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ST CHRISTOPHER AND NEVIS

CHAPTER 16.05

TELECOMMUNICATIONS ACT

and Subsidiary Legislation

Revised Edition
showing the law as at 31 December 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Cap. 1.03

This edition contains a consolidation of the following laws:

Telecommunications Act

Act 2 of 2000 in force 5th October, 2000
Amended by Act 12 of 2000
Act 18 of 2000
Act 11 of 2001

Regulations – Section 54

Telecommunications (Licensing and Authorisation) Regulations – SRO 2/2002

Telecommunications (Private Licensing) Regulations – SRO 3/2002

Telecommunications (Interconnection) Regulations – SRO 4/2002
Repealed and replaced by SROs 3 & 44/2008

Telecommunications (Spectrum Management) Regulations – SRO 5/2002

Telecommunications (Confidentiality in Networks and Services) Regulations – SRO 6/2002

Telecommunications (Tariff) Regulations – SRO 7/2002

Telecommunications (Terminal Equipment and Public Network) Regulations – SRO 8/2002

Telecommunications (Numbering) Regulations – SRO 9/2002

Repealed and replaced by SRO 29/2008

Telecommunications (Specification of Networks and Services which are subject to Individual Licence, Class Licence, and Frequency Authorisation) Order – SRO 31/2001

Telecommunications (Licences and Fees) Order – SRO 9 of 1953 (saved by section 55 of Act 2/2000)

Telecommunications (Universal Service Fund) Regulations – SRO 2/2008

Telecommunications (Universal Service Fund Contribution) Order – SRO 4/2008

Telecommunications (Quality of Service) Regulations – SRO 28/2008

Telecommunications (Exemption) Regulations – SRO 30/2008

Telecommunications (Wholesale) Regulations – SRO 31/2008

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TELECOMMUNICATIONS ACT

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CHAPTER 16.05

TELECOMMUNICATIONS ACT

AN ACT to provide for the regulation of telecommunications; to establish the National Telecommunications Regulatory Commission; and to provide for related or incidental matters.

PART I – PRELIMINARY

1. **Short title.**

This Act may be cited as the Telecommunications Act.

2. **Interpretation.**

In this Act, unless the context otherwise requires,

"authorised officer" means a person authorised by the Commission;

"Board" means the Board of Directors of ECTEL appointed pursuant to Article 8 of the Treaty;

[Inserted by Act 12/2000]

"broadcasting" 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 other electronic delivery of such programming;

"Commission" means the National Telecommunications Regulatory Commission established by section 15 of this Act;

"class licence" means a licence, as distinct from an individual licence, issued on the same terms to each applicant of a category of users in respect of the operation of a type of telecommunications network or telecommunications service;

[Substituted by Act 12/2000]

"document" includes an electronic document;

"diplomatic mission" includes an international organisation accredited to Saint Christopher and Nevis;

[Inserted by Act 12/2000]

"ECTEL" means the Eastern Caribbean Telecommunications Authority established by Article 2 of the Treaty;

[Inserted by Act 12/2000]

"frequency authorisation" means an authorisation granted by the Minister under this Act to use radio frequencies in connection with the operation of a network or the provision of services under an individual licence or class licence or otherwise;

[Inserted by Act 12/2000]

"frequency fees" means the prescribed fees payable by a frequency authorisation holder;

[Inserted by Act 12/2000]

"individual licence" means a licence issued to a particular person pursuant to section 7 of this Act on terms specific to that person;

[Amended by Act 12/2000

"infrastructure" includes facilities, submarine cables and landing sites, towers, sites and underground facilities;

[Amended by Act 12/2000]

"infrastructure sharing" means the joint utilisation of a particular physical structure, segment, element, or feature of the entire infrastructure;

[Amended by Act 12/2000]

"interconnection" means the connection of two or more separate telecommunication systems, networks, links, nodes, equipment, circuits and devices involving a physical link or interface;

[Inserted by Act 12/2000]

"land" includes any land under any tenure and easement, servitude, right or privilege in or over land;

[Inserted by Act 12/2000]

"licence" means a licence granted under the provisions of this Act;

"licence fees" means the initial, annual and renewal fees payable by an applicant for an individual licence, class licence or radio licence to ECTEL;

"Minister" means the Minister responsible for Communications;

[Amended by Act 12/2000]

"person" includes any corporation, either aggregate or sole, any partnership or association, any undertaking, club, society, or other body of one or more persons;

"private network" means a system used to provide telecommunications service to a person or entity that is for the sole and exclusive use of that person or entity and is not interconnected with the public telecommunications network;

[Inserted by Act 12/2000]

"public telecommunications network" means a telecommunications network used for the provision of telecommunications services to the public;

"public voice telephony services" means the commercial provision to the public of the direct transport and switching of voice telephony in real time from and to network termination points;

"radiocommunications" means the transmission, emission or reception of signs, signals, text, images and sounds, or other intelligence of any nature by radio;

"radio equipment" means any equipment or apparatus designed or used for radiocommunications;

"radio licence" means a licence issued pursuant to section 9 of this Act;

"records" include existing licences, telecommunications equipment approvals, policy documents, orders and memoranda of decisions;

"special licence" means a licence issued in an emergency or other exigent circumstances by the Minister pursuant to section 10(1) of this Act;
[Inserted by Act 12/2000]

"telecommunications" means any form of transmission, emission, or reception of signs, text, images and sounds or other intelligence of any nature by wire, radio, optical or other electromagnetic means;

"telecommunications facilities" mean any

(a) facility, apparatus, or other thing that is used or capable of being used for telecommunications or for any operation directly connected with telecommunications; and

(b) transmission facility;
[Inserted by Act 12/2000]

"telecommunications network" means any wire, radio, optical, or other electromagnetic system used to route, switch, or transmit telecommunications;

"telecommunications provider" means any person who is licensed under this Act to operate a telecommunications network or to provide telecommunications services;

"telecommunications services" mean services provided by a telecommunications provider;

"tender fees" mean the fees payable by an applicant for an individual licence to ECTEL in order to participate in an open tender procedure run by ECTEL;

"terminal equipment" means equipment intended to be connected directly or indirectly to the network termination point of a telecommunications network in order to emit, transmit, or receive telecommunications services;

"Treaty" means the Treaty establishing the Eastern Caribbean Telecommunications Authority signed at Saint George's, Grenada on the 4th day of May, 2000;
[Inserted by Act 12/2000]

"underground facility" means an underground facility that is used, installed to be used, or intended to be used, to hold lines;
[Inserted by Act 12/2000]

"universal service" includes the provision of:

(a) public voice telephony to such of the population as the Minister may, on the recommendation of ECTEL, in licences specify;

(b) internet access to such of the population as the Minister may, on the recommendation of ECTEL, in licences specify; and

(c) such telecommunications services to schools, hospitals and similar institutions as the Minister may, in licences specify.

3. **Application of Act.**

(1) This Act shall apply to the Crown.

(2) This Act shall not apply to

(a) the programme content and scheduling, as opposed to the transmission aspects of broadcasting networks and services;

[Amended by Act 12/2000]

(b) telecommunications networks and services operated or provided exclusively by the armed forces, police force, public security, and civil aviation authorities;

(c) any terminal equipment used for the purposes of paragraphs (a), and (b) of this section.

(3) The Minister may, by Order, exempt

(a) a diplomatic mission;

(b) any category of a ship, aircraft, person, type of network or service, on the recommendation of ECTEL;

from the provisions of this Act, and such exemption may be subject to such conditions as the Minister may impose.

[Inserted by Act 12/2000]

PART II – LICENSING OF TELECOMMUNICATIONS PROVIDERS

4. **Engaging in Telecommunications services.**

(1) No person shall

(a) establish or operate a telecommunications network; or

(b) provide any telecommunications services;

without a licence issued under the provisions of this Act.

(2) The provisions of subsection (1) of this section shall not apply to the establishment or operation of a broadcasting station, or provision of any broadcasting service.

(3) No person shall use or cause to be used any radio communication station or apparatus in or from any place in Saint Christopher and Nevis or in any part of the territorial waters or in the airspace of Saint Christopher and Nevis except in accordance with a licence issued by the Minister in that respect.

(4) No person shall establish, maintain, operate, or use

(a) a radio transmitting station or apparatus;

(b) a station or apparatus for radiocommunication service aboard any ship, aircraft, satellite or vessel registered in Saint Christopher and Nevis;

(c) a station or apparatus for radiocommunication service installed aboard

(i) any ship while the ship is in the territorial waters of Saint Christopher and Nevis;

(ii) an aircraft while the aircraft is in or over Saint Christopher and Nevis or the territorial waters thereof;

except in accordance with a licence issued by the Minister in that respect or unless exempted under the provisions of subsection (3) of section 3 of this Act.

(5) No person shall operate any telecommunications network or provide a telecommunications service, other than a broadcasting service, if the operation of the network or service requires the use of frequency spectrum, unless that person is granted a frequency authorisation by ECTEL.

(6) No person shall operate any telecommunications network or provide a telecommunications service without a frequency authorisation in any case where such a frequency authorisation is necessary for the operation of the telecommunications network or provision of the telecommunications service.

(7) No person shall, where a frequency authorisation is necessary for the operation of a telecommunications network or telecommunications service, operate a telecommunications network or telecommunications service without the frequency authorisation.

[Inserted by Act 12/2000]

(8) No person shall land or operate submarine cables in Saint Christopher and Nevis for the purpose of connecting to a telecommunications network without a licence, and such licence may be in addition to any other approvals, licences, or permits required under the laws of Saint Christopher and Nevis.

[Inserted by Act 12/2000]

(9) A person who contravenes the provisions of subsection (1), (2), (3), (4), (5), (6), (7) or (8) of this section commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding ten years or both.

[Amended by Act 12/2000]

5. **Licences, etc.**

(1) The Minister may, in accordance with this Act, grant

(a) an individual licence;

(b) a class licence;

(c) a frequency authorisation in respect of a licence;

(d) a special licence.

(2) In the event that the Minister refuses to grant a licence or frequency authorisation he or she shall furnish the applicant with a copy of a document containing the reason for his or her refusal.

(3) The Minister shall, on the recommendation of ECTEL, by Order, specify the telecommunications networks and services that are subject to an individual licence, a class licence, or a frequency authorisation.

(4) In exercising his or her powers under this Act, the Minister shall consult the Commission, and the Minister shall also, whenever it is practicable, adopt the form, document, process, and draft subsidiary legislation recommended by ECTEL, and implement any policy and recommendations proposed by ECTEL.

[Substituted by Act 12/2000]

6. **Procedure for grant of an individual licence.**

(1) A person who wishes to apply for an individual licence under this Act shall, in accordance with an open tender procedure determined by ECTEL, submit his or her application to the Commission for consideration by ECTEL, and the application shall be in the prescribed form and accompanied by such tender fees as may be determined by ECTEL.

(2) ECTEL shall, upon receipt of the applications, review the applications, and prepare a short list of applicants who meet the technical and financial requirements for individual licences for recommendation to the Minister.

(3) Where only one application is received, ECTEL shall consider the application on its merits, and if the applicant meets the technical and financial requirements for an individual licence, ECTEL may recommend the applicant to the Minister for the grant of the licence.

7. **Grant of an individual licence.**

(1) The Minister may, upon receipt of a recommendation from ECTEL as to a qualified applicant, or short list of qualified applicants, grant to one or more of such applicants the relevant licence or licences.

(2) The Minister shall, before granting a licence under this section, take into account the following matters, that is to say,

(a) whether the provision of public telephony services will meet reasonable demand at affordable prices;

(b) whether the interests of subscribers, purchasers and other users of telecommunications services will be protected;

(c) whether competition among providers of telecommunications services will be promoted;

(d) whether research, development and introduction of new telecommunications services will be promoted;

(e) whether foreign and domestic investors will be encouraged to invest in the telecommunications sector;

(f) whether the public interest and national security interests will be safeguarded.

(3) Notwithstanding the provisions of subsection (1) of this section, no person shall be granted an individual licence unless that person is recommended by ECTEL.

(4) The Minister may, in granting an individual licence, attach to that licence any or all of the terms and conditions specified in Part I of the First Schedule to this Act, except that that licence shall be subject to all the terms and conditions specified in Part II of that Schedule.

[Substituted by Act 12/2000]

(5) The Minister may, on the recommendation of ECTEL, by Order, amend the First Schedule to this Act.

8. **Procedure for grant of class licence.**

(1) A person who wishes to apply for a class licence under this Act shall submit his or her application, in the prescribed form, to the Commission, and the application shall be accompanied by the prescribed fee.

[Substituted by Act 12/2000]

(2) The Commission shall, upon receipt of the application, determine whether the applicant falls within the definition of a class licence, and if, in the opinion of the Commission, the applicant qualifies for a class licence, then the Commission shall recommend the applicant to the Minister for grant of the class licence.

[Substituted by Act 12/2000]

(3) The Minister may, when satisfied that the applicant falls within the definition of a class licence, grant a class licence to the applicant.

(4) The Minister may, in granting a class licence, attach to that licence any or all of the terms and conditions specified in Part I of the First Schedule to this Act, except that that licence shall be subject to all the terms and conditions specified in that Schedule.

[Substituted by Act 12/2000]

9. **Procedure for grant of radio licence etc.**

(1) A person who wishes to apply for a radio licence shall submit his or her application to the Commission, which application shall be in the prescribed form.

(2) Upon receipt of the application the Commission shall process the application and if the applicant meets the financial and technical requirements recommend the applicant to the Minister for grant of the licence.

(3) The Minister shall, in granting a radio licence, take into account such matters as are prescribed by regulations made under this Act.

(4) An applicant for a frequency authorisation shall submit his or her application, in the prescribed form, to the Commission, and the application shall be accompanied by the prescribed fee.

(5) Upon receipt of the application the Commission shall, after consulting ECTEL, process the application and recommend to the Minister whether or not the applicant shall be granted the frequency authorisation.

(6) The Minister may grant a frequency authorisation only on the recommendation of the Commission and after taking into account such matters as may be prescribed by regulations made under this Act.

(7) The Minister may, in granting a frequency authorisation, attach to the frequency authorisation any or all of the terms and conditions specified in Part I of the First Schedule to this Act, except that the frequency authorisation shall be subject to all the terms and conditions specified in that Schedule.

(8) A frequency authorisation shall be subject to the payment of a frequency authorisation fee determined by ECTEL.

10. **Special licence.**

(1) A special licence may be granted by the Minister where an emergency or other exigent circumstance exists.

(2) A special licence shall be valid for a period not exceeding ten days, as the Minister may determine, and shall not be renewable.

(3) A person who wishes to be granted a licence shall apply, in the prescribed form, to the Minister and his or her application shall be accompanied by the application fee.

(4) The Minister shall, upon granting a special licence, inform the Commission and ECTEL as soon as practicable.

[Inserted by Act 12/2000]

11. **Prescribed fees.**

A licence and a frequency authorisation granted under this Act shall be subject to the payment of the prescribed fees, and the prescribed fees shall be payable in the prescribed manner.

[Substituted by Act 12/2000]

12. **Modification of licence authorisations.**

[Amended by Act 12/2000]

(1) A licence granted under this Act may, on the recommendation of ECTEL, be modified where the Minister and licensee, by agreement in writing, agree to modify the licence.

(2) Notwithstanding the provisions of subsection (1) of this section, and subject to any special conditions concerning modification in the relevant licence, the Minister may, on the recommendation of ECTEL, modify any licence without the agreement of the licensee if the modification is necessary in the public interest or for reasons of national security.

(3) The Minister may, after consultation with the members of the relevant class and on the recommendation of ECTEL, modify a class licence.

(4) The Minister may, on the recommendation of ECTEL and where the Minister and the frequency authorisation holder agree in writing, modify the frequency authorisation, except that the Minister may, on the recommendation of ECTEL, modify the frequency authorisation without the agreement of the frequency authorisation holder if the Minister is of the view that the modification is necessary in the public interest or for reasons of national security.

[Subsections (3) and (4) inserted by Act 12/2000]

13. **Suspension of licence.**

(1) Subject to any special conditions concerning suspension in the relevant licence, the Minister may, on the recommendation of ECTEL, suspend any licence granted under this Act on any of the following grounds, that is to say,

(a) where a licensee breaches any condition attached to his or her licence;

(b) where a licensee contravenes the provisions of this Act or the regulations made under this Act;

(c) where a licensee is convicted of an offence under this Act;

(d) where a licensee fails to discharge his or her financial commitments under this Act;

(e) where a licensee is subject to liquidation or bankruptcy proceedings, or compounds with his or her creditors.

(2) Notwithstanding the provisions of subsection (1) of this section the Minister may suspend any licence if the suspension is necessary for reasons of national security.

(3) The Minister shall, before suspending any licence under this section,

(a) give two months notice to the licensee, specifying the grounds on which the Minister intends to suspend the licence;

(b) give the licensee an opportunity to present his or her views and to submit to the Minister a written statement containing the licensee's objections to the suspension; and

(c) take into account the views and objections referred to in paragraph (b) before making a decision.

(4) If, after complying with subsection (3), the Minister is of the view that the licence should be suspended, the Minister shall not suspend the licence without first giving the licensee an opportunity to remedy the breach.

[Subsections (3) and (4) substituted by Act 12/2000]

(5) This section shall, *mutatis mutandis*, apply to the suspension of a frequency authorisation.

[Inserted by Act 12/2000]

14. **Revocation of licence.**

(1) Subject to any special conditions in the relevant licence concerning revocation, the Minister may, on the recommendation of ECTEL, revoke any licence granted under this Act on any of the following grounds, that is to say,

(a) where the licensee is in material breach of any condition attached to the licence;

(b) where the licensee persistently breaches any condition attached to the licence or regulations made under this Act;

(c) where the licensee is dissolved;

(d) where the licensee enters into liquidation or bankruptcy proceedings;

(e) where a licensee obtained the licence by a materially false or misleading representation or in some other illegal manner.

(2) Notwithstanding the provisions of subsection (1) of this section the Minister may revoke any licence if the revocation is necessary for reasons of national security.

(3) The Minister shall, before revoking any licence under this section,

(a) give two months written notice to the licensee specifying the grounds on which the Minister intends to suspend the licence;

(b) give the licensee an opportunity to present his or her views and to submit a written statement containing his or her objections to the revocation;

(c) take into account the views and objections referred to in paragraph (b) before making a decision.

[Substituted by Act 12/2000]

(4) If, after complying with subsection (3), the Minister is of the view that the licence should be revoked, the Minister shall not revoke the licence without first giving the licensee an opportunity to remedy the breach.

[Substituted by Act 12/2000]

(5) This section shall, *mutatis mutandis*, apply to the revocation of a frequency authorisation.

[Inserted by Act 12/2000]

PART III – THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION, ITS FUNCTIONS AND POWERS

15. **Establishment of Commission.**

(1) For the purposes of this Act, there is established a Commission in the Ministry responsible for telecommunications to be known as the National Telecommunications Regulatory Commission.

[Amended by Act 12/2000]

(2) The Commission shall consist of not less than three and not more than five Commissioners, all of whom shall be appointed by the Minister on such terms and conditions as the Minister may specify in their instruments of appointment.

(3) The Minister shall appoint a Chairman from among the members of the Commission.

[Inserted by Act 18/2000]

16. **Qualifications and tenure of Commissioners.**

(1) The appointed Commissioners shall be persons of recognised standing and experience in one or more of the following areas, that is to say,

(a) finance and accounting;

(b) telecommunications;

(c) economics;

(d) law; or

(e) other related fields;

except that at least one of the Commissioners shall be a person of recognised standing and experience in telecommunications.

(2) A Commissioner shall, unless he or she vacates office in accordance with the provisions of section 19 or 20 of this Act, hold office for a period of three years.

[Amended by Act 12/2000]

17. **Functions of Commission, etc.**

(1) The Commission shall perform the following functions, that is to say,

(a) advise the Minister on the formulation of a national policy on telecommunications matters to ensure efficient economic and harmonised development of the telecommunications and broadcasting services as well as radio communications;

(b) advise the Minister on whether applicants for class licences fall within the definition of a class licence;

(c) regulate prices for telecommunications services;

(d) to set and regulate technical standards of telecommunications, and to ensure that such standards are compatible with international technical standards;

(e) plan, supervise, regulate and manage the use of radio frequency spectrum in conjunction with ECTEL;

(f) receive and review applications for a class licence and advise the Minister accordingly;

(g) monitor and ensure that licensees and holders of frequency authorisations comply with the conditions attached to their licences and authorisations respectively;

(h) review any proposed interconnection agreement by telecommunications providers and recommend to the Minister whether or not the Minister should approve the agreement;

(i) investigate and resolve any dispute relating to interconnection or infrastructure sharing between telecommunications providers;

(j) investigate complaints against licensees, either on its own initiative or upon request;

(k) monitor anti-competitive practices in the telecommunications sector and advise the national body responsible for the regulation of anti-competitive practices accordingly;

(l) manage the Universal Service Fund;

(m) advise the Minister on legal, technical, financial and economic aspects of the telecommunications sector;

(n) consult and liaise closely with ECTEL;

(o) keep and maintain a register of licensees and frequency authorisation holders;

(p) organise, in conjunction with any institution or entity, training, manpower planning, seminars, and conferences in areas of national and regional importance in telecommunications;

(q) provide the Minister with such information as he or she may, from time to time, require;

(r) perform such functions as may be conferred on it by regulations made under this Act or by any other enactment.

(2) In resolving disputes the Commission shall, wherever practicable, apply conciliation, mediation, and alternative dispute resolution techniques.

(3) The Commission shall, when presented with a dispute between licensees requiring an interpretation of licences, frequency authorisations or regulations, either

(a) refer the matter to ECTEL with a request that ECTEL provide the Commission with an opinion on the matter; or

(b) with the consent of the parties to the dispute, refer the matter to ECTEL for mediation or arbitration in keeping with the Treaty.

(4) Where the matter is referred to ECTEL under subsection (3)(a) the Commission shall, in resolving the dispute, take into account the opinion and recommendation of ECTEL.

[Substituted by Act 12/2000]

18. **Powers of Commission.**

The Commission shall, for the purposes of carrying out its functions under this Act or the regulations made under this Act, have power

(a) to summon and examine witnesses;

(b) to call for and examine documents;

(c) to administer oaths;

(d) to require that any document submitted to the Commission be verified by affidavit;

(e) to levy fines;

(f) to do anything which is related or incidental to what is specified in paragraphs (a), (b), (c), (d) and (e) of this section; and

(g) to do anything it is authorised to do by any other provision of this Act or the regulations made under this Act, or any other enactment.

19. **Resignation of Commissioners.**

(1) A Commissioner, other than the Chairperson, may resign his or her office in writing, and his or her resignation shall be addressed to the Minister through the Chairperson.

(2) The Chairperson of the Commission may, at any time, in writing addressed to the Minister, resign from his or her office.

20. **Termination of office.**

The Minister may remove any Commissioner from office only on one or more of the following grounds, that is to say,

(a) inability to perform the functions of his or her office;

(b) being absent from three consecutive meetings of the Commission without the permission of the Chairperson;

(c) if he or she is declared bankrupt or compounds with his or her creditors;

(d) misconduct;

(e) for any other conduct which is inconsistent with his or her functions.

[Amended by Act 12/2000]

21. **Directions by the Minister.**

The Minister may generally give to the Commission directives of a policy nature, and the Commission shall comply with those directions.

22. **Meetings of Commission.**

The Second Schedule to this Act shall apply to meetings of the Commission as specified in that Schedule.

23. **Remuneration of Commissioners.**

Commissioners shall be paid such remuneration as the Minister may determine and specify in their instruments of appointment.

24. **Staff of the Commission.**

The Commission shall appoint such staff and contract the services of such specialist persons as is necessary for the performance of the functions of the Commission.

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PART IV – UNIVERSAL SERVICE, INTERCONNECTION INFRASTRUCTURE, SHARING, NUMBERING, ETC

Universal Service

25. **Provision of universal service.**

(1) The Minister may, on the recommendation of ECTEL include a condition in the licence of a telecommunications provider requiring such telecommunications provider to provide universal service, except that such requirement shall be carried out in a transparent, non-discriminatory and competitively neutral manner and is not more burdensome than is necessary for the kind of universal service required to be offered.

(2) Any telecommunications provider who is required by its licence to provide universal service to any person shall do so at such price, and with the quality of service specified in the licence.

26. **Universal service Fund.**

(1) There shall be established a Fund to be known as the Universal Service Fund, which Fund shall be managed by the Commission in accordance with regulations made by the Minister on the recommendation of ECTEL.

(2) Every telecommunications provider shall contribute to the Universal Service Fund.

(3) The Minister shall, on the recommendation of ECTEL and by Order, prescribe the percentage of the gross revenue of the telecommunications providers received by them in the course of providing telecommunications services which shall be contributed by the telecommunications providers to the Universal Service Fund, except that the percentage to be contributed shall be the same for all telecommunications providers.

27. **Purpose of the Fund.**

(1) The Fund shall be used by the Commission, on the recommendation of ECTEL, to compensate any telecommunications provider who is required to provide universal service by virtue of section 25 of this Act or otherwise promote Universal Service.

[Amended by Act 12/2000]

(2) The amount of compensation payable by virtue of subsection (1) of this section shall be computed in accordance with the regulations made by the Minister on the recommendation of ECTEL, and the conditions attached to the licence of the telecommunications provider and shall be paid to the relevant telecommunications providers by the Commission.

(3) In making the regulations referred to in subsection (2) of this section, the Minister shall also be guided by the actual cost that is incurred in making available the required universal service.

Interconnection and Infrastructure Sharing

28. **Interconnection and infrastructure sharing.**

(1) Subject to the provisions of this section, any telecommunications provider who operates a public telecommunications network shall not refuse, obstruct, or in any way impede another telecommunications provider to make any interconnection with his or her telecommunications network and shall, in accordance with the provisions of this section, ensure that the interconnection service provided is made at technically feasible physical points.

[Amended by Act 12/2000]

(2) Any telecommunications provider who wishes to make any interconnection to the telecommunications network of another telecommunications provider shall do so in accordance with the provisions of this section.

(3) A request by a telecommunications provider to make any interconnection to the telecommunications network of another telecommunications provider shall be in writing.

(4) A telecommunications provider to whom a request is made in accordance with the provisions of this section shall, in writing, respond to the request within a period of one month from the date the request is made to him or her and, subject to the provisions of subsection (5) of this section, provide the interconnection service in a reasonable time.

(5) A request by a telecommunications provider to make any interconnection to the telecommunications network of another telecommunications provider shall be refused only on reasonable grounds, which grounds shall be in writing.

(6) Any interconnection service provided by a telecommunications provider pursuant to the provisions of this section shall be provided on reasonable rates, terms, and conditions which are not less favourable than

(a) those of the provider of the interconnection service;

(b) the services of non-affiliated suppliers; or

(c) the services of the subsidiaries or affiliates of the provider of the interconnection service.

(7) Without prejudice to the generality of the provisions of subsection (6) of this section, the Commission may, on the recommendation of ECTEL, prescribe the cost and pricing standards and other guidelines on which the reasonableness of the rates, terms and conditions of the interconnections will be determined.

(8) No telecommunications provider shall, in respect to any rates charged by him or her for interconnection services provided by him or her to another telecommunications provider, vary the rates on the basis of the class of customers to be served, or on the type of services that the telecommunications provider requesting the interconnection services intends to provide.

29. **Interconnection agreements.**

(1) No person shall enter into any interconnection agreement without first submitting the proposed agreement to the Commission for its approval, which approval shall be in writing.

(2) Interconnection agreements between telecommunications providers shall be in writing, and copies of the agreements shall be kept in a public registry maintained by the Commission for that purpose.

(3) The agreements referred to in subsection (2) of this section shall be open to public inspection during normal working hours.

(4) The Commission shall, after consulting ECTEL, prepare, publish, and make available copies of the procedures to be followed by the telecommunications providers when negotiating interconnection agreements.

30. **Cost of interconnection.**

(1) The cost of making any interconnection to the telecommunications network of another telecommunications provider shall be borne by the telecommunications provider requesting the interconnection.

(2) The cost referred to in subsection (1) of this section shall be based on cost-oriented rates that are reasonable and arrived at in a transparent manner having regard to economic feasibility, and sufficiently unbundled such that the supplier of the interconnection service does not have to pay for network components that are not required for the interconnection service to be provided.

(3) Notwithstanding the provisions of subsection (2) the Commission may, on the recommendation of ECTEL, issue guidelines on the cost and pricing standards on which the reasonableness of the rates, terms and conditions of interconnections shall be determined.

[Inserted by Act 12/2000]

(4) The guidelines referred to in subsection (3) shall be available to the public at the office of the Commission during working hours, upon payment of a prescribed fee.

[Inserted by Act 12/2000]

31. **Infrastructure sharing.**

The provisions of sections 28, 29 and 30 of this Act shall apply to infrastructure sharing, *mutatis mutandis*.

32. **Access to towers, etc.**

(1) Where access to a telecommunications tower, site, and underground facility is technically feasible, a telecommunications provider who owns or is in charge of the tower, site or underground facility, as the case may be, shall, upon request, give the requesting telecommunications provider access to his or her tower, site or underground facility, as the case may be, for the sole purpose of enabling the requesting telecommunications provider to install a facility for use in connection with the supply of telecommunications services.

(2) A telecommunications provider shall, in planning the provision of future telecommunications services, co-operate with other telecommunications providers to share sites and eligible underground facilities.

(3) The provisions of sections 28, 29 and 30 shall, *mutatis mutandis*, apply to access to towers, sites, and underground facilities.

[Inserted by Act 12/2000]

33. **Private Networks.**

(1) The provisions of section 4 of this Act shall apply to the provision and operation of private telecommunications networks.

(2) A private telecommunications network shall not be used for resale, except that the owner of the network may resell spare capacity of the network or cede, or assign his or her rights to use such facilities, or sublet, or otherwise part with control of the network to a licensed telecommunications operator.

(3) Where the operator of a private telecommunications network intends to offer telecommunications services to the public for a fee, or to a class of users so as to be effectively available to the public, the operator of the network shall apply for an individual licence in accordance with this Act.

(4) A person who owns a private telecommunications network shall not be restricted only to the carrying on of voice or data or any other such use.

[Inserted by Act 12/2000]

34. **Numbering and Domain names.**

(1) The Commission shall establish and manage a national plan for the allocation of numbers among telecommunications providers in accordance with the regional plan established by ECTEL.

(2) The Commission shall, in managing the national plan for the allocation of numbers among telecommunications providers, have the power to reallocate and reassign numbers to the extent that is reasonably required to implement and administer the national plan.

(3) The Commission shall be responsible for the registration and management of internet domain names.

[Substituted by Act 12/2000]

PART V – MISCELLANEOUS PROVISIONS

Right of entry and search

35. **Right of entry.**

(1) Subject to the provisions of this section, an authorised officer may, on reasonable suspicion that any licensee is engaged in conduct that is contrary to the provisions of this Act or the regulations made under this Act, or the licence, enter any

vehicle, ship, vessel, aircraft, or premises and search the vehicle, ship, vessel, aircraft, or premises, as the case may be, and he or she may, in that process,

(a) remove any document or extracts of the document;

(b) seize any telecommunications apparatus;

from the person who was in charge of the document or apparatus or in whose possession the document or apparatus was.

(2) An authorised officer shall not enter any vehicle, ship, vessel, aircraft, or premises in exercise of the powers conferred on him or her by subsection (1) of this section without a search warrant issued in that respect by a court.

(3) An authorised officer shall not seize any telecommunications apparatus in exercise of the powers conferred on him or her by subsection (1) of this section without a court order.

(4) An authorised officer shall, on entering the vehicle, ship, vessel, aircraft, or premises, identify himself or herself to the person in charge of the vehicle, ship, vessel, aircraft, or premises, as the case may be, by showing the person the search warrant together with his or her official identity card.

(5) An authorised officer shall, on completing the search, leave with the person in charge of the vehicle, ship, vessel, aircraft, or premises, as the case may be, a receipt in which it is indicated a list of documents or extracts taken by the authorised officer.

(6) An authorised officer may copy any document removed by him or her in accordance with the provisions of subsection (1) of this section, and return the document to the owner or person in charge of the document.

36. **Search warrant.**

(1) Where a court is satisfied by information on oath that there are reasonable grounds to suspect or believe that any person is engaged in conduct that is in anyway contrary to the provisions of this Act, or the regulations made under this Act, or any other enactment, or the licence, issued, in relation to the vehicle, ship, vessel, aircraft, or premises, as the case may be, to the authorised officer a search warrant for the purpose of enabling him or her to exercise the powers conferred on him or her by section 35 of this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, a court shall not, except in accordance with the provisions of subsection (3) of this section, in the search warrant, authorise the authorised officer to detain a document or telecommunications apparatus obtained pursuant to the provisions of section 35 of this Act for more than thirty days.

(3) Any telecommunications apparatus that is seized pursuant to a search conducted in accordance with the provisions of section 35 of this Act shall,

(a) where legal proceedings are not commenced within a period of thirty days from the date of seizure of the apparatus, be returned to the owner; and

(b) where legal proceedings are commenced before the expiry of the thirty days, be kept until the conclusion of the legal proceedings.

(4) A court may, where a licensee is convicted of an offence under this Act in respect of any telecommunications apparatus seized pursuant to a search conducted in accordance with the provisions of section 35 and this section, order that the apparatus be forfeited to the Crown.

Inspection of licences

37. **Inspection of licence.**

Any person who holds a valid licence issued under this Act shall exhibit his or her licence for inspection on demand by an authorised officer.

Terminal Equipment

38. **Connection of terminal equipment.**

(1) No person shall connect any terminal equipment to a public telecommunications network unless the equipment is approved by the Commission, and the Commission shall, before giving the approval, take into account the recommendations of ECTEL relating to equipment approval.

(2) Notwithstanding the provisions of subsection (1) of this section, the Minister may, by Order, exempt any person from the requirements of this section on the recommendation of ECTEL.

Electrical interference

39. **Reduction of electrical interference.**

No person shall use or cause to be used anything that is capable of causing electrical interference with the normal operation, functioning, or use of a licensed telecommunications network, or telecommunications apparatus, unless such a thing is equipped with filters, suppressors or other devices, or is otherwise modified to minimise the interference to a level prescribed by regulations made under this Act.

Emergency situation

40. **Control of telecommunications in emergency.**

(1) Where an emergency is declared in accordance with the provisions of the Constitution the Government may, in relation to the telecommunications sector, take such measures as are necessary for dealing with the situation, and such measures may include suspension of services, modification of services, and giving directions to telecommunications providers as are deemed necessary in the circumstances.

(2) Anything which is done in accordance with the provisions of this section shall not constitute a breach of any condition of a licence or provision of any agreement.

Confidentiality of communications, etc.

41. **Secrecy of communications.**

Any transmission over a public telecommunications network, or telecommunications service shall be confidential and shall not be intercepted, monitored or interrupted without the consent of the sender, or court order made under this Act or any other enactment.

42. **Secrecy of personal information.**

Any personal information relating to a subscriber shall be confidential and shall not be disclosed by any telecommunications provider without the consent of the subscriber or court order under this Act or any other enactment.

Right to obtain information, Inspections and Tests

43. **Right to obtain information.**

(1) A subscriber or his or her duly authorised agent may, during normal working hours, obtain from a telecommunications provider such information as is relevant for the purposes of the subscriber.

(2) A request for information referred to in subsection (1) of this section shall be in such form as the Commission may prescribe.

44. **Inspection of telecommunications equipment, etc.**

(1) All telecommunication installations, equipment or stations established and operated by virtue of the provisions of this Act shall be subject to inspection by a person duly authorised by the Commission.

(2) A person who

(a) intentionally impedes or interferes with the inspection referred to in this section;

(b) does not give information requested in the course of such inspection;

(c) gives wrong information in response to an inquiry made by the authorised person;

commits an offence and shall be liable, on summary conviction, to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding one year or both.

45. **Tests.**

The Commission may, at the expense of the licensee, carry out tests and trials on telecommunication installations that are intended for use or are already being used for services under a licence granted under this Act in order to verify their compliance with the terms and conditions of the licence.

Offences

46. **Engaging in telecommunications without a licence.**

(1) A person who operates a telecommunications network or provides telecommunications services or uses radio frequencies specified in section 4 of this Act contrary to the provisions of that section commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding four years or both.

(2) The court may also, on application,

(a) make an order for forfeiture of any equipment used for the commission of the offence; and

(b) grant an order restraining the accused from continuing to engage in similar activities.

47. **Malicious damage to apparatus.**

(1) No person shall remove, damage, or destroy any telecommunications network, or telecommunications apparatus, except in accordance with the provisions of this Act or the regulations made under this Act.

(2) A person who contravenes any provisions of subsection (1) of this section commits an offence and shall, on summary conviction, be liable to a fine not exceeding fifteen thousand dollars or to imprisonment for a period not exceeding two years, and if he or she is convicted on indictment he or she shall be liable to a fine not exceeding thirty thousand dollars or to imprisonment for a period not exceeding four years.

48. **Unlawful connections.**

A person who connects any terminal equipment contrary to the provisions of section 38 of this Act commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding two years.

49. **Unlawful interception and disclosure of personal information.**

(1) A person who

(a) contravenes the provisions of section 41 of this Act; or

(b) knowingly discloses any personal information contrary to the provisions of section 42 of this Act;

commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding fifteen thousand dollars or to imprisonment for a period not exceeding one year.

(2) The provisions of subsection (1) of this section shall not apply to a disclosure made to the Customs Department, the Income Tax Department or the Police.

50. **Obstruction of investigation.**

A person who, in any manner, impedes, prevents, or obstructs any investigation being carried out by the Commission under this Act commits an offence and shall be liable, on conviction on indictment, to a fine of eight thousand dollars or to imprisonment for a period not exceeding six months.

51. **Refusal to produce documents, etc. or to give information, etc.**

A person who

(a) refuses to produce any document, record, thing, or any information required by the Commission under this Act; or

(b) destroys or alters, or causes to be destroyed or altered, any document, record or thing required to be produced under this Act;

commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months.

52. **Giving false information.**

A person who knowingly gives false or misleading information to the Commission commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months.

53. **Failure to attend to give evidence.**

A person who

(a) refuses or fails, without reasonable excuse, to appear before the Commission, having been required to do so; or

(b) refuses to take an oath or make an affirmation having appeared before the Commission as a witness;

commits an offence, and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three months.

54. **Appeals.**

(1) A person who is aggrieved by the decision of the Commission may, within thirty days from the date the decision is communicated to him or her, appeal to ECTEL and ECTEL shall review the decision and may reverse, modify, or sustain the decision being appealed against.

(2) A person who is aggrieved by the decision of the Minister may, within thirty days from the date the decision is communicated to him or her appeal to the High Court, and the High Court may determine the appeal and grant such relief as it deems fit.

Inspection of records of the Commission

55. **Inspection of records.**

(1) Subject to the provisions of this section, every record of the Commission shall, upon request, be made available for public inspection at the offices of the Commission.

(2) Notwithstanding the provisions of subsection (1) of this section, the following records shall not, except in accordance with the provisions of this section, be made available to the public for inspection, that is to say,

(a) records relating to the internal personnel rules and practices of the Commission;

(b) personnel records, medical records, and other records whose disclosure would constitute an invasion of personal privacy;

(c) secret records relating to national defence or security;

(d) records of intra-governmental communications relating to governmental decision processes;

(e) records of information obtained by the Commission in the course of its frequency monitoring activities;

(f) records containing information relating to the valuation of the property of the telecommunications providers;

(g) records of trade secrets or proprietary, commercial, financial or technical information which is customarily guarded from competitors;

(h) records of information which are subject to judicial privilege; and

(i) records which are not open to public inspection by virtue of the provisions of any enactment.

(3) The records referred to in paragraphs (f) and (g) of subsection (2) of this section shall not be made available to the public for inspection if they were furnished to the Commission with a request for confidentiality, which request the Commission approved.

(4) The records referred to in paragraph (d) of subsection (2) of this section shall be made available to the public for inspection if it is shown that they would be made available to a private person through the discovery process in court proceedings.

(5) Any investigative record compiled for enforcement purposes shall not be made available for public inspection if to do so would:

(a) interfere with enforcement proceedings;

(b) deprive a person of the right to fair trial or impartial adjudication;

(c) constitute an unjustified invasion of personal privacy;

(d) disclose the identity of a confidential source;

(e) disclose investigative techniques or procedures; or

(f) endanger the life or physical safety of the law enforcement personnel.

(6) Applications for authorisation of equipment and materials relating to the applications shall not be made available for public inspection until the Commission has approved the applications.

(7) Records of information submitted in connection with audits, investigations and examinations shall not be made available for public inspection until the Commission has taken action on the matter.

Regulations

56. **Regulations.**

The Minister may, on the recommendation of ECTEL, generally make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations providing, in particular,

(a) for the types and forms of licences and the manner in which applications for licences are to be made;

(b) for the type of terminal equipment to be connected to a public telecommunications network;

(c) for matters relating to the provision of universal service;

(d) for matters relating to interconnection between telecommunications providers, and the sharing of infrastructure by telecommunications providers;

(e) for the procedure to be followed by the Commission in resolving disputes between telecommunications providers;

(f) for matters relating to the allocation of numbers among the telecommunications providers;

(g) for the procedure and standards relating to the submission, review and approval by the Commission of telecommunications tariffs;

(h) for the securing of the safety of the public from personal injury;

(i) for the control, measurement and suppression of electrical interference in relation to the working of telecommunications apparatus and systems;

(j) for obtaining secrecy on the part of all persons employed in or in anyway connected with the maintenance and working of any telecommunications network or telecommunications apparatus and systems;

(k) for public inspection of records of the Commission;

(l) for the telecommunications networks and systems, and services that are subject to an individual and class licence;

(m) for matters relating to radio spectrum, ducts and radio transmitter towers, transmission lines and pole routes; and

(n) for matters relating to the quality of telecommunications services.

FIRST SCHEDULE

(Section 7.(5))

PART I – CONDITIONS ATTACHABLE TO LICENCES

1 Licences granted under this Act may contain any or all of the following conditions:

(a) the networks and services which the licensee is and is not entitled to operate and provide, and the networks to which the licensee's network can be connected;

(b) the duration of the licence;

(c) the build-out of the licensee's network and geographical and subscriber targets for the provision of the licensee's services;

(d) the use of radio spectrum;

(e) the provision of services to rural or sparsely populated areas or other specified areas in which it would otherwise be uneconomical to provide services;

(f) the provision of services to the blind, deaf, physically and medically handicapped and other disadvantaged persons;

(g) contribution towards the provision of universal service or universal access;

(h) the interconnection of the licensee's network with those of other operators;

(i) the sharing of telecommunications infrastructure;

(j) requirement of anti-competitive conduct; and the allocation and use by the licensee of numbers.

PART II – CONDITIONS THAT MUST BE INCLUDED IN LICENCES AND FREQUENCY AUTHORISATIONS

Licences and frequency authorisations granted under this Act shall contain all of the following conditions:

1. Period of licence and procedure for renewal of licence or variation at the behest of the applicant.

2. A condition stipulating that the licence or frequency authorisation shall only enter into force upon payment by the licensee or authorisation holder to ECTEL or the Commission of the prescribed fee.

3. A condition requiring the licensee or authorisation holder to pay annual anniversary fees and renewal fees on specified dates.

4. A condition requiring the licensee or authorisation holder to provide ECTEL with such documents and information as ECTEL shall require and request in order to fulfil its purposes and functions.

5. A condition requiring the licensee or authorisation holder to comply with any direction made by the Commission under section 30.

6. Provision of information and documents as required by and to the Commission.

7. Non-exclusivity of the licence, and exclusivity or otherwise of the frequency authorisation.

8. Contribution to universal service.

9. Procedure to deal with complaints of customers or subscribers.

10. Compliance with the recommendations of ECTEL.

11. Payment of moneys owed to the Government.

12. Submission to the Commission of a complete audited financial report.

13. Specification of the fees depending on the divergent or convergent* nature of the services provided.

[Inserted by Act 12/2000]

SECOND SCHEDULE

(Section 22)

MEETINGS OF THE COMMISSION, ETC.

1. The Commission shall meet at such times and at such places as the Commission considers necessary or expedient for the transaction of the business of the Commission.

2. The Chairperson may at any time call a special meeting of the Commission, and shall call a special meeting of the Commission within fourteen days of receipt of a request for that purpose addressed to him or her in writing and signed by any two Commissioners.

3. The quorum of the Commission at any meeting shall be three where the number of Commissioners appointed is five and two where three Commissioners are appointed.

4. In the absence of the Chairperson, the Commissioners present shall elect from their number a Commissioner to preside at the meeting of the Commission.

5. Decisions of the Commission shall be by majority of votes of members present and voting.

6. (1) Minutes of each meeting of the Commission shall be recorded and kept by the Secretary to the Commission.

(2) A certified copy of the minutes of each meeting confirmed by the Commission shall be forwarded to the Minister within fourteen days after the meeting at which they were confirmed.

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* Convergent nature means to process of multiple telecommunications services provided over a single medium.

7. The Commission may invite any person to attend any meeting of the Commission where the Commission considers it necessary to do so, but that person shall not vote on any matter before the Commission.

8. Subject to this Schedule, the Commission may regulate its own procedure, and may delegate to any Commissioner power and authority to carry out on behalf of the Commission such duties as the Commission may determine.

9. Where a Commissioner has an interest, directly or indirectly, in any matter before the Commission in which his or her private capacity conflicts with his or her duties as a Commissioner and which matter is a subject of consideration by the Commission, the Commissioner shall, as soon as practicable after becoming aware of the interest in the matter, disclose his or her interest to the Chairperson.

10. The Commissioner referred to in paragraph 9 of this Schedule shall not, unless otherwise decided by the Commission, take part in the consideration of the matter, and if allowed to take part in the consideration of the matter he or she shall not vote on the matter.

THIRD SCHEDULE

(Section 56)

TELECOMMUNICATIONS (LICENSING AND AUTHORISATION) REGULATIONS

1. **Short title.**

These Regulations may be cited as the **Telecommunications (Licensing and Authorisation) Regulations.**

PART I – PRELIMINARY

2. **Interpretation.**

In these Regulations,

"Act" means the Telecommunications Act;

"Schedule" means a Schedule to these Regulations.

PART II – INDIVIDUAL LICENCE

3. **Application for individual licence.**

An application for an individual licence shall be submitted in writing to the Commission and shall

(a) be in the prescribed form and contain such information and particulars as is set out in Schedule 1; and

(b) be accompanied by the prescribed application fee.

4. **Processing of application.**

(1) Upon receipt of an application for an individual licence the Commission shall

(a) review the application, notifying the applicant of any apparent further information required to process that application; and

(b) promptly forward a copy of that application to ECTEL.

5. **Notification of Minister's decision.**

(1) The Minister shall notify the applicant of his or her decision within 30 days of receipt of the recommendation from ECTEL.

(2) Where ECTEL has recommended that an individual licence be granted, and the Minister so decides, the Minister shall issue the individual licence consistent with the provisions of section 7(4) of the Act and upon payment of the prescribed Fees.

(3) Where the application is refused the Minister shall in his or her notification to the applicant state in writing the reasons for his or her refusal.

6. **Content of individual licence.**

(1) The Minister shall issue an individual licence on terms that are non-discriminatory.

(2) For the purpose of sub-regulation (1), a licence is issued on non-discriminatory terms if

(a) telecommunications providers of similar types of telecommunications networks are treated similarly;

(b) the licence does not favour any one telecommunications provider or class of telecommunications providers; and

(c) the issuance of the licence does not, and is not likely to, adversely affect competition in any market.

7. **Limited issue of individual and class licences.**

Where it is proposed that the number of licences to be granted for the operation of a particular type of telecommunications network or the provision of a particular type of telecommunications service should be limited the Commission shall, on the recommendation of ECTEL

(a) publish a consultative document containing detailed reasons for the proposed limitation;

(b) consider any representations made to it in respect of the proposed limitation;

(c) publish a notice in the Gazette and in a local newspaper having a wide circulation stating the

(i) grounds and period during which licences will be granted; and

(ii) reasons for proposing to limit the number of licences; and

(d) undertake a periodic review of any limitation imposed on the number of licences granted.

PART III – CLASS LICENCE

8. **Application for class licence.**

An application for a class licence shall be submitted in writing to the Commission and shall

(a) be in the prescribed form and contain such information and particulars as is set out in Schedule 2; and

(b) be accompanied by the prescribed application fee.

9. **Consultation by Commission.**

The Commission, upon receiving an application for a class licence, may consult with members of the public, experts, industry or other persons, or adopt any other reasonable process to aid it in deciding whether to grant a licence to a person to operate under a class licence.

10. **Recommendation by Commission.**

(1) Upon completion of the process under regulation 9, the Commission shall recommend to the Minister whether a class licence should be granted.

(2) In deciding whether to recommend to the Minister that the class licence be granted, the Commission shall take into account:

(a) the matters set out in the application;

(b) any submissions received during the process set out in regulation 9;

(c) other relevant matters.

11. **Notification of Minister's decision.**

(1) The Minister shall decide whether to grant a class licence to the applicant within 90 days of the application being received by the Commission.

(2) The Minister's decision to grant a class licence to a person does not licence that person to own or operate any telecommunications network, or provide any telecommunications service, other than that prescribed in the class licence.

PART IV – FREQUENCY AUTHORISATION

12. **Application for frequency authorisation.**

An application for a frequency authorisation shall be submitted in writing to the Commission and shall

(a) be in the prescribed form and contain such information and particulars as is set out in Schedule 3; and

(b) be accompanied by the prescribed application fee.

13. **Procedure to be followed by Commission.**

Upon receipt of an application for a frequency authorisation the Commission shall

(a) review the application, notifying the applicant of any apparent further information required to process that application; and

(b) consult with ECTEL on that application.

14. **Recommendation by Commission.**

(1) Upon completion of the process under regulation 13, the Commission shall recommend to the Minister whether the frequency authorisation should be granted.

(2) In deciding whether to recommend to the Minister that the frequency authorisation be granted, the Commission shall take into account:

(a) the matters set out in the application;

(b) any recommendations of ECTEL;

(c) the Regional Spectrum Management Plan; and

(d) other relevant matters.

(3) The Commission shall make its recommendation to the Minister in writing no later than 60 days of receipt of the application.

15. **Notification of Minister's decision.**

(1) The Minister shall notify the applicant in writing of his or her decision within 30 days of receipt of the recommendation of the Commission.

(2) Where the application is approved the Minister shall issue the frequency authorisation on payment of the prescribed fee.

(3) Where the application is refused the Minister shall in his or her notification to the applicant state in writing the reasons for his or her refusal.

16. **Terms of licence/authorisation to be non-discriminatory.**

(1) The Minister shall issue an individual licence, class licence and frequency authorisation on terms that are non-discriminatory.

(2) For the purpose of sub-regulation (1), an individual licence, class licence or frequency authorisation is issued on non-discriminatory terms if

(a) telecommunications providers of similar types of telecommunications networks are treated similarly;

(b) the licence or authorisation does not favour any one telecommunications provider or class of telecommunications providers; and

(c) the issuance of the licence or authorisation does not, and is not likely to, adversely affect competition in any market.

PART V – SPECIAL LICENCE

17. **Application for special licence.**

An application for a special licence shall be submitted in writing to the Minister and shall be

(a) in the prescribed form and contain such information and particulars as is set out in Schedule 4; and

(b) accompanied by the prescribed application fee.

PART VI – GENERAL PROVISIONS

18. **Notification of material changes and mergers.**

The holder of a licence or authorisation shall notify the Minister in writing if either of the following occurs:

(a) any of the matters forming part of the licence application pertaining to and within the knowledge of the licence changes in a material respect;

(b) the licensee enters into any agreement to merge part or all of its telecommunications activities in Saint Christopher and Nevis with any person.

19. **Variation, revocation or suspension.**

(1) Where the Minister proposes to vary or revoke or suspend a licence or authorisation, he or she shall notify the licensee or authorisation holder of the reasons for the proposed variation, revocation or suspension and specify a period of not less than 30 days from the date of the notice within which representation with respect to the proposal may be made.

(2) Where the proposal is the result of a breach of a term, provision or limitation of the licence or authorisation,

(a) the notice given to the licensee or authorisation holder shall state that the proposal will be withdrawn or modified if the breach is remedied within the period of 30 days commencing with the date of the notice; and

(b) the Minister shall within the period of 30 days following the period referred to in sub-paragraph (a), confirm, modify or withdraw the proposal.

20. **Register.**

(1) The Commission shall maintain registers at its principal office containing:

(a) each individual licence, class licence, frequency authorisation and special licence;

(b) the names and registered office of each person licensed or authorised to operate;

(2) The Register shall be open to public inspection during normal working hours and may be made available electronically or in any format as the Commission considers appropriate.

(3) The Commission shall make copies of entries in the Register available to members of the public on payment of a prescribed fee.

Schedule 1 to the Regulations

(Regulation 3(a))

ECTEL Approved Forms: Version 1

Application Form for an Individual Licence

Under section 6.(1) of the Telecommunications Act

St Kitts/Nevis

Please tick as appropriate:

□ Fixed Public Telecommunications Licence

□ Public Mobile Telecommunications Licence

□ Public Radio Paging Licence

□ International Simple Voice Resale Licence

□ Submarine Cable Licence

National Telecommunications Regulatory Commission C/o Ministry of Telecommunications and Technology

Church Street

P O Box 186

Basseterre

St Kitts/Nevis

Guidance Notes

- [3] copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Individual Licence Application" addressed to Chairperson, National Telecommunications Regulatory Commission, c/o Ministry of Telecommunications, Science, Technology, Church Street, P O Box 186, Basseterre, St Kitts/Nevis.
- The completed application form must be accompanied by a fee of one thousand Eastern Caribbean dollars (EC$1000.00), payable to the National Telecommunications Regulatory Commission, St Kitts/Nevis.
- Please note that this form may also be used for an application to modify an existing licence under section 12 of the Telecommunications Act.
- Please indicate which, if any, information provided by the applicant in this application is confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act .

1. **PART I – THE APPLICANT**

(please complete fully in type or block letters)

1.1 **Contact Details**

1.1.1 Name and business address of applicant

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1.1.2 Designated contact person

1.1.3 Telephone number

1.1.4 Fax number

1.1.5 E-mail address (if available)

1.2 **Business Details**

1.2.1 If the applicant is a company, partnership, or other body please give the name(s) and private address of each of the current directors, company secretary, or partners:

Name ..... **Address**

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1.2.2 Name under which applicant proposes to trade, and registered office address if different to above:

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1.2.3 In the case of a company or other body corporate, please supply the company's registered number. If not incorporated in St Kitts/Nevis, please provide any registration number which the [companies registration office] in St Kitts/Nevis may have issued.

1.2.4 Address in St Kitts/Nevis for service of process or other notices (in case of overseas applicant)[1]

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1 Where the applicant is located overseas, the application must include an address for service of process and any other notice in St Kitts/Nevis.

1.3 **History of the Applicant**

1.3.1 Has the applicant ever applied for a licence or registration under any Act in St Kitts/Nevis and been refused?

[YES] ..... [NO]

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1.3.2 Has the applicant ever been licensed under the Telecommunications Act?

[YES] ..... [NO]

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1.3.3 If the answer to question 1.3.2 is YES, has any such licence been revoked?

[YES] ..... [NO]

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1.3.4 Has any Affiliate of the applicant previously been granted a licence under the Telecommunications Act 2000 which was revoked?

[YES] ..... [NO]

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1.3.5 Is the applicant the holder of a telecommunications licence in any other country?

[YES] ..... [NO]

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.....

1.3.6 Has the applicant or any Affiliate been refused a licence mentioned in question 1.3.5 above, or had a licence revoked?

[YES] ..... [NO]

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1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

[YES] ..... [NO]

.....

.....

2. **PART II – APPLICANT'S BUSINESS AND PROPOSED NETWORK AND/OR SERVICE(S)**

2.1 **Financial Information and Business Plan**

2.1.1 Please provide a high-level business plan. The plan should outline any major assumptions used and should cover a period of at least [five] years. The information provided should include:

- Sources of funding, debt levels, equity and independent confirmation as appropriate;
- Proforma financial statements for [five] years to include cash flow and income statements; and
- Market forecasts.

2.1.2 Please provide Audited Financial Reports including certified Income Statements and Balance Sheets for the last [three] years in respect of the Company on whose behalf the application is being submitted.

2.1.3 Please provide a diagrammatic representation of the applicant's group structure, including the percentage of shares held. Please indicate which affiliates have, or intend to apply for, other telecommunications licences.

2.1.4 Does the applicant have any shareholdings of over 5% in any other licensed telecommunications provider in the OECS?

[YES] ..... [NO]

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.....

2.1.5 Does the applicant have any other trading activities in or outside the telecommunications market?

[YES] ..... [NO]

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If the answer is YES, please provide details of any arrangements made to ensure no cross-subsidisation between the applicant's:

- telecommunications and non-telecommunications activities
- wholesale and retail activities
- telecommunications equipment production or supply and other telecommunications activities.

2.1.6 Please provide brief resume, of key managerial staff, indicating relevant prior experience, qualifications and other sources of expertise as appropriate, and also explain what technical resources exist to help complete plans.

2.1.7 Has any member of the applicant's managerial staff been bankrupt, or been a director of a company which has become insolvent?

[YES] ..... [NO]

.....

.....

If the answer is YES, please attach a certified copy of the discharge.

2.1.8 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving dishonesty, fraud, theft or violence, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for [contravention of any law or for] any conduct involving dishonesty, fraud, theft or violence?

[YES] ..... [NO]

.....

.....

2.2 **Applicant's Current Activities**

Please provide answers to the following questions in relation to (a) the applicant's activities in the OECS; (b) the applicant's activities elsewhere in the Caribbean; and (c) the applicant's activities elsewhere in the world.

Networks

2.2.1 Please provide a summary of the infrastructure that the applicant has in place, including radio-based infrastructure.

2.2.2 If the applicant is using radio frequency spectrum, please provide details of the frequency authorisations held, including the number of frequency authorisations and the reference number of each frequency authorisation.

Services

2.2.3 Please provide details of the products and services being provided by the applicant and the terms (including prices) on which they are available. In particular, please provide details on the number of customers and lines installed.

2.2.4 Please provide details of current contracts with all classes of customers, as well as copies of all such contracts.

Licence obligations

2.2.5 Please provide details of how the applicant currently complies with the following obligations in relation to its existing networks and/or services (where relevant):

(a) any build-out obligations

(b) any public payphone obligations

(c) any obligations to provide access to emergency services

(d) any universal service obligations

(e) any customer obligations, including the provision of information services, quality of service obligations, and dispute resolution procedures

(f) any interconnection or facility-sharing obligations, including details of the cost accounting system to be adopted by the applicant in order to allow unbundling of interconnection charges and the calculation of component costs

(g) any leased line and resale obligations

(h) any privacy and confidentiality obligations

(i) any non-discrimination obligations.

2.3 **Applicant's Proposed Activities**

Networks

2.3.1 Please provide a summary of the infrastructure that the applicant is planning to put in place within the next [three] years, including radio-based infrastructure.

2.3.2 If the applicant is planning to use radio frequency spectrum, please indicate whether an application has been submitted for a frequency authorisation and provide details (copies may be enclosed if preferred).

Services

2.3.3 Please provide a description of each proposed service, including details on the following:

- all technical aspects of the services (including equipment)
- how access to the service is to be provided (eg. indirect access, direct access, leased lines, etc.)
- targeted customer base, including number of customers targeted

2.3.4 Please provide details of any proposed supply relationships in respect of the proposed network and/or services.

Licence obligations

2.3.5 Please provide details of how the applicant proposes to comply with the following obligations in relation to its proposed networks and/or services (where relevant):

(a) any build-out obligations

(b) any public payphone obligations

(c) any obligations to provide access to emergency services

(d) any universal service obligations

(e) any customer obligations, including the provision of information services, quality of service obligations, and dispute resolution procedures

(f) any interconnection or facility-sharing obligations, including details of the cost accounting system to be adopted by the applicant in order to allow unbundling of interconnection charges and the calculation of component costs

(g) any leased line and resale obligations

(h) any privacy and confidentiality obligations

(i) any non-discrimination obligations.

3. **PART III** – **DECLARATION**[2]

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed:

Full name of signatory: ..... **Position held:**

Date:

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2 This declaration must be signed:

(i) in the case of an individual, by the person in whose name the application is made;

(ii) in the case of a partnership, by a partner; or

(iii) in the case of a company or other body corporate, by a director, company secretary or other authorised officer.

Revision Date: 31 Dec 2009

Schedule 2 to the Regulations

(Regulation 8.(1)(a))

ECTEL Approved Forms: Version 1

Application Form for a Class Licence

Under section 8.(1) of the Telecommunications Act

St Kitts/Nevis

Please tick as appropriate:

□ Private Telecommunications Network Licence

□ Value-Added Services Licence

□ Internet Service Provision Licence

□ Amateur Radio Licence

□ [Aeronautical Mobile Licence]

□ [Maritime Mobile Licence]

National Telecommunications Regulatory Commission

NTRC Secretariat

C/o Ministry of Telecommunications and Technology

Church Street

P O Box 186

Basseterre

St Kitts/Nevis

Guidance Notes

- [3] copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Licence Application" addressed to Chairperson, National Telecommunications Regulatory Commission, c/o Ministry of Telecommunications, Science, Technology, Church Street, P O Box 186, Basseterre, St Kitts/Nevis.
- The completed application form must be accompanied by a fee of five hundred Eastern Caribbean dollars (EC$500.00) for each service Licence applied for payable to the National Telecommunications Regulatory Commission, St Kitts/Nevis.
- Please indicate which, if any, information provided by the applicant in this application is confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act.

1. **PART I – THE APPLICANT**

(please complete fully in type or block letters)

1.1 **Contact Details**

1.1.1 Name and business address of applicant

.....

.....

.....

.....

.....

.....

.....

1.1.2 Designated contact person

1.1.3 Telephone number

1.1.4 Fax number

1.1.5 E-mail address (if available)

1.2 **Business Details**

1.2.1 If the applicant is a company, partnership, or other body please give the name(s) and private address(es) of each of the current directors, company secretary, or partners:

Name ..... **Address**

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1.2.2 Name under which applicant proposes to trade, and registered office address if different to above:

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1.2.3 In the case of a company or other body corporate, please supply the company's registered number. If not incorporated in St Kitts/Nevis, please provide any registration number which the [companies registration office] in St Kitts/Nevis may have issued.

1.2.4 Address in St Kitts/Nevis for service of process or other notices (in case of overseas applicant)[1]

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1 Where the applicant is located overseas, the application must include an address for service of process and any other notice in St Kitts/Nevis.

Revision Date: 31 Dec 2009

1.3 **History of the Applicant**

1.3.1 Has the applicant ever applied for a licence or registration under any Act in St Kitts/Nevis and been refused?

[YES] ..... [NO]

.....

.....

1.3.2 Has the applicant ever been licensed under the Telecommunications Act?

[YES] ..... [NO]

.....

.....

1.3.3 If the answer to question 1.3.2 is YES, has any such licence been revoked?

[YES] ..... [NO]

.....

.....

1.3.4 Has any Affiliate of the applicant previously been granted a licence under the Telecommunications Act which was revoked?

[YES] ..... [NO]

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1.3.5 Is the applicant the holder of a telecommunications licence in any other country?

[YES] ..... [NO]

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1.3.6 Has the applicant or any Affiliate been refused a licence mentioned in question 1.3.5 above, or had a licence revoked?

[YES] ..... [NO]

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1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

[YES] ..... [NO]

.....

.....

2. **PART II – APPLICANT'S BUSINESS AND PROPOSED NETWORK AND/OR SERVICE(S)**

2.1 **Financial Information and Business Plan**

2.1.1 Please provide a business plan. The plan should outline any major assumptions used and should cover a period of at least [five] years. The information provided should include:

- Sources of funding, debt levels, equity and independent confirmation as appropriate;
- Proforma financial statements for [five] years to include cash flow and income statements; and
- Market forecasts.

2.1.2 Please provide a diagrammatic representation of the applicant's group structure, including the percentage of shares held. Please indicate which affiliates have or intend to apply for, other telecommunications licences.

2.1.3 Does the applicant have any shareholdings of over 5% in any other licensed telecommunications provider in the OECS?

[YES] ..... [NO]

.....

.....

2.1.4 Has any member of the applicant's managerial staff been bankrupt, or been a director of a company which has become insolvent?

[YES] ..... [NO]

.....

.....

If the answer is YES, please attach a certified copy of the discharge.

2.1.5 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving violence or dishonesty, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for contravention of any law or for any conduct involving dishonesty, fraud, theft or violence?

[YES] ..... [NO]

.....

.....

2.2 **Applicant's Current Activities**

Please provide answers to the following questions in relation to (a) the applicant's activities in the OECS; (b) the applicant's activities elsewhere in the Caribbean; and (c) the applicant's activities elsewhere in the world.

2.2.1 Please provide a summary of the infrastructure the applicant has in place, including radio-based infrastructure.

2.2.2 If the applicant is using radio frequency spectrum, please provide details of the frequency authorisations held, including the number of frequency authorisations and the reference number of each frequency authorisation.

2.2.3 Please provide details of the products and services being provided by the applicant and the terms (including prices) on which they are available. In particular, please provide details on the number of customers and lines installed.

2.2.4 Please provide details of current contracts with all classes of customers, as well as copies of all such contracts.

2.3 **Applicant's Proposed Activities**

2.3.1 Please provide a summary of the infrastructure the applicant is planning to put in place within the next [three] years, including radio-based infrastructure.

2.3.2 If the applicant is planning to use radio frequency spectrum, please indicate whether an application has been submitted for a frequency authorisation and provide details (copies may be enclosed if preferred).

2.3.3 Please provide a description of each proposed service, including details on the following:

- all technical aspects of the services (including equipment)
- how access to the service is to be provided (eg. indirect access, direct access, leased lines, etc.)
- targeted customer base, including number of customers targeted

2.3.4 Please provide details of any proposed supply relationships in respect of the proposed network and/or services.

3. **PART III** – **DECLARATION**[2]

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed:

Full name of signatory: ..... **Position held:**

Date:

2 This declaration must be signed:
(i) in the case of an individual, by the person in whose name the application is made;
(ii) in the case of a partnership, by a partner; or
(iii) in the case of a company or other body corporate, by a director, company secretary or other authorised officer.

Schedule 3 to the Regulations

(Regulation 12(1)(a))

ECTEL Approved Forms: Version 1

Application Form for a Frequency Authorisation

Under section 9(4) of the Telecommunications Act

St Kitts/Nevis

National Telecommunications Regulatory Commission

C/o Ministry of Telecommunications and Technology

Church Street

P O Box 186

Basseterre

St Kitts/Nevis

Guidance Notes

- [3] copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Frequency Authorisation Application" addressed to Chairperson, National Telecommunications Regulatory Commission, c/o Ministry of Telecommunications, Science, Technology, Church Street, P O Box 186, Basseterre, St Kitts/Nevis.
- The completed application form must be accompanied by a fee of one thousand Eastern Caribbean dollars (EC$1000.00), payable to the National Telecommunications Regulatory Commission, St Kitts/Nevis.
- Please indicate which, if any, information provided by the applicant in this application is confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act.

1. **PART I – THE APPLICANT**

(please complete fully in type or block letters)

1.1 **Contact Details**

1.1.1 Name and business address of applicant

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.....

.....

1.1.2 Designated contact person

1.1.3 Telephone number

1.1.4 Fax number

1.1.5 E-mail address (if available)

1.2 **Business Details**

1.2.1 If the applicant is a company, partnership, or other body please give the name(s) and private address(es) of each of the current directors, company secretary, or partners:

Name ..... **Address**

.....

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1.2.2 Name under which applicant proposes to trade, and registered office address if different to above:

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1.2.3 In the case of a company or other body corporate, please supply the company's registered number. If not incorporated in St Kitts/Nevis, please provide any registration number which the [companies registration office] in St Kitts/Nevis may have issued.

1.2.4 Address in St Kitts/Nevis for service of process or other notices (in case of overseas applicant)[1]

1.3 **History of the Applicant**

1.3.1 Has the applicant ever applied for a Frequency Authorisation or registration under any Act in St Kitts/Nevis and been refused?

[YES] ..... [NO]

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1.3.2 Has the applicant ever been issued a Frequency Authorisation under the Telecommunications Act?

[YES] ..... [NO]

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1.3.3 If the answer to question 1.3.2 is YES, has any such Frequency Authorisation been revoked?

[YES] ..... [NO]

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.....

1 Where the applicant is located overseas, the application must include an address for service of process and any other notice in St Kitts/Nevis.

1.3.4 Has any Affiliate of the applicant previously been granted a Frequency Authorisation under the Telecommunications Act 2000 which was revoked?

[YES] ..... [NO]

.....

.....

1.3.5 Is the applicant the holder of a frequency authorisation in any other country?

[YES] ..... [NO]

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.....

1.3.6 Has the applicant or any Affiliate been refused a frequency authorisation mentioned in question 1.3.5 above, or had a frequency authorisation revoked?

[YES] ..... [NO]

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1.3.7 Has the applicant operated under or carried on business under any name other than the name in this application?

[YES] ..... [NO]

.....

.....

2. PART II – APPLICANT'S BUSINESS AND THE PROPOSED NETWORK AND/OR SERVICE(S)

2.1 The Applicant

2.1.1 Please provide a diagrammatic representation of the applicant's group structure, including the percentage of shares held. Please indicate which affiliates have, or intend to apply for, other telecommunications licences or frequency authorisations.

2.1.2 Does the applicant have any shareholdings of over 5% in any other licensed telecommunications provider or frequency authorisation holder in the OECS?

[YES] ..... [NO]

.....

.....

2.1.3 Has any member of the applicant's managerial staff has been bankrupt, or been a director of a company which has become insolvent?

[YES] ..... [NO]

.....

.....

If the answer is YES, please attach a certified copy of the discharge.

2.1.4 Has the applicant or any member of the applicant's managerial staff ever been the defendant or respondent in any proceedings in any court in any jurisdiction involving dishonesty, fraud, theft or violence, or is the applicant or any member of the applicant's managerial staff currently the subject of a charge or indictment under the law of any country for [contravention of any law or for] any conduct involving dishonesty, fraud, theft or violence?

[YES] ..... [NO]

.....

.....

2.2 **Applicant's Current Activities**

Please provide answers to the following questions in relation to (a) the applicant's activities in the OECS; (b) the applicant's activities elsewhere in the Caribbean; and (c) the applicant's activities elsewhere in the world.

Networks

2.2.1 Please provide a summary of any radio-based infrastructure which the applicant currently has in place.

2.2.2 If the applicant is using radio frequency spectrum, please provide details of any frequency authorisations held, including the number of frequency authorisations and the reference number of each frequency authorisation.

Services

2.2.3 Please provide details of the services currently being provided by the applicant through its existing radio-based infrastructure.

Obligations

2.2.4 Please provide details of how the applicant currently complies with any obligations in respect of harmful interference and any other emissions of electromagnetic radiation from equipment of any description.

2.3 **Applicant's Proposed Activities**

Radiocommunications Station

2.3.1 Is the frequency authorisation for which the applicant is applying to be used in relation to a satellite earth station?

[YES] ..... [NO]

.....

.....

If the answer is NO, please proceed to question 2.3.3.

2.3.2 If the answer to question 2.3.1 is YES, please provide the following information:

(a) a letter from the satellite provider, indicating the name and address of the satellite provider, indicating assigned frequencies for the proposed service and the station to be communicated with;

(b) a copy of the manufacturer's technical specification for the transmitter, receiver and antenna;

(c) the following information in respect of the satellite earth station receiving characteristics:

(i) Make and model

(ii) Assigned frequencies (downlink)

(iii) Assigned frequency band
(iv) Date of bringing into use
(v) Location of station, including country and geographic coordinates
(vi) Class of emission
(vii) Antenna size, antenna gain and receive G/T
(viii) Horizontal elevation angle and min/max elevation angle
(ix) Azimuth
(x) Altitude(a.m.s.l)
(xi) Polarisation
(xii) Receive noise temperature
(xiii) Regular hours of operation
(xiv) Maintenance of system

(d) the following information in respect of the satellite earth station transmitting characteristics:
(i) Make and model
(ii) Assigned frequencies (uplink)
(iii) Assigned frequency band
(iv) Proposed date of bringing into use
(v) Transmitter power, including saturated transmitter power and maximum radiated power
(vi) Antenna gain
(vii) Polarisation
(viii) Modulation (including FDM-FM, PCM/PSK, TV and other)
(ix) Regular hours of operation
(x) Agreements with satellite provider
(xi) Operating satellite
(xii) Name of receiving earth station
(xiii) Location of receiving earth station

2.3.3 Please provide a summary of the radio-based infrastructure that the applicant is planning to put in place within the next [three] years. In particular, please provide details of the proposed Radiocommunications Station, including:

(a) Geographical location (latitude and longitude)
(b) Type of equipment and system (including manufacturer and model number)
(c) Radio frequency and direction of transmission [whether link applied for is uni-directional or bi-directional, and relevant transmission details?]
(d) Transmission power level
(e) [preferred polarisation of emissions (ie. vertical or horizontal)]
(f) [preferred equipment carrier frequency range for channel assignment]

(g) [whether system is intended to be duplicated]

(h) Type of antenna, including details of antenna height

(i) [Call signs]

(j) address of location from where equipment is to be operated (if different from Radiocommunications Station location)

(k) [radio frequency feeder loss and hot-standby loss, rounded up to nearest dB. Any radio frequency feeder loss over 10dB or hot-standby loss over 4dB must be justified]

(l) [guaranteed maximum boresight gain relative to an isotropic radiator for any antenna specified (rounded up to nearest dB)]

Services

2.3.4 Please provide a description of the service which the applicant proposes to provide using the frequency band for which it is applying.

Obligations

2.3.5 Please provide details of how the applicant proposes to comply with the obligations in the frequency authorisation [and in the Frequency Authorisation Regulations] in respect of harmful interference, and any other technical regulations in respect of emissions of electromagnetic radiation from equipment of any description.

3. **PART III – DECLARATION**[2]

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed:

Full name of signatory: ..... **Position held:**

Date:

2 This declaration must be signed:

(i) in the case of an individual, by the person in whose name the application is made;

(ii) in the case of a partnership, by a partner; or

(iii) in the case of a company or other body corporate, by a director, company secretary or other authorised officer.

Schedule 4 to the Regulations

(Regulation 17(1)(a))

ECTEL Approved Forms: Version 1

Application Form for a Special Licence

Under section 10(3) of the Telecommunications Act

St Kitts/Nevis

National Telecommunications Regulatory Commission NTRC Secretariat

C/o Ministry of Telecommunications and Technology

Church Street

P O Box 186

Basseterre

St Kitts/Nevis

Guidance Notes

- [3] copies of the completed application form should be submitted in an envelope clearly marked "Telecommunications Special Licence Application" addressed to Chairperson, National Telecommunications Regulatory Commission, c/o Ministry of Telecommunications, Science, Technology, Church Street, P O Box 186, Basseterre, St Kitts/Nevis.
- The completed application form must be accompanied by a fee of one hundred Eastern Caribbean dollars (EC$100.00), payable to the National Telecommunications Regulatory Commission, St Kitts/Nevis.
- Please indicate which, if any, information provided by the applicant in this application is confidential.
- Please note that any word, phrase or expression used herein shall have the same meaning as it has in the Telecommunications Act.

1. **PART I – THE APPLICANT**

(Please complete fully in type or block letters)

1.1 **Contact Details**

1.1.1 Name and business address of applicant

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.....

.....

.....

.....

1.1.2 Designated contact person

1.1.3 Telephone number

1.1.4 Fax number

1.1.5 E-mail address (if available)

1.2 **Business Details**

1.2.1 In the case of a company or other body corporate, please supply the company's registered number. If not incorporated in St Kitts/Nevis, please provide any registration number which the [companies registration office] in St Kitts/Nevis may have issued.

1.2.2 Address in St Kitts/Nevis for service of process or other notices (in case of overseas applicant)[1]

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2. **PART II – APPLICANT'S BUSINESS AND PROPOSED NETWORK AND/OR SERVICE(S)**

2.1 **Applicant's Proposed Activities**

Emergency or exigent circumstances

2.1.1 Please provide information on the emergency or exigent circumstances serving as the basis of this application for a Special Licence.

Purposes

2.1.2 Please provide information on the purposes for which the applicant proposes to provide the Telecommunications Services.

Networks and Radio Frequency

2.1.3 Please provide a summary of any infrastructure which the applicant is planning to put in place.

2.1.4 Does the applicant require radio frequency to be used in relation to a VSAT earth station?

[YES] ..... [NO]

.....

.....

If the answer is NO, please proceed to question 2.1.6.

2.1.5 If the answer to question 2.1.4 is YES, please provide the following information:

(a) a letter from the satellite provider, indicating the name and address of the satellite provider, indicating assigned frequencies for the proposed service and the station to be communicated with.

(b) a copy of the manufacturer's technical specification for the transmitter, receiver and antenna.

(c) the following information in respect of the VSAT earth station receiving characteristics:

(i) Make and model

(ii) Assigned frequencies (downlink)

(iii) Assigned frequency band

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1 Where the applicant is located overseas, the application must include an address for service of process and any other notice in St Kitts/Nevis.

(iv) Date of bringing into use

(v) Location of station, including country and geographic coordinates

(vi) Class of emission

(vii) Antenna size, antenna gain and receive G/T

(viii) Horizontal elevation angle and min/max elevation angle

(ix) Azimuth

(x) Altitude (a.m.s.l)

(xi) Polarisation

(xii) Receive noise temperature

(xiii) Regular hours of operation

(xiv) Maintenance of system

(d) the following information in respect of the VSAT earth station receiving characteristics:

(i) Make and model

(ii) Assigned frequencies (uplink)

(iii) Assigned frequency band

(iv) Proposed date of bringing into use

(v) Transmitter power, including saturated transmitter power and maximum radiated power

(vi) Antenna gain

(vii) Polarisation

(viii) Modulation (including FDM-FM, PCM/PSK, TV and other)

(ix) Regular hours of operation

(x) Agreements with satellite provider

(xi) Operating satellite

(xii) Name of receiving earth station

(xiii) Location of receiving earth station

2.1.6 If the applicant is planning to use radio frequency spectrum, please provide a summary of the radio-based infrastructure that the applicant is planning to put in place, and in particular, please provide details of the proposed Radiocommunications Station, including:

(a) Geographical location (latitude and longitude)

(b) Type of equipment and system (including manufacturer and model number)

(c) Radio frequency and direction of transmission [whether link applied for is uni-directional or bi-directional, and relevant transmission details?]

(d) Transmission power level

(e) [preferred polarisation of emissions (ie. vertical or horizontal)]

(f) [whether system is intended to be duplicated]

(g) type of antenna, including details of antenna height

(h) [call signs]

(i) address of location from where equipment is to be operated (if different from Radiocommunications Station location)

(j) [radio frequency feeder loss and hot-standby loss, rounded up to the nearest dB. Any radio frequency feeder loss over 10dB or hot-standby loss over 4dB must be justified]

(k) [guaranteed minimum boresight gain relative to an isotropic radiator for any antenna specified (rounded up to nearest dB)]

Services

- Please provide a description of the service which the applicant proposes to provide, including details on how access to the service is to be provided (eg. indirect access, direct access, leased lines, etc.).

3. **PART III – DECLARATION**[2]

On behalf of the applicant, I declare that the information provided by me on behalf of the applicant is accurate and complete in all respects.

Signed:

Full name of signatory: ..... **Position held:**

Date:

FOURTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (PRIVATE LICENSING) REGULATIONS

1. **Short Title.**

These Regulations may be cited as the **Telecommunications (Private Network Licensing) Regulations.**

2. **Interpretation.**

In these Regulations,

"affiliate" means a relationship between two entities, in which one of them directly or indirectly owns more than fifty percent of the capital stock of, or controls the other entity;

"by pass" means conduct comprising

(a) the passing of an international voice service (including a reconstructable voice service as part of a data or mixed voice/data service) without passing through the international voice network operator; or

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2 This declaration must be signed:
(i) in the case of an individual, by the person in whose name the application is made;
(ii) in the case of a partnership, by a partner; or
(iii) in the case of a company or other body corporate, by a director, company secretary or other authorised officer.

(b) the termination of international voice services over the domestic public switched telecommunications network by a person who does not originate the call or possess a valid interconnection agreement with that domestic network operator with respect to international voices services;

"capital stock" includes all forms of equity ownership and partnership interests;

"control" means control in whatever form exercised and is not limited to majority stock ownership, and includes direct or indirect control through intervening subsidiaries;

"licensee group" means the licensee, its parent or subsidiaries, and any affiliate comprising the users of the private telecommunications network;

"private leased circuit" means a telecommunications facility which is provided by means of one or more public telecommunications networks for the conveyance of messages between points, all of which are points of connection between those telecommunications systems. Such a communications facility is made available to persons whereby messages transmitted at any of the points of connection, are received at every such point, and are fixed by the manner in which the communications facility is installed, and cannot otherwise be selected by a person or a telecommunications apparatus sending messages by means of the facility.

3. **Obligation to give information.**

In any application for a licence to establish or operate a private telecommunications network, the applicant shall include with that application the information specified in the Schedule to these Regulations.

4. **Signing of applications.**

(1) The applicant shall submit a statement to the Commission in writing specifying the date on which it desires to put the private telecommunications network into operation which shall be at least 30 days after the date of that application.

(2) The information referred to in sub-regulation (1) shall be signed by:

(a) an office if the licensee is a member of an unincorporated Association;

(b) an officer or duly authorised employee if the licensee is a company or other business entity;

(c) one of the partners if the licensee is a partnership; and

(d) the licensee personally if an individual.

5. **Procedure for dealing with amended information.**

A licensee shall forward updated information to the Commission within thirty days from effecting any major change in information originally submitted by submitting a statement with the additional information and a declaration on the anniversary date of the submission of the original statement, specifying the truth and accuracy of the information.

6. **Limits to disclosure of information.**

(1) The Commission shall maintain a list of persons or entities licensed to establish and operate a private telecommunications network under these Regulations, and shall make that list and any information referred to in regulations 4 and 5 available for public inspection at its principal office.

(2) Notwithstanding sub-regulation (1) confidential information shall not be disclosed to members of the public.

7. **Prohibition.**

(1) A private telecommunications network shall only be established or operated by means of

(a) telecommunications facilities provided by a person licensed to operate a public switched telecommunications network; or

(b) telecommunications facilities in respect of which a licensee is licensed to operate;

(2) A private telecommunications network operator who uses facilities under sub-regulation (1) shall not be interconnected to the public switched telecommunications network or have switched telecommunications services.

(3) A licence to establish and operate a private telecommunications network shall not as a condition of that licence, restrict the services provided to the licensee by itself to voice traffic or data traffic, or similar limited use.

8. **Resale of excess capacity on PTN.**

(1) A licensee of a private telecommunications network shall be entitled to

(a) cede or assign the rights to use excess capacity on private telecommunications network facilities;

(b) resell excess capacity on private telecommunications network facilities; or

(c) sublet or surrender control of the private telecommunications network facilities on a long-term basis.

(2) Where a licensee resells its excess capacity on or sublets or surrenders control of, its private telecommunications network facilities ("resale"), that resale must:

(a) be incidental to the purposes of the private telecommunications network;

(b) offered only to licensed operators; and

(c) not prevent the rightful and proper use of the private telecommunications network by any member of the licensee group.

9. **Bypass prohibition.**

A person shall not engage in bypass.

10. **Messages to cease.**

Where a private telecommunications network is used for the purpose of advertising the sale of goods, services or any other thing by sending messages to the number of an end-user a licensee who receives a request from that end-user to cease sending such messages shall cease forthwith.

11. **Safeguard for confidentiality.**

A licensee shall take all reasonable steps to

(a) ensure the accuracy and reliability of any metering system used in connection with a private telecommunications network;

(b) keep records of all metering which shall be made available to the Commission, upon request;

(c) safeguard information acquired by the licensee in relation to the conveyances of communications; and

(d) safeguard the privacy and confidentiality of any communications conveyed relating to the private telecommunications network.

12. **Restriction on unfair practices.**

(1) A licensee shall not, whether by any act or omission, do anything which results in or is intended to have, or is likely to have the effect of distorting, preventing or restricting competition in the course of, or as a result of, or in connection with the establishment or operation of a private telecommunications network licensed under these Regulations.

(2) No public telecommunications operator shall disconnect or suspend service to any operator of a private telecommunications network for any reason other than

(a) as required by law or pursuant to any order issued by the Commission; or

(b) in accordance with the terms of any contract for the provision of that service; or

(c) if the operator believes on reasonable grounds that the private operator is engaging in bypass.

13. **Notice of violation.**

(1) Where there are reasonable grounds to suspect that a licensee holding a private telecommunications network licence violates any provision of the Act or Regulations, the licensee shall be served with a written notice by the Commission requesting an explanation of the alleged violation.

(2) The licensee shall submit a written answer in duplicate to the Commission within 7 days from receipt of the notice, or during such other period as may be specified in the notice.

(3) Where an answer cannot be furnished within the specified period due to unavoidable circumstances, the licensee shall acknowledge the notice and request extension of time setting forth in the letter of acknowledgement, a satisfactory explanation for the delay and the reasons for the extension.

14. **Notification of revocation.**

Before revoking a license, the Commission shall give the licensee written notice of its intention to do so, and provide the licensee a period of not less than 28 days from the date of the notice in which to make representations in relation to such proposed revocation.

15. **Revocation of licence.**

The Minister may, on the advice of the Commission, revoke a licence held by a licensee which relates to all or any part of a private telecommunications network established or operated by that licensee in the following circumstances:

(a) where the Licensee has repeatedly or wilfully engaged in bypass;

(b) where the Commission has given the licensee not less than 30 days notice in writing that failure by the licensee to comply with a directive within that period would result in the revocation of the licence in respect of that licensee or of all or any part of the PTN operated by that licensee;

(c) where the Licensee fails to secure the required frequency authorisation in respect of radio communications equipment which is part of the private telecommunications network;

(d) where the Licensee has failed to comply with a final order of the Commission;

(e) where the Licensee is convicted of committing an offence under the Act; or

(f) where the Minister determines that revocation of the licence is required in respect of the licensee in the interests of national security.

16. **Reporting obligations.**

A licensee shall keep, maintain and provide to the Commission annual traffic reports relating to the utilization and disposal of any excess capacity on a private telecommunications network that has been sold pursuant to Regulation 8.

SCHEDULE TO THE REGULATIONS

(Regulation 3)

INFORMATION REQUIRED FOR SUBMISSION BEFORE ESTABLISHING A PRIVATE TELECOMMUNICATIONS NETWORK

1. The licensee shall submit the following information:

(a) a description of the nature and purpose of the service to be provided by the proposed private telecommunications network, including

(i) a description of terminal equipment comprising the private telecommunications network including the equipment to be used and to be provided by the licensee;

(ii) a detailed description of technical aspects of proposed private telecommunications network including but not limited to a descriptive configuration of the proposed private telecommunications network;

(iii) a statement certifying that the equipment complies with type approval requirements in Saint Christopher and Nevis including a statement of compliance from a recognised approval agency;

(iv) full details of the premises where the elements of the proposed private telecommunications network will be located;

(v) the area of operation of the proposed private telecommunications network; and

(vi) the public telecommunication system or private leased circuit to which the private telecommunications network is to be connected;

(b) a description of the members of the licensee group;

(c) a list of any other countries that are signatories to the Eastern Caribbean Telecommunications Authority Agreement, where the applicant intends to apply for or has applied for, or has been granted an individual licence, a class licence, a frequency authorisation or a cable landing licence;

(d) any information deemed relevant by the applicant;

(e) a statement that the licensee intends to establish and operate a private telecommunications network;

(f) a statement whether any individual or class licence to provide facilities or services in Saint Christopher and Nevis or a frequency authorisation to utilise frequencies in Saint Christopher and Nevis has previously been granted to the licensee under the Act, and if so a general description of the categories of facilities, services or frequency so authorised;

(g) the E-Mail address, name, post office address, telephone number and title of the licensed registered office;

(h) the E-Mail address, name, post office address, telephone number and the title of the officer and any other contact person to whom correspondence concerning the licence is to be addressed;

(i) the following details where the private telecommunications network is to be connected to any private leased circuit provided by a satellite system using a very small aperture terminal (also known as VSAT):

(i) the antenna, facility site, identification numbers, antenna identification number, manufacturer and model number of the antenna, number of antenna to be used by the private telecommunications network, antenna size in meters, antenna gain both transmit and/or gain receive expressed in C— d Bi at – GHz with respect to the VSAT earth statium antenna to be used by the private telecommunications network;

(ii) the destination points in Saint Christopher and Nevis and any foreign country for the private telecommunications network communications using the satellite;

(iii) the frequency coordination limits of the VSAT;

(iv) the maximum antenna height and maximum power limit for each antenna;

(v) the particulars of operation for each RF. carrier for each antenna;

(vi) the satellite name and orbit location; and

(vii) a statement that the licensee will cooperate with any other licensee whose VSAT operation is potentially or adversely affected by the first mentioned licensee's operation, in order to reach an agreement in good faith, for modification of power density levels in either or both systems, and to facilitate operations without harmful interference;

(j) the particulars of the International simple resale bearer circuit and other telecommunication system where the private telecommunications network is to be connected to that international simple resale bearer circuit;

(k) the state or territory where the corporation, partnership or other business enterprise is incorporated; and

(l) whether the licensee is a partnership, corporation or other business enterprise.

2. For the purpose of paragraph 1.(i), (iii) the frequency coordination limits of the VSAT includes

(a) antenna elevation angles;

(b) earth station azimuth angles;

(c) frequency limits in MHz;

(d) satellite arc ranges; and

(e) the maximum EIRP density toward the horizon (d BW/4kHz).

3. For the purpose of paragraph 1.(1), (iv) the maximum antenna height and the maximum power limit for each antenna includes the

(a) building height above ground level in meters;

(b) maximum antenna height above roof-top in meters;

(c) maximum antenna height in meters above ground level and above mean sea level;

(d) total EIRP for all carriers, expressed in d B W; and

(e) total input power at antenna flange, expressed in watts.

4. For the purposes of paragraph 1.(i), (v) the particulars of operation for each RF carrier for each antenna includes

(a) a description of the modulation techniques and services provided;

(b) antenna polarization (H,V,L,R);

(c) emission designator;

(d) the frequency bands used (MHz);

(e) maximum EIRP density per-carrier (dBW/4kHz);

(f) maximum EIRP per-carrier (dBW); and

(g) transmit/receive mode.

FIFTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (INTERCONNECTION) REGULATIONS

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4. Obligations of dominant fixed public network operators.
5. Number portability.
6. Non-discrimination and transparency.
7. Confidentiality.
8. Access to Facilities.
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TELECOMMUNICATIONS (INTERCONNECTION) REGULATIONS

PART I - PRELIMINARY

1. **Citation.**

These Regulations may be cited as the Telecommunications (Interconnection) Regulations.

2. **Interpretation.**

(1) In these Regulations,

"Act" means the Telecommunications Act;

"access deficit" means the difference between the costs incurred by the incumbent fixed public network operator for providing domestic telecommunications services whose prices are regulated and the maximum revenue that the operator can secure for providing those services under price regulation;

"calling line identity" means the information generated by a telecommunications network that identifies the calling number;

"call termination" means the completion of a call that is originated on one public network and terminated on another;

"cost-oriented" means those charges equal to the long-run incremental cost of an efficient provider plus an appropriate portion of shared and common costs;

"dominant interconnection provider" means a public network operator who is designated by the Commission as dominant for the purposes of providing interconnection services under regulation 10 and "dominant fixed public network operator" shall have a corresponding meaning;

"interconnection provider" means a public network operator who receives a request to provide interconnection under the Act or Regulations;

"interconnection services" means the services provided by one public network operator to another public network operator linking the public telecommunications networks or telecommunications services of both parties to allow the users of the public telecommunications services of either party to

(a) communicate with the users of the telecommunication services of the other; and

(b) access the services provided by the other operator or service provider.

"joining service" means a service consisting of a transmission facility connecting the points of interconnection of two public network operators, one of which may or may not be the provider of the joining service;

"number portability" means the ability of a customer to retain the same telephone number on changing telecommunications providers;

"phased manner" means to reduce or increase gradually or in stages;

"point of interconnection" means the location where the exchange of telecommunications between the telecommunications network of an interconnection provider and the telecommunications network of a public network operator takes place;

"public network operator" means a person who is licensed under the Telecommunications Act, to operate a public telecommunications network;

"reference interconnection offer" means a document setting out the terms on which the dominant interconnection provider proposes to offer interconnection to a public network operator requesting interconnection;

"Register" means the register maintained pursuant to regulations 26, 27, 28 and 30;

"transit service" means the transmission and routing of the services of public network operators over the network of the provider of the transit service.

(2) Unless otherwise specified, terms used in these Regulations shall have the meanings assigned to them under the Act.

PART II - PUBLIC NETWORK OPERATOR

3. **Rights and obligations of public network operators.**

A public network operator has the following rights and obligations with respect to interconnection, that is that a public network operator:

(a) shall act in a manner that enables interconnection to be established as soon as reasonably practicable;

(b) is required to promptly provide interconnection at cost-oriented rates to any other public network operator that requests it;

(c) is entitled to promptly receive interconnection at cost-oriented rates from any other public network operator;

(d) shall provide timely forecasts of usage to an interconnection provider and shall be required to cover the costs that the interconnection provider incurs to meet forecasted needs even if the forecasted traffic fails to materialize;

(e) shall configure its network to enable

(i) transmission; and

(ii) switching or routing;

of voice, data and images over its networks.

(f) shall exchange signaling information using standard signaling systems;

(g) is required to provide call-termination services to any other public network operator that requests them;

(h) who is a party to an interconnection agreement shall provide written notice of any breach of an interconnection agreement and a reasonable period of time to cure the breach before terminating an interconnection agreement in accordance with the procedure set out in regulation 23;

(i) shall make it possible for their customers to complete international calls using public network operators of their choice, and such choice shall be available on a call-by-call basis, with the call being completed without the requirement either of second dial tone or manual intervention.

4. **Obligations of dominant fixed public network operators.**

In addition to the obligations placed on all public network operators set out in regulation 4, a dominant fixed public network operator shall:

(a) provide joining services to any other public network operator that requests them;

(b) provide usage-based transit services to other public network operators that request them;

(c) where it provides broadband Internet access as a retail service, arrange to carry the broadband information to unaffiliated Internet service providers of the end user customer's choice.

5. **Number portability.**

A public network operator shall configure its networks to facilitate number portability between similar networks as and when directed by the Commission, acting on the recommendation of ECTEL.

6. **Non-discrimination and transparency.**

(1) When providing interconnection, a public network operator shall act in accordance with the following principles:

(a) interconnection shall be provided to other public network operators under no less favourable terms, rates and quality as the interconnection provider provides similar services for itself, its affiliates or both itself and its affiliates;

(b) interconnection shall be provided without regard to the types of users to be served or the types of services to be provided by the public network operator requesting interconnection;

(c) a public network operator shall provide, on request, information reasonably necessary to other public network operators considering inter-connection, in order to facilitate the conclusion of any agreements.

(2) The information provided pursuant to sub-regulation 1 (c) shall include planned charges for implementation within the six months following a request, unless otherwise agreed by the Commission.

(3) When a public network operator concludes an interconnection agreement, it shall

(a) offer the terms and conditions of such an agreement to any other public network operator requesting interconnection; and

(b) offer the terms and conditions of such an agreement, upon request, to any other public network operator with which it has an existing interconnection agreement,

except to the extent that it can prove to the satisfaction of the Commission that it is not technically feasible to replicate the same level of quality of the interconnection or to provide interconnection under the same terms and conditions as it provides pursuant to such an agreement.

(4) The Commission shall take such steps as may be necessary to ensure that the requirements under this regulation are being met.

7. **Confidentiality.**

Public network operators shall not knowingly communicate, or allow access to any confidential, proprietary, or competitive information including but not limited to

(a) customer orders,

(b) market forecasts,

(c) plans for development of new services,

(d) network plans,

(e) current or proposed business plans, and

(f) new customers

received from another public network operator in respect of interconnection, except to the extent authorised by the operator in writing, or by the Act or these Regulations.

8. **Access to facilities.**

(1) Where access to any facilities is required to effect interconnection such access shall be provided on a non-discriminatory and equitable basis, including with respect to charges, location and other commercial matters, together with the interconnection.

(2) Pending the conclusion of any agreement between parties to a negotiation for access to facilities, and subject to the provisions of regulation 31, the Commission may, acting on the recommendation of ECTEL, issue such orders or directions for the sharing of any facilities or with respect to providing access to such facilities on an interim basis.

9. **Dominant interconnection provider.**

(1) Where the Commission has determined, after a public consultation process, that a public network operator:

(a) enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers in a market or markets for telecommunications services; and

(b) it is in the long-term interests of consumers of telecommunications services that the public network operator be so designated

the Commission, acting on the recommendation of ECTEL, and by Order published in the Gazette, shall designate the public network operator as a dominant interconnection provider in a particular market or markets for telecommunications services.

(2) The Commission shall undertake a consultation process which will commence with a preliminary determination of market dominance and the designation of one or more dominant interconnection providers.

(3) The Commission shall issue its final determination of market dominance no later than 90 days after its preliminary determination of dominance under sub-regulation 2.

(4) Notwithstanding the foregoing sub-regulations, a public network operator may consent to being treated as a dominant interconnection provider solely for the purpose of providing interconnection and filing a reference interconnection offer at the time it files a reference interconnection offer.

PART III - RESPONSIBILITIES OF COMMISSION

10. **Publication of information.**

(1) The Commission shall have available, for the use of the general public, documentation on interconnection that is adequate and current.

(2) The Commission shall use any medium that it considers appropriate to inform the public of the documentation available pursuant to sub-regulation (1) of this Regulation.

(3) The Commission may impose an administrative fee for providing the documentation to any person.

11. **Rate structure.**

(1) The Commission shall, acting on the recommendation of ECTEL, determine upon its own motion or upon an application by any person, the interconnection rate of any person who provides or offers to provide interconnection.

(2) Interconnection rates shall be cost-oriented and imposed in a transparent manner and shall identify clearly:

(a) charges for interconnection services; and

(b) any contribution to the access deficit of the interconnection provider where applicable.

(3) Where

(a) an interconnection agreement is negotiated before the Commission has determined any rates, or

(b) after the conclusion of any interconnection agreement, the Commission establishes new rates for interconnection for any reason,

the agreement shall be amended by the parties to comply with such rates as may subsequently be determined.

(4) Notwithstanding sub-regulation (2), the Commission may impose cost-oriented rates in a phased manner and on such terms and conditions as may be determined by the Commission, acting on the recommendation of ECTEL.

PART IV - INTERCONNECTION

12. **Reference interconnection offer.**

(1) Each dominant interconnection provider requested to provide a reference interconnection offer shall provide such an offer within sixty (60) days of its receipt of such request by the Commission.

(2) A reference interconnection offer shall make available to public network operators those services and network elements necessary for the provision of competing retail services.

(3) The reference interconnection offer provider may set different rates, terms and conditions for different interconnection services, where such differences can be objectively justified and do not result in the unfair distortion of competition.

(4) The reference interconnection offer provider shall apply the appropriate interconnection tariffs, terms and conditions when providing interconnection for its own services or those of its affiliates, subsidiaries or partners.

(5) The charges of the reference interconnection offer shall be sufficiently unbundled to ensure that the public network operator requesting interconnection is not required to pay for services not related to the service requested.

(6) Interconnection rates set out in the reference interconnection offer shall be cost-oriented.

(7) The reference interconnection offer shall contain specific provisions for dispute resolution procedures including

(a) the appropriate contact persons whose names and other contact information shall be updated at least quarterly;

(b) precise time frames for resolution of complaints;

(c) clear and concise escalation procedures that allow for the prompt resolution of disputed issues; and

(d) rules that shall be used for arbitrating any unresolved issues.

(8) The Commission shall have the authority to ensure that a reference interconnection offer is compliant with the Act and Regulations and contains rates that are cost-oriented.

13. **Publication of reference interconnection offer.**

Within seven (7) days of approval of a reference interconnection offer by the Commission, a dominant interconnection provider shall publish its offer by –

(a) posting the offer on its website; and

(b) making printed and electronic copies of the offer available to any public network operator upon request.

14. **Payment for interconnection.**

Subject to the right of the Commission, acting on the recommendation of ECTEL, to determine that every cost imposed on a public network operator in respect of interconnection is just and reasonable, a public network operator shall pay for the investment, operations and maintenance expenses of the facilities necessary to reach the point or points of interconnection.

15. **Calling line identity.**

Every public network operator shall provide upon request to other public network operators, the Calling Line Identity and all necessary signaling data, in accordance with accepted international standards and any technical standards set by and published by the Commission from time to time.

16. **Form and contents of interconnection agreements.**

(1) An interconnection agreement and a reference interconnection offer shall be in writing and the following matters shall be specified in those agreements except where a particular matter is not relevant to the specific form of the interconnection requested:

(a) access to ancillary, supplementary and advanced services;

(b) adequate service levels including the remedies for any failure to meet those service levels;

(c) a provision that deals with regulatory change, including determinations by the Commission;

(d) duration and renegotiation of interconnection agreements;

(e) forecasting, ordering, provisioning and testing procedures;

(f) dispute resolution procedures, including identification of points of contact, time frames and an escalation process;

(g) geographical and technical characteristics and locations of the points of interconnection;

(h) information handling and confidentiality provisions;

(i) intellectual property rights;

(j) measures anticipated for avoiding interference or damage to the networks of the parties involved or third parties;

(k) national and international appropriate indexes for service quality;

(l) procedures in the event of alterations being proposed to the network or service offerings of one of the parties;

(m) provisions for the formation of appropriate working groups to discuss matters relating to interconnection and to resolve any disputes;

(n) provision of network information;

(o) technical specifications and standards;

(p) terms of payment, including billing and settlement procedures;

(q) the procedures to detect and repair faults, as well as an estimate of acceptable average indexes for detection and repair times;

(r) the scope and description of the interconnection services to be provided;

(s) the technical characteristics of all the main and auxiliary signals to be transmitted by the system and the technical conditions of the interfaces;

(t) transmission of Calling Line Identity, where available to be transmitted;

(u) provisions for call termination;

(v) provisions for transit facilities;

(w) provisions for joining links;

(x) ways and procedures for the supply of other services that the parties agree to supply to each other, such as operation, administration, maintenance, emergency calls, operator assistance, automated information for use, information on directories, calling cards and intelligent network services;

(y) the obligations and responsibilities of each party in the event that inadequate or defective equipment is connected to their respective networks;

(z) provisions for notice and for remedying any breach that may arise from the agreement; and

(aa) any other relevant issue.

(2) A public network operators shall make available to any interested party, any reference interconnection offers and the portions of approved interconnection agreements that have not been designated as confidential by the Commission pursuant to regulation 28.

17. **Connectivity.**

An interconnection agreement shall include provision for any-to-any connectivity to allow any end-user of that network to communicate with any other end-user of public telecommunications services, regardless of whether the end-users are connected to the same, or different networks.

18. **Non-inclusion.**

An interconnection agreement shall not contain any provision, which has the effect of

(a) imposing any unfair or discriminatory penalty or disadvantage upon a person in the exercise of the person's right to be provided with interconnection;

(b) precluding or frustrating the exercise of a person's rights or privileges afforded under the Act or Regulations; and

(c) preventing a telecommunications provider from lawfully providing an interconnection service to another public network operator.

19. **Notice of request.**

(1) A public network operator shall make a request for interconnection in writing to an interconnection provider and shall forward two copies of the written request to the Commission, one of which shall be addressed to ECTEL.

(2) A request for interconnection shall contain the following information

(a) a copy of the licence of the public network operator;

(b) the services with respect to which interconnection is sought;

(c) a declaration by the public network operator that it accepts the rights and obligations of all public network operators as set out in regulation 4; and

(d) any other information as specified in the reference interconnection offer or reasonably required in order for the telecommunications provider to respond to that request.

(3) Notwithstanding sub-regulation (1), any person who has applied for a telecommunications licence under the Act, but whose application is still pending, may make an interconnection request and conclude an interconnection agreement, except that a notice of request from such an applicant shall not include a copy of a licence under sub-regulation (2).

(4) The effecting of interconnection in accordance with a request under sub-regulation 3 shall be conditional upon a grant of a licence to the applicant.

20. **Procedures for application.**

(1) Within 30 days after the parties to a negotiation regarding interconnection have concluded an interconnection agreement, the parties shall submit the proposed agreement to the Commission for its approval.

(2) The Commission shall approve the proposed interconnection agreement if it is satisfied that the proposed interconnection agreement is not inconsistent with the Act, these Regulations, the terms and conditions of the parties' licenses or other provisions of law.

(3) The Commission shall consult with ECTEL for its advice and recommendations concerning the application, before determining whether to approve the proposed interconnection agreement.

(4) The Commission may request additional information from the parties to a proposed interconnection agreement where it considers it necessary to further evaluate the terms, conditions and charges contained in the proposed interconnection agreement.

(5) Where the Commission notifies the parties that it does not consider that the proposed interconnection agreement or any part thereof should be approved, the parties to that agreement shall negotiate and submit a revised proposed interconnection agreement to the Commission, within a period determined by the Commission, having regard to the matters being the subject of the Commission's request.

(6) Where a proposed interconnection agreement is substantially the same as an existing agreement already approved by the Commission, such an agreement may provide that it will be effective upon submission to the Commission and will remain effective unless the Commission informs the parties to such agreement, within 60 days of its submission, or such longer period as the Commission may reasonably require, that it has not approved the agreement.

(7) Sub-regulation 6 shall not apply where the parties to an interconnection negotiation have concluded an agreement after the effective date of any interim interconnection decision imposed by the Commission, pursuant to the procedures described in section 31 of these Regulations.

21. **Prohibited interconnection.**

A party shall not negotiate, propose to enter or enter into an interconnection agreement where the Commission determines that

(a) the proposed interconnection is contrary to the Act, these Regulations, the terms and conditions of the parties' licenses or other provisions of law; or

(b) the requested interconnection is not technically feasible.

22. **Amendment or modification of interconnection agreement.**

(1) The parties to an interconnection agreement may amend or modify an agreement which has been approved by the Commission by:

(a) giving not less than 30 days written notice prior to the effective date of the amendment or modification; and

(b) submitting a copy of the proposed amendment or modification;

to the Commission.

(2) No amendment or modification to any interconnection agreement shall take effect unless approved by the Commission within thirty (30) days of its submission, or such longer period as the Commission may in any case determine.

23. **Suspension of an interconnection agreement.**

(1) An interconnection agreement shall include provision for the suspension of the agreement in the event of

(a) conduct that is illegal or interferes with the obligations of the interconnection provider, under the relevant licence, Act or Regulations;

(b) requirements that are not technically feasible;

(c) health or safety problems; or

(d) circumstances that pose an unreasonable risk to the integrity or security of the network or services of the interconnection provider, from which interconnection is requested.

(2) An interconnection agreement shall include a provision to allow for the suspension of interconnection where it is necessary to deal with a material degradation of the interconnection provider's telecommunications network or services.

(3) The parties to an interconnection agreement shall provide at least 15 days notice to the Commission prior to suspending the agreement.

(4) No suspension of an interconnection agreement shall take effect unless approved by the Commission, acting on the recommendation of ECTEL.

24. **Termination of an interconnection agreement.**

(1) The parties to an interconnection agreement shall provide at least 30 days notice to the Commission and to customers before terminating any interconnection agreement.

(2) Such notice shall inform customers of the date upon which any services will be interrupted and shall also inform them of appropriate steps that can be taken to obtain such services from another operator.

(3) Notwithstanding the right of the parties to terminate an interconnection agreement, the Commission, acting on the recommendation of ECTEL, shall have the authority to require any party to provide interconnection on such terms and conditions and at such rates as the Commission may deem appropriate, pending renewal or replacement of the interconnection agreement.

PART V - REGISTER

25. **Register.**

(1) A copy of each interconnection agreement shall be kept in a Register maintained by the Commission in print form, or as a database in electronic medium, and in any other form determined by the Commission.

(2) The Register shall be kept at the principal office of the Commission and Parts I and III of the Register shall be open to public inspection during normal working hours.

(3) A copy of the Register shall be provided to ECTEL by the Commission.

26. **Contents of register.**

The Commission shall maintain the Register in 3 parts

(a) Part I shall contain a list of all interconnection agreements with the names of interconnection providers, service areas of their operation, and the dates of the execution of the agreements, and shall be opened for inspection by the public;

(b) Part II shall contain portions of interconnection agreements which the Commission has directed to be kept confidential; and

(c) Part III shall contain the contents of interconnection agreements excluding those directed by the Commission to be kept confidential which shall be open for inspection by the public.

27. **Confidential portion of register.**

(1) The Commission may, on the request of any party to an interconnection agreement, direct that any part of the interconnection agreement be kept confidential.

(2) Any request to keep part of an interconnection agreement confidential shall be accompanied by a non-confidential description of the relevant portion of the interconnection agreement.

(3) Where the Commission is satisfied that the interests of a telecommunications provider could be adversely affected if the relevant part were not kept confidential, it may direct that the relevant part of the interconnection agreement be kept confidential and the non-confidential description of that part shall be incorporated in Part III of the Register.

(4) Where the Commission declines the request of any public network operator to keep any portion of the interconnection agreement confidential, it shall record its reason for doing so and furnish a copy of its decision to the applicant.

(5) Before making any decision to disclose confidential information, the Commission shall afford a hearing to the public network operator who has requested the information be kept confidential.

(6) Whenever a public network operator requests that any part of an interconnection agreement should be kept confidential, that portion of the agreement shall remain confidential until the matter is determined by the Commission.

28. **Format for separating information.**

(1) The Commission may, from time to time, determine the format for seeking disaggregated information of parts of an interconnection agreement relating to technical standards or specifications from the Register in respect of

(a) access charges;

(b) area of operation;

(c) consumer related information;

(d) downtimes;

(e) fault resolving procedures;

(f) interconnection;

(g) port charges;

(h) quality of service; and

(i) revenue-sharing arrangements.

(2) Each licensee shall offer such assistance to the Commission in relation to disaggregating information pursuant to this Regulation as it may reasonably require.

29. **Access to register.**

(1) Parts I and III of the Register shall be open for inspection by the public on payment of an administrative fee and on the fulfilment of any other condition determined by the Commission.

(2) Any person seeking inspection of Parts I or III of the Register shall apply to the officer designated by the Commission who shall allow inspection and also make available extracts of the relevant portions of the Register, on payment of the administrative fee.

(3) The Commission may in accordance with sub-regulations (1) and (2) of this Regulation also allow access to Parts I and III of the Register through the website maintained by it.

PART VI - DISPUTE RESOLUTION

30. **DISPUTE RESOLUTION.**

(1) Where the parties to any proposed interconnection agreement are unable to agree on the terms thereof within 60 days from the date of a request for interconnection under regulation 19, either party may submit the matter to the Commission for resolution in accordance with such procedures as the Commission may adopt, acting on the recommendation of ECTEL.

(2) Where no request has been received by the Commission after 60 days pursuant to sub-regulation (1), the Commission may, acting on its own motion, direct the parties to submit the matter for resolution.

(3) Notwithstanding sub-regulation (2), the Commission may withhold from directing the parties for an additional 30 days where it is reasonably satisfied by both parties that an interconnection agreement is likely to be concluded within that time.

(4) Any decision made by the Commission pursuant to sub-regulations (1) and (2) shall be binding on the parties pending agreement between them on the terms of any proposed interconnection agreement.

(5) The decision by the Commission shall

(a) be made within 60 days from the date of a request under sub-regulation (1) or a direction by the Commission under sub-regulation (2), or such longer period as the Commission may in any case determine; and

(b) specify

(i) the facilities and the network covered by the decision;

(ii) the extent of any network over which one party is required to carry information and communication messages including telecommunication messages to enable another party to supply services;

(iii) the points of, and the technical standards for, interconnection;

(iv) the rates of interconnection;

(v) the effective date of the decision; and

(vi) any other matters it deems appropriate.

(6) The parties to the decision under sub-regulation 5 shall submit to the Commission a copy of an interim interconnection agreement implementing the terms and conditions of the decision, together with any other information the Commission may require.

(7) An interim interconnection agreement shall cease to have effect on the date a proposed interconnection agreement agreed between the parties is approved by the Commission.

(8) The existence of an interim interconnection agreement shall in no way prejudice, vary, or diminish the right of the Commission to review, approve or reject any proposed interconnection agreement between the parties.

(9) The Commission may, acting on the recommendation of ECTEL, make the terms and conditions of an interim interconnection agreement final where the parties are unable to conclude any agreement prior to the expiration of one year from the effective date of the Commission's decision under sub-regulation (5).

(10) In the exercise of any of the functions conferred upon it by virtue of sub-regulations (1) – (9), the Commission shall have the authority, acting on the recommendation of ECTEL, to make such orders and issue such directions to the parties as it deems appropriate.

31. **Disputes regarding existing agreements.**

(1) Notwithstanding the terms of any dispute resolution procedures described in the agreement, in any dispute involving an approved interconnection agreement between parties thereto, the parties may agree to refer the dispute to the Commission for a binding resolution in accordance with such procedures and upon such terms and conditions as the Commission, acting on the recommendation of ECTEL, may determine,

(2) In referring any dispute under sub-regulation (1), the parties may request the Commission to issue an interim decision on providing interconnection, and the interim

decision may address prices and any other terms or conditions for interconnection which the Commission, acting on the recommendation of ECTEL, may determine.

(3) A decision by the Commission under sub-regulations (1) or (2) shall be final and binding on the parties with respect to the matters being the subject of the dispute, but shall not replace, vary or otherwise amend the provisions relating to dispute resolution contained in the interconnection agreement.

32. **Amendment due to dispute resolution.**

Where a decision arising from a dispute resolution process modifies the terms and conditions on which interconnection is provided, the Commission may require the public network operators to amend a relevant agreement in order to comply with the decision and submit the amended agreement to the Commission for approval.

PART VII - MISCELLANEOUS

33. **Renewal of interconnection agreements.**

(1) At least 90 days prior to the expiration of an approved interconnection agreement, a public network operator shall submit a revised interconnection agreement to the Commission for approval where such an agreement is to be renewed or extended.

(2) No renewal or extension of an interconnection agreement under sub-regulation (1) shall take effect unless approved by the Commission, acting on the recommendation of ECTEL.

34. **Power of referral.**

If a public network operator refuses to obey any order, decision or direction by the Commission under these Regulations, the Commission may apply to a judge of the High Court for an order compelling the public network operator to comply with the order, decision or direction of the Commission and for such costs and other relief as the Court may allow.

35. **THE INTERCONNECTION CODE.**

The Commission, acting on the recommendation of ECTEL,

(a) may issue an Interconnection Code to give purpose and effect to these Regulations, setting out such guidelines, procedures, standards and other requirements as the Commission may issue or specify;

(b) shall publish the Code, or parts thereof, in the Gazette and on its website;

(c) may amend, add to or replace the Code at any time.

[Fifth Schedule substituted by SROs 3& 44/2008]

Revision Date: 31 Dec 2009

SIXTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (SPECTRUM MANAGEMENT) REGULATIONS

PART I – PRELIMINARY

1. **Short title.**

These Regulations may be cited as the Telecommunications (Spectrum Management) Regulations.

2. **Interpretation.**

In these Regulations,

"Act" means the Telecommunications Act,

"assigned frequency" means the frequency band assigned to a transmitter;

"authorised frequency" means the frequency assigned to a provider by the Commission and which is specified in the frequency authorisation;

"authorised power" means the power assigned to a radio station by the Commission which is specified in the frequency authorisation, but not necessarily corresponding to the power which the Commission uses for the purposes of its Master Frequency Record (MFR) and notification to the International Telecommunication Union;

"experimental radio service" means a service in which radio waves are employed for purposes of experimentation in the radio art, or for purposes of providing essential communications for research projects which could not be conducted without the benefit of such communications;

"experimental station" means a station utilising radio waves in experiments with a view to the development of science;

"fixed service" means a service of radio communication between specified fixed points;

"fixed station" means a station in the fixed service;

"geostationary satellite orbit" means the orbit in which a satellite must be placed to be a geostationary satellite;

"harmful interference" means any radiation or induction which endangers the functioning of a radio navigation service or of a safety service or obstructs or repeatedly interrupts a radio service operating in accordance with the Table of Frequency Allocations and these Regulations;

"landing area" means any locality comprising land or water including aerodromes and intermediate landing fields used for the landing and take - off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo;

"land station" means a station in the mobile service not intended for operation while in motion;

"main power of radio transmitter" means the power supplied to the antenna during normal operation, averaged over a time sufficiently long compared to the period corresponding to the lowest frequency encountered in actual modulation;

"mobile service" means a service of radio communication between mobile and land stations, or between mobile stations;

"mobile station" means a station in a mobile service capable of being used while in motion or during halts at unspecified points;

"peak power of radio transmitter" means the mean power supplied to the antenna during one radio frequency cycle at the highest crest of the modulation envelope, taken under conditions of normal operation;

"radio service" means an administrative subdivision of the field of radio communication, as for example mobile service and fixed services;

"radio station" means any facility or installation that emits radio frequencies;

"region 2" means geographical area as defined by the International Telecommunication Union (ITU) that covers the Americas (North America, Central America, South America) and the Caribbean; and

"station" means one or more transmitters or receivers or a combination of transmitters or receivers, including the accessory equipment, necessary at one location for carrying out a radio communication service, or the radio astronomy service.

PART II – MANAGEMENT OF SPECTRUM

3. Monitoring the use of radio.

The Commission shall monitor the use of radio frequencies in Saint Christopher and Nevis in order to ensure that holders of frequency authorisations comply with the conditions, regulations and terms of those authorisations and that persons not holding frequency authorisations comply with these Regulations.

4. Commission to manage spectrum

Subject to these Regulations, the Commission shall

(a) have the power to withdraw or suspend any emission where it deems it necessary to do so;

(b) manage and control accidental or non-restricted emissions of the electro-magnetic spectrum;

(c) manage and control the use of the electro-magnetic spectrum from, to and within the territory of Saint Christopher and Nevis; and

(d) put into place measures to prohibit or minimise the incidence of those emissions.

5. **Commission to coordinate its management activities.**

Where the acts of the Commission in the management of the spectrum involve the use of the electro-magnetic spectrum for broadcasting of television or radio programming, the Commission shall coordinate its management activities with the Saint Christopher and Nevis Broadcasting Commission.

6. **Conformity with Regional Spectrum Management Plan.**

(1) Except as otherwise provided in these Regulations, the following shall conform with the Regional Spectrum Management Plan developed by ECTEL:

(a) the actual use of frequencies for radio communication or other purpose including the transfer of energy by radio;

(b) the assignment of frequencies and bands of frequencies to all stations and classes of stations;

(c) the licensing and authorising of the use of all such frequencies between 9kHz and 400GHz.

(2) In developing the Regional Spectrum Management Plan, ECTEL shall, to the extent that it is reasonable to do so,

(a) apply international norms and act consistent with international arrangements with respect to use and allocation of spectrum;

(b) preserve existing spectrum use and allocations.

7. **Temporary use of frequencies.**

(1) The Commission may authorise, on a temporary basis only, the use of frequencies outside the scope of the Regional Spectrum Management Plan, for emergencies or projects of short duration, where the Commission deems that exceptional circumstances require such utilisation, and that harmful interference will not be caused to services operating in accordance with the Regional Spectrum Management Plan.

(2) The authorisations referred to in sub-regulation (1) shall not be used for any commercial purpose or to develop any service to be operated on frequencies other than those allocated to that service.

(3) All authorisations, except any issued for emergency purposes or projects of short duration, shall be forwarded to ECTEL for its advice and comments.

8. **Use of frequencies by non-Government stations.**

The Commission may permit non-Government stations to use Government frequencies in bands above 25MHz where, after consultation with the appropriate Government agency, the Commission finds that the use is necessary for the coordination of Government and non-Government activities.

9. **Conditions to apply.**

Pursuant to the provisions of regulation 8, the following conditions shall apply:

(a) the Commission may authorise the use of Government frequencies by non-Government stations provided that the non-Government stations conform with the conditions agreed upon by the Commission, after consulting the relevant Government agency;

(b) the frequencies of a non-Government station must be certified as necessary by the relevant Government Agency, and that the required written certification is furnished to ECTEL, the Commission and the non-Government station with which Communication is required, as soon as is practicably possible; and

(c) non-Government station operating on Government frequencies do not cause harmful interference to Government stations and in the event of harmful interference, the non-Government station shall take immediate steps to eliminate the interference.

10. **Capacity of equipment.**

Equipment utilised by the holder of a frequency authorisation shall be capable of being adapted within a reasonable time frame so that it may receive and transmit on any frequency in the bands assigned to that holder's authorisation.

PART III – ROLE OF COMMISSION

11. **Regional Spectrum Management Plan.**

The Regional Spectrum Management Plan shall be in conformity with the Regional Plan of Frequency Allocations of Region 2 and the Master Table of Frequencies of the International Telecommunication Union.

12. **Guidelines for assigning frequencies.**

The Commission, in assigning the use of frequency, shall, in conjunction with ECTEL, take into account the following:

(a) any representation or objection which is duly and timely made and not withdrawn;

(b) the availability of frequencies and the ability for sharing the frequencies;

(c) the distribution of frequencies between commercial, rural, urban or other categories;

(d) the need for, and location of radio frequency spectrum in use, or to be used by the national Government; and

(e) the technical characteristics of the equipment involved, and its capability to interconnect with other communications equipment and networks.

13. **Management of electro-magnetic spectrum.**

(1) The Commission may issue a directive requiring a person to comply with technical regulation in respect of the emission of electro-magnetic radiation from equipment of any description.

(2) The Commission may limit the number of frequency authorisations for ensuring the efficient use and management of the electro-magnetic spectrum.

(3) A notice under this regulation shall be published in the *Gazette* and a local newspaper with a wide circulation for the purpose of bringing the matters to which it relates to the attention of those likely to be affected by those matters.

14. **Harmful interference.**

(1) Where a complaint of harmful interference resulting from the operation of a radio station or the use of the radio spectrum in Saint Christopher and Nevis is received from a source within that state or from a foreign source, the Commission may issue a directive temporarily suspending the operation of the station on that particular frequency for a period not exceeding 30 days pending the investigation of the complaint.

(2) The Commission shall immediately notify ECTEL and the allegedly offending party upon receipt of a complaint of harmful interference resulting from the operation of that radio station or the use of that radio spectrum in Saint Christopher and Nevis.

(3) The Commission shall conduct an investigation of the complaint referred to in sub-regulation (1) in conjunction with ECTEL, and shall give the party against whom the complaint has been made 10 days to respond to the complaint from the date of the notice of the complaint.

15. **Obligation to give information.**

Any person on or at any premises or place entered by an inspector or other authorised officer under this regulation, shall give to the Inspector or other authorised officer any information he or she may reasonably require for the purposes of these Regulations and shall not hinder or obstruct him or her in the performance of his or her functions.

16. **Suspension of operations or revocation of authorisation.**

A frequency authorisation shall contain provisions providing for the

(a) immediate suspension of operations upon the receipt of an order by the Commission to temporarily suspend its operations because of a complaint of harmful interference; or

(b) revocation where the condition to avoid harmful interference has been breached.

PART IV – MISCELLANEOUS

17. **Re-distribution of radio frequencies.**

(1) The Minister may, on the advice of the Commission, and consistent with the Regional Spectrum Management Plan, re-distribute frequency authorisations

(a) to allow the introduction of new technology;

(b) where it is necessary to ensure the efficient use of the radio spectrum; or

(c) where the overall demand for radio frequencies for a particular telecommunications service cannot be met.

(2) Before advising the Minister regarding the process of re-distribution of radio frequencies the Commission shall

(a) allow any person likely to be affected by the proposed re-distribution an opportunity to make representations;

(b) ensure that any person licensed to provide telecommunications services or establish and operate a telecommunications network is able to maintain continuity in the provision of the relevant services or networks;

(c) give holders of existing frequency authorisations at least one year notice of the pending re-distribution; and

(d) publish specific objectives and non-discriminatory rules for the proposed re-distribution.

(3) Any holder of a frequency authorisation shall be entitled to compensation where a re-distribution of frequencies occurs.

(4) Compensation referred to under sub-regulation (3) shall be for costs reasonably incurred in complying with that re-distribution.

SEVENTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (CONFIDENTIALITY IN NETWORKS AND SERVICES) REGULATIONS

1. **Short title.**

These Regulations may be cited as the Telecommunications (Confidentiality in Networks and Services) Regulations.

Revision Date: 31 Dec 2009

PART I – PRELIMINARY

2. **Interpretation.**

In these Regulations,

"Act" means the Telecommunications Act;

"authorised request" means a request received from the recipient of a transmission;

"subscriber personal information" means information of a personal nature relating to a telecommunications subscriber that discloses the address, marital status, financial status, occupation or other identifying information that is unrelated or incidental to the provision of telecommunications services;

"subscriber proprietary network information" means information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any subscriber of a telecommunications provider, and that is made available to the telecommunications provider by the subscriber solely, by virtue of the customer-provider relationship.

PART II – INTERCEPTION MONITORING STOPPAGE

3. **Activation of intercepted communication.**

A telecommunications provider shall ensure that any interception of communications within its network is capable of being activated only when authorised by the receiver of a transmission, or in accordance with a court order.

4. **Strict measures of control.**

A telecommunications provider shall

(a) appoint a senior employee or officer with the responsibility for ensuring that the interception of communications can be activated only when authorised by the receiver or in accordance with a court order; and

(b) authorise designated employees or officers to engage where necessary in lawful interception activities.

5. **Court order.**

A telecommunications provider shall not implement any interception of transmissions over a public telecommunications network or telecommunications apparatus unless the telecommunications provider receives a court order authorising law enforcement officials to intercept transmissions over the public telecommunications network or apparatus.

6. **Officials to act within strict guidelines.**

A telecommunications provider shall ensure that any employee or officer that it appoints pursuant to regulation 5 only effects interceptions that are authorised and except to a person who has made an authorised request or when authorised by a court order to a law enforcement official.

7. **Employee to execute agreement.**

(1) An employee of a telecommunications provider who is designated and authorised to receive and implement interception orders, or certifications, shall execute a non-disclosure agreement which shall be kept as part of that employee's permanent records.

(2) The terms of the agreement referred to in sub-regulation (1) shall survive any reassignment of the employee to other duties, or the termination or departure of the employee from the employment of the telecommunications provider.

8. **Report of improper activities.**

(1) A telecommunications provider shall report to law enforcement officials without delay any act

(a) of unlawful electronic surveillance that has occurred on its premises; and

(b) which compromises the duty to report once the provider becomes aware.

(2) A telecommunications provider shall report to law enforcement officials without delay any transmission which is intercepted and appears likely to threaten the national security or is contrary to public order.

9. **Employee's suspension of duties ending investigation.**

(1) Where there are reasonable grounds to suspect that an employee of a telecommunications provider is about to engage or may have engaged in illegal surveillance activity, that employee shall be reassigned to other duties or suspended pending the outcome of an investigation.

(2) An employee who has been reassigned or suspended shall not be allowed to have access to any equipment whereby proper investigations may be compromised.

10. **Accurate records of interception.**

(1) A telecommunications provider shall maintain accurate, complete and secure records of any interception of communications.

(2) Records of any interception of communications shall include the:

(a) court order;

(b) identity of the law enforcement officer who presented the court order;

(c) name and signature of the telecommunications provider's employee responsible for overseeing the interception of the communications;

(d) start date and time of the interception;

(e) telephone and circuit identification number or numbers involved; and

(f) telegraphic, facsimile, telephonic or any other such type of communication.

(3) The Records of Interception shall be compiled either contemporaneously, or within a reasonable period of time following the initiation of the interception of the communications and such period shall not exceed 90 days.

(4) A telecommunications provider shall maintain a record of all intercepted communications for a period of 6 years.

11. **Reporting obligations to Commission.**

(1) A telecommunications provider shall report to the Commission on a quarterly basis any

(a) compromises or suspected compromises of interceptions; and

(b) violation of its security policies and procedures.

(2) A telecommunications provider shall be obligated to report to the Commission without delay any violation or compromise relating to subscriber's

(a) personal information; or

(b) proprietary network information.

12. **No acceptance of dangerous transmission.**

A telecommunications provider shall not accept any form of transmission which appears likely to threaten the national security or is contrary to public order in Saint Christopher and Nevis.

PART III – NON-INTERCEPTION OF TRANSMISSIONS BY MEMBERS OF THE PUBLIC

13. **No interception by members of public.**

Any member of the public, including a radio amateur using radio equipment or modified commercial equipment, shall not intercept or interrupt any message transmitted over a public telecommunications network or telecommunications apparatus.

14. **Reporting obligations on illegal activity.**

Where there are reasonable grounds to suspect that a member of the public is about to or is in the process of engaging in illegal surveillance activity, the telecommunications provider or any concerned party shall report the activity to law enforcement officials without delay.

15. **Reporting obligation on actual illegal activity.**

A telecommunications provider shall be obliged to report to the Commission and law enforcement officials without delay any act of unlawful electronic surveillance that has occurred on its premises by an unauthorised member of the public.

PART IV – CONFIDENTIALITY IN RESPECT OF SUBSCRIBER

16. **Strict control measures.**

A telecommunications provider shall establish policies and procedures to facilitate the strictest supervision and control of its employees or officers who have or might have access to subscriber personal information or subscriber proprietary network information.

17. **Employee to execute agreement.**

(1) An employee of a telecommunications provider who has access to subscriber personal information or subscriber proprietary network information shall execute a non-disclosure agreement which shall be kept as part of that employee's permanent records.

(2) The terms of the agreement referred to in sub-regulation (1) shall survive any reassignment of the employee to other duties or the termination or departure of the employee from the employment of the telecommunications provider.

18. **Confidentiality of Subscriber.**

The subscriber's personal information or subscriber's proprietary network information is confidential information, and shall not be disclosed by an employee or officer of a telecommunications provider without the consent of the subscriber or pursuant to a court order.

19. **Permission to be first obtained.**

A telecommunications provider or publisher of subscriber and lists directories must first obtain the consent of a subscriber before listing the subscriber's personal information in a telephone directory.

20. **Grounds for disclosure of proprietary network information.**

A telecommunications provider may use or disclose subscriber proprietary network information only if it is necessary to

(a) protect users of those services and other telecommunications providers from fraudulent, abusive, unlawful use of, or subscription to such services; or

(b) provide the telecommunications services to which the proprietary customer has subscribed.

Revision Date: 31 Dec 2009

EIGHTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (TARIFF) REGULATIONS

PART 1 – PRELIMINARY

1. **Short title.**

These Regulations may be cited as the **Telecommunications (Tariff) Regulations.**

2. **Interpretation.**

In these Regulations,

"Act" means the Telecommunications Act,

"dominant" means, in respect of a telecommunications provider in a market, the ability to operate without constraints imposed by competitors, or potential competitors of the telecommunications provider or persons to whom, or from whom, the telecommunications provider supplies or acquires goods or services;

"effective date" means in relation to a licensed operator the commencement date of its licence;

"effective competition" means, in respect of a market for a telecommunications service in Saint Christopher and Nevis, that no operator possesses significant market power in that market;

"incentive-based regulation" means a scheme included as a condition of a licence that provides incentives to the operator to improve the efficiency of its operations;

"market" means a market in Saint Christopher and Nevis and when used in relation to a telecommunications service, means a market for those telecommunications services or other services that are substitutable for, or otherwise competitive with, the first-mentioned telecommunications services.

"non-regulated charge" means the charge made by a licensed operator for a non regulated service;

"predatory" means lower than the long-run incremental cost of the provider;

"regulated tariff" means the tariff set, or proposed to be set, by a telecommunications provider in respect of a regulated service;

"regulated service" means, in respect of a telecommunications provider, any telecommunications service provided by that provider that is specified to be a service in respect of which that operator is dominant or in respect of which incentive-based regulation applies;

"relevant financial year" means in relation to a relevant year, the financial year of the licensed operator ending last before the beginning of the relevant year, being a financial year in respect of which annual costs have been prepared and audited in accordance with the requirements of the Companies Act, Cap. 21.03 of Saint Christopher and Nevis;

"tariff" means, in respect of a telecommunications service, the terms and conditions, including prices to be charged, applying or proposed to apply in the provision of that service.

PART II – TARIFFS

3. **Tariff setting.**

In setting a tariff for a telecommunications service, licensees shall act in accordance with the following principles:

(a) where there is effective competition in the market for a telecommunications service, licensees may set tariffs for that service;

(b) where the Commission has determined that one or more operators are dominant in the market for a telecommunications service, licensees shall set their tariffs for that service in accordance with

(i) if applicable, any incentive-based regulations; and

(ii) regulation imposed as a condition of that licensee's licence.

PART III – DOMINANT PROVIDERS

4. **Designation of Provider.**

(1) The Commission shall, acting on the recommendation of ECTEL, by notice published in the Gazette, designate a telecommunications provider as a dominant telecommunications provider in respect of a particular telecommunications market or markets in Saint Christopher and Nevis where the Commission has determined that, after a public consultation process, with respect to that telecommunications provider,

(a) there is not effective competition with respect to the market or markets for telecommunications services in Saint Christopher and Nevis; and

(b) it is in the long-term interests of consumers of telecommunications services in Saint Christopher and Nevis that the service be so designated.

(2) The Commission may designate a telecommunications provider as a dominant telecommunications provider where the provider consents in writing to such designation.

5. **Dominant provider obligations.**

Where the Commission has determined that a telecommunications provider is dominant in the provision of a telecommunications service, that provider shall

(a) file its tariffs with the Commission and those tariffs shall be publicly available; and

(b) not discriminate between similarly situated customers of the relevant services.

6. **Declaration of non-dominance.**

(1) The Commission may, on its own initiative or on application by a telecommunications provider, make a declaration, by notice in the Gazette, that a telecommunications provider is not dominant in the provision of a telecommunications service.

(2) A declaration under sub-regulation (1) shall be made by the Commission where there is effective competition in the market for the service.

(3) Where a declaration under sub-regulation (1) is made with respect to the provision of a service by a telecommunications provider, the provider shall:

(a) not be required to comply with the obligations under regulation 5 with respect to that relevant service; and

(b) be removed from any incentive-based regulation scheme that had applied as at the date of the declaration.

PART IV – TARIFF FILING AND APPROVAL FOR REGULATED SERVICES

7. **Application for approval of tariff for regulated services.**

(1) A telecommunications provider providing a regulated service shall file with the Commission an application for approval of a tariff for each regulated service not later than 30 days prior to the scheduled effective date of such tariff.

(2) An application under this regulation shall include a description and justification of the tariff and such other information as is required by the Commission and ECTEL to render their review and recommendations.

(3) The Commission shall upon receipt of the application for approval of the tariff, forward the request to ECTEL for its review and recommendations.

8. **Factors to be considered by ECTEL**

In determining an application under this Part, ECTEL shall consider, *inter alia,* the extent to which the proposed regulated charges:

(a) are based on an incentive pricing regime;

(b) represent a competitive response to market forces;

(c) are based on or oriented towards costs; and

(d) serve the public interest by improving service quality and availability, enhancing universal service, fostering investment and innovation, or promoting competition.

9. **Decision of Commission.**

(1) The Commission may, on the recommendation of ECTEL,

(a) approve or disapprove a regulated tariff or a relevant term and condition contained therein; or

(b) approve a regulated tariff subject to conditions or charges; or

(c) suspend approval of a regulated tariff, pending additional information or investigation; or

(d) reject the application.

(2) The Commission may disapprove the proposed regulated charges only where

(a) ECTEL has so recommended that the tariff be disapproved;

(b) the calculations of such charge contains mathematical errors; or

(c) the regulated charge violates the Act.

10. **Disapproval of proposed tariff.**

An order of the Commission disapproving a proposed tariff shall

(a) be sent to the telecommunications provider within 5 days of being issued;

(b) be in writing;

(c) state the reasons for disapproval; and

(d) specify the time frame in which the telecommunications provider may submit a revised application.

11. **Provider to inform public of new tariff.**

(1) Where the Commission approves a tariff, the telecommunications provider shall, upon notification of such approval, inform the public of the new tariff, not less than five days prior to the effective date of that charge.

(2) The provider shall notify the public of the new tariff by way of publication in

(a) the Official Gazette;

(b) a local newspaper with a widespread circulation; or

(c) such other publications as the Commission may designate; and

(d) such other publications that the telecommunications provider deems appropriate.

(3) A provider shall file any modifications of an existing tariff with the Commission in the same manner as that required for a proposed regulated tariff.

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12. **Notification of proposed non-regulated tariff.**

(1) A telecommunications provider who is not dominant shall notify the Commission of its proposed tariff including the relevant standard terms and conditions thereof no later than twenty-one days prior to the scheduled effective date of such tariff.

(2) A telecommunications provider shall file any modifications of tariff in respect of an existing non-regulated tariff with the Commission in the same manner as that required for a proposed tariff.

PART V – AVAILABILITY OF INFORMATION

13. **Access to information.**

(1) The telecommunications provider shall ensure that all applications and schedules filed with the Commission in respect of tariffs, are printed and made available for public review and inspection.

(2) Where tariffs are kept on file as required by this regulation, the person in charge of that office shall, on request,

(a) produce any tariff on file for inspection; and

(b) arrange to provide copies of tariff pages at a reasonable price.

14. **Compliance with request for information.**

A telecommunications provider shall comply with a request for information from the Commission including a request for information in respect of an audit.

15. **Commission may consult with ECTEL to design forms and minimise costs.**

The Commission may consult with ECTEL from time to time in order to:

(a) design appropriate forms to facilitate the obtaining of vital information, having regard to its function and duties under the Act;

(b) minimise the costs likely to be incurred by the telecommunications provider in relation to the compilation and provision of information to the Commission.

16. **Compliance report.**

(1) A holder of an individual licence shall submit an annual compliance report and a gross Annual Revenue Report to the Commission and the truthfulness, completeness and accuracy of each Report shall be duly certified by an appropriate officer of the licensee in Schedule 1 and Schedule 2 to these Regulations.

(2) Reports required under this regulation shall be in the form prescribed in Schedule 1 and Schedule 2 to these Regulations.

17. **Appointment of independent auditor.**

The Commission may appoint an independent auditor to conduct audits into the accounts and information provided by a telecommunications provider who is the holder of an individual licence, in order to verify the accuracy of the accounts and information so provided by such provider.

18. **Auditor to Submit Report.**

An auditor who is appointed pursuant to regulation 17 shall provide the Commission and the provider with a report containing the conclusions and reasons for his or her findings.

19. **Notification of reports.**

Where the Commission is in receipt of an audit report which discloses that certain information provided by the provider is inaccurate or incomplete, the Commission shall notify such provider, in writing,

(a) setting out the findings of the auditor and the reasons for those findings;

(b) specifying the action which the licensed operator must take to remedy the inaccuracy or incompleteness;

(c) specifying any action that the Commission intends to take; and

(d) giving the telecommunications provider the opportunity to respond to the notice and the required time frame for such response.

PART VI – PETITIONS IN RELATION TO REGULATED CHARGES

20. **Filing of petition.**

(1) Any person may file a petition with the Commission for the purpose of initiating an investigation, suspension or denial of a regulated charge or a proposed regulated charge.

(2) A petition filed pursuant to sub-regulated (1) shall

(a) be in writing;

(b) state the interest of the petition;

(c) specify the name of the licensed operator, any details of the regulated charge or proposed regulated charge; and

(d) specify the reasons for instituting the investigation of, or the suspension or denial of the regulated charge or proposed regulated charge.

(3) The Commission may publish a notice in the *Official Gazette* and in the local newspapers having wide circulation, that a petition has been filed in respect of the regulated charge.

21. **Suspension of existing regulated charge.**

(1) Where a petition filed in accordance with regulation 20 relates to an existing regulated charge, the Commission may decide to investigate or suspend such regulated charge and shall notify the telecommunications provider of any action it intends to take.

(2) The Commission shall also give the telecommunications provider an opportunity to respond to the proposed investigation, suspension or denial of the regulated charge.

22. **Notification of inquiry.**

Where ECTEL has initiated an inquiry into an existing regulated charge, the Commission shall delay any action on the matter pending the outcome of the ECTEL inquiry, and shall notify all interested parties that such an inquiry is taking place.

23. **Steps prior to issuing order.**

The Commission, before issuing an order suspending an existing regulated charge, shall

(a) seek the recommendation of ECTEL;

(b) notify the relevant telecommunications provider of the intended order setting out the reasons for the pending suspension; and

(c) provide the licensed operator with an opportunity to respond to the order, and specifying the time frame within which to do so.

24. **Additional information.**

The Commission may request additional information from the telecommunications provider within 20 days of receiving a response to its order, and shall allow the telecommunications provider a further 20 days in which to respond to the request of the Commission for additional information.

PART VII – MISCELLANEOUS

25. **Functions of commission.**

The Commission shall

(a) publish all tariffs required to be submitted under the Act;

(b) monitor the operations of telecommunications providers to ascertain the manner in which tariffs are derived by them;

(c) advise the Minister in all matters related to tariffs for telecommunications services; and

(d) do such other things as the Commission may deem desirable for the purpose of establishing and maintaining an acceptable regime of tariffs.

PART VIII – INTERIM PRICING MECHANISM

26. **Interim pricing.**

(1) The Commission, on the recommendation of ECTEL, may adopt an interim pricing mechanism applicable to telecommunications providers subject to incentive-based regulations where that incentive-based regulation has not been fully defined.

(2) A telecommunications provider may submit tariffs for services to be regulated under that incentive-based regulation to the Commission for approval under any such interim pricing mechanism.

(3) This Regulation shall cease to apply after the date on which the incentive-based regulation becomes fully defined.

SCHEDULE 1 TO THE REGULATIONS

(Regulation 16)

ANNUAL COMPLIANCE REPORT FORM

THE UNDERSIGNED HEREBY CERTIFY THAT:

We are the duly appointed [Title] and [Title] of [Licensee name] ("Licensee"); We have reviewed the terms of the Licence for Operation of a Telecommunications System Providing Telecommunications Services in Saint Christopher and Nevis dated as of ……, 20 ……, as amended, supplemented or otherwise modified to the dates hereof (said Licence, as so amended, supplemented or otherwise modified, being the "Licence", the terms defined therein and not otherwise defined in this Certificate being used in this Certificate as therein defined) by the [Commission] of Saint Christopher and Nevis; and

We have made, or have caused to be made under our supervision, a review in reasonable detail of the operations of the Licensee and we hereby certify the following information is true, correct and complete:

SUBSCRIBER LINE EXPANSION REQUIREMENTS

Information regarding the actual number of Additional Operational Subscriber's Lines and Public Pay Telephones installed by the Licensee as of the most recent Due Data. (List number of Operational Subscriber's Lines and Public Pay Telephones for each Region and District);

Region	District	Number of New Operational Subscriber's Lines	Number of New Public Pay Telephones	Total Number of Operational Subscriber's Lines Installed Since the Effective Date	Total Number of Public Pay Telephones Installed Since the Effective Date
#	#	#	#	#	#

SERVICE QUALITY REQUIREMENTS

Actual Local Call Completion Rate as of the most recent Due Date pursuant to Annex E of the Fixed Licence:

Actual Local Call Completion Rate	Target Local Call Completion Rate listed on Annex 3
%	%

Actual International Call Completion Rate as of the most recent Due Date pursuant to Annex E of the Fixed Licence:

Actual International Call Completion Rate	Target International Call Completion Rate listed on Annex 3
%	%

Actual Fault Recovery Rate as of the most recent Due Date pursuant to Annex E of the Fixed Licence:

Actual Fault Recovery Rate	Target Fault Recovery Rate listed on Annex 3
%	%

Actual percentage of the total Subscriber's Lines of the Licensee served by digital telephone central offices as of the most recent Due Date pursuant to Annex E of the Fixed Licence:

Actual Percentage	Target Percentage listed on Annex 3
%	%

Actual maximum connection time for [urban areas] as of the most recent Due Date pursuant to Annex E of the Fixed Licence:

Actual Maximum Connection Time	Target Maximum Connection Time (see Annex 3)
%	%

SERVICES AND OPERATIONS OF LICENSEE

Attached hereto and forming a part hereof is a true, correct and complete detailed report on the operations and services of the Licensee.

OWNERSHIP OF LICENSEE

Set forth below is a list of each Shareholder's (i) name, jurisdiction and date of registration and principal place of business, (ii) capitalisation, (iii) number and class of shares of capital stock of Licensee owned by such Shareholder and (iv) percentage ownership in Licence:

Set forth below is a list of each Consortium Participant's (i) name, jurisdiction and date of organisation and principal place of business, (ii) capitalisation, (iii) ownership interest, whether direct or indirect, in each Shareholder and, in the case of any such indirect interest, each intermediary, including, without limitation, the number, class and

par value of shares of capital stock, the percentage interest and the names of each Shareholder or intermediary, as applicable:

Certified and delivered this …… day of …… …… pursuant to section …… of the Licence.

[LICENSEE/OPERATOR]

By: ..... By: .....

Title: ..... Title: .....

SCHEDULE 2 TO THE REGULATIONS

(Regulation 16)

GROSS ANNUAL REVENUE REPORT FORM

THE UNDERSIGNED HEREBY CERTIFY THAT:

We are the duly appointed [Title] and [Title] of [Licensee name] ("Licensee"). We have reviewed the terms of the Licence, dated as of ……..., 20 ……, as amended, supplemented or otherwise modified to the date hereof (said Licence, as so amended, supplemented or otherwise modified, being the "Licence") by the Licensee [and the Communications Commission] of Saint Christopher and Nevis. Pursuant to the Telecommunications Act 2000, and the Telecommunications Regulations of Saint Christopher and Nevis, we have made, or have caused to be made under our supervision, a review in reasonable detail of the financial operations of the Licensee and calculated, or caused to be calculated, the Gross Annual Revenue fee due and payable for calendar year …… [insert applicable year].

Further, we have attached, or caused to be attached hereto copies of the certified audited financial statements of the Licensee. We hereby certify that the following information, and the information contained in the attachments hereto, is true, correct and complete.

GROSS ANNUAL REVENUE

Information regarding the gross income for the reporting year received by, or due to, the Licensee and its affiliates, from whatever source derived, before any deductions for expenses, discounts, returns, or offsets of any kind.

ATTACHMENTS

[Attach certified copies of quarterly and annual reports required by the Ministry of Finance.]

Attached hereto are certified copies of the quarterly and annually financial reports and reports of operations required to be filed by the Licensee pursuant to the [Companies Laws]

Revision Date: 31 Dec 2009

CERTIFICATION

Certified and delivered this …… day of …… …… pursuant to section …… of the Licence.

[LICENSEE/OPERATOR]

By: ..... By: .....

Title: ..... Title: .....

NINTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (TERMINAL EQUIPMENT AND PUBLIC NETWORK) REGULATIONS

1. **Short title.**

These Regulations may be cited as the Telecommunications (Terminal Equipment and Public Network) Regulations.

2. **Interpretation.**

In these Regulations,

"Act" means the Telecommunications Act,

"equipment" means any equipment that is either radio equipment or telecommunications terminal equipment or both;

"harmful interference" means interference which, interrupts a radio communications or other telecommunications service or system, or otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with applicable national regulations;

"interface" means either or both of:

(a) an air interface specifying the radio path between radio equipment and their technical specifications; and

(b) a network termination point which is a physical connection point at which a user is provided with access to public telecommunications networks;

"Hertzian waves" means electromagnetic waves of frequencies from 1hz to 3,000GHZ propagated in space without artificial guide.

3. **Type approval conditions.**

(1) A person shall not install, sell for use or use any item of equipment in Saint Christopher and Nevis, unless the Commission grants a certificate of type approval in respect of that type of equipment.

(2) Items of equipment that require type approval include, but are not limited to

(a) cellular telephones;

(b) cordless telephones;

(c) fax machines;

(d) GSM telephones;

(e) mobile radios;

(f) modems;

(g) wireless remote devices;

(h) PABXs (including Small Business Systems and Key Systems);

(i) pagers;

(j) radio receivers;

(k) radio transmitters;

(l) satellite earth stations;

(m) telecommunications switching equipment;

(n) telephone instruments;

(o) telex equipment;

(p) other equipment emitting a radio signal; and

(q) any other customer premises equipment to be attached to any part of a licensed telecommunications network.

(3) A person who is granted a certificate of type approval by the Commission for use of any of the items specified in sub-regulation (2) shall not be required to apply to the Commission for further approval, if that person uses the same model of equipment subsequently.

4. **Signature of applicant.**

An application to the Commission for type approval of equipment shall be signed by

(a) an authorised representative of the applicant; or

(b) the applicant personally.

5. **Filing of application.**

(1) A person who applies for type approval in respect of any equipment shall forward to the Commission

(a) a sample of the equipment if requested;

(b) completed application forms;

(c) the prescribed fee;

(d) the relevant literature; and

(e) the technical specifications specified by the Commission after consultation with ECTEL.

(2) Copies of the application forms, the related documentation and samples referred to in sub-regulation (1) may be forwarded by the Commission to ECTEL, for recommendations and review.

6. **Time frame for function of Commission.**

The Commission may require a maximum period of 6 weeks for

(a) testing the samples of equipment;

(b) the purpose of reviewing the application; and

(c) granting of type approval for customer premises equipment.

7. **More time required by Commission.**

The Commission may require a maximum period of 3 months for the purpose of reviewing the applications, for testing any samples of equipment and for granting type approval for switches over 1000 points and high capacity microwave equipment.

8. **Fresh approval required.**

Where changes have occurred in the models, designs or technical specifications in respect of equipment which has been the subject of approval by the Commission to an applicant, that applicant shall apply for fresh approval in respect of that equipment.

9. **Commission to bill applicant.**

(1) The Commission shall upon receipt of an application compute the applicable fee and forward an invoice to the applicant within 30 days of the receipt of the application.

(2) Where the applicant fails to remit the invoiced fee within 30 days of its receipt, the Commission may terminate any provisional approval it may have granted by written notice to the applicant.

10. **Commission to liaise with ECTEL.**

The Commission may recognise type approvals granted by other Contracting States, and will consult and liaise with ECTEL, in respect of such matters where necessary.

11. **Technical regulations.**

The Commission may, upon the recommendation of ECTEL, determine the technical regulations that should be recognised in Saint Christopher and Nevis and other approved States for the purposes of giving effect to the recognition of, or exemption from, type approval procedures.

12. **Recognition of foreign type approvals.**

(1) The Commission will recognise the type approvals which are specified in the Schedule to these Regulations.

(2) The Commission shall ensure that appropriate manuals containing the legal requirements of type approval by Contracting States which it recognises, is printed and made readily available to telecommunications providers and other interested parties.

13. **Exemptions.**

The following items of equipment when certified by the Commission to be compliant with the prescribed technical standards shall be exempt from type approval procedures:

(a) cable;

(b) for sale and installation inside wiring;

(c) household appliances.

14. **Burden of proof.**

The party seeking the recognition of the type approval granted by the countries specified in the Schedule to these Regulations or exempted from type approval as specified in regulation 13 shall produce to the Commission satisfactory documentary evidence that the relevant equipment qualifies for the recognition or exemption sought.

15. **Importation of equipment.**

(1) A person shall ensure that the importation of radio equipment, customer premises equipment or other terminal equipment, does not damage or endanger the telecommunications network and shall comply with the procedures relating to the approval of equipment as set out in these Regulations.

(2) Notwithstanding the provisions of sub-regulation (1) compliance with type approval requirements does not apply to a cellular mobile phone brought in by an individual for personal use.

16. **Registration of terminal equipment.**

(1) A person who wishes to

(a) provide maintenance, repair services, reticulation and any related installation at customer premises; or;

(b) supply items of terminal equipment such as fax machines, PABXs or telephone sets shall register with the Commission.

(2) Upon registration with, and payment of the prescribed registration fee to the Commission, it may issue a registration card to technicians or other authorised persons connected with the installation, maintenance and repair services.

(3) Registration is subject to annual renewal upon payment of the prescribed renewal fee.

17. **Adequacy of report.**

Where a telecommunications operator or provider wishes to supply customer premises equipment and related services, it will be sufficient if that operator or provider attaches a report to the application showing that the equipment has conformed to the acceptance testing requirements or international type approval.

18. **Non-discriminatory acceptance testing.**

An operator or provider of telecommunications services may carry out in non-discriminatory manner, acceptance testing of all customer premises equipment installations to be interfaced with its network, to ascertain whether the required installations meet the prevailing standards before connection.

19. **Changes from acceptance testing.**

Any changes that arises from acceptance testing of installations by an operator or provider of a telecommunications service shall represent a portion of the tariffs of the operator or provider and shall be approved by the Commission.

20. **Acceptance testing change to be in agreement.**

Changes relating to acceptance testing of installations at customer premises shall form part of the written agreement between an operator or provider of telecommunications services and the provider of customer premises equipment.

21. **Provisions to maintain equipment.**

A customer shall be responsible for the maintenance of customer premises equipment, without prejudice to incorporating into an agreement drawn up between himself and a provider of that equipment, a provision for the maintenance and repair of that equipment.

22. **Speedy repairs of equipment.**

A provider of customer premises equipment shall have in place, systems for the speedy and efficient repairs of its equipment, and as far as practicable, for the temporary allocation to customers of items of equipment whilst theirs are under repairs.

23. **Fault reports to be addressed expeditiously.**

A provider of customer premises equipment shall take all reasonable measures to ensure that its items of equipment or its services are maintained, provided or replaced within 48 hours of receiving a faults report.

24. **Commission to issue directives.**

The Commission may issue directives to a dealer or supplier of customer premises equipment upon receipt of complaints from consumers or providers or operators of telecommunications services.

25. **Notice to be given when rights are affected.**

(1) Where the Commission intends to take any action which may affect the rights, interests or privileges of the person complained against it shall notify the provider of the customer premises equipment in writing of the proposed action.

(2) The Commission shall specify a period of not less than 28 days in which the provider of the customer premises equipment may make representation on its behalf in respect of the proposed action.

26. **Registration for inside wiring.**

(1) A person who wishes to provide or supply items of terminal equipment such as inside wiring shall register with the Commission.

(2) Upon registration with, and payment of the registration fee to the Commission, the Commission may issue a registration card to technicians or other authorised persons connected with such wiring, related installation, maintenance and repair services.

(3) Registration is subject to annual renewal upon payment of the prescribed renewal fee.

SCHEDULE TO THE REGULATIONS

(Regulation 12)

(1) AMPS cellular equipment – FCC Part 68, other US and Canadian Law Sections.

(2) Facsimile machines that are certified to be in conformity with the technical requirements of Parts 15 and 68 of the Regulations of the United States Federal Communications Commission and the related radiation performance standards found in Title 21, chapter 1, subchapter j; of the United States Code of Federal Regulations.

(3) PABX and related equipment that is certified to be in conformity with the technical requirements of Parts 15 and 68 of Regulations of the United States Federal Communications Commission, and related Canadian technical standards for electromagnetic interference, including ICES-003 class B.

(4) TDMA cellular equipment – FCC Part 68, other US and Canadian Law.

(5) GSM Cellular Equipment – FCC Part 68, other US, Canadian Law Sections.

(6) European Telecommunications Standards Institute (ETSI). Definitions, Rules and Decisions.

TENTH SCHEDULE

TELECOMMUNICATIONS (NUMBERING) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Commencement.
3. Interpretation.
4. Functions of the Commission.
5. Telecommunications Numbering System Register.
6. Obligations of a Telecommunications Provider.

7. Assignment of Telecommunications Numbers.
8. Numbering Fees.
9. Cancellation of use of Telecommunications Numbers.
10. Compliance with the National Numbering Plan.
11. Repeal.

Schedule

TELECOMMUNICATIONS (NUMBERING) REGULATIONS

1. **CITATION.**

These Regulations may be cited as the Telecommunications (Numbering) Regulations.

2. **COMMENCEMENT.**

These Regulations shall come into force on the date of its publication in the Gazette.

3. **INTERPRETATION.**

In these Regulations, unless the context otherwise requires

"Act" means the Telecommunications Act, No. 2 of 2000;

"allocation" means the setting aside of blocks of numbers for the purpose of assigning selected blocks of numbers to providers of telecommunications services;

"data storage device" means any article or material, such as a disc, from which information is capable of being reproduced;

"National Numbering Plan" means the plan established under section 32 of the Act;

"Telecommunication number" means the number, sign or other mark, which a telecommunications provider in its delivery of telecommunications services uses for identification of telecommunications facilities in order to connect between the place of transmission and the place of reception, or for identification of the type of content of transmission the telecommunications facility is to deliver;

"Telecommunications Numbering System Register" means the register established under Regulation 5 of these Regulations.

4. **FUNCTIONS OF THE COMMISSION.**

(1) The Commission shall publish the National Numbering Plan on its website and shall make copies available to the public upon request.

(2) The Commission shall maintain control of all telecommunications numbers to ensure fair and efficient use of them by

(a) performing proper planning, allocations and monitoring;

(b) maintaining the national Telecommunications Numbering System Register of all providers in respect of the numbers assigned to them.

Revision Date: 31 Dec 2009

5. **TELECOMMUNICATIONS NUMBERING SYSTEM REGISTER.**

(1) The Commission shall establish and cause to be maintained a Telecommunications Numbering System Register.

(2) The following particulars in respect of a telecommunications provider who has been allocated numbers shall be recorded in the register:

(a) the name and address of the telecommunications provider;

(b) a description of the type of telecommunications service being provided;

(c) particulars of numbers that have been allocated to telecommunications providers under the authority of the National Numbering Plan;

(d) a note indicating that the telecommunication provider has paid the requisite fees;

(e) such other particulars as may be required to adequately identify and locate the telecommunications service provider.

(3) The Register may be maintained electronically.

(4) A person may, on the payment of the fee set out in the Schedule:

(a) inspect the Register; and

(b) make a copy of, or take extracts from, the Register.

(5) If the Register is maintained electronically, a person is taken to have made a copy of, or taken an extract from the Register, if the Commission gives the person a printout of the relevant parts of the Register.

(6) A person may request a copy to be provided in electronic form and the Commission may provide the information

(a) on a data storage device; or

(b) by way of electronic transmission.

6. **OBLIGATIONS OF A TELECOMMUNICATION PROVIDER.**

A telecommunication provider shall be required to use telecommunications numbers as allocated by the Commission and in accordance with the National Numbering Plan and shall ensure that telecommunications numbers are

(a) utilised efficiently;

(b) limited to provision of telecommunications services;

(c) utilised in a manner that telecommunications facilities or services may be identified;

(d) utilised and paid for, as required by the Act, in accordance with the procedures for assignment of telecommunications numbers.

7. **ASSIGNMENT OF TELECOMMUNICATIONS NUMBERS.**

Where an application is submitted and the Commission determines that, based on the National Numbering Plan, the telecommunications numbers required for provision of telecommunications services in the application are available, and upon payment of the requisite fee, the Commission shall assign the numbers with or without conditions.

8. **NUMBERING FEES.**

(1) Notwithstanding regulation 3 of the Telecommunications (Fees) Regulations, No. 13 of 2007, numbering fees shall be payable in accordance with the provisions set out in the Schedule.

(2) The numbering fees payments shall be as follows:

(a) an application fee payable on the making of an application;

(b) an initial fee payable on the allocation of a code or a block of codes; and

(c) an annual fee payable on the first day of November of each year for each code or block of codes allocated to an operator.

9. **CANCELLATION OF USE OF TELECOMMUNICATIONS NUMBERS.**

(1) Where a telecommunications provider fails to use a number assigned to him by the Commission or fails to pay requisite fees, he shall be required to submit to the Commission reasons for such failure.

(2) Where the telecommunications provider fails to satisfy the Commission with regard to regulation 9 (1), the Commission may take regulatory measures including cancellation of the assignment.

10. **COMPLIANCE WITH THE NATIONAL NUMBERING PLAN.**

(1) A telecommunications provider shall comply with the requirements, conditions or restrictions set out in the National Numbering Plan established and managed by the Commission in accordance with section 32 of the Act.

(2) Where a telecommunications provider fails or ceases to meet any of the requirements, conditions or restrictions set out in the National Numbering Plan he commits an offence and is liable upon summary conviction to a fine not exceeding ten thousand dollars.

SCHEDULE TO THE REGULATION

(a) Fees for obtaining copies or extracts of the National Telecommunications Numbering Register

(Regulation 5)

Medium	**Fee**
Hard copy	$50 (entire Register $2.00 (per page)
Data storage device	$100
Electronic Transmission	Free

(b) Fees for the use of number

(Regulation 8)

	Application	**Initial**	**Annual**
Central Office Codes (Block of 10,000 numbers)	$150	$220	$410
Short Codes (Block of 10 codes)	$100	$575	$1060

[Schedule substituted by SRO 29/2008]

ELEVENTH SCHEDULE

(Section 5.(3))

TELECOMMUNICATIONS (SPECIFICATION OF NETWORKS AND SERVICES) ORDER

1. **Citation.**

This Order may be cited as the Telecommunications (Specification of Networks and Services that are subject to Individual Licence, Class Licence, and Frequency Authorisation) Order.

2. **Telecommunications networks and services that are subject to an individual licence.**

The telecommunications networks and services that are subject to an individual licence are set out in Schedule 1 to this Order.

3 **Telecommunications networks and services that are subject to a class licence.**

The telecommunications networks and services that are subject to a class licence are set out in Schedule 2 to this Order.

4 **Telecommunications networks and services that are subject to a frequency authorisation.**

The telecommunications networks and services that are subject to a frequency authorisation are set out in Schedule 3 to this Order.

SCHEDULE 1 TO THE ORDER

(Regulation 2)

Individual Licence

1. Mobile/Cellular
2. Frequency/Radio Spectrum
3. Fixed Public
4. Submarine Cable
5. Public Radio Paging
6. Internet Networks
7. Television Broadcast
8. Radio Broadcast
9. Community Radio
10. Subscriber Television (wireless only)

Revision Date: 31 Dec 2009

SCHEDULE 2 TO THE ORDER

(Regulation 3)

Class Licence

1. Internet Service
2. Value Added Services
3. Private Networks/Services
4. International Simple Voice Resale (switchless)
5. Land Mobile
6. Maritime Mobile
7. Amateur Radio
8. Citizen Band Radio
9. Aeronautical Mobile

SCHEDULE 3 TO THE ORDER

(Regulation 4)

TYPE OF SERVICE	**LICENCE CATEGORY**	**FREQUENCY AUTHORISATION REQUIRED**
Mobile/Cellular Networks/Services	Individual	Yes
Frequency/Radio Spectrum	Individual	Yes
Fixed Public Networks/Services	Individual	Yes
Submarine Cable Crossing/Landing	Individual	No
Public Radio Paging Networks/Services	Individual	Yes
Internet Networks/Services	Individual	For Wireless Applications
TV/Radio Broadcast	Individual	Yes
Community Radio	Individual	Yes
Subscriber Television (wireless)	Individual	Yes
Internet Services	Class	For Wireless Application
International Simple Voice Resale (switchless)	Class	No
Value Added Services *Includes Data Services*	Class	For Wireless Application
Private Networks/Services	Class	For Wireless Application
Aeronautical Mobile	Class	Yes
Maritime Mobile	Class	No
Land Mobile	Class	Yes

TWELFTH SCHEDULE

(Preserved by section 55(2) of Act 2/2000)

TELECOMMUNICATIONS (LICENCES AND FEES) ORDER

1. **Citation.**

This Order may be cited as the Telecommunications (Licences and Fees) Order**.**

2. **Interpretation.**

In this Order,

"initial charge" means the fee chargeable, in addition to the annual licence fee and the transfer charge, in respect of a station when licensed for the first time;

"licence" means a licence granted under the Telecommunications Act;

"transfer charge" means the additional fee chargeable when the power of the transmitter at a station is increased beyond the maximum of the category within which it was originally licensed.

3. **Period and expiration of licences.**

Applications for licences and renewals thereof shall be made in the month of January in each year and every such licence or renewal shall expire on the 31st day of December in the year in which it is taken out.

4. **Fees for licences.**

(1) There shall be paid to the Accountant-General of the State for every licence and for every renewal thereof, as the case may be, the fees and charges specified in the Schedule to this Order.

(2) If a licence is taken out not more than six months before the 31st day of December of any year one-half only of the appropriate fee specified in the Schedule to this Order shall be payable.

5. **Amateur licences charged on power.**

The licence fee and charges in respect of an amateur telecommunications station shall be chargeable according to the power allocated to the transmitter at such station at the time of the granting of a licence or of transfer to a higher power.

Revision Date: 31 Dec 2009

SCHEDULE TO THE ORDER

LICENCE FEES AND CHARGES

PART I

		Annual Licence Fees $ ¢	
1.	Base (fixed) Station assigned on separate or shared frequency	40.00	
2.	Land mobile assigned on a separate or shared frequency	40.00	
3.	Repeater Station assigned on a separate or shared frequency	300.00	
4.	Aeronautical fixed station assigned on a separate or shared frequency	150.00	
5.	Aeronautical mobile assigned on a separate or shared frequency	75.00	
6.	Aeronautical Telecommunications Licence	75.00	
7.	Marine Radio Licence assigned on a separate or shared frequency	40.00	
8.	Coast Station (fixed) assigned on a separate or shared frequency	40.00	
9.	Marine Telecommunication Licence (General and Restricted)	30.00	
10.	Marine Radio Telegraph Licence (1st Class, 2nd Class and Special)	30.00	
11.	Citizen Band Radio Base Station	30.00	
12.	Citizen Band Radio Mobile	30.00	
13.	Mobile Radio Telephone assigned on separate or shared frequency	50.00	
14.	Paging system 1-10 pagers assigned on separate or shared frequency	200.00	
15.	Paging system 11-100 pagers assigned on separate or shared frequency	250.00	
16.	Paging system over 100 pagers assigned on a separate or shared frequency	350.00	
17.	Amateur Telecommunications Licence (all categories)	25.00	Caricom
		25.00	North America U.S.A.
		30.00	other

PART II

Telecommunications Broadcasting Station Licence Fees

1. (1) Subject to the provisions of this paragraph, any licensee of a radio broadcasting station shall pay a licence fee of 2½% of its gross monthly revenue, except that the minimum fee payable shall not be less than two thousand five hundred dollars and the maximum fee payable shall not exceed twenty five thousand dollars.

(2) The licensee referred to in sub-paragraph (1) of this paragraph shall make an advance payment of two thousand five hundred dollars in respect of the licence fee in January of every year, and thereafter pay the balance of the fee on the 15th day of every month.

2. (1) Subject to the provisions of this paragraph, any licensee of a commercial television broadcasting station shall pay a licence fee of 2½% of its gross monthly revenue, except that the minimum fee payable shall not be less than two thousand five hundred dollars and the maximum fee payable shall not exceed twenty five thousand dollars.

(2) The licensee referred to in sub-paragraph (1) of this paragraph shall make an advance payment of two thousand five hundred dollars in respect of the licence fee in January of every year, and thereafter pay the balance of the fee on the 15th day of every month.

THIRTEENTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (UNIVERSAL SERVICE FUND) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

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2. Interpretation.
3. Scope.

PART II – UNIVERSAL SERVICE FUND

4. The Fund.
5. Objectives.
6. Role of the Commission.
7. Role of ECTEL.
8. Allocation of funds.

PART III – FUND ADMINISTRATION

9. Fund Administrator.

10. Duties of Fund Administrator.

11. Conflict of interest.

PART IV – ACCOUNTING REQUIREMENTS

12. Fund bank accounts.

13. Budgets.

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PART V – FUND PROJECTS

16. Proposals for Fund projects.

17. Defining Fund projects.

18. Financial analysis principles and methods.

19. Compensation for Fund projects.

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20. Eligibility.

21. Procurement.

22. Open competitive bidding.

23. Restricted bidding.

24. Sole source procurement.

25. Emergency procurement.

26. Bid bond.

27. Bind opening.

28. Bid evaluation.

29. Notice.

30. Rejection of all bids.

31. Award.

32. Disputes and protests.

33. Cancellation of invitations for bids.

PART VII – PROJECT IMPLEMENTATION

34. Project implementation and follow-up.

35. Project accounts.

36. Right to audit records.

37. Sanctions for non-compliance.

TELECOMMUNICATIONS (UNIVERSAL SERVICE FUND) REGULATIONS

1. **Citation.**

This Order may be cited as the Telecommunications (Universal Service Fund) Order.

2. **Interpretation.**

(1) In these Regulations, unless the context otherwise requires,

"Act" means the Telecommunications Act;

"Bid Bond" means a guarantee to ensure that a bid will remain valid during the period stated in the bidding document;

"Bidding Documents" means a set of documents issued by the Commission for the purposes of soliciting bids in the course of the procurement process;

"Contract Bond" means a bond to secure the performance of a Fund Project;

"contractor" means a telecommunications provider who is awarded a contract in accordance with Regulation 31;

"financial year" means the financial year of the Commission;

"Fund" means the Universal Service Fund established under section 26 of the Act;

"Fund Administrator" means a person appointed under Regulation 9;

"Fund Operating Plan" means a document outlining proposals for Fund operations for a given year;

"Fund Project" means a project financed from the Fund;

"Guidelines" means a document of policy and procedures issued by the Commission under Regulation 6 for the effective carrying out of the provisions of these regulations;

"restricted bidding" means the direct solicitation of a limited number of potential bids where there is reason to believe that the service required is available from a limited number of potential contractors;

"universal service" includes the provision of

(a) public voice telephony to such of the population as the Minister may, on the recommendation of ECTEL, in licences specify;

(b) internet access to such of the population as the Minister may, on the recommendation of ECTEL, in licences specify; and

(c) such telecommunications services to schools, hospitals and similar institutions, as the Minister may in licenses specify.

(2) Terms used in these Regulations shall have the meanings assigned to them under the Act.

3. **Scope**.

The aim of these Regulations is to provide for the management of the Universal Service Fund.

PART II - UNIVERSAL SERVICE FUND

4. **The Fund**.

(1) In accordance with section 26 of the Act, there shall be established a Universal Service Fund.

(2) The Fund shall be managed by the Commission which shall

(a) collect and disburse the income of the Fund; and

(b) make all relevant decisions with respect to the Fund consistent with the Act and these regulations.

(3) The Fund shall consist of

(a) contributions by telecommunications providers as specified under the Act and by Order of the Minister;

(b) any funds that may be directly appropriated by Parliament for purposes of the Fund; and

(c) official grants, donations, bequests or other contributions, or transfers granted by an individual or other legal entity.

(4) The Commission may refuse any bequest, donation, grant or other contribution if the Commission considers it inconsistent with the best interest of the Fund.

5. **Objectives.**

(1) The Fund shall be used by the Commission to compensate any telecommunications provider who is required to provide Universal Service or to otherwise promote Universal Service.

(2) In using the Fund to promote universal service the Commission shall:

(a) encourage efficient access to and use of telecommunication networks and services throughout Saint Christopher and Nevis, with special focus on rural, under-served and maritime areas, with a goal to help promote social, educational and economic development;

(b) ensure the reasonable availability and affordability of basic and

advanced telecommunications services, including voice telephony and Internet access, as well as broadband connectivity over both wired and wireless networks at the community, household and individual levels, particularly where the commercial telecommunications market may be unable to deliver such services in a financially viable manner independently, as well as to the physically challenged, elderly, and indigent communities;

(c) provide support for the introduction and expansion of telecommunications services to schools, health facilities and other organisations serving public needs;

(d) promote technological innovation in the telecommunications sector.

6. **Role of the Commission**.

The Commission, in carrying out its obligations under the Act and these regulations, shall

(a) develop appropriate indicators of telecommunications access within Saint Christopher and Nevis;

(b) identify appropriate targets for moving toward universal service nationwide within a reasonable time frame;

(c) determine, in consultation with ECTEL and the public and industry stakeholders, appropriate socio-economic criteria to identify the geographic areas, population groups, institutions and organisations that may be eligible to benefit from Fund Projects;

(d) establish the mechanisms for proper management of the Fund;

(e) approve the application, qualification, and competitive bidding conditions for the awarding of funds under designated projects;

(f) evaluate and define the scope and terms of potential Fund Projects;

(g) monitor Fund Projects and enforce the terms of Fund Project contracts;

(h) monitor and enforce the mechanism for the assessment, collection and recovery of the required contributions to the Fund;

(i) liaise and consult with the Ministry with responsibility for telecommunications and ECTEL to promote consistency between the operation of the Fund and national and regional telecommunications policies;

(j) liaise and consult with telecommunications providers and other industry stakeholders on the status of telecommunications

industry technologies, markets, and other relevant developments;

(k) in consultation with ECTEL, determine whether sole source procurement can be used;

(l) issue Guidelines for the effective carrying out of the provisions of these regulations; and

(m) implement the Guidelines for the operation of the Fund.

7. **Role of ECTEL.**

(1) ECTEL shall provide assistance to the Commission in relation to the performance of technical tasks associated with the management of the Fund.

(2) Without limiting the generality of sub-regulation (1) ECTEL may contribute financial, accounting, technical and legal expertise in any or all of the following:

(a) maintenance of Fund accounts;

(b) telecommunications market analysis and review of Fund goals and objectives;

(c) identification of prospective Fund Projects;

(d) conduct of project appraisals for short-listed projects;

(e) development of documents and other materials for the competitive bidding process, including bidding documents;

(f) evaluation of bidder eligibility and technical and financial proposals;

(g) evaluation of bids;

(h) preparation of annual reports, project reviews and monitoring; and

(i) reviewing and monitoring Fund Projects.

(3) ECTEL shall recommend to the Commission whether sole source procurement may be used.

8. **Allocation of funds.**

(1) The Commission shall take into account the objectives outlined in Regulation 6 when allocating funds for Fund Projects.

(2) In identifying projects for fund allocation the Commission,

(a) shall promote the establishment of efficient, self-sustaining entities, which may continue to expand access to telecommunications on their own initiative, requiring the minimum amounts of Fund resources possible;

(b) may use the Fund to support projects that may not be

economically feasible without Fund support;

(c) may use the Fund to finance projects to the extent necessary to create adequate economic incentives for investors.

PART III - FUND ADMINISTRATION

9. **Fund Administrator.**

(1) There shall be a Fund Administrator who shall be appointed by the Commission.

(2) In appointing the Fund Administrator, the Commission shall consider candidates who meet the following qualifying criteria-

(a) graduate of an accredited university, or a chartered or certified institute;

(b) knowledge and experience in one or more of the following: management, finance, accounting, telecommunications or any other related field to ensure adequate performance of the requirements of the position; and

(c) shall satisfy the Commission that he does not have a conflict of interest with regard to the principal functions of the Fund.

(3) A person who fails to disclose a conflict of interest to the Commission shall be liable to have his appointment as Fund Administrator summarily terminated without compensation.

(4) Subject to sub-regulation (5) the Fund Administrator shall be appointed on such terms and conditions as shall be set out in the contract of employment.

(5) The Fund Administrator shall report to the administrative head of the Commission for all personnel and administrative matters, but shall submit his recommendations for Fund Project decisions both to the administrative head and to the Commission.

10. **Duties of Fund Administrator.**

(1) Subject to the direction of the Commission, the Fund Administrator shall do all things necessary and incidental to the proper functioning of the Fund.

(2) The Fund Administrator's duties shall include the following

(a) assist the Commission in identifying potential projects for Fund support;

(b) define, prepare and distribute Bidding Documents and other documentation for projects approved for Fund financing and implementation;

(c) supervise and monitor Fund Projects;

(d) participate in the selection of consultants to support Fund Project implementation;

(e) sensitize the public of Universal Service Fund matters;

(f) supervise the preparation and monitoring of the Fund's Operating budget;

(g) prepare progress reports on Fund Projects and overall Fund operations, and prepare or cause to be prepared the financial statements of the Fund for the approval of the Commission;

(h) request and receive project proposals; and

(i) prepare bid evaluation reports.

11. **Conflict of interest.**

(l) The Fund Administrator shall be considered to have a conflict of interest for the purposes of these Regulations, where he, or anyone in his immediate family has or acquires any pecuniary or other personal interest with respect to any Fund Project.

(2) Where at any time the Fund Administrator has a conflict of interest in relation to any matter with respect to the Fund, the Fund Administrator shall immediately disclose the conflict of interest to the Commission and refrain from taking part, or any further part, in the matter.

(3) In such instances as described in sub-regulation (2), the Commission may appoint a temporary or interim person to carry out the functions of Fund Administrator in relation to the relevant Fund Project.

(4) Upon the Commission becoming aware of any conflict of interest, it shall take steps to ensure that the Fund Administrator does not participate in any decisions and actions relative to the matter giving rise to the conflict, and to modify its procedures accordingly with respect to that matter.

PART IV - ACCOUNTING REQUIREMENTS

12. **Fund bank accounts.**

(1) The Fund's income shall be kept in accounts, separate and independent from the other operating accounts of the Commission.

(2) The Fund's income shall be initially deposited in a designated Fund bank account and shall be disbursed upon authorisation of the Commission for specific Fund related activities in accordance with the Guidelines.

13. **Budgets.**

(1) The Commission shall prepare and keep separate budgets for the Fund Projects and Operations through accounting allocations.

(2) The Operating Budget shall be used for operating the Fund and administrative expenses charged to the Fund shall not exceed 10% of the annual budget of the Fund.

(3) The Fund Project Budget shall be allocated to Fund Projects that have been selected and approved for financing in accordance with these Regulations.

(4) Before the end of the financial year, the Commission shall prepare budget forecasts for the Fund for the following financial year, subject to the Fund Operating Plan, in accordance with the Guidelines.

14. **Accounts and financial audit.**

(1) The Commission shall keep books of accounts and maintain proper records of the operations of the Fund in accordance with International Accounting Standards.

(2) The accounts of the Fund may at any time and shall, at the end of each financial year, be audited by an independent auditor appointed by the Commission on such terms and conditions as the Commission may determine.

15. **Annual report.**

The Commission shall include in its Annual Report

(a) the audited Financial Statements of the Fund;

(b) details of activities supported by the Fund; and

(c) details of awards of contracts.

PART V - FUND PROJECTS

16. **Proposals for Fund projects.**

(l) A person may submit a proposal for a Fund project, according to procedures and formats to be set forth by the Commission in the Guidelines.

(2) The Fund Administrator shall request and receive project proposals for review.

17. **Defining Fund projects.**

(1) The Commission shall establish criteria, in accordance with the Guidelines for determining the scope and nature of projects that may be eligible for Fund support in any given financial year.

(2) The Commission shall determine which proposed projects shall receive financial support from the Fund in any given financial year.

(3) A determination in accordance with sub-regulation (2) shall be based upon clear and transparent procedures, which may also include public consultations.

(4) Fund Project Bidding Documents shall not unduly favour any particular bidder.

18. **Financial analysis principles and methods.**

(1) All projects to be financed from the Fund shall be developed based upon economic evaluation of the costs and benefits to the country and the targeted populations, in accordance with the Guidelines.

(2) The Commission shall seek to support projects that can be self-sustaining beyond the Fund support.

(3) The Commission shall consult with ECTEL when conducting financial and market analysis to evaluate factors that may influence a project's viability.

(4) In all financial and economic analysis, the Commission and ECTEL shall incorporate forward-looking estimates of costs and revenues, based upon realistic projections and verifiable source information concerning market trends.

19. **Compensation for Fund projects.**

(1) In accordance with section 27 of the Act, the Fund shall compensate a telecommunication provider who is required to provide telecommunications service.

(2) For the purposes of section 27(3) of the Act actual cost means the net present value of net economic deficits that would be incurred by the telecommunications provider undertaking the full cost of the project on its own.

(3) Net economic deficit shall be calculated as the costs the provider would have avoided by not providing the service (including capital expenditures, operating expense, and a reasonable rate of return on investment) less any revenues derived from providing the service.

PART VI - PROCUREMENT

20. **Eligibility.**

Notwithstanding the terms of their licence, existing telecommunications providers shall be automatically considered eligible to bid for all projects, and the licence shall be modified accordingly to incorporate the requirement to provide universal service as provided under section 25 of the Act.

21. **Procurement.**

(1) Subject to sub-regulation (2) Fund project implementation contracts shall be awarded on the basis of an open competitive bidding procedure.

(2) Notwithstanding sub-regulation (1), where the Commission deems appropriate, Fund Project implementation contracts may be awarded on the basis of a restricted bidding procedure, a sole source procurement procedure or an emergency procurement procedure.

(3) The Commission shall determine which method of procurement is appropriate in the circumstances and manage the procurement process in accordance with the requirements and procedures set out in the Guidelines.

22. **Open competitive bidding.**

Where the Commission determines that open competitive bidding is appropriate in the circumstances, it shall prepare Bidding Documents and publicly invite eligible interested parties to submit open competitive bids.

23. **Restricted bidding.**

Restricted bidding may be used where the estimated cost of the project is less than EC$250,000.00.

24. **Sole source procurement.**

Where the Commission determines, in consultation with ECTEL that there is only one economically feasible source to undertake a particular Fund project the Commission may use sole source procurement.

25. **Emergency procurement.**

The Commission may make emergency procurements for a Fund Project without bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary to prevent or minimize serious disruption in services.

26. **Bid bond.**

(1) The Commission may, where applicable and in such a manner as outlined in the Guidelines, include in the Bidding Documents a requirement for a bid bond.

(2) Forfeiture of a bid bond shall be imposed by the Commission only in the event of:

(a) a modification or withdrawal of a bid after the deadline for the submission of bids during its period of validity;

(b) refusal by a bidder to accept a correction of an error appearing on the face of the bid;

(c) failure by a successful bidder to sign a contract in accordance with the terms set forth in the Bidding Documents;

(d) failure by a successful bidder to provide a contract bond for the performance of the contract as required by the Commission.

27. **Bid opening.**

The Commission shall include in the Bidding Documents the date, time, details and procedure for the opening of bids.

28. **Bid evaluation.**

(1) The Commission may co-opt independent evaluators to examine and evaluate the bids.

(2) On completion of the evaluation, the Fund Administrator shall prepare a written report detailing the examination and evaluation of bids and identifying the winning bid that meets the qualification criteria.

29. **Notice.**

The Commission shall notify bidders of the results of the bidding process within twenty-eight days of the bid opening.

30. **Rejection of all bids.**

(1) The Commission may reject all bids within twenty-one days of the bid opening where the Commission considers that the bids received are not substantially responsive to the requirements of the Bidding Documents or that the bid prices are higher than the project budget and shall inform the bidders of the rejection by written notice.

(2) Where the Commission rejects all bids because the lowest evaluated responsive bid exceeds the project budget, the Commission may

(a) enter into negotiations within seven days of the notice referred to in Regulation 27 with the lowest evaluated bidder to try and obtain a satisfactory contract; or

(b) repeat the invitation for bids.

(3) Where the Commission rejects all bids because the bids are not substantially responsive to the requirements of the Bidding Documents the Commission shall review the causes justifying the rejection and consider making revisions to the Bidding Documents before repeating the invitation for bids.

31. **Award.**

(1) The Commission shall award the contract within fourteen days of the conclusion of negotiations by written notice to the bidder whose bid best meets the requirements and criteria set forth in the Bidding Documents.

(2) Upon selection of the successful bidder, the Commission shall cause the results to be published in a newspaper of wide circulation in Saint Christopher and Nevis and posted on the Commission's website.

(3) After the award of the contract, the Commission shall cause the evaluation report to be opened to public inspection.

(4) Where sole source or emergency procurements are used, the Commission shall award the contract within fourteen days of successful negotiation of the contract.

(5) Subject to section 5 of the Act, the award of a contract shall be subject to the grant of a licence by the Minister for the purpose of fulfilling the contract service requirements.

(6) The Commission may require a contractor to give a contract bond guaranteeing complete execution of the Fund Project as required by the contract.

32. **Disputes and protests.**

The Commission shall give consideration to disputes and protests relating to:

(a) Bidding Documents;

(b) contract award;

(c) debarment of contractors; and

(d) other Fund Project related matters

in accordance with the Guidelines.

33. **Cancellation of invitations for bids.**

(1) The Commission may cancel without penalty to bidders an invitation for bids or any other solicitation where it is in the best interest of the Fund.

(2) The Commission shall notify bidders of the reasons for cancellation.

(3) The Commission shall publish the reasons for cancellation on its website.

(4) Where an invitation for bid is cancelled, the Commission shall return within seven days in full any bid bond that was deposited with it to all bidders who were required to deposit a bid bond.

PART VII - PROJECT IMPLEMENTATION

34. **Project implementation and follow-up.**

(1) The Commission shall ensure that all Fund Projects are implemented in accordance with the terms and conditions of the contract.

(2) A contractor shall provide periodic reports to the Commission, detailing its progress in fulfilling contractual requirements and timetables, and explaining any delays.

(3) The Commission may in cases it deems appropriate provide an advance payment of no greater than 20% of the total Fund Project, subject to reimbursement or a lien against equipment purchased in cases of non-compliance in accordance with Regulation 32.

35. **Project accounts.**

(1) A telecommunications provider that receives Fund financing shall maintain separate books of account for each Fund Project and shall make these accounts available for review by the Commission within twenty-one days of its request.

(2) Accounts kept under sub-regulation (1) shall include detailed records of all revenue and expenditure associated with the project, including calculation of the net costs of the project.

36. **Right to audit records.**

(1) A telecommunications provider receiving Fund financing shall maintain books and records relating to the performance of the contract for a period of seven (7) years from the date of final payment under the contract or completion of the contract, whichever is later.

(2) A telecommunications provider shall maintain all books and records required under sub-regulation (1) for review and audit by the Commission or anyone designated by the Commission.

(3) The Commission shall audit or cause to be audited a Fund Project at least once per year for each year that a Fund Project contract is in force, and at the end of the contract period, and the telecommunications provider shall cooperate fully with all audits.

37. **Sanctions for non-compliance.**

(1) Where a contractor fails to complete or comply with the requirements of a Fund Project contract, the Commission may require:

(a) the contractor to compensate it up to the amount of funds paid, plus any administrative and legal costs incurred; or

(b) the contractor to, where a contract bond was given by the contractor to secure the repayment of sums advanced by the Commission to execute a Fund Project:

(i) pay or satisfy any claim or entitlement to payment of damages, compensation or other financial relief; or

(ii) pay or satisfy such claim or entitlement up to the Bond Amount or at the Commission's option to perform or execute the contract or any other contractual obligation relating to the Fund Project.

(2) The Commission shall not require compensation under sub-regulation (1) until dispute resolution provisions under the contract have been exhausted

[Inserted in by SRO 2/2008]

FOURTEENTH SCHEDULE

(Section 26.(3))

TELECOMMUNICATIONS (UNIVERSAL SERVICE FUND CONTRIBUTION) ORDER

1. **Citation.**

This Order may be cited as the Telecommunications (Universal Service Fund Contribution) Order.

2. **Universal service Fund contribution.**

A telecommunications provider shall contribute to the Universal Service Fund as follows:

(a)	In respect of the first year of licence	0.25% of Gross Annual Revenue
(b)	In respect of the Second year of licence	0.5% of Gross Annual Revenue
(c)	In respect of the third year of licence and throughout the duration of the licence	1.0% of Gross Annual Revenue

4. **Gross annual revenue.**

The Gross Annual Revenue referred to in regulation 3 means the gross revenue earned in the provision of telecommunication services for the reporting year, received by, or due to the licensee and its affiliates, from whatever source derived before any deductions for expenses, discounts, returns, or offsets of any kind save and except domestic interconnection payments and taxes and charges collected for and on behalf of the Government.

5. **Due date for payment.**

The due date for payment shall be within 45 days of the reporting year and shall be accompanied by a gross annual revenue report and supporting attachments that provide details of the calculation.

[Introduced by SRO 4/2008]

FIFTEENTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (QUALITY OF SERVICE) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Application.
4. Quality of Service Criteria and Parameters.
5. Publication of Quality of Service Information.
6. Universal Service Providers.
7. Amendment of Service Criteria and Parameters.
8. Obligations of Telecommunications Provider.
9. Obligations of Wholesale Service Providers.
10. Content of Service Level Agreements.
11. Connection Service Time.
12. Compliance Manual.
13. Record Keeping.
14. Information to Commission.
15. Unpredictable situations and cases of force majeure.
16. Making available information to consumers.
17. Advance Notice.
18. Compliance and Enforcement.

SCHEDULE 1
SCHEDULE 2
SCHEDULE 3

Revision Date: 31 Dec 2009

TELECOMMUNICATIONS (QUALITY OF SERVICE) REGULATIONS

1. **Citation.**

These Regulations may be cited as the Telecommunications (Quality of Service) Regulations.

2. **Interpretation.**

In these Regulations

"Act" means the Telecommunications Act;

"billing accuracy" means the measure of the number of incorrect bills per 1000 bills issued where an incorrect bill is one which has been determined by the telecommunications provider or Commission to have been issued with an error;

"call completion success rate" means the percentage of originated calls successfully completed where a successfully completed call is established by a successful connection to the called number although the called party may not answer;

"Commission" means the National Telecommunications Regulatory Commission established by section 15 of the Act;

"compliance manual" means a document that includes details of work processes and information systems concerning criteria and parameter treatment, and details of algorithmic treatment of parameter calculations;

"connection of service" means the interval between approval of an application for a service and the provision of the service by the telecommunications provider;

"Customer Care Service Answered and Attended" means the duration from the instant when the address information required for setting up a call is received by the network to the instant a human operator answers the calling party to provide the service requested where the service provided is not wholly automatic or does not employ the use of a voice response system;

"ECTEL" means the Eastern Caribbean Telecommunications Authority established by Article 2 of the Eastern Caribbean Telecommunications Authority Treaty;

"fault report" means a report of disrupted or degraded service that is made by a customer and is attributable to the network of the telecommunications service provider or any interconnected public network, and that is not found to be invalid;

"force majeure" means any event or effect that can be neither anticipated nor controlled and includes both acts of nature such as earthquake, flood, lightning and hurricane, and acts of people such as riot, strike, civil disorder, declared state of emergency and war or any similar act which the Commission determines to be force majeure;

"loss of service" means the interruption of the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals that the consumer has engaged the services of telecommunications provider to ensure that transmission, conveyance or routing occurs;

"peak period" means a twelve hour period of the day, between 6:00 am and 8:00 pm, on Monday to Friday and special days, that the relevant telecommunications provider designates as the period of high level of telecommunications traffic on its network;

"planned disruption of service" means the scheduled or planned downtime of the telecommunication service by the telecommunications provider;

"Quality of Service" means the measurement of the performance for a telecommunications network and the degree to which the network conforms to the stipulated parameters;

"quarter" means a period of three months ending 31st March, 30th June, 30th September or 31st December in a calendar year;

"reconnection time" means the period between the settling of outstanding amounts by the customer and the resumption of service;

"reconnection of service" means the restoration of telecommunications service by the telecommunications provider after the telecommunications provider or its duly authorized agent receives overdue payment from the customer;

"reported fault cleared" means the duration from the instant a fault has been notified by the customer to the published point of contact of the telecommunications service provider to the instant when the service or service element has been restored to normal working order;

"reseller of service" means a telecommunications provider engaged in the subsequent sale or lease on a commercial basis with or without adding value, of a telecommunication service provided by a telecommunications provider on a wholesale basis;

"service level agreement" means a formally negotiated agreement between a wholesale service provider and a reseller of service with the main purpose of agreeing on the level of service the wholesale service provider provides to the reseller of service;

"service level objectives" means the level of service the wholesale service provider and the reseller of service agree on and usually include a set of service level indicators such as availability, performance and reliability;

"special days" means

(a) Christmas Day,

(b) New Year's Day, and

(c) Mothers' Day;

"standard installation" means an installation where the necessary equipment to carry out the installation is readily available and no significant additional resources are required;

"universal service provider" means a telecommunications provider that is required to provide universal service;

"unreported fault cleared" means the duration from the instant a fault has been detected by the telecommunications service provider to the instant when the service or service element has been restored to normal working order.

3. **Application.**

(1) These Regulations apply to a telecommunications provider of any of the following telecommunications services:

(a) Public Fixed Telecommunications Service;

(b) Public Mobile Telecommunications Service;

(c) Internet Service.

(2) The Minister may amend sub-regulation (1) to add to or remove any of the services to which these Regulations apply.

4. **Quality of service criteria and parameters.**

The quality of service criteria and parameters in respect of:

(a) Public Fixed Telecommunications Service are set out in Schedule 1;

(b) Public Mobile Telecommunications Service are set out in Schedule 2; and

(c) Internet Service are set out in Schedule 3.

5. **Publication of quality of service information.**

The Commission may, after consultation with ECTEL, determine the content, form and manner of publication of information on the quality of service to be provided by a telecommunications provider to its customers.

6. **Universal service providers.**

Nothing in these Regulations shall exempt a universal service provider from complying with the established quality of service criteria and parameters.

7. **Amendment of service criteria and parameters.**

(1) The Commission may, after consultation with ECTEL, and having regard to market needs or the regulatory objectives of the Commission make recommendations to the Minister to amend the service criteria and parameters set out in the Schedules.

(2) The Minister may, upon receipt of a recommendation from the Commission, amend the Schedules to these Regulations.

8. **Obligations of telecommunications provider.**

(1) A telecommunications provider may in addition to the criteria set out herein adopt additional service criteria or parameters to determine its level of quality of service.

(2) Where a telecommunications provider adopts additional criteria in accordance with sub-regulation (1) and introduces procedures and information systems intended for the treatment of quality of service criteria and parameters it shall notify the Commission at least 30 days prior to the intended introduction and shall notify the public of its quality of service information.

(3) In the notice sent to the Commission, the telecommunications provider shall detail all relevant matters including the methods and systems used for their measurement.

9. **Obligations of wholesale service providers.**

A wholesale service provider who intends to make his retail services available as wholesale services to a reseller of service shall enter into a service level agreement with a wholesale service provider to ensure that the service being delivered to the customer meets the desired expectation of the customer with the regard to the quality of service being provided.

10. **Content of service level agreements.**

A service agreement shall include provisions related to:

(a) definition of the service being provided;

(b) the measurement of performance;

(c) service level objectives;

(d) duties of the wholesale service provider;

(e) duties of the reseller of service;

(f) problem management;

(g) warranties;

(h) disaster recovery;

(i) dispute resolution; and

(j) penalties.

11. **Connection service time.**

(1) Requests for connection of service that do not involve a standard installation because the telecommunications provider:

(a) does not supply the particular service in the requested geographical area;

(b) cannot technically install the service within the time frame provided for in the Schedules; or

(c) cannot install the service because it is not technically feasible;

are excluded from the operation of these Regulations.

(2) The burden of proving that the service cannot technically be installed within the time frame set out in the Schedules or that it is not technically feasible to install the service shall lie with the telecommunications provider.

(3) Notwithstanding sub-regulation (1), where a service provider and a consumer agree that a request for connection would be completed within an agreed time frame, the delivery time shall be taken into consideration for measurement purposes.

12. **Compliance Manual.**

(1) A telecommunications provider shall, within 3 months after the introduction of the criteria and parameters established in the Schedules, keep current compliance manual in respect of each service that it is licensed to provide.

(2) A telecommunications provider shall not delete any part of the compliance manual without the prior written consent of the Commission.

(3) The telecommunications provider shall keep and provide the compliance manual referred to in sub-regulation (1) in any format directed by the Commission.

(4) Where the Schedules hereto have been amended, the affected telecommunications providers shall within 30 days of the coming into effect of those amendments include them with any necessary adaptations in the compliance manual referred to in sub-regulation (1).

13. **Record keeping.**

A telecommunications provider shall retain quality of service data as well as all measurements and related records for a minimum period of eighteen months after the end of the reporting period or until such time as the Commission may direct.

14. **Information to Commission.**

(1) A telecommunications provider shall submit to the Commission on a quarterly basis a report on its achievements for each of the service criteria and parameters set out in the Schedules to these Regulations for the last reporting quarter.

(2) The telecommunications provider shall submit the report referred to in sub-regulation (1) on the last working day of the month following the end of the quarter.

(3) Where a telecommunications provider has not attained the service criteria and parameters set out in the Schedules hereto, the telecommunications provider shall state the reasons therefore and the time period within which it shall attain the required service criteria and parameters.

15. **Unpredictable situations and cases of force majeure.**

(1) In the event of a natural disaster or other case of force majeure affecting quality of service, a telecommunications provider shall within the reporting period in which the natural disaster or other case of force majeure occurred:

(a) provide the Commission with satisfactory information with regard to compliance with quality of service requirements during the reporting period; and

(b) make available to the Commission and the public details of the achieved level of compliance during the reporting period.

(2) The Commission may take into account factors relating to:

(a) any changes in environmental or operating conditions that could not have been reasonably foreseen by the telecommunications provider; or

(b) any service deficiencies that arise partly or wholly from the operations of another telecommunications provider;

which may affect a telecommunications provider's ability to achieve the quality of service criteria and parameters as set out in the Schedules.

(3) Where a telecommunication provider is unable to submit a report during the relevant quarter as a result of a natural disaster or a case of force majeure, it may apply to the Commission in writing for an extension of time.

(4) In the event of a natural disaster or a case of force majeure, the Commission may exempt a telecommunication provider from the obligation to submit a report during the quarter in which the natural disaster or the case of force majeure occurred until the subsequent quarter.

16. **Making available information to customer.**

(1) A telecommunications provider shall, before it concludes a contract with a customer, make available to that customer clear and up-to-date information on its quality of service for each service that it is licensed to provide.

(2) Notwithstanding sub-regulation (1), before the last working day of January each year, a telecommunications provider shall publish on its website and in one newspaper of wide circulation in Saint Christopher and Nevis:

(a) clear and up-to-date information on the average performance levels achieved during the previous year compared with each criterion and parameter detailed in the Schedules to these Regulations;

(b) clear and up-to-date information on the minimum and average quality of service levels it proposes to provide to customers in the course of the year.

17. **Advance notice.**

A telecommunications provider shall give customers advance notice of planned interruption of service by publishing the notice in the electronic media or the print media.

18. **Compliance and enforcement.**

(1) Notwithstanding Regulation 16, a telecommunications provider to whom these Regulations apply shall comply with the obligations provided for in these Regulations within six months of the coming into effect of these Regulations.

(2) A telecommunications provider who

(a) fails to comply with these Regulations after six months have elapsed from the coming into effect of these Regulations;

(b) fails to submit during a time period specified in these Regulations or by the Commission, information requested by the Regulations;

(c) submits or publishes false or misleading information relating to quality of service; or obstructs or prevents an investigation by the Commission of the quality of service measurement, reporting or record keeping procedures;

commits an offence and shall be liable to the enforcement measures outlined in the Act including suspension of its licence as provided for in section 13 of the Act.

(3) Without prejudice to sub-regulation (2) above, the Commission may also take one or more of the following enforcement measures:

(a) require the telecommunications provider to implement a remedial plan to improve the quality of service of the relevant services over a period to be determined by the Commission; and

(b) require the telecommunications provider to publish additional information about the quality of the relevant service and, if so determined by the Commission, its implementation of the remedial plan.

[Introduced by SRO 28/2008]

SCHEDULE 1 TO THE ORDER

Quality of Service Criteria and Parameters **Fixed Public Telecommunications Service**		***Year 1***	***Year 2***	***Year 3***	***Compliance***
1	Maximum waiting time for connection of service (working days)	14	10	7	>90%
2	Unreported faults cleared within 24 hours	70%	75%	80%	Not applicable
3	Unreported faults cleared within 48 hours	80%	85%	90%	Not applicable
4	Unreported faults cleared within 72 hours	90%	90%	>90%	Not applicable
5	Reported faults cleared within 24 hours	80%	90%	>90%	Not applicable
6	Reported faults cleared within 48 hours	90%	95%	>95%	Not applicable
7	Reported faults cleared within 72 hours	95%	>95%	>98%	Not applicable
8	Loss of service not to exceed (days) in a 30 day period	7	5	3	Not applicable
9	Call completion success rate for local calls during peak period (percent)	80	85	90	Not applicable
10	Call completion success rate for International calls during peak period (percent)	75	80	85	Not applicable
11	Number of billing errors per 1,000 bills	10	8	5	>90%
12	Percentage of calls to customer care service answered and attended to in 20 seconds (percent)	70	75	80	Not applicable
13	Reconnection of service after payment of overdue amounts within period (Business hours)	5	4	3	85%
14	Advance Notice for planned disruption of service (hours minimum)	48	48	48	95%

Revision Date: 31 Dec 2009

SCHEDULE 2 TO THE ORDER

	Quality of Service Criteria and Parameters **Mobile Telecommunications Service**	***Year 1***	***Year 2***	***Year 3***	***Compliance***
1	Maximum waiting time for connection of service (working days)	3	2	2	85%
2	Repeated loss of service not to exceed (days) in a 30 day period	3	2	1	90%
3	Call completion success rate for local calls during peak period (percent)	85	95	98	Not applicable
4	Call completion success rate for International calls during peak period (percent)	80	85	90	Not applicable
5	Number of billing accuracy errors per 1,000 bills (Post paid)	10	8	5	>95%
6	Percentage of calls to customer care services answered and attended to in 20 seconds (percent)	70	75	80	Not applicable
7	Reconnection of service after payment of overdue amounts (post paid) within period (Business hours)	5	4	3	>90%
8	Advance Notice for planned disruption of service (hours minimum)	48	48	48	95%

SCHEDULE 3 TO THE ORDER

	Quality of Service Criteria and Parameters **Internet Service**	***Year 1***	***Year 2***	***Year 3***	***Compliance***
1	Maximum waiting time for connection of service (working days)	14	10	7	90%
2	Access time to ISP for dial up connection	<90 secs	<60 secs	<60 secs	90%
3	Repeated loss of service not to exceed (days) in a 30 day period	1	1	0.5	90%
4	Isolation of geographical area affecting more than 50 customers; number of incidences in a 30 day period	5	3	2	95%
5	Reported faults per 100 subscribers for a 30 day period	<3	<3	<3	90%
6	Redress complaints within 7 days in respect of provision or disconnection of Internet access (%)	80	85	90	Not Applicable
7	Faults clearance • within 24 clock hours • within 72 clock hours • within 3 to 7 days	 80% 95% 98%	 90% 97% 99%	 95% 99% 99.5%	 Not applicable
8	Reconnection of service after payment of overdue amounts within period (Business hours)	5	4	3	79%
9	Advance notice for planned disruption of service (hours minimum)	48	48	48	>90%

Revision Date: 31 Dec 2009

SIXTEENTH SCHEDULE

(Section 56)

TELECOMMUNICATIONS (EXEMPTION) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Exemption.
4. Terms, provisions and limitations.
5. Inspection and restriction on use.
6. General conditions of operation.
7. Amendment.

Schedules

Schedule 1
Schedule 2
Schedule 3
Schedule 4
Schedule 5
Schedule 6
Schedule 7

TELECOMMUNICATIONS (EXEMPTION) REGULATIONS

1. **Citation .**

These Regulations may be cited as the Telecommunications (Exemption) Regulations.

2. **Interpretation.**

In these Regulations

"Act" means the Telecommunications Act;

"apparatus" means telecommunications apparatus or apparatus designed or adapted for use in connection with telecommunications apparatus as described in Part III of the Schedules;

"authorised person" means any person authorised by the Commission for the purpose of regulation 4;

"CEPT" means the European Conference of Postal and Telecommunications Administrations;

"Commission" means National Telecommunications Regulatory Commission established by section 15 of the Act;

"Common Technical Regulations" means the applicable rule governing the connection of terminal equipment to telecommunications networks published by the Telecommunications Research and Action Centre and by the European Telecommunications Standard Institute which is in force at the date of the publication of these regulations;

"eirp" means equivalent isotropically radiated power;

"erp" means effective radiated power;

"DCS" means Digital Controlled Squelch.

"EN45001 and EN45002" means European Standards (Normes Européennes) EN45001 and EN45002 published in September 1989 by the British Standards Institution;

"ETSI" means the European Telecommunications Standards Institute;

"FCC" means the Federal Communications Commission

"ISO guides 25 and 58" means the International Organization for Standardization Guides 25 and 58 published by the International Organization for Standardization in 1990 and 1993 respectively;

"low power device" means a restricted radiation device radiation, exclusive of those employing conducted or guided radio frequency techniques, used for the transmission of signs, signals (including control signals), writing, images and sounds or intelligence of any nature by radiation of electromagnetic energy.

"public telecommunications network" means a telecommunication network used for the provision of telephone services to the public;

"radio frequency device" means a device that transmits or receives electromagnetic waves between 500 KHz and 300GHz;

"the Radio Regulations" means the 1998 edition of the Radio Regulations made under Article 13 of the Constitution of the International Telecommunication Union;

"relevant apparatus" means the prescribed apparatus as defined in Schedules 1 to 7 hereto;

"test laboratory" means a test laboratory which has been accredited in accordance with ISO guides 25 and 58 or EN45001 and EN45002 or a national standard conforming to ISO guides 25 and 58 or EN45001 and EN45002.

3. **Exemption.**

(1) Subject to regulation 5, the establishment, installation and use of the relevant apparatus are hereby exempted from the provisions of section 44 of the Act.

(2) The exemption in sub-regulation (1) shall not apply to relevant apparatus which is established, installed or used to provide or to be capable of providing a link between telecommunication apparatus, or a telecommunication network, and other such apparatus or network, which are used to provide a telecommunications service commercially to another person.

4. **Terms, provisions and limitations.**

(1) The exemption provided for in these Regulations shall be subject to the terms, provisions and limitations that

(a) the relevant apparatus shall not cause or contribute to any undue interference to any telecommunications; and

(b) frequency bands relating to the relevant apparatus are for terrestrial use only, unless otherwise stated in Schedule 4

(2) Such exemption shall also be subject to such additional terms, provisions and limitations as are specified in the Schedules in respect of the relevant apparatus.

5. **Inspection and restrictions on use.**

(1) Where an authorised person has reasonable cause to believe that any relevant apparatus is not complying with Regulations 4 and 5, any person who is in possession or control of the relevant apparatus shall, on the demand of that authorised person

(a) permit and facilitate the apparatus to be inspected by that authorised person; and

(b) cause its use to

(i) cease; or

(ii) be restricted in the manner specified by that authorised person,

for a period of time ending either on a date or on the occurrence of an event specified by that authorised person.

(2) Any authorised person exercising powers under sub-regulation (1) shall produce evidence of his authority, if so required by the person in possession or control of the relevant apparatus.

6. **General conditions of operation.**

(1) A person operating an exempted device shall not be deemed to have any vested or recognizable right to continue use of any given frequency by virtue of exemption under these regulations.

(2) The operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference.

(3) The operator shall not resume use of the frequency device until the condition causing the harmful interference has been corrected.

(4) A person who operates a device in contravention of sub-regulations 2 and 3 of this regulation commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars.

8. **Amendment.**

(1) The Commission, may after consultation with ECTEL, make recommendations to the Minister to amend the Schedules.

(2) The Minister may, on receipt of a recommendation from the Commission amend the Schedules to these Regulations.

[Introduced by SRO 30/2008]

SCHEDULE 1 TO THE REGULATIONS

Regulation 2(1)

NETWORK USER STATIONS

PART I - INTERPRETATION

In this Schedule,

"BABT" means the British Approvals Board for Telecommunications;

"BTx" means Base Transmit, the frequency on which a base station transmits and a user station receives;

"MTx" means Mobile Transmit, the frequency on which a user station transmits and a base station receives;

"prescribed apparatus" means a user station as defined below;

"relevant network" means a telecommunication network consisting exclusively of stations established and operated in accordance with a

licence, which has been granted under section [-] of the Telecommunications Act 200[-] and is of a type specified in Part III of this Schedule; and

"user station" means a mobile station for telecommunications designed or adapted-

(a) to be connected by telecommunications to one or more relevant networks; and

(b) to be used solely for the purpose of sending and receiving messages conveyed by a relevant network by means of telecommunications.

"station" means one or more transmitters or receivers or a combination of receivers or transmitters or receivers, including the accessory equipment, necessary at one location for carrying out a radio communication service or the radio astronomy service.

PART II - ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

The prescribed apparatus shall be subject to and comply with the Common Technical Regulations referred to in Part IV of this Schedule as appropriate, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus–

(a) be approved by the Commission for the purposes of these Regulations; or

(b) complies with the FCC standard referred to in Part 15 of the FCC Regulations; or

(c) be approved to the ETSI standards or the draft ETSI standards referred to in Part IV as appropriate by a Commission following type testing at a test laboratory; or

PART III - TYPE OF LICENCE GRANTED IN ACCORDANCE WITH SECTION [-] OF THE TELECOMMUNICATIONS ACT 200-

1. Cellular Networks licensed for use in the following services on the relevant frequency bands-

(a) Public Mobile/Cellular telephone

Global System for Mobile communications	(GSM) 880-915 MHZ (MTx) 925-960 MHz (BTx)

(b) Public Mobile/Cellular telephone

Time Division Multiple Access 'A' (TDMA 'A'):	824-834 MHz (MTx) 869-879 MHz (BTx)

(c) Public Mobile/Cellular telephone

Global System for Mobile communications (GSM):	1710-1785 MHz (MTx)
	1805-1880 MHz (BTx)

(d) Public Mobile/Cellular telephone

Global System for Mobile communications (GSM):	1850-1910 MHz (MTx)
	1710-1785 MHz (BTx)

2. Public access mobile radio systems licensed for use in the following frequency bands–

162-167 MHz

410-430 MHz

440-449 MHz.

3. Land mobile systems licensed for use in the following frequency bands–

138-144MHz

148-156 MHz

420–430 MHz

440-456.675MHz

PART IV - COMMON TECHNICAL REGULATIONS AND STANDARDS

1. GSM

I-ETSI 300 020-1 (Edition 2) published by ETSI in January 1995.

2. Public mobile data systems (410-430 MHz)

Final Draft pr ETS 300 113 published by ETSI in March 1996.

ETS 300 113 published by ETSI in July 1996.

FCC Part 15.251

3. Digital Control Squelch (DCS)

BABT Special Investigation Test Schedule (SITS) 92/50 published in March 1991 and revised and reprinted in June 1995.

Final Draft pr TBR 031: 1996-02 published by ETSI in February 1996.

Final Draft pr TBR 032: 1996-02 published by ETSI in February 1996.

Public access mobile radio systems

ETS 300 086 published by ETSI in January 1991.

ETS 300 113 published by ETSI in July 1996.

I-ETS 300 219 published by ETSI in October 1993.

4. Common base station systems

ETS 300 086

ETS 300 113

MPT 1326

SCHEDULE 2 TO THE REGULATIONS

Regulation 2(1)

CORDLESS TELEPHONE APPARATUS

PART I - INTERPRETATION

In this Schedule,

"data message" means a non-voice message; and

"prescribed apparatus" means any station or apparatus described in Part III of this Schedule.

PART II - ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

The prescribed apparatus shall be subject to and must comply with the Common Technical Regulation referred to in Part IV of this Schedule, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus must–

(a) be approved by the Commission for the purposes of these Regulations; or

(b) be approved to the standards referred to in Part IV of this Schedule as appropriate by a COMMISSION following type testing at a test laboratory.

PART III - DESCRIPTIONS OF THE PRESCRIBED APPARATUS

Analogue Cordless Telephone Apparatus

1. Apparatus consisting of a base station and one or more portable stations designed or adapted in accordance with FCC 15.233

(a) to be used to send and receive voice or data messages to be conveyed over a telecommunication network to which the base station is connected; and

(b) so as not to operate on more than one of the pair of frequencies set out below at any one time-

Channel	Base Transmitter (MHz)	Handset Transmitter (MHz)
1	43.720	48.760
2	43.740	48.840
3	43.820	48.860
4	43.840	48.920
5	43.920	49.020
6	43.960	49.080
7	44.120	49.100
8	44.160	49.160
9	44.180	49.200
10	44.200	49.240
11	44.320	49.280
12	44.360	49.360
13	44.400	49.400
14	44.460	49.460
15	44.480	49.500
16	46.610	49.670
17	46.630	49.845
18	46.670	49.860
19	46.710	49.770
20	46.730	49.875
21	46.770	49.830
22	46.830	49.890
23	46.870	49.930
24	46.930	49.990
25	46.970	49.970

Analogue Cordless Telephone Apparatus

900 MHz Cordless Telephone

Ch.	**BASE**	**HANDSET**	**Ch.**	**BASE**	**HANDSET**	**Ch.**	**BASE**	**HANDSET**
01	902.100	926.100	11	902.400	926.400	21	902.700	926.700
02	902.130	926.130	12	902.430	926.430	22	902.730	926.730
03	902.160	926.160	13	902.460	926.430	23	902.760	926.760
04	902.190	926.190	14	902.490	926.490	24	902.790	926.790
05	902.220	926.220	15	902.520	926.520	25	902.820	926.820
06	902.250	926.250	16	902.550	926.550	26	902.850	926.850
07	902.280	926.280	17	902.580	926.580	27	902.880	926.880
08	902.310	926.310	18	902.610	926.610	28	902.910	926.910
09	902.340	926.340	19	902.640	926.640	29	902.940	926.940
10	902.370	926.370	20	902.670	926.670	30	902.970	926.970

Ch.	BASE	HANDSET	Ch.	BASE	HANDSET	Ch.	BASE	HANDSET
31	903.000	927.000	41	903.300	927.300	51	903.600	927.600
32	903.030	927.030	42	903.330	927.330	52	903.630	927.630
33	903.060	927.060	43	903.360	927.360	53	903.660	927.660
34	903.090	927.090	44	903.390	927.390	54	903.690	927.690
35	903.120	927.120	45	903.420	927.420	55	903.720	927.720
36	903.150	927.150	46	903.450	927.450	56	903.750	927.750
37	903.180	927.180	47	903.480	927.480	57	903.780	927.780
38	903.210	927.210	48	903.510	927.510	58	903.810	927.810
39	903.240	927.240	49	903.540	927.540	59	903.840	927.840
40	903.270	927.270	50	903.570	927.570	60	903.870	927.870

Ch.	BASE	HANDSET	Ch.	BASE	HANDSET	Ch.	BASE	HANDSET
01	905.600	925.500	08	906.300	926.200	15	907.00	926.900
0	905.700	925.600	09	906.400	926.300	16	907.100	927.000
03	905.800	925.700	10	906.500	926.400	17	907.200	927.100
04	905.900	925.800	11	906.600	926.500	18	907.300	927.200
05	906.000	925.900	12	906.700	926.600	19	907.400	927.300
06	906.100	926.000	13	906.800	926.700	20	907.500	927.400
07	906.200	926.100	14	906.900	926.800	-	-	-

2. Apparatus consisting of a base station and one or more portable stations designed or adapted in accordance with FCC Part 15.233-

   (a) to be used to send and receive voice or data messages to be conveyed over a telecommunication network to which the base station is connected; and

   (b) so as to operate on either of the pairs of frequencies set out below:

Channel No.	Base station transmission frequency	Portable station transmission frequency
1	47.43125 MHz	77.51250 MHz
2	47.41875 MHz	77.55000 MHz

3. Apparatus consisting of a base station and one or more portable stations designed or adapted in accordance with FCC Part 15.247-

   (a) to be used to send and receive voice or data messages to be conveyed over a telecommunication network to which the base station is connected; and

   (b) so as to operate on either of the frequencies set out below:

2.4 GHz Cordless Telephone

Channel	Base Transmitter (MHz)	Handset Transmitter (MHz)
1	2412	2412
2	2417	2417
3	2422	2422
4	2427	2427
5	2432	2432
6	2437	2437
7	2442	2442
8	2447	2447
9	2452	2452
10	2457	2457
11	2462	2462
12		

PART IV - COMMON TECHNICAL REGULATIONS AND STANDARDS

CT1 - ETSI EN 301 796

The FCC Part 15 Regulations

SCHEDULE 3 TO THE REGULATIONS

Regulation 2(1)

LAND MOBILE-SATELLITE SERVICE STATIONS

PART I - INTERPRETATION

In this Schedule,

"Eutelsat" means the European Telecommunications Satellite Organization established by Article 11(a) of the Convention on the European Telecommunications Satellite Organization of 1982;

"Globalstar" means Globalstar LP whose registered office is situated at 3200 Zanker Road, GS-06, San Jose, CA 95134, United States of America;

"ICO" means ICO Global Communications (Holdings) Limited whose registered office is situated at Clarendon House, 2 Church Street, Hamilton, Bermuda;

"Inmarsat" means Inmarsat Limited whose registered office is situated at 99 City Road, London EC1Y 1AX;

"Iridium" means Iridium Satellite LLC whose registered office is situated at 8440 South River Parkway Tempe, AZ 85284 USA;

"Italsat" means the satellite network operated by Telespazio s.p.a. whose registered office is situated at via Tiburting, 965-00156 Rome, Italy;

"Land Mobile-Satellite Service", "Land Earth Station" and "Land Mobile Earth Station" have the meanings given to them in the Radio Regulations;

"prescribed apparatus" means a Land Mobile Earth Station in a Land Mobile-Satellite Service described in Part III of this Schedule.

PART II - ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

The prescribed apparatus shall be subject to and comply with the Common Technical Regulations referred to in Part IV of this Schedule as appropriate, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus must be

(a) approved by the Commission for the purposes of these Regulations; or

(b) approved to the ETSI standards referred to in Part IV of this Schedule as appropriate by a Commission ; or

(c) approved to the FCC Part 25 standard as appropriate by a Commission.

PART III - DESCRIPTIONS OF THE PRESCRIBED APPARATUS

Eutelsat.

Land Mobile Earth Stations in the Eutelsat Land Mobile-Satellite Service which are designed or adapted to

(a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service; and

(b) be capable of transmitting in the frequency band 14.00-14.25 GHz and receiving in the frequency bands 10.70-11.70 GHz or 12.50-12.75 GHz and operating at a power level not exceeding the maximum specified in the table set out in Part IV.

Globalstar.

Land Mobile Earth Stations in the Globalstar Land Mobile-Satellite Service which are designed or adapted to

(a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service;

(b) be capable of transmitting and receiving in the frequency bands 1610.0-1621.35 MHz and 2483.5-2500.0 MHz and operating at a power level not exceeding -3 dBW/4 kHz mean power (eirp) density; and

(c) operate in accordance with the requirements of ECTRA/ERC Decision (97) 05 and ERC Decision ERC/DEC (97) 03.

ICO

Land Mobile Earth Stations in the ICO Land Mobile-Satellite Service which are designed or adapted to

(a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service;

(b) be capable of transmitting and receiving in the frequency bands 1997.5-2010.0 MHz and 2187.5-2200.0 MHz and operating at a power level not exceeding 9.8 dBW/25 kHz peak power (eirp) density; and

(c) operate in accordance with the requirements of ECTRA/ERC Decision (97) 05, ERC Decision ERC/DEC (97) 03 and ERC Decision ERC/DEC (97) 04 decided by the CEPT in June 1997.

Inmarsat.

Land Mobile Earth Stations in the Inmarsat Land Mobile-Satellite Service which are designed or adapted to

(a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service; and

(b) be capable of transmitting in the frequency bands 1626.5-1645.5 MHz and 1646.5-1660.5 MHz and receiving in the frequency bands 1525.0-1544.0 MHz or 1545.0-1559.0 MHz and operating at a power level not exceeding the maximum specified in the table set out in Part IV.

Italsat

Land Mobile Earth Stations in the Italsat Land Mobile-Satellite Service which are designed or adapted to

(a) send and receive messages by telecommunications via that Service to or from any Land Earth Station in that Service; and

(b) be capable of transmitting in the frequency bands 1626.5-1645.5 MHz and 1646.5-1660.5 MHz and receiving in the frequency bands 1525.0-
1544.0 MHz or 1545.0-1559.0 MHz and operating at a power level not exceeding the maximum specified in the table set out in Part IV.

PART IV - COMMON TECHNICAL REGULATIONS AND STANDARDS

Inmarsat.

Type of Inmarsat station	Maximum power (eirp)	ETSI standard (unless otherwise stated)	Date of publication
A	+37 dBW	Technical requirements for Inmarsat Standard –A Ship Earth Stations, edition 3	May 1988
		Ship Earth Station Technical Bulletin 26A	September 1991

		Ship Earth Station Technical Bulletin 27B	October 1993
B	+34 dBW (+1/2 dB)	TRB 44	May 1998
C	+16 dBw	TBR 26 edition 1	May 1998
D	+9 dBW	TBR 26 edition 1	
M	+28 dBW (+3/-3 dB)	TRB 44	
Min M (phone)	+2.7 dBW	TRB 44	
M4	+26 dBW	TRB 44	

Eutelsat

Type of Eutelsat station	Maximum power (eirp)	ETSI standard Date of publication
Euteltracs (Omnitracs)	19 dBW	TBR 27 January 1998

Italsat

Type of Italsat station	Maximum power (eirp)	ETSI standards	Date of publication
EMS-PRODAT	12 dBW	TBR 26 edition 1	May 1998
EMS-MSSAt	11.5 dBW	TBR 44	May 1998

Iridium

Must comply with the common technical regulation for Satellite Personal Communications Networks (S–PCN) Mobile Earth Stations (MESs), including hand held earth stations, for S–PCN operating in the 1.6/2.4 GHz frequency bands under the Mobile Satellite Service (MSS).

ICO

Must comply with the common technical regulation for Satellite Personal Communications Networks (S-PCN) Mobile Earth Stations (MESs), including hand held earth stations, for S-PCN operating in the 2.0 GHz frequency bands under the Mobile Satellite Service (MSS).

Globalstar

Must comply with the common technical regulations for Satellite Personal Communications Network (S-PCN) Mobile Earth Stations (MESs), including hand held earth stations, for S–PCN operating in the 1.6/2.4 GHz frequency bands under the Mobile Satellite Service (MSS).

SCHEDULE 4 TO THE REGULATIONS

Regulation 2(1)

SHORT RANGE DEVICES

PART I - INTERPRETATION

1. In this Schedule,

"direct sequence spread spectrum modulation" means a form of modulation where a combination of data to be transmitted and a known code sequence (or chip sequence) is used to directly modulate a carrier;

"EN 300 220-1" means the European Telecommunications Standard EN 300 220-1 published by ETSI in November 1997;

"EN 300 328" means the European Telecommunications Standard EN 300 328 published by ETSI in November 1994, revised and reprinted in November 1996 and amended in July 1997;

"EN 300 330" means the European Telecommunications Standard EN 300 330, version 1.2.2 (1999) published by ETSI in 1999;

"I-ETS 300 422" means the European Telecommunications Standard I-ETS 300 422 published by ETSI in December 1995;

"I-ETS 300 440" means the European Telecommunications Standard I-ETS 300 440 published by ETSI in December 1995 and Corrigendum issued in April 1996;

"EN 300 674" means the European Telecommunications Standard EN 300 674 published by ETSI in November 1998;

"EN 300 718" means the European Telecommunications Standard EN 300 718 published by ETSI in March 1997;

"EN 300 761" means the European Telecommunications Standard EN 300 761 published by ETSI in January 1998;

"EN 300 836-1" means the European Telecommunications Standard EN 300 836-1 published by ETSI in May 1998;

"EN 301 091" means the European Telecommunications Standard EN 301 091 published by ETSI in June 1998;

"EN 301 357" means the European Telecommunications Standard EN 301 357, version 1.2.1 (1999) published by ETSI in 1999;

FCC Part 15.231 means the telecommunications standard 15.231 for short range devices, SRD

FCC Part 15.233 means the telecommunications standard 15.231 for short range devices, SRD

FCC Part 15.235 means the telecommunications standard 15.231 for short range devices, SRD

"Fo" means centre frequency;

"frequency hopping spread spectrum modulation" means a technique in which the transmitted signal occupies a number of frequencies in time, each for some period of time;

"non-manufactured apparatus" means apparatus made up from components, but which is not for retail resale;

"prescribed apparatus" means any station or apparatus described in Part III of this Schedule.

"radiated level" means the maximum level permitted, referenced to the erp, eirp or field strength as specified in Part III of this Schedule; and

"Telemetry", "Telecommand", "Television" and "Telephony" have the meanings given to them in the ITU Radio Regulations.

2. Where the channel spacing or channel bandwidth is defined in this Schedule the centre frequency of the first channel is at a distance of half the channel spacing from the lower frequency band edge.

PART II - ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

Prescribed apparatus must

(a) be approved by the Commission for the purposes of these Regulations; or

(b) be approved to the ETSI standards or FCC Part 15 Regulations referred to in Part III of this Schedule as appropriate by the Commission following type testing at a test laboratory, or otherwise complies with such standards in the case of non-manufactured apparatus used as metal detectors or model control apparatus referred to in Part III, paragraphs 13 and 20 below,

PART III - DESCRIPTIONS OF THE RELEVANT APPARATUS

General Purpose Short Range Devices

1. Any telecommunications apparatus, which is not described elsewhere in this Schedule and which is designed or adapted so as to be capable of use within the frequency band, and at a radiated level not exceeding the maximum for such frequency band, specified in the table below-

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI sandard	FCC standard
49.82-49.98 MHz	10 m W erp	10 Hz	Yes	EN 300 220-1	15.231
49.82-49.98 MHz	10 m W erp		Yes		
433.05-434.79 MHz	10 m W erp		Yes (on condition that no interference is caused to other users)		

Telemetry and Telecommand: General

2. Telecommunications apparatus designed or adapted for-

(a) Telemetry and Telecommand, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;

(b) in category iii, channel numbers 1 and 3 to 11 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);

(c) in category iv, channel numbers 1 to 5 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);

(d) in category v, Telemetry and Telecommand may only be used in conjunction with telephony with a non-locking push to talk key or voice operated carrier;

(e) in category vii, the band may also be used for airborne telemetry based on 25 kHz channel spacing;

(f) in categories viii, ix and xii, consecutive channels may be combined for increased bandwidth up to the maximum sub-band frequency allocation. The total signal bandwidth must be contained within the allocated sub-band

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC standard
i	26.995, 27.045, 27.095, 27.145, 27.195 MHz	1 m W erp	10 kHz	No	-	EN 300 220-1	Part 15.231
ii	40.66-40.7 Mhz	10 m W erp	-	No	-		
iii	173.2-173.35 MHz	1 m W erp	12.5 kHz	No	-		
iv	173.2-173.35 MHz	1 m W erp	25kHz	No	-		
v	173.5875, 173.6 MHz	10 m W erp	12.5 kHz	Yes	-		
vi	417.9-418.1 MHz	250 m W erp	-	No	-		
vii	433.05-434.79 MHz	10 m W erp	-	No	< = 10%		
viii	868-868.6 MHz	25 m W erp	< = 25 kHz	No	< = 1%		

ix	868.7-869.2 MHz	25 m W erp	< = 25 kHz	No	< = 0.1%		
x	869.3-869.4 MHz	10 m W erp	< = 25 kHz	No	< = 10%		
xi	869.4-869.65 MHz	500 m W erp	< = 25 kHz	No	< = 10%		
xii	869.7-870 MHz	5 m W erp	< = 25 kHz	No	Up to 100%		
xiii	2400-2483.5 MHz	10 m W erp	< = 20 MHz	Yes	-	I-ETS 300 440	Part 15.235

Telemetry and Telecommand: Industrial/Commercial.

3. Telecommunications apparatus designed or adapted for

(a) Telemetry and Telecommand, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;

(b) in category i, channel numbers 1 and 3 to 11 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);

(c) in category ii, channel numbers 1 to 5 are available with a channel centre frequency of 173.2 MHz + (channel bandwidth x channel number);

(d) in category iv, channel numbers 1 to 25, 28 to 31 and 33 to 35 are available with a channel centre frequency of 458.5 MHz + (channel bandwidth x channel number);

(e) in category v, channel numbers 1 to 12, 14 to 15 and 17 are available with a channel centre frequency of 458.5 MHz + (channel bandwidth x channel number)

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	173.2-173.35 MHz	10 m W erp	12.5 kHz	No	EN 300 220-1	Part 15.231
ii	173.2-173.35 MHz	10 m W erp	25kHz	No		
iii	173.2-173.35 MHz	10 m W erp	-	No		
iv	458.5 458.95 MHz	500 m W erp	12.5 kHz	No		
v	458.5 458.95 MHz	500 m W erp	12.5 kHz	No		
vi	2445-2455 MHz	100 m W erp	-	No	I-ETS 300 440	Part 15.235

Telemetry: Data buoys

4. Telecommunications apparatus designed or adapted for Telemetry in a maritime environment, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI sandard	FCC standard
35.3375, 35.3625, 35.3875, 35.4125, 35.4375, 35.4625 MHz	250 m W erp	25 Hz	No	EN 300 220-1	15.231

Medical and Biological Applications

5. Telecommunications apparatus designed or adapted for

(a) Telemetry and Telecommand, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;

(b) in category ii, channel numbers 1 to 24 are available with channel centre frequency of 173.7 MHz + (channel bandwidth x channel number);

(c) in category iii, channel numbers 1 to 11 are available with channel centre frequency of 173.7 MHz + (channel bandwidth x channel number);

(d) in category v, for use with ultra low power active medical implants only;

(e) in category vi and vii, channel numbers 37 to 47 are available with channel centre frequency of 458.5 MHz + (channel bandwidth x channel number);

(f) in category viii and ix, channel numbers 19 to 23 are available with channel centre frequency of 458.5 MHz + (channel bandwidth x channel number);

(g) in categories ii, iii, vi and viii, these bands may also be used in an airborne application for the tracking of birds:

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	300 kHz-30 MHz	9dBuA/ m@; 10 m	-	No	EN 300 300	Part 15.231
ii	173.7-174 MHz	10 m W erp	12.5 kHz	No	EN 300 220-1	Part 15.231
iii	173.7-174 MHz	10 m W erp	25 kHz	No		
iv	173.7-174 MHz	10 m W erp	-	No		
v	402-405 MHz	25 m W erp	300 kHz	No		

vi	458.9625 459.1000 MHz	10 m W erp	12.5 kHz	No		
vii	458.9625 459.1000 MHz	500 m W erp	12.5 kHz	No		
viii	458.9625 459.1000 MHz	10 m W erp	25 kHz	No		
ix	458.9625 459.1000 MHz	500 m W erp	25 kHz	No		

Short Range Data Links

6. Telecommunications apparatus designed or adapted

(a) for the provision of short range data links, so as to be capable of use only within the frequency band, and at a radiated level not exceeding the maximum for such frequency band, specified in the table below and subject to the following sub-paragraph;

(b) analogue speech is not permitted.

Frequency band	**Power**	**Antenna**	**Channel Spacing**
2445-2483.5 Mhz	100 m W erp For direct sequence spread spectrum, the maximum spectrum power density is limited to -20dBW/ 1 MHz For frequency hopping spread spectrum, the maximum spectrum power density is limited to -10 dBW/ 100 KHz	Integral (no external antenna socket) or dedicated	No channel spacing - the whole stated frequency band may be used. Minimum data rate 250 kbits/s

Equipment for the Detection of Movement or Alert

7. Telecommunications apparatus designed or adapted to

(a) produce a radiated field and respond to a variation in that field as a result of any intrusion or movement within that field by other devices, objects or persons in order to detect or monitor the movement of such devices, objects or persons, so as to be capable of use on one or more of the frequencies within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, specified in the table below and subject to the following sub-paragraphs;

(b) in category i, this service is due to be withdrawn by 31st December 2003;

(c) category ii applications are for tagging and identification only;

(d) category iv applications are for indoor use only;

(e) vii applications are for use in mobile applications only, and fixed installations re not permitted.

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	888.0889.0 MHz	500 m W erp	25 kHz	No	-	
ii	2445-2455 MHz	500 m W erp	-	No	I-ETS 300 440	15.235
iii	10.577-10.597 GHz	10 m W erp	-	No		
iv	10.675-10.699 GHz	10 m W erp	-	No		
v	13.4-14.0 GHz	25 m W erp	-	No		
vi	24.150-24.250 GHz	10 m W erp	-	No		
vii	24.250-24.350 GHz	500 m W erp	-	No		

Road Transport and Traffic Telematics

8. Telecommunications apparatus designed or adapted to aid in the management, control or flow of transport and traffic

(a) for the provision of short range data links which respond to a signal initiated by, in the case of categories i and ii below, a network operator, or by, in the case of category ii or iii, a private system used and operated by the owner or persons authorised by the owner, so as to be capable of use only within any of the frequency bands, and at a radiated level not exceeding the maximum for such frequency bands, specified in the table below:

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC standard
i	5795-5805 MHz	<=2 W eirp		No	-	IN 300 674	Part 15.233
ii	5805-5815 MHz	<=2 W eirp	-	No	-		
iii	5805-5815 MHz	<=2 W eirp	12.5 kHz	No	-	I-ETS 300 440	Part 15.233

(b) for the provision of short range on-board vehicle radar so as to be capable of use only within the frequency band and at a radiated level not exceeding the maximum for such frequency band specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC standard
76-77 GHz	< = 55 dBm peak power	-	No	-	EN 301 091	Part 15.205

Inductive Applications

9. That part of an induction system designed or adapted to produce-

(a) a controlled magnetic field; and

(b) a predetermined recognisable signal when operating within that magnetic field,

so as to be capable of use only within the frequency bands, and at a radiated level, not exceeding the maximum for such frequency bands specified in the table below-

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC standard
9-30 kHz	72 dBµA/m @ 10 m	-	No	-	EN 301 091	Part 15.205
9-185 kHz	48 dBµA/m @ 10 m	-	yes (music not permitted)			
30-59.75 kHz	72 dBµA/m descending 3.5 dB/ octave above 30 kHz	-	No			
59.75-60.25 kHz	48 dBµA/m	-	No			
60.25-70kHz	72 dBµA/m descending 3.5 dB/ octave above 30 kHz	-	No			
70-119 kHz	42 dBµA/m @ 10 m	-	No			
119-135 kHz	72 dBµA/m descending 3.5 dB/ octave above 30 kHz	-	No			
240-315 kHz	24 dBµA/m @ 10 m	-	No			
2-30 MHz	-9.5 dBµA/m @ 10 m	-	yes (speech only)			
2-30 MHz	9 dBµA/m @ 10 m	-	No			
6.765-6.795 MHz	42 dBµA/m @ 10 m	-	No			
7.4-8.8 MHz	9 dBµA/m @ 10 m	-	No			
13.553-13.587 MHz	21.5 dBµA/m @ 10 m	-	No			
13.553-13.587 MHz	42 dBµA/m @ 10 m	-	No			

26.957-27.283 MHz	42 dBμA/m @ 10 m	-	No

Metal Detectors

10. That part of an induction system designed or adapted to produce-

(a) a controlled magnetic field; and

(b) a predetermined recognisable signal when operating within that magnetic field,

so as to be capable of use only within the frequency bands, and at a radiated level, not exceeding the maximum for such frequency bands, specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
9-148.5 kHz	70 dBμA/m @ 6 m	-	No	EN 300 300	Part 15.213

Alarms

11. Telecommunications apparatus designed or adapted-

(a) to generate or indicate an alarm condition; or

(b) to arm or disarm the alarm system,

so as to be capable of use on one or more of the frequencies within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC standard
868.6-868.7 MHz	10 m W erp	< = 25 KHz	No	< = 0.1%	EN 301 202-1	Part 15.209
869.250-869.3 MHz	10 m W erp	< = 25 KHz	No	< = 0.1%		
869.65-869.7 MHz	10 m W erp	< = 25 KHz	No	< = 0.1%		

Social Alarms: For the elderly and infirm

12. Telecommunications apparatus designed or adapted-

(a) to generate or indicate an alarm condition; or

(b) to arm or disarm the alarm system,

so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	Duty cycle	ETSI standard	FCC standard
27.045, 34.925, 34.950, 34.975 MHz	500 µ W erp	<= 12.5 kHz	No	-	EN 300 220-1	Part 15.209
869.2-869.25 MHz	10 m W erp	<= 25 KHz	No	<= 0.1%		

Alarms: Vehicle paging.

13. Telecommunications apparatus designed or adapted to generate or indicate an alarm condition so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below, provided that category ii apparatus may also be used to arm or disarm the alarm system at a radiated level not exceeding 1 mW

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	47.4 MHz	100 m W erp	12.5 kHz	No	IN-300 220-1	Part 15.209
ii	458.90 Mhz	100 m W erp	12.5 kHz	No		

Alarms: General alarms associated with marine applications and including fixed shore installations.

14. Telecommunications apparatus designed or adapted-

(a) to generate or indicate an alarm condition; or

(b) to arm or disarm the alarm system,

so as to be capable of use on the frequency, and at a radiated level not exceeding the maximum for such frequency, specified in the table below, including use on land for the storage or transportation of vessels:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
161.275 MHz	100 m W erp	12.5 kHz	No	IN-300 220-1	Part 15.209

Alarms: Mobile and transportable and lone worker safety.

15. Telecommunications apparatus designed or adapted-

(a) to generate or indicate an alarm condition; or

(b) to arm or disarm the alarm system,

so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
173.1875 MHz	100 m W erp	12.5 kHz	No	IN-300 220-1	Part 15.209
458.8375 MHz	100 m W erp	12.5 kHz	No		

Alarms: Fixed

16. Telecommunications apparatus designed or adapted-

(a) to generate or indicate an alarm condition; or

(b) to arm or disarm the alarm system,

so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies, specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
173.225 MHz	10 m W erp	12.5 kHz	No	IN-300 220-1	Part 15.209
173.225 MHz	10 m W erp	25 kHz	No		
458.825 MHz	100 m W erp	12.5 kHz	No		

Model Control

17. Telecommunications apparatus designed or adapted

(a) in categories i and v, for Telecommand to control the movement of medals in general;

(b) in category ii, for Telecommand to control the movement of airborne models only;

(c) in category iii, for Telecommand to control the movement of models on the ground, on water or under the water

(d) in category iv, for Telemetry to provide data from the model, including airborne models, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below:

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	26.96-27.28 MHz	100 m W erp	10 kHz	No	IN-300 220-1	Part 15.209
ii	34.995-35.255 MHz	100 m W erp	10 kHz	No		
iii	40.66-41.00 MHz	100 m W erp	10 kHz	No		
iv	433.05-434.79 MHz	10 m W erp	25 kHz	No		Part 15.231
v	458.5-459.5 MHz	100 m W erp	25 kHz	No		

Radio Microphones

18. Telecommunications apparatus designed or adapted for Telephony, for the purpose of aids to project personal voice or music, so as to be capable of use on one or more of the frequencies within the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below:

Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
174.6, 174.675 174.77, 174.885, 175.02 MHz	5 m W erp	50 kHz	Yes	I-ETS 300 422	Part 15.231
173.8, 174.1, 174.5, 174.8, 175.0 MHz	2 m W erp	180 kHz	Yes		
863-865 MHz	10 m W erp	< = 200 kHz	Yes		

Radio Hearing Aids

19. Telecommunications apparatus designed or adapted-

(a) for Telephony, for the purpose of hearing aids for the handicapped, so as to be capable of use on one or more of the frequencies within the frequency bands, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;

(b) frequency bands in category ii may be used if frequency bands in category i are not suitable; and frequency bands in category iii may be used if category i and ii frequency bands are not suitable;

(c) frequency bands in category iv may only be used as an alternative for radio hearing aids if frequency bands in categories i, ii and iii are unsuitable

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	173.35, 173.4, 173.465, 173.545, 173.64 MHz	2 m W erp	50 kHz	Yes	I-ETS 422	Part 15.235
ii	173.695, 173.775, 173.825, 173.95, 173.99 MHz	2 m W erp	50 kHz	Yes		
iii	174.07, 174.12, 174.185, 174.27, 174.36, 174.415 MHz	2 m W erp	50 kHz	Yes		
iv	174.6, 174.675, 174.77, 174.885, 175.02 MHz	2 m W erp	50 kHz	Yes		

Wireless Audio Applications

20. Telecommunications apparatus designed or adapted

(a) for telephony, for the purpose of providing a short range radio link between the audio output of a device, so as to be capable of use on one or more frequencies within the frequency band, and at a radiated level not exceeding the maximum for such frequencies or frequency bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs;

(b) categories i and ii are for cordless headphones or cordless loudspeakers;

(c) category iii is for cordless headphones for use in vehicles;

(d) category iv is for cordless headphones for use with personal stereo devices;

(e) category is for cordless devices used for transmitting the audio output from a television receiver to a radio receiving device:

Category	Frequencies	Radiated	Channel	Music or	Duty	ETSI	FCC

	or frequency band	level	bandwidth	speech permitted	cycle	standard	standard
i	36.61-36.79 MHz, 37.01-37.19 MHz	10 μ W erp	-	Yes	-	EN 300 220-1	
ii	863-865 MHz	10 m W erp	< = 300 kHz	Yes	-	EN 301 357	
iii	173.2-173.35 MHz	2 m W erp	< = 300 kHz	Yes	-		
iv	173.2-173.35 MHz	1 m W erp	< = 300 kHz	Yes	-		
v	173.5875, 173.6 MHz	62 m W	< = 300 kHz	Yes	-		Part 15.201

Video: Close Circuit Television.

21. Telecommunications apparatus designed or adapted-

(a) for television, so as to be capable of use only within either of the frequency bands, and at a radiated level not exceeding the maximum for such frequency bands, specified in the table below and subject to the following sub-paragraphs;

(b) where required, associated telephony may also be used within the specified frequency band;

(c) music and speech are only permitted when associated with the video application;

(d) category ii may also be used for airborne use-

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	1394 MHz	500 m W eirp	10 MHz	Yes	I-ETS 300 440	15.235
ii	2400-2483.5 MHz	10 m W eirp	20 MHz	Yes		15.201

Bluetooth Devices

22. Telecommunications apparatus designed or adapted-

(a) to connect low-cost wireless communications and networking between personal computers, mobile phones & other devices

(b) to connect peripheral devices by wireless data transmission to a computer

Category	Frequencies	Radiated	Channel	Music or	ETSI	FCC

	or frequency band	level	bandwidth	speech permitted	standard	standard
i	2.400-2.483 MHz	100 m W eirp	1 MHz	Yes	EN 300 328	15.247
ii	2400-2483 MHz					15.201

WiFi Devices

23. Telecommunications apparatus designed or adapted to receive wireless Internet on laptop computers

Category	Frequencies or frequency band	Radiated level	Channel bandwidth	Music or speech permitted	ETSI standard	FCC standard
i	2.400-2.483 MHz	1000 m W eirp	5 MHz	Yes		15.247

SCHEDULE 5 TO THE REGULATIONS

Regulation 2(1)

PERSONAL MOBILE RADIO (PMR) 446

PART I – INTERPRETATION

In this Schedule,

"ETS 300 446 " means the European Telecommunications Standard ETS 300 446 published by ETSI in December 1994 and revised and reprinted in March 1997; and

"prescribed apparatus" means the apparatus known as personal mobile radio ("PMR 446") described in Part III of this Schedule.

PART II - ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

The prescribed apparatus shall be subject to and comply with the Common Technical Regulations in force, and in the absence of a Common Technical Regulation applying to such apparatus, the prescribed apparatus must

(a) be approved by the Commission for the purposes of these Regulations; or

(b) be approved to ETS 300 446 by a Commission following type testing at a test laboratory.

Revision Date: 31 Dec 2009

PART III - DESCRIPTION OF THE PRESCRIBED APPARATUS

Personal Mobile Radio operating in the 446 MHz Band in accordance with ETS 300 [ ] 6-

Frequencies	Channel bandwidth	Maximum erp
446.00625 MHz	12.5 kHz	500 mW
446.01875 MHz	12.5 kHz	500 mW
446.03125 MHz	12.5 kHz	500 mW
446.04375 MHz	12.5 kHz	500 mW
446.05625 MHz	12.5 kHz	500 mW
446.06875 MHz	12.5 kHz	500 mW
446.08125 MHz	12.5 kHz	500 mW
446.09375 MHz	12.5 kHz	500 mW

SCHEDULE 6 TO THE REGULATIONS

Regulation 2(1)

INFRARED DEVICES

PART I - INTERPRETATION

In this Schedule,

"Infrared-communication" means telecommunication by electromagnetic waves of wavelengths arbitrarily between 0.7 µ.m. and 1000 µ.m. propagated in space without artificial guide.

PART II - ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

Unless there is a Common Technical Regulation in force in respect of the prescribed apparatus, such apparatus must be approved for the time being by the Commission for the purposes of these Regulations.

PART III DESCRIPTION OF THE PRESCRIBED APPARATUS

Infrared-communication apparatus designed or adapted for

(a) Emergency Service use;

(b) Telemetry and Telecommand;

(c) Alarms

(i) to detect movement;

(ii) to generate or indicate an alarm condition;

(iii) to arm or disarm the alarm system.

(d) Measurement;

(e) Video, Closed Circuit Television;

(f) Audio applications;

(g) Short range data links, for use between two infrared devices at a maximum distance of 300m.

SCHEDULE 7 TO THE REGULATIONS

DIGITAL APPARATUS

PART 1 - INTERPRETATION

1. In this Schedule,

"Class A digital apparatus" means an apparatus that is marketed for use in a commercial, industrial or business environment, exclusive of an apparatus which is marketed for use by the general public or is intended to be used in the home.

"Class B digital apparatus" means an apparatus that is marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments.

"Intentional radiator" means an apparatus that intentionally generates and emits radio frequency energy by radiation or induction.

"Unintentional radiator" means an apparatus or system that generates and uses timing signals or pulses at a rate in excess of 9,000 pulses (cycles) per second and uses digital techniques; inclusive of telephone equipment that uses digital techniques or any apparatus or system that generates and uses radio frequency energy for the purpose of performing data processing functions such as electronics computations, operations, transformations, recording, filing, sorting, storage, retrieval, or transfer.

PART II - ADDITIONAL TERMS, PROVISIONS AND LIMITATIONS

For all exempted equipment:

1. The exemption applies to the unintentional radiators for Class A and Class B digital apparatus as well as intentional radiators.

2. The level of radiation and conducted emissions limits should be for the Class B digital apparatus.

PART III - DESCRIPTIONS OF THE RELEVANT APPARATUS

1. **Unintentional radiators.**

These apparatus do not intentionally generate radio frequencies emissions and include:

a) personal computers;

b) peripherals;

c) receivers, radios;

d) TV sets, and

e) cable TV home terminals

2. **Intentional Radiators.**

Intentional radiators must either have a permanently attached antenna or provide a unique coupler to prevent the use of unauthorized antennas and include:

a) cable-locating equipment;

b) cordless telephones;

c) remote control and alarm transmitters;

d) field-disturbance sensors for opening doors; and

e) spread-spectrum systems for wideband data transmission.

3. **Digital apparatus.**

These include apparatus:

a) operating in the 1910 - 1930 MHz frequencies bands in accordance with FCC Part 15 Subpart D.

b) operating in the 5.15 - 5.35 GHz, 5.47 - 5.725 GHz, and 5.725 - 5.825 GHz bands in accordance with the standards in the FCC Part 15 Subpart E.

c) providing access for broadband over Power Line (ABPL) apparatus operating in the 1.705-80 MHz band over medium or low voltage lines in accordance with the standards in the FCC Part 15 Subpart G.

4. **Digital apparatus designed or adapted.**

(a) exclusively for transportation vehicles;

(b) for electronic control of power systems;

(c) to use as an appliance such as microwave, dishwasher, or clothes dryer, with power consumption note" 6 nW, generating emissions < 1.745 MHz and operating from AC power line; or

(d) for use as specialised medical equipment under the supervision of a licensed health care practitioner

SEVENTEENTH SCHEDULE

TELECOMMUNICATIONS (WHOLESALE) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Availability of retail services for wholesale.
4. Dominant wholesale service provider.
5. Standard wholesale service discount.
6. Special wholesale services.
7. Special wholesale service tariff.
8. Competitive safeguards.

TELECOMMUNICATIONS (WHOLESALE) REGULATIONS

1. **Citation.**

These Regulations may be cited as the Telecommunications (Wholesale) Regulations.

2. **Interpretation.**

In these Regulations:

"Act" means the Telecommunications Act;

"dominant wholesale service provider" means a public network operator who is designated by the Commission as dominant for the purposes of providing special wholesale services under regulation 5;

"public network operator" means a person who provides telecommunications services between two parties neither of whom is affiliated with such person, accepts the rights and obligations of public network operators and is licensed to operate a public telecommunications network;

"public telecommunications network" means a telecommunications network used for the provision of telecommunications services to the public;

"retail service" means a telecommunications service that a public network operator provides at retail to end-user customers;

"special wholesale service" means a wholesale service which consists of the essential components or functions of a total retail service, and any ancillary services necessary for other providers of

telecommunications services to efficiently provide a total retail service to end-users;

"telecommunications services" means services provided by a telecommunications provider;

"total retail service" means retail service that includes the components or functions required to be offered on a wholesale basis as a special wholesale service as determined in regulation 7; and

"wholesale service" means a retail service or element of a retail service that is purchased from a public network operator by a telecommunications provider for resale to the public.

3. **Availability of retail services for wholesale.**

(1) A public network operator shall make available all of its retail services as wholesale services to a telecommunications provider on a non-discriminatory basis and without discriminatory conditions or limitations.

(2) A wholesale service that is expressly intended for one category of customers shall not be resold to another category of customers.

(3) A public network operator shall not discriminate in favour of its end-user customers or against other providers of telecommunications services.

4. **Dominant wholesale service provider.**

(1) The Commission, acting on the recommendation of ECTEL, and by notice published in the Gazette, may, with respect to a particular market or markets, designate a public network operator as a dominant wholesale service provider for the purposes of providing retail services at a discount and providing special wholesale services.

(2) If the Commission has determined, after a public consultation process, that a public network operator:

(a) enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers in a market or markets for telecommunications services in Saint Christopher and Nevis; and

(b) it is in the best interests of consumers of the telecommunications services, the public network operator be so designated

the Commission shall designate the public network operator a dominant wholesale service provider.

(3) The Commission may undertake a consultation process which will commence with a preliminary determination of market dominance and the designation of one or more dominant wholesale service providers.

(4) The Commission shall notify a public network operator who is preliminarily determined and designated by the Commission to be a dominant wholesale service provider of the determination and designation and shall provide the public network

operator with the opportunity to respond in writing within 30 days of the preliminary determination and designation.

(5) The Commission shall cause to be published a notice of the public network operator's response in a newspaper of wide circulation.

(6) Interested parties may comment in writing to the Commission within 15 days of the publication of the response of the network operator.

(7) The Commission shall forward the comments of all interested parties to the affected network operator.

(8) The affected public network operator shall reply to interested parties within 15 days of such comments being received.

(9) The Commission shall issue its final determination of market dominance no later than 30 days after all comments have been filed with it.

(10) Notwithstanding the foregoing sub-regulations, a public network operator may consent to being treated as a dominant wholesale service provider.

(11) The Commission, acting on the recommendation of ECTEL or acting on a petition filed by a dominant wholesale provider, and by notice published in the Gazette, may determine that the conditions specified in sub-regulation (1) of this regulation no longer exist with respect to a particular market or markets and, if it so determined by the Commission, shall remove the designation of dominant wholesale provider from a public network operator.

5. **Standard wholesale service discount.**

(1) The Commission, acting on the recommendation of ECTEL and by notice published in the Gazette, may determine, after a public consultation process, a standard wholesale discount from retail prices at which dominant wholesale service providers must offer wholesale services.

(2) A dominant wholesale service provider may apply for a standard wholesale discount to be amended.

(3) The standard wholesale discount shall be applied to all retail services of a dominant wholesale service provider until such time as the Commission has determined that a different discount is justified for any retail service or groups of retail services.

(4) Where the Commission determines that a different wholesale service discount is justified, the Commission shall notify the public of the new wholesale service discount that is to be applied.

(5) The new wholesale service discount shall take effect within thirty days of publication by the Commission.

(6) The wholesale service discount shall be calculated to reflect the costs associated with providing a retail service to end-user customers that the dominant wholesale service provider avoids when making such service or services available as wholesale services offset by the costs the dominant wholesale service provider may incur to make such retail service or services available as wholesale services.

6. **Special wholesale services.**

(1) The Commission, acting on the recommendation of ECTEL and by notice published in the Gazette and on the Commission's website, may require, after a public consultation, a dominant wholesale service provider to make available special wholesale services.

(2) A special wholesale service shall consist of components or functions of a retail service which are determined to be essential in order for other providers of telecommunications services to offer a total retail service to end-users that is competitive with the total retail service of the dominant wholesale service provider and which the other providers of telecommunications services cannot economically supply themselves or obtain from a public network operator other than the dominant wholesale provider.

(3) A special wholesale service shall include either the essential components or functions of the total retail service, and any ancillary services necessary for other providers of telecommunications services to efficiently provide the total retail service.

7. **Special wholesale service tariffs.**

(1) A dominant wholesale service provider shall publish and file with the Commission tariffs for special wholesale services.

(2) The tariffs for special wholesale services shall be non-discriminatory and shall comply with the competitive safeguards contained in Regulation 8.(1) and 8.(2).

(3) The Commission shall have the authority to ensure that the special wholesale service tariffs are compliant with the Act and its Regulations, including the competitive safeguard contained in Regulation 8.(1) and 8.(2).

8. **Competitive safeguards.**

(1) When a dominant wholesale service provider seeks to raise the price of a special wholesale service or reduce the price of the corresponding total retail service, the dominant wholesale service provider shall demonstrate to the satisfaction of the Commission that the prices of its special wholesale services satisfy the imputation standard contained in sub-regulation (2) of this regulation.

(2) The difference between the price of the total retail service and the price of the corresponding special wholesale service shall not be less than the difference between the long-run incremental cost of the total retail service and the long-run incremental cost of the corresponding special wholesale service.

(3) Where a dominant wholesale service provider seeks to change the price of a retail service the dominant wholesale provider shall make a corresponding adjustment to the wholesale price, which shall be applied to all agreements in force at the time of the change in the retail price.

[Introduced by SRO 31/2008]