sierra Leone;

“member” means a member of the Commission;

“Minister” means the Minister of Transport and Communications;

“public telecommunications” means telecommunications networks or services placed at the disposal of the public.

“resale” means the offering to the users or customers for profit of telecommunications services obtained from another telecommunications operator or service provider;

“Roads Authority” means the Sierra Leone Roads Authority;

“station” means a transmitter, receiver, a combination of transmitters and receivers or any accessory thereto which is used or intended to be used for radio communication;

“telecommunications” means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception;

“telecommunications operator” has the meaning assigned thereto in section 22 and the expressions “operator” or public telecommunications operator” shall be construed accordingly;

“vessel” includes any ship, boat, air-cushioned vehicle or floating rig or platform used in any form of operations at sea or any other description of vessel.

PART II-ESTABLISHMENT OF COMMISSION

2. (1) There is hereby established a body to be known as the National Telecommunications Commission. (Establishment of National Telecommunications Commission.)

(2) The Commission shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of any property, whether movable or immovable, and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may be law perform.
3. (1) The Commission shall have a common seal, the affixing of which shall be authenticated by the signatures of- (Common Seal)
 - (a) the Chairman of other members of the Commission generally or specifically authorized by the Commission for that purpose; and
 - (b) the Executive Secretary or other officer of the Commission authorized by the Commission for that purpose.

(2) Every document purporting to be an instrument executed or issued by or on behalf of the Commission and to be sealed with the common seal of the Commission authenticated in the manner stated in subsection (1) shall be deemed to be so executed or issued without further proof unless the contrary is proved.

(3) In appropriate cases the seal may be affixed to documents outside Sierra Leone.

(Composition of Commission)

4. (1) The Commission shall consist of a Commissioner as Chairman and six other members, all of whom shall be appointed by the President subject to the approval of Parliament.

(2) The Chairman shall be appointed from among persons with high integrity, extensive knowledge and practical experience in matters relevant to the functions of the Commission.

(3) Four of the other members shall consist of persons who collectively have knowledge, qualification and experience in the fields of economics, telecommunications, information technology, accounts, engineering, business management and law, and the other two members shall be representatives of a consumer watchdog organization and a social service organization respectively, including medical, religious and educational institutions:

Provided that, no person shall be appointed chairman or other member of the Commission if he has any interest in any telecommunications business or a licence issued under this Act.

(Tenure of office of
members of Commission.)

5. (1) The Chairman and other members of the Commission shall hold for office for a term of three years but shall be eligible for re-appointment.

(2) A member of the Commission may resign his office by written notice to the President and may be removed from office by him for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause, or for misconduct.

(3) On the death, resignation, removal or vacation of office of the Chairman or other member of the Commission, the President may appoint another person to serve for the unexpired term of the Chairman or that other member, as the case may be.

(4) A person shall cease to be a member of the Commission on any of the following grounds:-

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted of an offence involving fraud or dishonesty;
- (e) if he fails to attend three consecutive meetings of the Commission without reasonable cause;
- (f) if he resigns his office by written notice to the President.

6. The Chairman and the other members shall be paid such remuneration and allowances as the President may determine and shall be reimbursed by the Commission, for the expenses incurred in connection with the discharge of their functions. (Remuneration and expenses of members of Commission.)

7. (1) The Commission shall meet for the dispatch of its business at such time and place as the Chairman may determine, but shall meet at least once every three months.

(2) A special meeting of the Commission shall be summoned by the Chairman or at the written request of not less than two other members of the Commission.

(3) The Chairman shall preside at meetings of the Commission at which he is present and in his absence, a member elected by the members present from among their number, shall preside.

(4) Each member shall have one vote but where there is an equality of votes, the Chairman or other member presiding shall have a casting vote.

(5) All acts, matters or things authorized or required to be done by the Commission shall be decided at a meeting where a quorum is present and the decision is supported by the votes of a majority of the members.

(6) The quorum for a meeting of the Commission shall be five.

(7) Any proposal circulated among all members and agreed to in writing by a majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Commission and shall be incorporated in the minutes of the next succeeding meeting of the Commission:

(8) The Commission may co-opt any person to attend and participate in its deliberations on any matter but such person shall not vote on any matter for decision by the Commission.

(9) The Commission shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form as a public record.

(10) Subject to this Act, the Commission shall regulate its own procedure.

Disclosure of interest. 8. (1) Any member having a personal interest whether pecuniary or otherwise, direct or indirect through any member of his immediate family or business partner, in any matter to be considered by the Commission shall disclose the fact of such interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Commission, and such member shall take no part in any deliberation or discussion of the Commission relating to such matter.

(2) Any member who contravenes subsection (1) shall be liable to removal from the Commission.

PART III-FUNCTIONS OF COMMISSION

9. (1) The object for which the Commission is established is to license and regulate the activities of telecommunications operators so as to promote efficiency and fair competition, and the expansion of investment in the telecommunications sector; the protection of the users or consumers of telecommunications networks and services and the progressive development of the telecommunications industry and technology in Sierra Leone. (Functions of Commission.)

(2) Without prejudice to the generality of subsection (1) it shall be the function of the Commission to-

- (a) promote fair competition among telecommunications operators;
- (b) protect telecommunications operators and consumers from unfair conduct on the part of other such operators with regard to the quality of telecommunications services and the tariffs payable in respect of those services;
- (c) ensure universal availability of efficient, reliable and cost effective telecommunications services throughout Sierra Leone;
- (d) grant licences for the operation of telecommunications networks;
- (e) manage, allocate, licence and regulate the use of the radio frequency spectrum and the geostationary satellite orbits in Sierra Leone;
- (f) prepare and review a national frequency allocation plan;

- (g) establish the national telephone numbering plan and to assign numbers accordingly;
- (h) internationally represent Sierra Leone in matters of telecommunications;
- (i) designate and ensure the maintenance of standards of telecommunications equipment, including internationally approved standards;
- (j) determine a code of practice relating to dealings by operators with international telecommunications operators and regulate international accounting rates;
- (k) provide guidelines on tariffs chargeable for the provision of telecommunications services;
- (l) provide after consultation with the Minister, authorizations to operators of radio telephone stations on ships and aircraft registered in Sierra Leone;
- (m) establish training standards for telecommunications operators and to monitor the implementation of the training standards;
- (n) maintain a register of operators;
- (o) establish, by regulations, the protection of data on computer files and their transmission and to safeguard the secrecy of telecommunications and the protection of personal data in collaboration with the telecommunications network operators; and
- (p) do all such other things as will contribute to the attainment of the object stated in subsection(1).

(2) The Commission shall also have responsibility to advise the President with respect to the exercise of his powers of authorization for the establishment and operation of television and wireless broadcasting under the proviso to section 25 (1) of the Constitution.

10. In the performance of its functions under this Act, the Commission shall not be subject to the direction or control of any person or authority. (Independence of Commission)

11. For the purposes of section 9, the Minister shall have the responsibility- (Ministerial Support)

- (a) to build and sustain an enabling environment for the operations of the telecommunications industry to be owned largely by the private sector;
- (b) to ensure that the policy-making, regulatory and enforcement structures have the capacity to perform their respective functions comprehensively and fairly; and
- (c) to formulate and review policy and its implementation accordingly.
- (d) Promote universal access to basic telecommunications services.
- (e) Promote research into the development of technologies, the use of new techniques by providers of telecommunications services and to develop adequate human resources in collaboration with such other agencies of Government as the Commission considers appropriate;
- (f) Appoint a spectrum Committee which shall consist of-

- (i) a member of the Commission who shall be chairman;
and
- (ii) such number of persons from relevant Government Ministries, Departments and Agencies,
and shall be responsible for-
- (iii) setting strategic direction for spectrum policy nationally and internationally;
- (iv) overseeing the civil and defence spectrum and ensure the optimal use of radio spectrum;
- (v) reviewing the national frequency allocation table;
- (vi) making appropriate recommendations to the Commission or the Minister of defence, as the case may be, on the issue of the defence spectrum respectively;
- (vii) deciding on the position Sierra Leone takes in international spectrum related conferences.

(Committees of

Commission.)

12. The Commission may, for the discharge of its Functions, appoint one or more committees consisting of members of the Commission or non-members or both to perform such functions and to report thereon to the Commission at such time as the Commission may determine.

(Universal Access

Development Fund)

13. Subject to subsection (2) of section 16 there is hereby established a fund to be known as the Universal Access Development Fund which shall consist of a percentage of the gross income of service providers as declared for income tax purposes determined by the Minister by statutory instrument.

PART IV-STAFF OF COMMISSION

14. (1) The Commission shall have an Executive Secretary who shall be appointed by the Commission on such terms and conditions as the Commission shall determine. (Appointment of Executive Secretary.)

(2) No person shall be appointed Executive Secretary unless he is a person of integrity and with extensive knowledge and experience in telecommunications and related fields.

(3) The Executive Secretary shall be responsible to the Commission for-

- (a) the day-to-day administration and management of the Commission;
- (b) the formulation and implementation of such operational policies, programmes and plans relating to the functions of the Commission as may be approved by the Commission;
- (c) determining and providing for the technical needs of the Commission, subject to the directions of the Commission;
- (d) recording and keeping of minutes of the Commission in a book kept for that purpose;
- (e) supervising and disciplining the other employees of the Commission; and
- (f) performing such other duties as the Commission may determine.

15. (1) There shall be appointed by the Commission on such terms and conditions as the Commission may determine such other employees as the commission may require for the efficient discharge of its functions under this Act. (Other Staff and employees of commission.)

(2) Public officers may be seconded or otherwise give assistance to the Commission.

(3) The Commission may engage the services of such consultants and advisers as it considers necessary for the efficient discharge of its functions.

PART V-FINANCIAL PROVISIONS

(Funds of Commission.)

16. (1) The activities of the Commission shall be financed by a fund consisting of-

- (a) moneys appropriated by Parliament for the purposes of the Commission;
- (b) moneys accruing to the Commission in the course of its operations, including licence fees, fines and other monetary sanctions imposed by the Commission: and
- (c) loans obtained from reputable financial institutions.

(2) Subject to paragraph © of subsection (2) of section 9, the Universal Access Development Fund established by section 13 shall be used to address the needs of the least advantaged communities in telecommunications.

(3) The fees referred to in paragraph © of subsection (1) shall be fixed so as to ensure the recovery of the full cost of the work involved in the services for which the fees are charged and the realization of the optimal commercial value for the facilities and opportunities provided thereby.

17. (1) The Commission shall keep proper books of account and proper records in relation to them in a form approved by the Auditor-General. (Account and audit.)

(2) The books of account kept under subsection (1) shall within three months after the end of each financial year, be audited by the Auditor-General or an auditor appointed by him.

(a) The acquisition or operation by any person for his own use or solely for the purpose of his business (but not for providing any

18. The financial year of the Commission shall be the same as the financial year of Government. (Financial year of the commission.)

19. (1) The Commission shall, as soon as possible but not later than six months after the end of each financial year, submit to the Minister a report of the activities, operations, undertakings, property and finances of the Commission for that year, including the Auditor-General's report and a list of persons granted licences in that year.

(2) The Minister shall, within thirty days of the receipt of the report referred to in subsection (1), lay a copy before Parliament.

PART VI-LICENSING AND REGULATION OF TELECOMMUNICATIONS OPERATORS

20. Subject to section 21, no person shall engage in any activity as a telecommunications operator unless he has been licensed for that purpose by the Commission. (Obligation to obtain licence.)

21. (1) The Commission may, after consultation with the Minister, by statutory instrument, exempt from the requirement for licence such telecommunications networks as it may determine.

(2) Without prejudice to subsection (1), the requirement for licence under section 20, shall not apply to-

(a) the acquisition or operation by any person for his own use or solely for the purpose of his business (but not for providing any

telecommunications service to another person) of telecommunications network in which all the equipment comprised therein is situated-

- (i) on a single set of premises in a single occupation; or
- (ii) in a vessel, aircraft or vehicle mechanically coupled together;
- (b) telecommunications network of the disciplined forces and the national security services except that application for allocation of frequencies in the shared bands shall be submitted to the Commission through the office of the President;
- (c) any telecommunications network which does not require interconnection with any public telecommunications network; and
- (d) any telecommunications service which has been declared to be licence-free under subsection (3).

(3) The Commission may from time to time determine that a class of telecommunications services may be registered but provided without prior approval or licensing if it is satisfied that no harm to either a service provider or consumers shall be caused by such determination.

(4) For the purposes of this section, “disciplined forces” includes the Armed Forces of the Republic of Sierra Leone, the Police Force and any other force as may be prescribed.

(Telecommunications operations subject to licensing.)

22. (1) A person is a telecommunications operator if he is engaged in-

- (a) providing telecommunications services through telecommunications network leased from third parties;

- (b) selling or leasing out telecommunications network capacity to third parties but providing no telecommunications service himself.
- (c) providing telecommunications network capacity to others and also services to his own customers; or
- (d) the establishment, installation, use, working, maintenance, development, construction, promotion, hiring or selling connected with any activity specified in paragraphs (a), (b) and (c).

(2) For the purposes of this section,

“telecommunications services” means the form and manner of the routing, exploitation or distribution of information through the telecommunications networks, and such services are classified as follows:-

- (a) public telecommunication services, that is to say, those destined to the general public;
- (b) private telecommunications services destined to own use or to a limited number of users; and

both the public and private telecommunications services are also subdivided into-

- (i) addressed telecommunications services that is to say; those that imply previous addressing; and
- (ii) broadcasting telecommunications services, that is to say; those where communication is made in one way or direction, simultaneously to various reception points without previous addressing.

(3) By telecommunications networks is meant-

- (a) the set of physical means, called infrastructures; or
- (b) the electromagnetic means;

that support the transmission, reception or broadcast of signals, and such networks are divided into-

- (i) public telecommunications networks, namely; those that support, full or in part, public telecommunications services; and
- (ii) private telecommunications networks, namely; those that merely support private services.

(Role of telecommunications operators.)

23. Subject to this Act, the role of the telecommunications operators shall be to-

- (a) build and maintain the network infrastructure;
- (b) provide the basic telephony, data communications, mobile cellular, radio paging and private telecommunications services; and
- (c) provide new services resulting from technological developments

Application for licence.

24. (1) Any person who wishes to engage in any activity as a telecommunications operator shall apply to the Commission to be licensed for the purpose.

(2) An application for a licence under this section shall be in the form of a business plan showing-

- (a) the particulars of the applicant and, if a company, its promoters, directors, and other officers.

- (b) a statement of the source and amount of the financial resources of the applicant and the details of the telecommunications network or system intended to be operated and the ability of the applicant to operate such network; and
 - (c) such other relevant information as the Commission may require.
 - (3) The Commission shall within five days of the receipt of an application, acknowledge receipt and shall within sixty days thereafter inform the applicant in writing of the decision of the Commission.
- (4) In taking a decision under subsection (3), the Commission shall take into account whether-
 - (a) the financial resources of the applicant are adequate;
 - (b) the telecommunications network in relation to which the application is made is technically suitable for the service intended to be rendered;
 - (c) a licence for the operation of such network has not been granted exclusively to another person;
 - (d) the applicant is capable of operating the network or rendering the service for which he is seeking the licence;
 - (e) the applicant and, if a company, any promoter director or other officer thereof has not been convicted of any offence, involving fraud or dishonesty, and
 - (f) it is in the public interest to grant the licence.

Grant of licence. 25. (1) Subject to this Act, where the Commission is satisfied with an application, it shall grant the licence to the applicant.

(2) A licence may be granted by the Commission either unconditionally or subject to such conditions as the Commission may specify in the licence, regarding the operating by the licensee of such telecommunications network and the provision of such services as may be specified in the licence

Conditions of licence. 26. Without prejudice to the generality of subsection (2) of section 25, a licence granted under section 25 may include conditions requiring the operator-

- (a) to interconnect to any telecommunications network to which the licence relates or to permit the connection to his network or station of other telecommunications network;
- (b) to publish in such manner and at such times as may be specified in the licence, a notice indicating the method that is to be adopted for determining its charges and other terms and conditions that are to be applicable to the services provided;
- (c) to pay to the Commission during the existence of the licence such fee as may be determined by the Commission;
- (d) to provide to the Commission, in such manner and at such times as may be reasonably required, such documents, accounts, estimates, returns or other information as the Commission may require for the purpose of exercising the functions conferred upon it under this Act;
- (e) to operate the telecommunications network in accordance with such standards of performance as the Commission considers appropriate pursuant to section 40;

(f) to obtain the written approval of the Commission for the doing of such things as may be specified.

27. (1) A licence granted under this Act shall not be transferable. (Non transferability of licence)

(2) For the purposes of subsection (1) “transfer” includes an assignment or sale of a licence and ceding control in the operation of the licence or a merger with another person.

(3) A licensee who wishes to transfer his licence may apply to the Commission in the prescribed form and manner for the transfer of the licence.

(4) An application under subsection (3) shall be accompanied by an application of the proposed transferee.

(5) The Commission shall, in considering an application for transfer, have regard to the same matters as in considering the grant of a new licence and shall approve the transfer if satisfied with the application of the proposed transferee.

28. (1) A licence granted under this Act shall be for such period as shall be specified (Renewal of licence.) therein and may be renewable.

(2) Application for the renewal of a licence shall be made to the Commission not later than three months before the expiry of the licence desired to be renewed.

(3) The procedure for the application for a licence shall with the necessary modification, apply to the renewal of the licence.

(4) In considering an application for renewal of a licence, the Commission shall have regard to the performance of the operator and the way the licence has been used up to the time of the application.

(5) An operator who fails to renew his licence or whose application for the renewal is rejected by the Commission shall cease to function as such.

(Power to modify licence.) 29. (1) The Commission may, subject to this Act and any regulations made under it, modify any licence granted under this Act if the modification is permissible under the terms of the licence or is required in the public interest.

(2) No modification shall be made under subsection (1) unless the Commission has given at least 60 working days' written notice-

(a) stating that the Commission proposes to make the modification; and

(b) setting out the effect of the modification

(3) The Commission shall in all cases consider any representations or objections that are made to it before any modification is made.

(3) A notice under subsection (2) shall be given by publication in such manner as the Commission considers appropriate for the purposes of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and by sending a copy of the notice to the operator.

(4) The Commission shall compensate the operator for any expense incurred or damage caused as a result of any modification to a licence made under this Act.

(Suspension or cancellation of licence)

30. (1) The Commission may suspend or cancel a licence on any of the following grounds:-

(a) serious and repeated breaches of this Act or of the licence conditions;

(b) any fraud or intentional misrepresentation by the licensee in applying for the licence;

(c) when the licensee engages in or supports any activity amounting to an offence under the Treason and State Offences Act, 1963;

- (d) where the licensee has ceased to be an operator.
- (e) where the licensee has failed to comply with any regulations made under this Act;
- (f) where the licensee enters into receivership or liquidation or takes any action for its voluntary winding-up or dissolution or if any order is made by a court for its compulsory winding-up or dissolution, or
- (g) where the suspension or cancellation is in the public interest.

(2) A licence shall not be suspended or cancelled under subsection (1) unless the Commission has given the operator-

- (a) written notice specifying in it the grounds therefore and, in the case of breach of licence conditions, the acts or omissions constituting the breach and the directions of the Commission for the rectification of such acts or omissions and the action proposed to be taken by the Commission in the event of non – compliance with the notice;
- (b) an opportunity to be heard, by submitting a notice not later than twenty-one days, and where necessary, within such period as the Commission considers reasonable for the operator to comply with the directives of the Commission.

(3) In determining whether it is necessary to suspend or cancel a licence granted under this Act, the Commission shall consider the extent to which any person other than the licensee is likely to sustain loss or damage as a result of the suspension or cancellation.

(Use of Licence.) 31. (1) A licence under this Act shall not be used for a purpose other than that for which it was granted.

(2) A licence which is not utilized within two years from the date of its grant may be cancelled by the Commission after notice of not less than 30 days has been served on the operator.

(Appeals) 32. (1) A person aggrieved by the refusal of the Commission to grant or renew his licence or approve the transfer of such licence under this Act or by the modification, suspension or cancellation of a licence may, within 30 days of the receipt of the decision in question, appeal to the High Court.

(Existing operators to apply for licence.)

33. (1) Any person who immediately before the commencement of this act is engaged in telecommunications without a licence and wishes to continue such operations, shall apply for a licence under this Act within three months of such commencement and shall cease operations if he has not secured a licence within three months of such commencement.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding Le10 million or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) Notwithstanding subsection (1), the incumbent operator shall be deemed to have been licensed under this Act in such fields of operation, including fixed telecommunications services and internet gateway and for such period as the Commission shall by Government Notice determine being not less than two years and not more than five years.

(4) For the purposes of subsection (3), the incumbent operator shall be the Sierra Leone Telecommunications Company Limited.

(5) The incumbent operator shall own and operate the only international gateway for a period of two years after the commencement of this Act and shall thereafter be renewed by the Commission.

(6) The incumbent operator shall own and operate the only installation after the commencement of this Act subject to review by the chairperson after the expiration of this period.

34. The Commission shall publish by Government Notice and in such (Gazette publication) newspapers of national circulation as the Commission may determine, notice of every modification, suspension or cancellation of licence made under this Act: except that publication of a modification suspension or cancellation of a licence shall not be made where an objection or an appeal has been lodged in the High Court.
35. (1) Subject to subsection (2), a licensee may enter into (Review of agreements entered into by licensees.) such agreement as may be beneficial to his operations.
- (2) Any agreement which is not approved by the Commission as required by subsection (2) shall be void.
36. (1) Subject to subsection (2), every telecommunications (Obligations of service provider to customers.) operator shall establish mechanisms for dealing with complaints by his customers or potential customers in relation to the provision by the operator of the relevant telecommunications services and such mechanisms may be reviewed when necessary.
- (2) No mechanism established or reviewed shall be put into effect unless-
- (a) the operator has consulted persons or bodies that constitute a fair representation of customers for whom he provides the service;
 - (b) the proposed mechanism or review has been approved by the Commission, and
 - (c) the operator has published the approved mechanism or review in such manner as the Commission may require.

(Rights and privileges of customers of telecommunications services.)

37. (1) Every customer to a telecommunications service, on payment of the prescribed tariffs, is entitled to-

- (a) a prior notice, individual or public, in regard to any change in tariffs.
- (b) a copy of a periodically updated directory where applicable and instructions for the use of the service (upon payment of a fee, if any) and a statement of his rights and obligations;
- (c) privacy of communication;
- (d) a compensation in case service is denied or interrupted due to an act or omission of the service provider;
- (e) a regular statement of charges payable for the service received, suitably itemized where possible;
- (f) use of approved terminal equipment at his premises procured from any source of his choice;
- (g) access to the Commission for redress of his grievances, if he fails to get satisfaction from the operator.

(Rights and privileges of customers of telecommunications services.)

(2) The entitlements of customers set out in subsection (1) shall be included in every licence agreement of the Commission.

(Obligations of customers.)

38. (1) Every customer shall-

- (a) take good care of, and as far as possible, prevent any damage to the terminal apparatus installed at his premises and may be liable for compensation for such damage;
- (b) ensure that the service is not used to disturb or irritate any person or to transmit a message which is of indecent or obscene nature or calculated to annoy any person or to disrupt maintenance of public order;

- (c) ensure timely payment of all bills;
- (d) neither install nor attach any unapproved equipment to the service facilities provided at his premises;
- (e) allow access and entry into his premises to authorized representatives of an operator all at all reasonable times, to inspect, install, maintain, adjust, repair, move, remove, or replace telecommunications apparatus.

(2) The obligations of customers set out in subsection (1) shall be included in every licence issued by the Commission.

39. (1) The Commission shall have power to enforce, and adjudicate on any matter under this Act.

(Power of enforcement of Act and settlement of disputes.)

(2) Without prejudice to the generality of subsection (1), the Commission shall have power to adjudicate disputes and complaints arising between-

- (a) operators; and
- (b) operators and customers,

and shall establish procedures for the adjudication of such disputes or complaints.

(3) No act or omission of an operator which is authorized by any condition included in his licence shall be taken to constitute undue discrimination or undue performance for the purposes of this Act.

(Standard of performance.)

40. (1) The Commission may determine such general or specific standards of performance in relation to the provision of telecommunications services by an operator as in the opinion of the Commission ought to be achieved by that operator consistent with the International Telecommunications Union standard, and arrange for the publication of the standards in such form and in such manner as the Commission considers appropriate.

(2) The Commission may only make a determination under subsection (1)-

- (a) after consulting with the operator concerned and the persons or bodies that appear to the Commission to be representative of the persons likely to be affected; and
- (b) after carrying out such research or investigation as the Commission considers appropriate with a view to discovering the views of a representative group of persons likely to be affected and considering the results.

(3) For the purposes of this section, the Commission may determine-

- (a) the circumstances in which the operator is to inform persons of their rights under this Act;
- (b) such standards of performance in relation to any duty under this Act as, in the opinion of the Commission, ought to be achieved in all cases;
- (c) the circumstances in which the operator is to be exempted from any requirements pursuant to this section.

(4) If the operator fails to meet any required standard, he shall pay to any persons who is adversely affected by the failure such compensation as may be determined by the Commission.

(5) The requirement for payment of compensation under this section in respect of any failure to meet the required standard does not preclude any other remedy at law which may be available or any other measure that may be taken or sanction that may be imposed by the Commission in respect of the act or omission which constituted that failure.

(6) Any dispute arising from the application of this section may be referred to the Commission by either party for determination by the Commission.

41. (1) The Commission shall collect information in relation to- (Information on levels of performance)

(a) the compensation paid by operators under section 40; and

(b) the levels of overall performance achieved by the operators in relation to the provision of telecommunications services.

(2) At such times as the Commission may direct, each operator shall give the following information to the Commission:-

(a) in relation to each standard determined under section 40, the number of cases in which compensation was made and the aggregate amount or value of that compensation;

(b) in relation to each standard determined under section 40, such information with respect to the level of performance achieved by the operator as may be specified.

(3) An operator who without reasonable excuse fails to comply with a direction under subsection (2) commits an offence and shall be liable on conviction to a fine of not less than five times and not exceeding ten times the licence fee at the date of the conviction or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(Designation of standard and approval of equipment)

42. (1) The Commission shall designate standards to which telecommunications equipment shall conform for the purposes of this Act.

(2) The equipment approved for the provision of any telecommunications services shall be specified in respect of the licence granted under this Act.

(Monitoring of equipments and compensation for damage.)

43. (1) The Commission may monitor the use of telecommunications equipment to determine the standard of performance of the equipment.

(2) Where any person operates a telecommunications network in such a manner as to cause damage to the equipment or to the operations of another operator, the matter may be referred by either party to the Commission which shall determine the matter and award such compensation to the aggrieved person as the Commission considers just and fair in the circumstances of the case.

(3) Subsection (2) is without prejudice to the rights of the parties to institute action in the courts.

(Equipment standard.)

44. The Commission may establish technical standards applicable to telecommunications equipment, including customer premises equipment, so as to ensure against damage to telecommunications network or services or to public health, safety or the environment.

(Type approval and inspection of equipment.)

45. (1) The Commission may prescribe regulations specifying the types of telecommunications equipment (hereinafter referred to as "type approval") which may be used for providing a telecommunications service or for operating or connecting to a telecommunications network or for terminal equipment.

(2) No person who provides a telecommunications service or supplies telecommunications equipment shall use or supply, as the case may be, any telecommunications equipment which does not comply with technical standards prescribed by the Commission.

(3) The Commission may by regulations, make provision to type approve any telecommunications equipment by reference to a type of approval used in another country.

(4) The Commission may, for the purposes of this section, appoint in writing any staff member or agent as an inspector.

(5) The inspector appointed under this section to carry out any inspection or investigation under this section may at all reasonable times enter any premises where he has reason to believe any telecommunication equipment is kept, and carry out his inspection or investigation and may take or seize any document or information he may require from any person under inspection or investigation.

(6) Any person who obstructs an inspector when carrying out an inspection or investigation under this section commits an offence.

PART VII-DUTIES OF PUBLIC TELECOMMUNICATIONS OPERATORS

46. (1) It shall be the duty of every public tele-communications operator and every person providing licence-free services to render timely and non-discriminatory service. (Duty to provide timely and non-discriminatory services.)

(2) It shall be lawful for the Commission to issue directions to ensure that operators comply with the requirements of their duty under subsection (1).

47. Every operator providing public telecommunications service has the duty to make his network fully accessible to any other operator in a non-discriminatory manner, while protecting the privacy of subscribers and databases, so as to allow inter-operability and inter-communications between all public telecommunications operators, including providers of value-added services.

(Duty in respect of open network access.)

(Agreements for inter-connections etc.)

48. (1) For the purposes of section 47, public tele-communications operators shall enter into agreement governing the interconnection of their facilities as well as with value-added service providers and the sharing of such infrastructure, local number facilities and other internetworking facilities as the Commission may direct in the public interest.

(2) An agreement under subsection (1) shall provide for terms which are reasonable and non-discriminatory.

(3) A copy of an agreement under subsection (1) together with a summary of its principal terms shall be submitted to the Commission; and the Commission shall publish it by Government Notice.

(4) Where any operators fail to agree on the terms of interconnection within a reasonable time, one or both parties may request the Commission to establish a binding tariff and the other terms and conditions of interconnection.

(Resolution of inter-connection disputes by Commission.)

49. In resolving any disagreement or dispute over interconnection charges or any other terms and conditions between any operators submitted to the Commission under subsection (4) of section 48, the Commission shall be guided by the following principles:-

- (a) the terms and practices for interconnection arrangements must not discriminate unjustifiably between users of inter-connection arrangements and similarly situated users;
- (b) charges for interconnection services and facilities must reflect the operator's costs defined as the incremental costs, and may include allowance for a reasonable return on capital investment;
- (c) differences in charges between different users may only be justified on the basis of cost differences directly attributable to providing the interconnection for those users.

50. (1) Any agreement between a local and foreign public telecommunications operator shall be submitted to the Commission for approval or modification of any terms, including the accounting rates and settlements arrangement agreed upon by the parties and such agreement shall not be effective until approval is granted. (Submission of agreements governing external interconnection to Commission.)

(2) Public telecommunications operators shall comply with international and bilateral arrangements relating to or regulating interconnection arrangements as well as any rules prescribed by the Commission concerning such arrangements.

(3) In approving or modifying international interconnection agreements, the Commission shall take into account any exclusionary or discriminatory practices of the foreign-based service providers and telecommunications authorities and shall ensure that the local service providers are not subjected to unreasonable terms or discrimination.

51. (1) It shall be an offence by a public telecommunications operator to unduly restrict the resale of his service unless his licence provides otherwise. (No restriction of resale of services.)

(2) Notwithstanding subsection (1), it shall be lawful for a telecommunications operator or service provider to require by notification to the public that any resale of his service shall be done only under permit from him.

52. (1) Subject to this Act, the Commission may regulate the tariffs payable for telecommunications services rendered by public telecommunications operators: (Tariffs.)

Provided that no operator shall be required to offer services at tariffs which do not permit him to recover the cost of providing the services plus a reasonable return on capital investment.

(2) A public telecommunications operator shall not offer services unless before offering them he has submitted to the Commission written proposals for the tariffs payable therefore.

(Commission to approve tariffs.)

53. (1) The tariff proposals submitted under subsection (2) of section 52, shall become effective thirty days after submission unless before then the Commission issues a notice of modification to the operator.

(2) The tariffs proposals shall contain all relevant information concerning the costing for the rates or charges for services, including deposits and other non-recurring charges, monthly charges as well as terms and conditions applicable to the provision of services, including rights and remedies available to consumers in the event of unauthorized charges or other disputes or claims over billing or provision of services.

(3) Notice of such submission shall be published by the Commission for public information in a local newspaper with an invitation to consumers to comment on the reasonableness or otherwise of the tariffs.

(4) If, after thirty days, the Commission has not issued any notice of modification to the operator, the Commission shall be deemed to have approved the proposals and shall publish them by Government Notice as the tariffs chargeable by the operator.

(5) Where the Commission and the operator fail to reach an agreement on the proposed tariff and any modification thereto proposed by the Commission, the operator may appeal to a tribunal of three persons appointed by the Chief Justice.

(6) The tribunal shall be chaired by a judge of the High Court or a person qualified to be appointed as a judge of the High Court with an accountant and telecommunications engineer as the other members.

(7) The tribunal shall make its decision within thirty days of the lodgement of the appeal.

(8) Any operator who fails to lodge an appeal within thirty days after the date of the disagreement referred to in subsection (5) shall be deemed to have abandoned his tariff proposal and accepted the modification proposed by the Commission and the Commission shall publish the modified tariff as the approved tariff.

(9) All tariff proposals approved under this Act shall come into force from the date of such approval.

(10) Every public telecommunications operator shall make the tariffs approved under this section available to the public.

54. (1) The Commission shall review the tariffs for public telecommunications (Review of tariffs and charges.) services if such review is warranted by any rapid changes in the cost of living index and foreign exchange rates.

(2) In reviewing the tariffs, the Commission shall take all relevant factors into consideration including –

- (a) a reasonable return on capital and accumulation of adequate reserves for expansion and up-gradation of services;
- (b) optimization of usage and growth of network;
- (c) usage by, value to, and capacity to pay of different classes of customers;
- (d) the need for cross-subsidization such as between different parts of the network, between urban and rural and between business and residential customers;
- (e) consumer price index and rates of foreign exchange; and
- (f) views of the public telecommunications operators and a cross-section of customers.

55. (1) Every public telecommunications operator shall keep accurate records of all the relevant information contained in the tariff proposals submitted under subsection (2) of section 53. (Accurate records relating tariffs to be kept.)

(2) An operator shall not charge for services anything higher than the approved tariffs nor propose for approval tariffs that are below the true cost of such services as determined in accordance with the accepted accounting guidelines or principles established for the industry.

(Commission to prescribed accounting procedures.)

56. The Commission shall establish and prescribed reasonable accounting procedures for the costs of operations and the procedures shall be followed and implemented by all public telecommunications operators.

(Operators to report annually to Commission.)

57. (1) Every public telecommunications operator shall submit to the Commission such annual reports and any other occasional reports as may be required by the Commission.

(2) The Commission may require all of any class of telecommunications operators, in submitting annual and occasional reports to include in such reports –

- (a) where applicable, the amount of capital stock issued;
- (b) the amount and privileges of each class of stock;
- (c) the amounts paid for each class of stock and the manner of payment for the classes of stock;
- (d) the dividends paid;
- (e) any surplus capital;
- (f) the debts of the company and interest payable on them;
- (g) the names and address of the holders of stock of one percent or above;
- (h) the names and addresses of directors and officers and salaries and compensation paid to each;
- (i) the earnings and expenses from all sources and complete statement of the financial operations.

(3) Subject to section 35, the Commission may require any public telecommunications operator to submit to it copies of any contract or agreement entered into with other such operators or private telecommunications operators or any persons, including resellers.

(4) Any person who fails to submit any document required under this section commits an offence.

(5) Where a person treats any information required to be submitted to the Commission as a trade secret or any financial, commercial, scientific or technical information as confidential, such person may, in submitting the information to the Commission designate it as confidential.

(6) Any member, employee or agent of the Commission who discloses the contents of any document submitted to the Commission under this section and designated as confidential to any person not authorized to receive such information commits an offence.

58. (1) The Commission may, for the purposes of preserving confidentiality, reasonably deny or restrict access to documents or information requested by any person. (Restriction on access to documents or information.)

(2) Except to the extent that reports and any documents submitted to the Commission under this act contain confidential information, such reports and documents shall be open to the public and may be made available to members of the public on payment of a fee and may be inspected by interested persons during the normal business hours of the Commission.

59 The Commission shall develop annual objectives for services to be provided with the purpose of ensuring that such services and, in particular, basic telephone service, is accessible to the widest number of users. (Universal access.)

60. (1) Any public telecommunications operator may, from time to time, place and maintain a telecommunications line, post or apparatus, under, over, along, across, in or upon any public immovable property: (Operators to replace and maintain lines or posts and apparatuses.)

Provided that-

- (a) such operator-
 - (i) shall acquire no right other than that of user, in the property under, over, along or across which it places a telecommunications line, or in or upon which it places a post or apparatus;
 - (ii) shall exercise those powers in respect of any property vested in or under the control or management of a local authority or the Roads Authority with the specific or general permission of such authorities, as provided in this Act;
 - (iii) in exercise of any power conferred by this section shall do as little damage as possible and shall ensure as far as possible that such replacement of line under, above, along or across and of posts or apparatus in or upon any public property does not interfere with the legitimate use of the property by the interested parties;
- (b) in case of any damage sustained by reason of the exercise of these powers, including unreasonable interference with legitimate use of the property, the public telecommunications operator shall pay full compensation to the interested parties;
- (c) the compensation payable, shall, as far as possible, be determined by mutual negotiations between the operator and the interested parties, and where they fail to reach an agreement by mutual negotiation, the matter shall be referred to the Commission by either party which after examination of all the relevant facts of the case shall award appropriate compensation.

(2) Any local authority or the Roads Authority, when requested by the public telecommunications operator, shall permit the exercise of the powers under subsection (1) in respect of land or other immovable public property vested in or controlled or managed by it.

(3) For the purposes of subsection (1), the local authority or Roads Authority may-

- (a) impose such reasonable conditions, as to the time and mode of execution or as to any other thing connected with the exercise of the powers under subsection (1), as it may think fit in the interest of public convenience;
- (b) require the public telecommunications operator to reimburse it for any expenses to which it may be put necessarily in exercise of the powers by the operators;
- (c) prescribe a suitable form, in consultation with the operator, in which the operator shall make an application for the necessary permission;
- (d) constitute a co-ordination committee of all the utilities including the electricity, water and sewage authorities for co-ordinating the work, particularly in regard to establishing lines under, over, along and across the roads and highways along with similar facilities of others:

Provided that-

- (i) any public telecommunications operator or his representatives may, at all reasonable times or at any time in case of urgency, enter any public property under, over, along, across, in or upon which the line, post or apparatus has been placed for the purpose of examining, repairing, altering or removing the telecommunications line, post or apparatus;
- (ii) a certificate by the Minister shall be conclusive proof of the urgency referred to in paragraph (i);
- (iii) the Commission or any public telecommunications operator shall not be liable for any damage resulting from any failure, direct or indirect, of any telecommunications network or system.

(4) For the purposes of this section, “post” includes a tree, pole, standard, stay, strut or other contrivance for carrying or supporting a telegraph line.

(Removal or alteration of telecommunications lines. Posts or apparatuses.)

61. Whenever, in pursuance of section 60, a telecommunications line, post or apparatus has been placed under, over, along, across, in or upon any public property vested in or under the control or management of a local authority or Roads Authority, and the local authority or Roads Authority, having regard to the circumstances which have arisen since the telecommunications line, post or apparatus was so placed, considers it expedient in the public interest that it should be removed or that its position be altered, the local authority or Roads Authority, having regard to the circumstances which have arisen since the telecommunications line, post or apparatus was so placed, considers it expedient in the public interest that it should be removed or that its position be altered, the local authority or Roads Authority may require the public telecommunications operator to remove or alter its position, as the case may be, and the local authority or Roads Authority shall compensate the operator to the extent of 50 per cent of the actual expenditure incurred for such removal or alteration.

62. (1) Where under section 60, a telecommunications line, post or apparatus has been placed under, over, along, across, in or upon any immovable property, being a property not vested in or under the control or management of a local authority or Roads Authority, and any person entitled to do so desires to deal with that property in such a manner as to- (Right of property owners.)

(a) render it necessary or convenient that the telecommunications line, post or apparatus, should be removed to another part thereof, or to a higher or lower level or altered, in form, he may require the public telecommunications operator to remove or alter the line, post, or apparatus:

Provided that, if compensation had been paid under this Act, he shall, when making the requisition, tender to the operator half the amount paid as compensation;

(b) cause damage to the telecommunications line, post, apparatus, or to interrupt or interfere with the telecommunications service, he shall give a notice of not less than one month in writing to the operator or to any officer whom the operator may empower in that regard.

(2) On receipt of a requisition under paragraph (a) of subsection (1), the public telecommunications operator shall remove or alter the line, post or apparatus, as the case may be, within a reasonable time not exceeding three months, or if it is not possible or practicable to do so, give a detailed reply to the requisition within a month.

(3) If on receipt of a requisition under paragraph (a) of subsection (1), the public telecommunications operator fails to comply with the requisition or declines to do so, the person making the requisition may apply to the Commission.

(4) The Commission, upon receiving an application under subsection (3) may, after taking all the circumstances into consideration, reject the application or make an order absolutely or subject to conditions for the removal or alteration of the telecommunications line, post or apparatus, as the case may be, and the order so made shall be final.

(5) On receipt of a notice under paragraph (b) of subsection (1), the public telecommunications operator shall, by agreement with the owner of the property, arrange to supervise the work and to take steps to protect the telecommunications line, post, apparatus or the service, as the case may be.

(6) A person dealing with any property in the manner referred to in paragraph (b) of subsection (1) with the bonafide intention of averting imminent danger of personal injury to himself or any other human being, shall be deemed to have complied with the provisions of that subsection, if he gives notice of the intended exercise as it is in the circumstances possible or where no such notice can be given without incurring the imminent danger referred to, if he forthwith gives notice of the actual exercise of such right to the public operator or officer specified in that subsection.

(Use of private property.)

63. (1) Where the acquisition of any private property or an interest in any private property by a public telecommunications operator is reasonably required for the purpose of providing telecommunications services to the public and no reasonable alternatives to such acquisition exist, the operator shall-

- (a) give notice of the proposed acquisition to the owner of the property and other property owners who reasonably could be expected to be affected by the proposed acquisition, and seek their written comments on the proposed acquisition;
- (b) obtain the consent of the property owner to the acquisition of such property.

(2) In the absence of such consent or on failure to agree to terms of purchase, the public telecommunications operator may apply to the relevant authority having jurisdiction over such private property to acquire such property under the relevant enactment.

(3) Where that is no relevant authority charged with undertaking such acquisition of private property, the Commission shall undertake the proposed acquisition; and the telecommunications operator shall indemnify the Commission against all the costs of acquisition of the property, including amounts payable to the owner of the property to be acquired.

PART VIII-MANAGEMENT OF RADIO FREQUENCY SPECTRUM, GEO-STATIONARY ORBIT AND RADIO TRANSMISSION

64. (1) Subject to the applicable international treaties or agreements, all frequencies required for the operation of any telecommunications network shall be allocated by the Commission and, accordingly, any application for frequency shall be made to the Commission. (Allocation and management of radio frequencies.)

- (2) For the purposes of subsection (1), the Commission shall have the power to-
- (a) license any person or organization to use specific radio frequencies for specific purposes, on such conditions and in consideration of such payments as it thinks appropriate, but the Commission shall reserve certain bands of radio frequencies for the exclusive use of the generality of the public, for various communications and other non-business appliances of a purely private nature working within a short range not exceeding 458 metres between terminal yards, without the need for specific licence;
 - (b) ensure efficient use of the radio frequency spectrum and the geo-stationary satellite orbit;
 - (c) establish, after consultation with all major stakeholders, a national frequency allocation table which may be reviewed from time to time according to the circumstances;
 - (d) allocate, using the necessary co-ordination procedures, frequencies or groups of frequencies for use by licensees and other radio based systems;
 - (e) monitor the use of the spectrum for purposes of eliminating harmful interference, frequency allocation planning and frequency allocation and for making spectrum-occupancy related information available to industry and consumers;
 - (f) make regulations necessary for the management of the use of the spectrum and in making such regulations the Commission shall take into account socio-economic imbalances;
 - (g) prescribed tariffs for the use of the radio frequency spectrum;

- (h) in the allocation or assignment of frequencies, give due regard to the requirements of safety and emergency services;
 - (i) where necessary, specify compatibility standards for the inter working of radio frequency equipment and ensure that the standards are adhered to.
- (3) In allocating frequencies under subsection (1), the Commission shall take into account-
- (a) the availability of frequencies;
 - (b) the fair distribution of the available frequencies;
 - (c) technical characteristics of the equipment involved and its capability to interconnect with other communications equipment and networks.
- (4) Without prejudice to subsection (3), in allocating frequencies, the Commission shall, in the public interest, have power to-
- (a) classify radio stations;
 - (b) determine the location of classes of stations or individual stations and approve their call signs;
 - (c) assign bands of frequencies of various classes of stations and assign frequencies for each individual station and determine the power which each station shall use and the time within which it may operate;
 - (d) modify the allocation or designation of frequencies;
 - (e) establish areas or zones to be served by any station as appropriate; having regard to the efficient utilization of frequencies;

- (f) designate standards of equipment to be used with respect to the external sharpness or strength of the emissions from each station and from the equipment in it;
- (g) ensure the avoidance of harmful emissions, interference or illegal broadcasting.

(5) Nothing in this Act shall be taken to permit the modification, suspension or cancellation of a frequency allocated by the Commission to an operator because of views or opinions expressed through the medium of the operator, unless such expression is a breach of a condition of his licence.

(Possession, establishment and operation of radio transmitters.)

65. (1) No person shall possess, establish or operate a radio transmitter, including a radio transceiver, without a general or specific licence from the Commission which may issue such a licence on such conditions and in consideration of such payment as it thinks fit:

Provided that-

- (a) very low power transmitters including transceivers (up to a range of 458 metres), operating in the frequency band reserved for the generality of public under section 64 and meant for purely private communications, pleasure or non-business appliances shall not require a licence;
- (b) radio transceivers forming part of the customer terminals operating in conjunction with a subscription to a public radio telecommunications network established and operated by an operator under a licence under this Act, shall not require a separate licence.

(Grants of radio frequency licences.)

66. (1) The Commission may grant licences to utilize radio frequencies in accordance with a radio frequency allocation table.

(2) Applications for licences to utilize radio frequencies shall include such facts as the Commission may prescribe as to character, financial and the technical qualifications of the applicant to construct and operate a facility utilizing radio frequencies.

(3) The Commission may require an applicant to provide an update or supplemental information during the pendency of an application, at any time during licence term and upon application for renewal of the licence.

(4) The Commission may impose reasonable terms and conditions of a technical nature or restrictions on radio frequency licences necessary to ensure that the operations of licensees meet the purposes of this Act.

67. (1) The Commission may, for the purpose of allocating radio frequency spectrum, use competitive bidding procedures if it determines that it would be in the public interest where- (Competitive bidding for licence.)

(a) a licence is to be granted to a new applicant;

or

(b) competing and mutually exclusive applications have been submitted by qualified applicants.

(2) The Commission shall prescribe rules and procedures which shall ensure that only bona-fide bidders participate in bidding.

68. (1) Notwithstanding any provision of this Act to the contrary, diplomatic mission in Sierra Leone which intends to operate a radio communications station may apply to the Commission through the Ministry of Foreign Affairs and International Cooperation for the required facilities referred to in subsection (2).
(Operation of radio communications equipment by diplomatic missions.)

(2) The facilities shall be granted by the Commission on the following conditions-

- (a) that the Government of the diplomatic mission concerned provides reciprocal facilities to the Government of Sierra Leone where required; and
- (b) that the power output of the transmitter is not higher than necessary for transmitting to the State to which the diplomatic mission belongs and is in any case not more than 5 kilowatts.

(3) Subject to subsections (1) and (2), a station installed by a diplomatic mission shall operate in accordance with the appropriate rules of the International Telecommunications Union.

(4) The diplomatic mission shall communicate to the Commission through the Ministry of Foreign Affairs and International Co-operation the date for the installation of the equipment.

(5) The inspection of any station installed by a diplomatic mission in Sierra Leone shall be carried out by the Commission subject to reciprocal arrangement between the Government of Sierra Leone and the Government of the diplomatic mission concerned.

(Protection of members and staff of commission)

69. No member or officer or other employee of the Commission or any person acting on the direction of a member, officer or other employee of the Commission shall be liable in respect of any act or thing done by him in good faith under this Act.

PART IX- OFFENCES

(Unauthorised public telecommunications network or service)

70. (1) Subject to section 20, any person who establishes, maintains or operates a public telecommunications network or service in contravention of this Act commits an offence and shall be liable on conviction to a fine of not less than five times and not exceeding ten times the relevant licence fee at the time of conviction or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(2) Any equipment and apparatus used for establishing, maintaining or operating the telecommunications network or service in respect of which the offence has been committed shall be forfeited to the State.

71. (1) Any person who knowingly or having reason to believe that a telecommunications network or service has been established and is operated in contravention of section 65, transmits or receives any communications, or performs any service incidental thereto, or delivers any message sent by the use of such network or service commits an offence and shall be liable on conviction to a fine of not less than five times and not exceeding ten times the relevant licence fee or to a term of imprisonment not exceeding two years or to both such fine and imprisonment. (Use of unauthorized radio frequencies or radio transmissions.)

(2) Any equipment or apparatus used for transmitting and receiving the radio communication in respect of which the offence has been committed shall be forfeited to the State.

(3) Any police officer not below the rank of Assistant Superintendent may, with a warrant, search any building, place or vessel in which he has reason to believe that any telecommunications apparatus capable of unauthorized public telecommunications service or radio communications covered under sections 65 and 66 is kept concealed and take possession thereof.

72. (1) Any person who dishonestly obtains a service provided by means of a telecommunications network established by an operator, with the intent to avoid payment of any legitimate charges commits an offence and shall be liable on conviction to a fine of not less than Le5,000,000 and not exceeding Le20,000,000 or to a term of imprisonment not exceeding two years or to both such fine and imprisonment. (Fraudulent use of telecommunications services.)

(2) Any person in the employment of an operator who aids, abets, counsels, procures or commands the commission of an offence under subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding Le20,000,000 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

73. (1) Any person who-

- (a) prevents or obstructs the transmission or delivery of any telecommunication; (Obstruction or tampering with telecommunications network.)
- (b) intercepts or acquaints himself with the contents of any telecommunications;
- (c) commits mischief, damages, removes or tampers with any part of the telecommunications network or apparatus,

Commits an offence and shall be liable on conviction to a fine of not less than Le1,000,000 and not exceeding Le5,000,000 or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(2) Any person who deals with any property and thereby willfully knowingly damages any telecommunications line placed under, over, along or across, or a post or apparatus placed in or upon that property in accordance with the provisions of this Act, commits an offence and shall be liable on conviction to a fine not exceeding Le5,000,000 or to a term of imprisonment not exceeding two years and in addition to pay such expenses as may be incurred in making good such damage, except in so far as the act was done under section 62.

74. (1) Any person who-

- (a) enters a telecommunications premises without a general or specific permission from an operator or employee of the operator; or
- (b) enters a fenced or walled enclosure of any telecommunications premises, in contravention of any rule or notice not to do so; and
- (c) refuses to quit any telecommunications premises or enclosure on being requested to do so by the operator or any person employed therein; or
- (d) willfully obstructs or impedes any operator or employee of such operator in the performance of his duty;

Commits an offence and shall be liable on conviction to a fine of not less than Le300,000 and not exceeding Le2,000,000 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

75. (1) Any person who attempts to know the contents of a telecommunications transmission or message meant for another person without the consent of such other person commits an offence and shall be liable on conviction to a fine of not less than Le300,000 and not exceeding Le2,000,000 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment. (Attempts to know the contents of a telecommunications signal.)

(2) If the person for whom the message was meant suffers a loss or damage as a result of any offence shall be liable to pay compensation to the person concerned, the amount of which shall be determined by the court considering all the circumstances of the case.

76. Any person who fraudulently retains, or willfully secrets, makes away or detains a message which ought to have been delivered to some other person, commits an offence and shall be liable on conviction to a fine of not less than Le300,000 and not exceeding Le2,000,000 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

77. (1) Any person who- (Issue of documents calculated to deceive.)

- (a) makes or issues any document of a nature reasonably calculated to be believed as having been issued under the authority of a public telecommunications operator;
- (b) without authority possesses any stamp or device capable of imitating the stamp or mark, or similar to, or purporting to be the stamp or mark or any public telecommunications operator.

Commits an offence and shall be liable on conviction to a fine of not less than Le500,000 and not exceeding Le5,000,000 or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(2) If any person suffers a loss or damage as a result of an offence committed under paragraph (a) of subsection (1), he shall be entitled to a compensation from the person convicted of the offence, the amount of which shall be determined by the court considering all the circumstances of the case.

(Alteration interception of disclosure of telecommunications messages.)

78. Any person engaged in the running of a telecommunications service under a telecommunications operator who-

- (a) willfully secrets, makes away with or alters any telecommunication;
- (b) intentionally intercepts a telecommunications service otherwise than in the course of his lawful duty;
- (c) intentionally modifies or interferes with the contents of any message sent by means of a telecommunications service; or
- (d) discloses to any unauthorized person information or data, including the services provided or the accounts which he comes across as part of his lawful duty in respect of any customer or user of the telecommunications services,

Commits an offence and shall be liable on conviction to a fine of not less than Le1,000.000 and not exceeding Le5,000.000 or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

79. Any person referred to in section 78 who- (Wilful disruption or damage to telecommunications system)

- (a) willfully disrupts or damages the telecommunications network or any part thereof;
- (b) willfully causes interruptions or services to any customer;
- (c) having been entrusted with the task of delivering a telecommunications message willfully neglects to do so; or
- (d) having been entrusted with the task of repairing a fault causing interruption of service to a customer, willfully neglects to carry out the necessary repairs with due diligence.

Commits an offence and shall be liable on conviction to a fine of not less than Le500,000 and not exceeding Le400,000 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

(Offence of resale by call back etc without permit)

80. (1) Where pursuant to subsection (2) of section 51, an operator or service provider has notified the public that the resale of his service shall be done only by permit, it shall be an offence to resell his services without such permit.

(2) For the purposes of this section, a resale includes-

- (a) the practice or form of international telephone calls commonly known as “call back”;
- (b) the operation of telecentre or communication centre for the use of the service of the operator or service provider;
- (c) any operations for the termination of international voice traffic, and
- (d) the making or receiving of international phone calls for profit through the internet site of the operator or service provider.

(3) An offence under this section shall, upon conviction, be punishable by a fine of not less than Le2,000,000 and not exceeding Le10,000,000 or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment and the confiscation of the equipment used in the commission of the offence.

81. Any person who commits an offence for which no penalty is provided shall be liable to a fine not exceeding Le500,000 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment. (General offences and penalties.)

PART X-MISCELLANEOUS

82. The Commission may, by statutory instrument, make regulations for the effective implementation of this Act. (Regulations.)

83. (1) The Telegraphs Act and the Wireless Telegraphy Act are hereby repealed. (Repeal of Cap 164 and 165.)

(2) Notwithstanding the appeal of the enactments in subsection (1), any statutory instrument made under any of them and in force immediately before the commencement of this Act, shall remain in force and shall be deemed to have been made under the corresponding provisions of this Act until revoked.

(3) All licences granted, any telecommunications lines or posts or an apparatus placed, any agreement entered into or any other thing relating to matters under this Act done prior to the commencement of this Act shall be deemed to have been granted, placed, entered or done, as the case may be, under this Act.

Passed in Parliament this 13th day of June, in the year of our Lord two thousand and six.

J.A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

J.A. CARPENTER,
Clerk of Parliament