

# **ELECTRONIC COMMUNICATIONS REGULATIONS, 2011 (LI 1991)**

## ARRANGEMENT OF REGULATIONS

### Regulation

#### Principles applicable to the electronic communications industry

1. General principles
2. Universal access and service
3. Non-discrimination in provision of service
4. Fair competition
5. Security of public communications networks and services
6. Privacy and secrecy of communication
7. Priority of public over private communications services
8. Priority of national security and defence
9. Obligations of private communications operators in the public interest
10. Training and development obligations of operators
11. Sanctions for breach of principles

#### Classification of electronic communications services

12. Classes of communications services
13. Additional services

#### Electronic communications services

#### General provisions on electronic communications services

14. Fixed and mobile electronic communications services
15. Transmitter power for land mobile service station
16. Maintenance and operation of land mobile stations
17. Public Coast Stations
18. Limited Coast Station

#### Public Telecommunications Services

19. Fixed and mobile public telecom services
20. Carrier services and network interconnection
21. Types of carrier services

22. Local carrier services
23. National long-distance carrier services
24. International long-distance services
25. Authorisation to provide incoming and outgoing lines
26. Interconnection of border areas

#### Voice telephone services

27. Nature of voice telephone services
28. Scope and classes of voice telephone services
29. Integrated telephone service
30. Register of applicants in chronological order
31. Contract for the provision of electronic communications
32. Use of electronic communications for direct marketing
33. Directory of subscribers
34. Exclusion of names from the directory
35. Cellular communications services

#### Private Communications Services

36. Classification of private communications services
37. Prohibition of re-sale of private telecom services
38. Provision of facilities to instal private telecom service that require wire lines or fibre optics
39. Private telecom services that do not require wire lines or fibre optics
40. Radio navigation services
41. Commercial vessels that operate on inland water ways
42. Inspection of radio stations and communication apparatus
43. Aeronautical mobile service
44. Citizen band bus channel service
45. Amateur radio services
46. Classes of amateur radio operators
47. Amateur radio licence
48. Amateur radio examination and certificate

49. Space service

50. Other radio communication services

#### Broadcasting Services

51. Application for broadcasting frequency

52. Procedure on receipt of an application for a broadcasting frequency

53. Contents of a broadcasting frequency authorisation

54. Construction and installation of broadcasting facilities

55. Duration of a broadcasting frequency authorisation

56. Renewal of a broadcasting frequency authorisation

57. Transmitters

58. Licence to provide cable service

#### Value Added Service

59. Nature of value added communications services

60. Exemption from licence for value added services

61. Registration required to provide value added services

#### Internet service provider

62. Registration to provide internet service

63. Public hearing for renewal of registration

64. Internet service providers subject to the Act

#### Radio frequency

65. Use of radio frequency

66. National plan for frequency allocation

67. Radio services bands for citizens

68. Control of model aircraft

69. Priority of frequency for public services

70. Harmful interference

71. Radio interference by equipment, appliance and other devices

72. Station identification

73. Change of allocation of frequency

- 74. Experimental radio service
  - 75. Report on experiments
  - 76. Station records of experimental services
  - 77. Form of station records of experimental services
- Standardisation of communications equipment and systems

- 78. Standardisation
- 79. Marketing of equipment
- 80. Equipment using radio frequency
- 81. Application for construction of aerial mast or tower
- 82. Markings
- 83. Lighting of aerial mast or tower
- 84. Intermediate lights on aerial masts or towers
- 85. Inspection of mast or tower lights
- 86. Entries in station log
- 87. Conditions for seizure and confiscation of equipment
- 88. Appointment of inspectors
- 89. Standardisation certificate
- 90. Installation of terminals purchased from third parties

#### Class I Licence

- 91. Licence for public communications service
- 92. Scope of Class I licence
- 93. Application for a Class I licence
- 94. Procedure upon receipt of application for a Class I licence

#### Grant of Class I Licence by Public Tender

- 95. Requirement to tender
- 96. Preparation and approval of bidding conditions
- 97. Notice of public tender
- 98. Contents of notice
- 99. Contents of bidding documents

- 100. Other formalities
- 101. Contents of a Class I licence
- 102. Rights of a Class I licensee
- 103. Obligations of a Class I licensee
- 104. Expiration of a Class I licence
- 105. Application for renewal of a Class I licence
- 106. Evaluation report and public hearing
- 107. Decision on renewal

#### Class II Licence

- 108. Requirement for Class II licence
- 109. Duration of Class II licence
- 110. Application for a Class II licence
- 111. Processing an application for a Class II licence
- 112. Contents of a Class II licence
- 113. Rights of a Class II licensee
- 114. Obligations of a Class II licensee
- 115. Termination of a Class II licence
- 116. Renewal of a Class II licence

#### Dispute resolution

- 117. Complaints Handling Procedures
- 118. Consumer Complaints Code
- 119. Formal procedure of Authority to deal with complaints
- 120. Proceedings before the Dispute Resolution Committee
- 121. Response to claim and counterclaim
- 122. Submission of documents
- 123. Pre-hearing conference
- 124. Amendment of claim or response
- 125. Extension of time
- 126. Hearing

- 127. Conclusion of hearing
- 128. Form of relief or remedy
- 129. Effect of a decision of the Committee
- 130. Effort at settlement of dispute
- Miscellaneous provisions
- 131. Register
- 132. Records not to be put in register
- 133. Public access during business hours
- 134. Submission of confidential information
- 135. Structural separation requirement
- 136. Fees and charges
- 137. Administrative penalty
- 138. Need to provide truthful information
- 139. Effective of submission by electronic means
- 140. Authority to provide forms and guidelines
- 141. Interpretation
- 142. Revocation and savings

IN exercise of the powers conferred on the Minister responsible for Communications by section 97 of the Electronic Communications Act, 2008, (Act 775) these Regulations are made this 17th day of February, 2011.

Principles applicable to the electronic communications industry

Regulation 1—General principles

The following general principles shall apply to the Authority, operators of electronic communications networks and providers of electronic communications services for the achievement of the objects and the performance of the functions:

- (a) universal access and service;
- (b) non-discrimination;
- (c) fair competition;
- (d) security of public communications networks and services;
- (e) privacy and secrecy in electronic communications;

- (f) priority of public over private communications services;
- (g) priority of national security and defence;
- (h) public interest obligations of private operators; and
- (i) development of the communications industry.

#### Regulation 2—Universal access and service

In furtherance of principles of universal access and service each operator of an electronic communications network or provider of electronic communications services to the public shall, subject to the terms of its licence,

- (a) provide and extend the services of the operator or provider to the entire geographical market for which it is licensed including rural and remote parts of its geographical market and other areas of low population density; and
- (b) provide a free directory for the subscribers of the operator or provider, operator assisted information service, free access to emergency number information and services that enable persons with disability to make and receive calls.

#### Regulation 3—Non-discrimination in provision of service

(1) Each provider or operator of a public electronic communications service or network shall with regard to the services authorised by the licence of the provider or operator, offer and provide uniform, non-preferential service on a first-come, first-served basis to persons within its geographical market area who request the services and who meet predetermined conditions approved by the Authority for the provision of the service.

(2) It is not a violation of the principle of non-discrimination for an operator in deciding whether to provide the service to a person to

- (a) consider the ability of a prospective subscriber to pay for the service; or
- (b) make other reasonable classifications of subscribers including business and residential subscribers and to provide the service on the basis of the classification, except that any classification applied by an operator shall be
  - (i) with the prior approval of the Authority; and
  - (ii) on a basis where the service provided to persons within a given class is on a non-preferential, first-come-first-served basis.

#### Regulation 4—Fair competition

(1) An operator who owns or controls an electronic communications network or other essential facility on which other competitors depend for the efficient provision of their services, or who has a dominant position in a geographical market specified in its licence, shall not resort to conduct or practices that unfairly put at a disadvantage rival operators or that are calculated to keep out competition as to

- (a) limit access to a network or interconnection;
- (b) provide sub-standard access;
- (c) permit access only under onerous terms;
- (d) subsidise competitive services by revenues obtained from non-competitive services;
- (e) link the provision of a monopolised service to the purchase of other services;
- (f) use fraudulent reporting and spurious accounting declaration and processes to impede the financial and commercial growth of competitors or an act that limits competition;

or

(g) unilaterally link commercial disputes with interconnection issues to cause undue harm and injury to end-users.

(2) In furtherance of the principles of fair competition and transparency in the operations of electronic communications, any transfer of shares, merger or acquisition of a communications entity shall be subject to the prior written approval of the Authority.

#### Regulation 5—Security of public communications networks and services

(1) A provider of a public electronic communications service and an operator of a public electronic communications network shall take technical and organisational steps to ensure the security of

- (a) the service or network, and
- (b) a message transmitted over the service or network.

(2) Where a provider of a public electronic communications service and an operator of a public electronic communications network determine that there remains a significant risk to the network or service, after taking steps which with regard to the state of technological developments and the cost of implementation can be considered appropriate, they shall inform the subscriber of

- (a) the nature of the risk;
- (b) the appropriate measures that the subscriber may take to safeguard that risk; and
- (c) the likely costs to the subscriber involved in the taking of the measures.

#### Regulation 6—Privacy and secrecy of communication

(1) A person, other than the sender or the intended recipient of a transmitted message or data, who

- (a) steals,
- (b) intercepts,
- (c) interferes with,



- (d) alters or modifies,
- (e) diverts,
- (f) unlawfully discloses, or
- (g) decodes or attempts to decode

a transmitted message or data commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than five years or to both.

(2) A person shall not use an electronic communications network to store information or gain access to information stored in the terminal equipment of a subscriber unless the subscriber

(a) is provided with sufficient information on the purposes of the storage or access to that information, and

(b) is given the opportunity to object to the storage or access to that information.

(3) Sub-regulation (2) does not apply to the technical storage, or access to information in order to carry out or facilitate the transmission of a communication over an electronic communications network.

(4) A subscriber is entitled to request the provider of an electronic communications service to provide the subscriber with bills that are not itemised.

(5) An operator shall employ international best practices in the industry to promote privacy, secrecy and security of

(a) communications carried or transmitted by the operator or through the communications system of the operator, and

(b) the personal and accounts data related to subscribers.

#### Regulation 7—Priority of public over private communications services

(1) The provision of communications services to the general public shall have priority over the provision of private communications services.

(2) The Authority shall bear this principle in mind in

(a) the grant of a licence under the Act,

(b) the allocation or assignment of frequencies, and

(c) matters in which the Authority has to allocate a limited resource between the needs of public and private communications services.

#### Regulation 8—Priority of national security

In cases of emergency declared in accordance with Article 31 of the Constitution, an operator of communications systems shall, in the interest of national security and defence, give priority to the President or a person authorised by the President.

#### Regulation 9—Obligations of private communications operators in the public interest

(1) A person authorised to operate radio communications services for private use in places where no public communications services are available shall, on request from the Government or from a third party authorised by the Government, carry or transmit messages to designated audiences, where the message is required to protect life and preserve public order.

(2) A private operator of electronic communications networks who is called upon to perform public interest functions shall comply with the principle of privacy and secrecy of communications.

#### Regulation 10—Training and development obligations of operators

An operator or provider of public or private communications services shall design and implement training and development programmes to ensure provision of quality services relating to the

- (a) suitability and technical competence of the personnel in charge of the operation,
- (b) maintenance of equipment and the development of electronic communication service engineering capabilities, and
- (c) development of electronic communication service engineering capabilities.

#### Regulation 11—Sanctions for breach of principles

A person who acts in breach of a principle stipulated under regulation 1 to 10 of these Regulations commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a fine as indicated in the licence of that person where higher.

#### Classification of communications services

#### Regulation 12—Classes of communications services

(1) An electronic communication service shall be classified as follows:

- (a) communications services;
- (b) broadcasting services;
- (c) cable services;
- (d) satellite services;
- (e) value added services;
- (f) aeronautical services;
- (g) maritime services;
- (h) amateur services; and
- (i) any other services as determined by the International Telecommunications Union.

(2) The communications services specified in sub-regulation (1) may be provided as public or private services.

(3) A public communications service is a service made available to the general public for a fee or charge without discrimination and includes a communication service offered directly or indirectly to a third party in exchange for compensation.

(4) A private communications service is a service established by an individual, a body corporate or other legal entity to satisfy its own communication needs within the country.

(5) A person who provides equipment and incidental services to operators of private communications services on an individual contract basis, and who either does or does not request and use radio spectrum allocation from the Authority, shall require a dealer's licence to provide the equipment or services.

#### Regulation 13—Additional services

(1) The Authority may classify additional communications services not specified in regulation 12 (1) with regard to future scientific and technological developments as it considers necessary.

(2) A person who wants the Authority to classify and regulate a service not specified in Regulation 12(1) may make proposals to the Authority by the submission of an application that contains the following information:

(a) a description of the service and the classification of the service according to the use and nature of the service;

(b) the proposed applicable technical standards; and

(c) proposals on administrative regulations where necessary.

(3) The Authority shall review the application and may hold a public hearing to receive comments on the application.

(4) The Authority shall issue a written decision to grant or deny the application within sixty days after the filing of the application, or if a public hearing is held, within thirty days of the conclusion of the hearing.

#### Electronic communications services

##### General provisions on electronic communications services

#### Regulation 14—Fixed and mobile electronic communications services

(1) An electronic communications service may be fixed or mobile and may be public or private.

(2) A fixed electronic communication service is provided by a network or system in fixed points and is classified as:

(a) land fixed service, that is, a communication service provided by terminal stations and networks or systems installed in fixed land points which may use wire or wireless transmission facilities;

(b) aeronautical fixed service, that is, a communications service provided by terminal stations installed in airports to carry traffic signals related to data on air navigation, flight preparation and safety, report on cargo, passengers and any other information regarding airport services; or

(c) satellite fixed service, that is, communications service between earth stations located in fixed points, using one or more satellite systems and may include links between satellites.

(3) A mobile service is provided by fixed radio stations with mobile and portable stations and is classified as:

(a) land mobile service, that is, a communications service provided by fixed earth stations to mobile stations in land, vehicles or to portable stations;

(b) aeronautical mobile service, that is, a communications service provided between fixed air stations and mobile or portable stations in a flying aircraft or in aircraft manoeuvring in airports, as well as between fixed aeronautical stations and portable equipment used by airport personnel in charge of air traffic control;

(c) maritime mobile service, that is, a communications service provided between

(i) coast stations and stations located in a fishing boat or vessel,

(ii) stations located in a fishing boat or vessel and stations located on other boats or vessels to establish communications between the vessel, coastal ports and stations and to carry radio telephone and telegraph traffic other than maritime radio navigation traffic and includes radio communications facilities for vessels operating in lakes and rivers; and

(d) satellite mobile services that are a communications service provided between

(i) mobile earth stations and one or several space stations,

(ii) space stations used for the service, or

(iii) mobile earth stations through one or more space stations.

(4) A land mobile service may comprise

(a) base stations established at locations as may be approved by the Authority,

(b) mobile stations authorised to communicate with base stations and in exceptional cases with each other, and

(c) low powered VHF mobile stations authorised by the Authority for communication with base or mobile stations.

(5) A land mobile service shall operate in frequencies in VHF and UHF band unless otherwise authorised by the Authority.

(6) Despite sub-regulation (5), where the distances involved or the nature of the terrain traversed by the mobile units makes direct VHF and UHF communication between the units and base stations impracticable, communication may be effected by the use of

(a) a VHF or UHF relay station, or

(b) an HF radio system with a low power output.

(7) The Authority shall keep the number of stations in the HF radio system with low power output and the number of stations in the HF radio system to a minimum to ensure satisfactory communication.

(8) A person shall not use low-powered "personal mobile units" as a base station unless otherwise authorised by the Authority.

#### Regulation 15—Transmitter power for land mobile service station

(1) Subject to sub-regulation (2), the Authority shall approve the transmitter power for a land mobile service station.

(2) The maximum transmitter power output shall not exceed

(a) 100 watts in the case of a base station,

(b) 60 watts in the case of a mobile station, and

(c) 5 watts in the case of low-powered "personal mobile" station.

(3) Where the Authority authorises use of frequencies in the high frequency bands, the power of both base and mobile stations shall be limited to 100 watts.

#### Regulation 16—Maintenance and operation of land mobile stations

(1) A person who

(a) is employed solely for the transmission and reception of message through radio telephone installations; and

(b) is qualified to carry out the work in the opinion of the Authority

may operate a licensed land mobile station.

(2) A person who operates a licensed land mobile station shall keep a log in the station in which the person shall record

(a) the times of transmission and reception,

(b) the station with which messages are exchanged,

(c) the operating frequency, and

(d) the type of emission,

except where the Authority directs otherwise.

#### Regulation 17—Public Coast Stations

(1) A public coast station shall communicate with

(a) a ship or aircraft station that operates a maritime mobile service for the transmission and reception of safety communications,

(b) a land station to facilitate the transmission or reception of safety communication to or from a ship or an aircraft station, and

(c) ships and other maritime mobile stations for the transmission and reception of public correspondence

with the written authorisation of the Authority.

(2) A public coast station shall transmit meteorological and marine communications with the written authorisation of the Authority.

#### Regulation 18—Limited Coast Station

(1) Where a national station cannot provide the required facilities, the Authority may grant a licence for a limited coast station to

(a) an agency of the Government;

(b) a person who is engaged regularly in the operation, docking, direction, servicing or management of one or more commercial transport vessels;

(c) a fishing enterprise engaged in full time operation and in control of a minimum of three vessels; or

(d) an agency responsible for the operation, control, maintenance or development of a harbour, petroleum reconnaissance, exploration and mining, port or waterway used by commercial transport vessels.

(2) A limited coast station shall not be

(a) open to public correspondence,

(b) used to transmit programme material of any kind for use in connection with radio broadcast, or

(c) used to transmit media material or new items which are not required to serve the needs of ships specified in the licence

except as specifically provided in the licence.

(3) A person shall use a limited coast station exclusively in an emergency to serve the need of the Government and ships including the transmission of safety messages.

(4) Subject to sub-regulation (5), a person shall not put communications apparatus on a sea-going vessel including fishing vessel into operation while the vessel is at a port or harbour within Ghana except with the permission in writing of the Authority.

(5) Sub-regulation (4) does not apply to the use of an apparatus for VHF communication between masters of ships, ship owners, agents or dock officials who are concerned with the berthing or departure of vessels or the handling of cargo or other port operational matters.

#### Public Telecommunications Services

### Regulation 19—Fixed and mobile public telecom services

The following are public communication services:

- (a) carrier services;
- (b) voice telephone services;
- (c) cellular services;
- (d) telex services;
- (e) paging services;
- (f) mobile multichannel service of automatic selection in a trunk radio;
- (g) telegraph services;
- (h) Data Transmission Exchange Services; and
- (i) any other service classified as public communication services by the Authority.

### Regulation 20—Carrier Services and Network Interconnection

- (1) A carrier service is a communications service which uses a carrier system to provide the necessary capacity to carry and route communications signals that constitute the main interconnection between communications systems and networks and allows the provision of final services, distribution services and value added services.
- (2) A carrier system includes a series of transmission and exchange media that constitute an open network both at national and international levels and interconnect public communications services.
- (3) A carrier service may be provided over a fixed or mobile network and shall comply with technical standards approved by the Authority.

### Regulation 21—Types of carrier services

- (1) Carrier services include services that
  - (a) exchange communications networks to link the networks terminating point, including carrier services for data exchange by package, circuit exchange by package, circuit exchange services, telephone or telex services; and
  - (b) use non-exchange communications networks, including lease of point-to-point and point-to-multipoint circuits.
- (2) The carrier services mentioned under sub-regulation (1) may according to their scope be classified as
  - (a) local carrier services,
  - (b) national long-distance carrier services, or

(c) international long-distance carrier services.

#### Regulation 22—Local Carrier Services

(1) Local carrier services are services that provide the necessary capacity to carry

(a) communications signals and interconnect the public communications network and services of different operators in a local area; or

(b) private communications signals in the same local area.

(2) A local area is a given urban or rural area, as determined by the licence issued to the operator.

#### Regulation 23—National long-distance carrier services

National long-distance carrier services are services that provide the necessary capacity to carry communications signals and interconnect communications networks and services within and throughout the country.

#### Regulation 24—International long-distance services

International long-distance carrier services are services that provide the necessary capacity to carry communications signals that originate or terminate in Ghana, to or from international locations.

#### Regulation 25—Authorisation to provide incoming and outgoing lines

The Authority may authorise operators of local carrier services for national and international long-distance communications to provide local, national and international incoming and outgoing links to the extent technically possible without discriminating among subscribers.

#### Regulation 26—Interconnection of border areas

Operators of carrier services who provide service to subscribers located in the other jurisdictions may, on the prior written approval of the Authority, enter into special interconnection agreements with the persons providing the same services located in other jurisdictions.

#### Voice telephone services

##### Regulation 27—Nature of voice telephone services

(1) Voice telephone services are communications services that provide real time telephone communication, both incoming and outgoing, to subscribers through a fixed or mobile network.

(2) Voice telephone services are provided by contract to subscribers from fixed or mobile public telephones through telephone stations, fixed or mobile terminals and public booths or taken telephones.

##### Regulation 28—Scope and classes of voice telephone services

Voice telephone services are of the following classes:



- (a) local service to subscribers through communications systems capable of carrying communications signals and interconnecting the public communications networks as well as services of different operators in the given locality;
- (b) national long distance services through which subscribers may communicate with each other within the country; and
- (c) international long-distance services through which subscribers in the country may communicate with subscribers in any other country.

#### Regulation 29—Integrated telephone service

Voice telephone services shall be provided as an integrated system, regardless of whether or not there is more than one operator rendering the services.

#### Regulation 30—Register of applicants in chronological order

An operator of a local telephone service shall keep a register of applications from prospective subscribers for the installation of telephone lines in chronological order.

#### Regulation 31—Contract for the provision of electronic communications

- (1) The provision of electronic communications services shall be by a contract entered into between the operator or provider of the service and the subscriber and the general terms and conditions of the contract shall be approved by the Authority and published in a directory.
- (2) Where a term in a contract between a provider of an electronic communications service and an operator of an electronic communications network is inconsistent with a requirement of these Regulations, that term shall be void.

#### Regulation 32—Use of electronic communications for direct marketing

(1) A person who wishes to send or cause another to send an unsolicited communication to a subscriber for direct marketing purposes by means of

- (a) a fax machine,
- (b) an automatic calling system,
- (c) a call,
- (d) an electronic mail, or
- (e) text messaging

shall first obtain the consent of the subscriber.

- (2) Where a person sends, or causes another to send an unsolicited communication with the prior consent of the subscriber, the person shall include in the communication the name and either the address or telephone number on which the person can be reached free of charge.
- (3) Where the unsolicited communication is by means of an electronic mail the person shall ensure that the person's identity is not concealed and shall provide a valid address to which the

subscriber can send a request to the person to desist from sending the subscriber any further communication.

#### Regulation 33—Directory of subscribers

- (1) An operator of a communications service shall publish at least once every two years, a directory for the subscribers to whom it provides the service.
- (2) An operator shall also publish annual supplements of the directory in the year in which the directory is not to be published, listing new subscribers and any change in numbers.
- (3) Operators who serve the same subscribers may co-operate in the publication of telephone directories and supplements and share any related cost.

#### Regulation 34—Exclusion of names from the directory

A subscriber who does not want the name and number of the subscriber listed in a directory may on written request to the respective operator have the name and number of the subscriber excluded from the directory at a reasonable cost.

#### Regulation 35—Cellular communication services

- (1) A cellular communications service is a service provided through communications systems that
  - (a) includes mobile service switching centres, each of which specifically serves a number of cells and other switching centres that are necessary to connect and carry traffic within the operator's network,
  - (b) enables calls to be made to and from mobile subscribers in their respective call service area and generally allows calls to be transferred from cell to cell without interruption, and
  - (c) includes both voice telephone and non-voice telephone service that satisfies the requirement of this regulation.
- (2) Except as otherwise provided by these Regulations, other types of communications service that use wireless technology do not qualify as a cellular communications service.

#### Private Communication Services

##### Regulation 36—Classification of private communications services

Private telecom services are classified as follows:

- (a) private communications services provided by fibre optics or by wire lines which may be a physical line, cable or coaxial cable; and
- (b) private communications services that do not require wire lines or fibre optics, also called private radio communications or wireless services.

##### Regulation 37—Prohibition of re-sale of private telecom services

(1) A subscriber who is provided with a private telecom service shall not sell the service or otherwise make the service available for resale to any other person.

(2) Where a subscriber contravenes sub-regulation (1), the operator may, on giving the subscriber a notice of fourteen days, withdraw the service.

Regulation 38—Provision of facilities to install private telecom service that require wire lines or fibre optics

(1) A person may use the facilities of public communications service operators to install a private telecom service that requires wire lines or fibre optics.

(2) A public communications service operator shall provide the technical facilities needed for the installation of a private telecom service that requires wire lines or fibre optics.

(3) A public communications service operator on provision of the facilities is entitled to compensation based on actual cost involved as determined by the Authority.

Regulation 39—Private telecom services that do not require wire lines or fibre optics

(1) The following electronic communications services, also known as private radio services, do not require wire lines or fibre optics:

(a) radio navigational services;

(b) citizen band bus channel services;

(c) amateur radio services;

(d) space services;

(e) standard-frequency signals and time signals;

(f) radio astronomy;

(g) meteorological aid;

(h) radiolocation; and

(i) any other service classified as not requiring wire lines or fibre optics by the Authority, the nature and particulars of which are set out in regulation 36 to 50.

(2) Private telecom services are subject to

(a) these Regulations;

(b) the allocation or assignment of frequency;

(c) the Radio Communications Regulations of the International Telecommunications Union; and

(d) any specific directives that may be issued by the Authority in relation to them.

Regulation 40—Radio navigational services

(1) For the purpose of this regulation, a radio navigational service means a service by which it is possible to determine the position, speed, orientation, route or other characteristics of an aircraft or vessel or obtain information that regards those parameters, using radio waves.

(2) A radio navigation service is of the following two categories:

(a) aeronautical radio navigation, which is a navigational service provided to aircraft for satellite, signal collection stations located on the aircraft; and

(b) maritime radio navigation, which is a radio navigation service provided to navigable vessels and for satellite, signal collection stations located on the vessels.

Regulation 41—Commercial vessels that operate on inland water ways

The Authority shall determine the frequencies for use in the operations of radio apparatus to transmit alarm signals for commercial vessels that operate on inland water ways.

Regulation 42—Inspection of radio stations and communication apparatus

(1) A radio Surveyor of ships, appointed under the Ghana Shipping Act, 2003 (Act 645) shall

(a) inspect and survey communications apparatus installed in a sea-going vessel when the vessel docks at a harbour or a port in Ghana, and

(b) submit to the Authority through the Minister, a report on inspections and surveys carried out by the surveyor during that period

at the end of each month, quarter or year.

(2) Without limiting sub-regulation (1), the communications apparatus installed in a sea-going vessel which docks at a harbour or a port within Ghana may be inspected from time to time by inspectors appointed for that purpose by the Authority.

Regulation 43—Aeronautical mobile service

(1) Subject to sub-regulation (2), an officer shall not operate a communications apparatus on an aircraft while the aircraft is not in flight and is within the territorial limits of Ghana.

(2) Despite sub-regulation (1), an aircraft which is in flight may use any apparatus for VHF operation between the control tower or ground stations and the officers on the aircraft.

Regulation 44—Citizen band bus channel service

In this regulation, a bus channel service means a type of radio communication service that uses limited power equipment that operates on common frequencies and is not protected from interference by frequency allocation as provided in these Regulations.

Regulation 45—Amateur radio services

From regulation 45 to regulation 48 amateur radio service means a type of radio communication service used for interconnection, leisure time activity, testing and research and is classified according to its output as follows:

- (a) CLASS "A" stations, that is stations which have an output power of not more than 1000 watts;
- (b) CLASS "B" stations, that is, stations which have an output power of not more than 250 watts; and
- (c) CLASS "C" stations, that is, stations which have an output power of not more than 100 watts.

#### Regulation 46—Classes of amateur radio operators

Amateur radio operators are of three classes namely

- (a) beginners, that is, persons authorised to operate Class "C" stations in bands 160, 80, 6 and 2 metres with the segment of the 40 metre band included between 7,150 KHz;
- (b) intermediate, that is, persons authorised to operate Class "B" stations in bands 160, 80, 40, 10, 6, and 2 metres with a segment in the 20 metre band included between 14,000 and 14,200 KHz and a segment in the 15-metre band included between 21,00 and 21,250 KHz; and
- (c) advanced, that is, persons authorised to operate Class "A" stations in all bands assigned to the operator subject to the limitations as specified by Regulations.

#### Regulation 47—Amateur radio licence

(1) Except as provided in sub-regulation (3), the Authority may grant an amateur radio licence "A" or "B" to an applicant who

- (a) is not less than fourteen years of age;
- (b) has passed the radio amateur examination or possesses the requisite qualifications prescribed for the purpose; and
- (c) has passed the Morse test conducted by the Authority.

(2) The Authority may grant the licence to a person who is not a Ghanaian citizen if the person holds a valid amateur licence issued to the person by the government of the person's country with which the Government of Ghana has a bilateral agreement for the operation on reciprocal basis of amateur radio stations.

(3) Subject to sub-regulation (1), a non-Ghanaian who is not resident in Ghana and who holds a valid amateur licence may be granted a temporary licence for a period of not more than three months or for a further period as the Authority may determine.

(4) The holder of an amateur radio licence shall keep an accurate log of operations in the station which shall include the following:

- (a) the date of operations;
- (b) the time of commencement of each call made from the station including tests conducted or called;
- (c) the time of establishing and of ending contact with each station;

- (e) the frequency used;
- (f) the type of emission which is to be entered only once until there is change in the type of emission;
- (g) the signature of each licensed amateur radio operator and the name and signature of a person holding an amateur radio licence or amateur radio certificate recognised by the Authority who transmits by voice over a radiotelephone transmitter; and
- (h) the time of closing down the station.

#### Regulation 48—Amateur radio examination and certificate

- (1) The Authority shall conduct an amateur radio examination and a Morse test at centres that the Authority may determine.
- (2) The minimum speed of the Morse test shall be twelve words per minute.
- (3) The Authority shall charge a prescribed fee for each examination.
- (4) The Authority shall conduct the amateur radio examination at the times the Authority may decide and shall determine the syllabus and other relevant details.

#### Regulation 49—Space service

- (1) In this regulation, space service means a type of radio communication service that enables communications to be made between earth stations and space stations where the signals are transmitted by space stations.
- (2) Space services are classified as follows:
  - (a) space research, that is, a communication service that uses space vehicles or other space objects for scientific or technological research;
  - (b) space operations service, that is, operation of space vehicles, space tracking, space tele-metering and space telecom and normally within the service where the space station operates;  
and
  - (c) satellite meteorology that is, using satellites to explore the earth for meteorological purposes.

#### Regulation 50—Other radio communication services

Other radio communication services include

- (a) standard frequency signal and time signal service, that is a service used to transmit specific frequencies or time signals or both and is used for scientific, technical and similar purposes related to operation of radio stations;
- (b) radio astronomy service, that is, a service employed to determine scientific and related parameter in astronomy for scientific progress in general;
- (c) meteorological aid service, that is, a service by which radio communications facilities are provided to transmit the result of weather observations; and

(d) radiolocation service, that is, a service used to determine parameters related to the location and position of fixed or mobile objects.

#### Broadcasting Services

##### Regulation 51—Application for broadcasting frequency

(1) A person who seeks to provide a broadcasting service shall make an application for a frequency authorisation to the Authority.

(2) The application for a frequency authorisation shall be in a form and contain information specified by the Authority that includes the following:

- (a) qualifications and particulars of the applicant;
- (b) the geographical area proposed to be served by the broadcasting service;
- (c) a plan of the facilities to be constructed and the construction and installation schedule;
- (d) a plan of repeater or re-transmitted facilities where applicable;

and

(e) an indication of the financial resource of the applicant to operate the broadcasting service for which the frequency authorisation is sought.

##### Regulation 52—Procedure on receipt of an application for a broadcasting frequency

Regulation 94 shall apply to an application for a broadcasting frequency with modifications that the Authority may determine.

##### Regulation 53—Contents of a broadcasting frequency authorisation

(1) A broadcasting frequency authorisation shall include the following:

- (a) the names of shareholders of the operator;
  - (b) the duration of the frequency authorisation;
  - (c) the geographical area of coverage of the service to be provided under the frequency authorisation;
  - (d) the rights and obligations of the operator;
  - (e) the grounds for the suspension, cancellation or termination of the frequency authorisation;
- and
- (f) penalties for breach of any of the terms of the frequency authorisation.

(2) A frequency authorisation granted by the Authority may be subject to conditions that the Authority may determine.

##### Regulation 54—Construction and installation of broadcasting facilities

(1) The construction and installation of facilities for the provision of a broadcast service shall commence within two years after the date of the grant of the frequency authorisation and the operator shall carry out testing for its operations within the specified period.

(2) The Authority shall cause an inspection of the construction of the proposed broadcast facility and may make technical recommendations which the operator shall comply with.

(3) The Authority may conduct a second inspection during the construction and installation period.

(4) When a second inspection is conducted, the Authority may issue a certificate that the construction and the installation comply with the standard set by the Authority or shall on written notice of not less than thirty days from the date of the second inspection to the operator, cancel the frequency authorisation if the operator is unable to meet the construction and installation standards.

#### Regulation 55—Duration of a broadcasting frequency authorisation

The duration of a broadcasting frequency authorisation shall be as specified in the authorisation document.

#### Regulation 56—Renewal of a broadcasting frequency authorisation

(1) A person who wants to renew a broadcasting frequency authorisation shall submit an application to the Authority at least three months before the expiry of the authorisation.

(2) The provisions on renewal of a Class I license under Regulations 105 to 107 shall apply with modifications that the Authority considers necessary for the renewal of a broadcasting frequency authorisation.

#### Regulation 57—Transmitters

A transmitter used in a broadcasting station shall conform to the frequency tolerance determined by the Authority.

#### Regulation 58—Licence to provide cable service

(1) Provision of cable service shall be subject to a licence and the Authority may subject provision of cable services to different conditions of licence from broadcasting.

(2) The conditions shall be set out in the licence.

#### Value Added Service

#### Regulation 59—Nature of value added communications services

Value added communications services mean

(a) videotext;

(b) teletext;

(c) tele-action;



- (d) telecom;
- (e) tele-alarm;
- (f) data storage retransmission;
- (g) teleprocessing and data processing
- (h) electronic mail service;
- (i) voice messaging;
- (j) text messaging; and
- (k) any other service classified as value added communications services by the Authority.

#### Regulation 60—Exemption from licence for value added services

(1) A license shall not be required for the establishment or operation of value added services but a provider and an operator of an electronic communications service or network who intends to provide value added services using radio frequency shall apply to the Authority for the right to use the radio frequency for that purpose.

(2) The transfer of the business of a value added service provider is not subject to the consent of the Authority, but the transfer of the radio frequency is subject to the same conditions as the transfer of Class I or Class II licence provided for under these Regulations.

(3) Despite sub-regulations (1) and (2), where a Class I or Class II licensee or a group of either of them enter into the communications market to provide value added services, the Authority may attach conditions as it may determine.

#### Regulation 61—Registration required to provide value added services

(1) Despite the provision that a licence is not required for the provision of value added service over the public communications system, a person who intends to provide value added service to the public shall before the commencement of the service apply for registration by submitting the following information to the Authority:

- (a) the identity of the service provider;
- (b) the type of value added service to be provided;
- (c) the area of coverage of the service; and
- (d) the particulars of the equipment to be used.

(2) The applicant shall pay the fee determined by the Authority for the registration required under sub-regulation (1).

#### Internet service provider

#### Regulation 62—Registration to provide internet service

(1) An internet service provider is subject to the payment of a fee determined by the Authority.

(2) The registration of an internet service provider expires after five years from the date of registration and may be renewed for periods of five years on application by the service provider.

(3) An internet service provider shall cease operation from the date of the expiration of the registration.

(4) An internet service provider who wishes to renew the registration shall apply to the Authority for the renewal of the registration at least three months before the expiry of the registration.

#### Regulation 63—Public hearing for renewal of registration

(1) Where an internet service provider applies for re-registration, the Authority may conduct an inquiry to determine whether or not the registration should be renewed within thirty days after receipt of the application.

(2) The inquiry shall have as its terms of reference, the compliance or non-compliance by the service provider with the Act, these Regulations and guidelines issued by the authority.

(3) For the purposes of sub-regulation (1), the Authority may asic public hearing and the provisions of regulations 106 and 107 shall apply.

#### Regulation 64—Internet service providers subject to the Act

Internet service is a communications service within the meaning of the Act and is subject to these Regulations.

#### Radio frequency

#### Regulation 65—Use of radio frequency

(1) A person shall not use a radio frequency without authorisation from the Authority.

(2) A person shall not use an allocated frequency for a service other than that for which it was allocated.

(3) An operator shall not alter the authorised installation, operation or characteristics for the use of frequencies, the transmitting power and other technical parameters related to the use of the radio frequency except with the prior written approval of the Authority.

(4) A person shall not provide any unauthorised communications service or use a frequency beyond the limit of the geographical area assigned by the Authority.

(5) A communications service provider shall transmit its signals in accordance with the duly authorised output power, bandwidth, frequency or band.

(6) An operator who holds authorisation for use of the radio frequency may be required by the Authority to obtain separate permits for the construction of radio facilities and installation of radio equipment.

(7) The technical characteristics for service operation contained in radio installation permits may be changed at the request of the licensee if there is no change in the frequency allocated or in the output power permitted under the licence.

- (8) A frequency allocated by the Authority for any service shall be subject to renewal.
- (9) A validity period for an allocated frequency is five years.
- (10) Where any person wishes to re-use a frequency, the person may re-apply to the Authority.
- (11) A person who acts in breach of any provision of regulation 65 to 77 commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units.

#### Regulation 66—National plan for frequency allocation

- (1) The Authority shall prepare a national plan for frequency allocation, which shall be the technical plan on allocation charts for radio frequencies.
- (2) The plan shall indicate the type and category of the communication services for each frequency band.
- (3) The Authority shall determine the distribution, use and type of frequency bands.
- (4) The Authority shall reserve frequency bands that it may determine for particular purposes.

#### Regulation 67—Radio services bands for citizens

- (1) Unless otherwise authorised by the Authority a person shall not operate radiotelephony or radiotelegraphy on frequencies in 26.96 to 27.28MHz bands or any other frequency prescribed for a "citizens" radio service.
- (2) Despite sub-regulation (1), the Authority may grant a licence for the control of remote objects or devices by radio or for remote actuation of devices to be operated on frequency in the 26.96 to 27.28 MHz bands.

#### Regulation 68—Control of model aircraft

- (1) Subject to sub-regulation (2), the Authority may grant licence for the control of model aircraft by radio on a frequency in the 72 to 73 MHz band.
- (2) A station that operates in the 72-73 MHz band shall use a transmitting aerial which
  - (a) has a gain that does not exceed that of half-wave dipole,
  - (b) is immediately attached to and is an integral part of the transmitter, and
  - (c) uses only vertical polarization.
- (3) Subject to sub-regulation (5), a low power communication used for radio control may operate on a frequency exceeding 70MHz and in the 73 to 74.6 MHz, 240 to 250MHz and 1710 to 1750 MHz frequency bands.
- (4) Frequencies exceeding 70 MHz for use in a low power communication device shall be determined by the Authority.
- (5) A person shall use a low power communication device for radio control to open or close doors and operate model air-craft and shall use the low-power communication device for voice transmission or the transmission of any other type of message.

(6) The average power of a low power communication device for radio control shall not exceed five watts.

(7) On receipt of a notification from the Authority of a deviation from a frequency or any other technical requirements prescribed in relation to a licence, the holder of the licence under this regulation shall, immediately suspend a radiation from the transmitter involved.

(8) A person who is technically qualified and whose qualification is recognised by the Authority shall make or supervise the making of the necessary adjustments and transmission to correct the deviation except where the radiation is intended to test the transmitter.

#### Regulation 69—Priority of frequency for public services

The Authority shall give priority to public communications services in the allocation of frequencies.

#### Regulation 70—Harmful interference

(1) A communications service provider shall operate the system of the communications service provider in a manner as not to cause interference, damage, financial loss or otherwise affect the quality of service of other authorised communications service providers.

(2) A person who suffers a financial loss or other damage as a result of interference under sub-regulation (1) may file a claim with the Authority and the Authority shall deal with the matter in accordance with the dispute resolution procedures of the Authority.

(3) The Authority may order the suspension of the service of an operator where the Authority finds that the operator is operating the system of the operator in a manner contrary to sub-regulation (1), until the Authority determines that the wrongful operation of the system has been eliminated or corrected to the satisfaction of the Authority.

#### Regulation 71—Radio interference by equipment, appliance and other devices

(1) A communication service provider who operates a telephone system, therapeutic or industrial equipment, an engine, a power generator, an electrical appliance or any other device shall employ best international industry practices in order not to cause radio interference.

(2) The Authority shall require a person who acts in breach of sub-regulation (1) to desist or eliminate the interference within a stipulated period.

(3) A communication service provider who contravenes sub-regulation (2) commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than twelve months.

(4) The court may order the confiscation of the appliance or equipment used in the commission of the offence.

#### Regulation 72—Station identification

(1) A radio station shall be identified by a call sign or other recognised means of identification and the recognised means of identification may be

- (a) the name of the station;
  - (b) the location of the station;
  - (c) the operating agency;
  - (d) the official registration mark;
  - (e) the flight identification number;
  - (f) the ship station selective call number or signal; or
  - (g) the characteristic signal or characteristics of emission or other clearly distinguishing features readily recognised internationally.
- (2) Except in the case of survival craft station transmitting distress signals, a person shall not operate a radio station that has no identification or has a false identification.
- (3) A station shall transmit its identification as frequently as practicable during the course of transmission.
- (4) Sub-regulation (1) does not apply to radio stations on vessels or a salvage devices that automatically transmit SOS signals.

#### Regulation 73—Change of allocation of frequency

- (1) The Authority may change an allocated frequency for the following reasons:
- (a) to give priority to public communication service;
  - (b) to solve a problem of damaging interference;
  - (c) to respond to demands of new technology;
  - (d) to ensure compliance with international conventions; or
  - (e) as a result of an amendment to the national plan for frequency allocation.
- (2) The Authority shall notify the operator concerned in writing and shall cause the alteration to be published in the Gazette and a newspaper of national circulation within thirty days after the alteration.

#### Regulation 74—Experimental radio service

- (1) An experimental radio service shall make transmissions that are necessary and directly related to the conduct of the experiment in respect of which a licence is granted under these Regulations.
- (2) The holder of an experimental radio service licence shall ensure that energy emitted from the transmissions during the transmission does not cause harmful interference with other telecommunication services.
- (3) Where the holder of an experimental radio service licence becomes aware that a transmission is causing harmful interference to other telecommunication services the holder of the licence

shall cease the transmission and shall not resume the transmission until the holder of the licence is satisfied that no harmful interference will be caused upon resumption.

(4) Unless expressly authorised by the Authority, an experimental radio station shall not be used

(a) to retransmit signals to any other station except to a station that is integrated in the experiment;

(b) to transmit programmes intended for public reception; or

(c) to render any other telecommunications service.

(5) A person who holds a valid certificate issued or recognised by the Authority shall make or supervise the making of any adjustment of a transmitter in an experimental station which may affect the proper operation of a radio station.

(6) The Authority may grant a licence in respect of two main classes of experimental stations, namely

(a) an experimental research station, and

(b) an experimental developmental station

unless otherwise determined by the Authority.

(7) The Authority may grant a license under sub-regulation (6) (a) to a person qualified to conduct experiments utilising radio frequencies

(a) for scientific or technical radio research not related to an existing or proposed service,

(b) for communication in connection with research projects where existing communication facilities are inadequate,

(c) for the development of equipment for using in an existing service, or

(d) for the development of equipment or technical operational data directly related to the use of radio.

#### Regulation 75—Report on experiments

(1) Except in the case of radio stations which provide essential communication for research projects, a report on the results of an experimental programme shall be furnished to the Authority.

(2) Despite sub-regulation (1), the Authority shall at the request of the licence holder, withhold from the public the report and other relevant material unless the Authority is of the opinion that it is not in the interest of the public to withhold from the public the report and other relevant material.

#### Regulation 76—Station records of experimental services

The holder of a licence for experimental services shall maintain adequate records of the operations in the radio station and these include

- (a) the dates and hours of operation;
- (b) the measurements of the frequencies involved and the name of the person making the measurements;
- (c) the observed deviations from the assigned frequencies expressed in hertz, kilohertz or per centum plus or minus, and a statement of corrective action taken;
- (d) the transmitter power; and
- (e) the type of emission.

#### Regulation 77—Form of station records of experimental services

- (1) A person responsible for keeping station records shall keep them in an orderly manner and in a suitable form.
- (2) The station records shall contain details that will readily provide data required.
- (3) Where letters or abbreviations are used in the records, these shall be properly explained in the records.
- (4) A person who makes an entry in the station records shall sign each entry in the station records.
- (5) A person who makes an entry in the station records shall make an alteration, cancellation or correction of an entry in the station record by striking out the relevant entry and initialling and indicating the date of the alteration, cancellation or correction.
- (6) Subject to the Data Protection Act, a person shall not destroy the station records until after the expiration of a period of one year.

#### Standardisation of communications equipment and systems

##### Regulation 78—Standardisation

Communications equipment and systems shall be of a standard and technical specifications as to

- (a) prevent damage to interconnected network,
- (b) avoid interference to other communications systems, and
- (c) guarantee the safety of subscribers.

##### Regulation 79—Approval of equipment

- (1) The Authority shall approve a communications equipment used for radio transmission for commercial operation.
- (2) For the purpose of sub-regulation (1), the Authority shall put in place both the standards and a mechanism for the approval.
- (3) A public communications systems supplier shall provide the Authority with

(a) a list of acceptable international standards in relation to connection with other networks or to subscriber equipment, and

(b) technical details of a deviation by operators from those standards.

(4) Sub-regulation (3) applies to an operator who imports a public communications system into Ghana.

#### Regulation 80—Equipment using radio frequency

(1) A model of equipment which

(a) generates an output power greater than or equal to 10 milli-watts into a test load, or

(b) with its associated antenna generates an effective radiated power greater than or equal to 10 milli-watts

in a plane or polarization shall be approved by the Authority before it may be offered for sale in Ghana.

(2) Despite sub-regulation (1), the Authority may accept an approval granted to the equipment by a competent government agency in a different country or by an international industry certification group as evidence of the suitability of the equipment for sale and use in Ghana.

#### Regulation 81—Application for construction of aerial mast or tower

(1) A person who intends to construct an aerial mast or tower of more than forty-six metres in height from ground level shall obtain a statement from the Director General of the Ghana Civil Aviation Authority certifying that the proposed construction does not constitute a hazard to air navigation.

(2) A person shall in accordance with sub-regulation (1), obtain all other necessary permits and certificates from the appropriate authorities in the country.

(3) A person who constructs an aerial mast or tower in accordance with sub-regulations (1) and (2) shall allow other operators to co-locate on mutually agreeable commercial terms where technically feasible and possible.

#### Regulation 82—Markings

(1) An aerial mast or tower exceeding forty-six metres in height shall be painted as prescribed in sub-regulation (2) unless otherwise authorised by the Authority.

(2) An aerial mast or tower of more than forty-six metres in height from ground level shall be painted throughout its height with alternate bands of aviation surface orange and white, with aviation surface orange bands at both the top and bottom of the mast or tower.

(3) The width of the bands shall be equal and approximately one-seventh of the height of the mast or tower but the bands shall not be more than thirty metres or less than forty-five centimetres in width.

#### Regulation 83—Lighting of aerial mast or tower



The lighting system of an aerial mast or tower exceeding forty-six metres in height above ground level which is required to have obstruction light shall conform to the following requirements:

- (a) there shall be installed at the top of the mast or tower at least one 100 watt lamp or equivalent enclosed in aviation red obstruction light globe; and
- (b) the light shall burn from sunset to sunrise and shall be positioned as to ensure unobstructed visibility of the light from aircraft at a normal angle of approach.

#### Regulation 84—Intermediate lights on aerial masts or towers

Where the top of an aerial mast or tower is more than forty-six metres above the level of the ground, an intermediate light or lights shall be provided for each additional forty-six metres of fraction of the forty-six metres and these shall be spaced as equally as practicable between the top light and ground level.

#### Regulation 85—Inspection of mast or tower lights

The holder of a licence granted under these Regulations in respect of a radio station equipped with obstruction lights, shall

- (a) inspect the mast or tower light at least once every twenty-four hours to ensure that the lights function properly as required under these Regulations;
- (b) inspect automatic or manual control devices, indicators and the alarm system connected with the mast or tower lighting system at intervals of not more than three months;
- (c) report immediately to the Ghana Civil Aviation Authority or to the nearest flight service station
  - (i) an observed or known improper functioning of the lighting system which cannot be corrected within thirty minutes; and
  - (ii) when the fault referred to in sub-paragraph (i) is corrected; and
- (d) always maintain sufficient quantity of lamps for immediate replacement.

#### Regulation 86—Entries in station log

The following entries shall be made in the log of a station equipped with obstruction lights:

- (a) the times at which the mast or tower lights are turned on and off each day or in the case of lights which are turned off automatically, the time and cause of improper functioning of obstruction lights;
- (b) the date, time and cause of improper functioning of obstruction lights;
- (c) the date, time and nature of adjustments, repairs or replacements made; and
- (d) the particulars of officials of the Civil Aviation Authority or flight service station notified of improper functioning of obstruction lights as well as the date and time such notice was given.

#### Regulation 87—Conditions for seizure and confiscation of equipment

(1) The following conditions may result in the seizure and confiscation of communication equipment and systems by the Authority:

- (a) installation, establishment and operation without authorisation from the Authority; and
- (b) assembling or manufacturing without authorisation from the Authority of communication equipment and systems.

(2) Involvement in an illegal service not specified in a licence or authorisation of an operator may result in the seizure and confiscation of the communication equipment and system used.

#### Regulation 88—Appointment of inspectors

(1) The Authority may appoint inspectors to carry out the necessary tests for and standardisation of communications equipment or systems, in accordance with the technical specifications drawn up by the Authority.

(2) The functions of an inspector appointed by the Authority include

(a) a technical inspection of radio transmissions to identify and locate damaging interference and other obstructions in communications systems, and

(b) an identification of individuals who operate or provide communications services under technical conditions inconsistent with their licence issued by the Authority or without the required authorisation, permit or licence.

(3) An application for appointment as an inspector shall be made to Authority and may be made by an individual or a body corporate.

(4) The applicant shall

(a) submit a work plan, a list of qualified technical staff and the method of implementing the inspection work that will be assigned;

(b) produce certified proof that the applicant has sufficient technical and financial standing to implement the proposed work plan; and

(c) any other requirements that the Authority may determine.

(5) An operator shall allow inspectors authorised by the authority access to the operator's facilities at reasonable times to enable the inspectors carry out inspection and verification functions, including inspection of equipment and documents to ensure compliance with the Act, these Regulations and any directives issued by the Authority.

(6) A person who obstructs an inspector in the performance of the inspector's functions under the Act and this regulation commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than twelve months or to both.

(7) A person who offers, directly or indirectly, an inspector or any other agent or employee of the Authority a material inducement to vary the result of an inspection, whether or not the inspector or the agent accepts the offer, commits an offence and is liable on summary conviction to a fine

of not more than five hundred penalty units or a term of imprisonment of not more than two years or to both.

#### Regulation 89—Standardisation certificate

(1) The Authority shall issue a Standardisation Certificate based on a favourable report issued in writing by an inspector, which confirms that the equipment or system standardised fulfils the internationally recognised technical specifications established by the International Telecommunications Union or any other recognised international body.

(2) A standardisation certificate may be issued to cover an entire class of equipment.

#### Regulation 90—Installation of terminals purchased from third parties

(1) Communications services operators shall connect terminal equipment acquired or rented by subscribers or subscribers from third parties to their networks or systems, if the equipment is compatible and has been duly standardised.

(2) Despite sub-regulation (1), operators may refuse to connect the equipment where it has been altered, is not functioning properly or has been reported as stolen.

(3) Operators shall not compel subscribers or subscribers from third parties to acquire their equipment nor any other goods or services as a condition for providing communications services.

(4) A subscriber or a subscriber from a third party who is aggrieved by a decision of a provider under this regulation may file a complaint with the Authority which may take the action that it considers appropriate.

#### Class I Licence

#### Regulation 91—Licence for public communications service

A person shall not provide public communication service unless that person has been issued with a Class I licence by the Authority.

#### Regulation 92—Scope of Class I Licence

A Class I licence may authorise the licensee to

- (a) provide public communications service,
- (b) receive permits and other radio operation authorisation required to install and operate radio communication equipments, and
- (c) use radio frequencies.

#### Regulation 93—Application for a Class I licence

A person shall make an application for a Class I licence to the Authority on a form provided by the Authority that shall include the following:

- (a) in the case of a body corporate, a copy of its Certificate of Incorporation and company regulations as certified by the Registrar-General;

- (b) in the case of an individual, the person's personal details as required on the form provided by the Authority;
- (c) technical plans certified by a qualified engineer, of the communications systems to which the application relates and demonstrating the applicant's ability to provide the communications service;
- (d) forecasts of the investment plan for the first five years and the amount of the initial investment for the first year of operation; and
- (e) any other requirements that may be established by the Authority.

#### Regulation 94—Procedure on receipt of application for a Class I licence

- (1) On receipt of the application for a Class I Licence, the Authority shall satisfy itself that the information required under regulation 93 and other information have been provided.
- (2) Where required information is not supplied, the applicant shall be notified of this within five working days of the receipt of the application and shall be allowed five working days to correct the omission.
- (3) The Authority shall inform the applicant in writing of the receipt of the Authority of a completed application within five working days of receipt of the completed application form.
- (4) Where the applicant fails to comply with sub-regulation (2), the Authority shall reject the application and shall make the documents submitted with the application available for collection by the applicant, except that where the applicant fails to collect the documents, the Authority may dispose of them after the expiration of forty-five days after the date the information to collect the documents was conveyed to the applicant unless earlier collected.
- (5) Where the Authority decides that a public hearing should be held on an application, the publication must contain a notice of the public hearing which indicates the place, date and time of the public hearing which shall be held in accordance with regulation 106.
- (6) The Authority shall evaluate the application by examining comments and responses submitted by the applicant, the general public and the outcome of a public hearing.
- (7) After the evaluation, and not later than fifty days after publication of the notice under sub-regulation (5), a report on the application shall be laid before the Authority which recommends the grant or rejection of the application.
- (8) The Authority shall inform the applicant in writing of the decision of the Authority on the application of the applicant not later than sixty-five days after the publication of the application under sub-regulation (5).

#### Grant of Class I Licence by Public Tender

##### Regulation 95—Requirement to tender

The Authority shall grant a Class I Licence by public tender where

- (a) the unassigned frequencies or frequency bands available in a given locality or service area for the provision of the public communications service required are limited,
- (b) required to grant a Class I Licence by public tender as a result of a frequency allocation made under these Regulations, or
- (c) the number of Class I licences that may be granted for the public communications service is restricted under any enactment or under the direction of the Authority.

#### Regulation 96—Preparation and approval of bidding conditions

For the purpose of regulation 99, the Authority shall within thirty days of the decision to submit a Class I licence to public tender,

- (a) prepare the bidding conditions,
- (b) approve the bidding documents, and
- (c) set up a Bid Reception and Evaluation Committee to consider the tenders.

#### Regulation 97—Notice of public tender

The Authority may publish a notice of public tender, the list of entities responding to it and the results from it may be published in two consecutive issues in the Gazette and in two newspapers of national circulation beginning no more than one week after the information is available.

#### Regulation 98—Contents of notice

The notice of public tender shall contain the following information:

- (a) the name of the entity calling for bids;
- (b) the purpose of the tender;
- (c) the number of the tender;
- (d) the office in which interested parties may register and obtain information;
- (e) description of the tender;
- (f) price of the bidding documents;
- (g) date, time and place where bids will be received; and
- (h) other technical information required by the Authority for the purpose.

#### Regulation 99—Contents of bidding documents

The bidding documents shall contain the following information:

- (a) bidding schedule;
- (b) purpose of the tender;
- (c) documents required for qualifying as a bidder;

- (d) type of licence and licence areas sought;
- (e) terms offered;
- (f) a draft technical project for the service to be installed, if relevant, certified by a qualified engineer;
- (g) a description of the tariffs structure, if applicable;
- (i) basic amount of the bid in cash;
- (j) guarantees, including a bank letter of guarantee confirming the bidder's ability to satisfy the financial requirements if granted the licence;
- (k) other documents which the bidder considers necessary to support the bid;
- (l) project schedule; and
- (m) other technical information required by the Authority to evaluate the bid.

#### Regulation 100—Other formalities

The Authority shall establish and draw up other formalities to be followed to suit the type of public communications service required.

#### Regulation 101—Contents of a Class I licence

A Class I Licence shall state among others

- (a) the name, address and particulars of the licensee;
- (b) the service to be provided under the licence;
- (c) duration of the licence and conditions for renewal;
- (d) rights and obligations of the licensee;
- (e) minimum service expansion plan and provision for public telephone service;
- (f) commitment to comply with the technical characteristics of the installation described in the basic technical plans provided by the licensee to the Authority;
- (g) fees and any other payment to be made by the licensee upon the granting of the licence;
- (h) publication of tariffs and methods by which tariffs may be changed;
- (i) equipment specifically approved by the Authority for the provision of the service;
- (j) obligation to keep separate accounts where several services are provided within the service area, should the Authority consider the separation necessary;
- (k) fixing of rates, service quality obligations and service interconnection obligations;
- (l) guarantees to comply with the obligations assumed by the licensee under the licence if required by the Authority;

- (m) grounds for modification, suspension and termination of the licence; and
- (n) penalties for breach of any of the obligations and conditions of the licence.

#### Regulation 102—Rights of a Class I Licensee

A Class I licensee

- (a) shall provide the service licensed and receive from the subscribers of the licensee, in consideration, a rate determined by the licensee or otherwise fixed in accordance with the method agreed upon in the Class I licence;
- (b) may enter into subcontracts in the specific cases provided for in the licence;
- (c) shall verify whether subscribers of its communications systems are properly using the service provided and may, where fraudulent or improper use of the communications system is detected;
  - (i) discontinue service to the offending subscribers; and
  - (ii) disconnect from its communications system, a device, equipment, apparatus or system that may be seriously affecting or damaging its communications system; and
- (d) may exercise any other right granted in the licence or arising out of the Act and these Regulations.

(2) A subscriber aggrieved by a discontinuation or disconnection under sub-regulation (1), may apply to the Authority for redress and may seek legal redress against the licensee.

#### Regulation 103—Obligations of a Class I licensee

(1) A Class I licensee shall

- (a) instal, operate and manage its communications system in accordance with the terms and conditions provided in the licence;
- (b) install and expand the infrastructure of its communications systems;
- (c) provide and expand public telephone service, if its licence requires it to do so;
- (d) interconnect to any other communications system to which the licence relates or to permit the connection to its system or station, of other communications systems, if its licence requires it to do so;
- (e) provide the communications service on a permanent basis, except in the event of an act of God or force majeure, where preference shall be given to emergency communications;
- (f) provide guarantees, representations, warranties, letters of credit or bonds required by the Authority in compliance with the Class I licence, the Act and these Regulations;
- (g) publish, in a manner and at the times that may be specified in the licence, a notice specifying the method that is to be adopted for determining its charges and other terms and conditions that are to be applicable to the service provided;

- (h) submit to the Authority, in a manner and at the times as may be reasonably requested, documents, accounts, estimates, returns and other information that may be required under the licence and, in general, give the Authority's inspectors the necessary facilities to carry out inspections of the communications system;
  - (i) use a uniform system of accounting as specified in the licence;
  - (j) establish a process approved by the Authority to resolve claims by subscribers;
  - (k) pay on time any fees, duties, rates, fixed charges and other costs relating to the licence;
  - (l) adopt measures necessary to guarantee the inviolability and secrecy of private communications;
  - (m) notify the Authority of any change of postal address and obtain the approval of the Authority for any change of physical location of all operations;
  - (n) notify the Authority of any change or modification regarding agreements with subscribers, agreements relating to interconnection conditions, or change in rates;
  - (o) provide its service in accordance with the quality of service parameters specified in the licence;
  - (p) submit to the verification of electronic communications traffic by the Authority; and
  - (q) perform other obligations attached to the licence or arising out of the Act, these Regulations and guidelines the Authority may specify in relation to the service licensed.
- (2) A licensee who contravenes sub-regulation (1) is liable to
- (a) pay to the Authority a fine; or
  - (b) any other sanction that the Authority may determine.

#### Regulation 104—Expiration of a Class I licence

- (1) A Class I licence expires
- (a) where the licensee fails to renew the licence in accordance with the Act, these Regulations or the applicable terms of the licence;
  - (b) on mutual agreement between the Authority and the licensee;
- or
- (c) at the end of the period specified for the licence.
- (2) The licensee shall cease operation immediately from the date of the expiration of the licence.

#### Regulation 105—Application for renewal of a Class I licence

- (1) A Class I licensee who wishes to renew the licence shall apply to the Authority for the renewal of the licence at least three months before the expiry of the licence.



(2) The Authority shall notify the applicant in writing of the receipt of the application within five working days of receipt of the application to renew.

#### Regulation 106—Evaluation report and public hearing

(1) On receipt of an application for renewal and subject to sub-regulation (3), the Authority shall prepare an evaluation report that indicates

(a) whether and to what extent the licensee has during the preceding licence period, complied with its obligations under the licence;

(b) whether and to what extent the licensee has during the preceding licence period, complied with the Act, the Regulations and directives issued by the Authority; and

(c) a date and place for a public hearing at which

(i) members of the public can make comments and raise objections to the renewal; and

(ii) the applicant may make comments and answer issues raised.

(2) The date for a public hearing shall not be earlier than five working days or later than ten working days from the expiry of the period specified.

(3) The Authority shall hold the public hearing on the date stated in the Authority's notice.

#### Regulation 107—Decision on renewal

(1) The Authority shall base its decision for renewal on the evidence and comments presented at the hearing and the evaluation report of the Authority.

(2) Where the Authority finds on the basis of the evaluation report and the public hearing that the operator has violated its obligations under the licence to an extent that does not justify denial of the renewal, the Authority may renew the licence for less than the full period for which a Class I Licence could be renewed, taking into account the nature and the degree of the violation.

(3) The Authority shall communicate to the applicant its decision on the application for renewal within sixty days from the date of receipt of the application to renew and if it fails to do so, the licence shall be deemed to be automatically renewed for the period requested in the application for renewal.

#### Class II Licence

##### Regulation 108—Requirement for Class II licence

The Authority may grant a Class II licence for the operation of private telecommunications services other than bus channels and amateur radio services.

##### Regulation 109—Duration of Class II licence

A Class II licence may be for a period of not more than five years.

##### Regulation 110—Application for a Class II licence

A person who makes an application for Class II licence shall submit the application to the Authority in a form determined by the Authority that shall contain the following documents and information:

- (a) in the case of a body corporate, a duly certified copy of the Certificate of Incorporation and company regulations in accordance with laws of the Republic and in the case of an individual, a duly certified copy of the birth certificate or other documents necessary to establish the individual's identity;
- (b) the applicant's personal details on the form provided by the Authority;
- (c) a sworn statement by the applicant, or of corporate partners or shareholders as appropriate, that confirms that they are qualified to apply for the licence;
- (d) technical plans for the communications service applied for certified by a qualified engineer, that indicates the applicant's ability to provide the communications services;
- (e) for radio communications systems, a technical information sheet of the radio stations submitted in the form provided by the Authority;
- (f) for land, sea or aeronautical radio communications services, a duly certified copy of the registration documents of overland vehicles, or registration numbers of vessels and aircraft;
- (g) a photocopy of the instructions handbook that includes the circuit diagram and technical specifications of the equipment to be installed;
- (h) where applicable, investment forecasts for the first three years and the amount anticipated to be made during the first year of the project; and
- (i) other information that may be required by the Authority from time to time.

#### Regulation 111—Processing an application for a Class II licence

The procedures set out in Regulation 94 for the processing of an application for a Class I licence, other than the provision on public hearing, shall apply to the processing by the Authority of an application for a Class II licence.

#### Regulation 112—Contents of a Class II licence

A Class II licence shall be in writing and shall include the following:

- (a) the name of the licensee and its particulars;
- (b) the service approved to be provided under the licence;
- (c) the duration of the licence;
- (d) the rights and obligations of the licensee;
- (e) fees and other payments required under the licence; and
- (f) penalties for breach of a term and condition of the licence.

#### Regulation 113—Rights of a Class II licensee

A Class II licensee shall

- (a) provide the service authorised by the licence; and
- (b) exercise any other rights granted in the licence or arising out of the Act and these Regulations,

Regulation 114—Obligations of a Class II licensee

(1) A Class II licensee shall

- (a) set up and operate the service in accordance with terms of the licence;
- (b) promptly pay the fees and fixed charges required under the licence; and
- (c) comply with any other obligations that the Authority may in writing provide as guidelines for the operation of its service.

(2) A Class II licensee who contravenes a provision of sub-regulation (1) is liable to

- (a) pay to the Authority a fine, or
- (b) any other sanction that the Authority may determine.

Regulation 115—Termination of a Class II licence

A Class II licence shall be terminated on the following grounds:

- (a) failure to pay the annual licence fee for two consecutive calendar years;
- (b) failure to pay the annual fixed charge for the use of the radio frequency for two consecutive calendar years;
- (c) failure to provide the service licensed for three consecutive months without the authorisation of the Authority;
- (d) on the death, dissolution or bankruptcy of the licensee; or
- (e) on the expiry of the licence.

Regulation 116—Renewal of a Class II license

(1) A Class II licensee who intends to renew the licensee's license shall apply in the form that the Authority shall direct for the renewal of the license at least three months before the expiry of the license.

(2) The procedure for renewal of the license shall be the same as the procedure for obtaining the original license.

Regulation 117—Complaints Handling Procedures

(1) A provider of an electronic communications service or an operator of an electronic communications network shall put in place a written complaints code of practice to be known as

a Consumer Complaints Code which shall be approved by the Authority and which shall contain complaint handling procedures that are transparent, effective and accessible.

(2) A provider shall make available forms approved by the Authority for the making of complaints to it.

#### Regulation 118—Consumer Complaints Code

The Consumer Complaints Code shall be

(a) short, easy to understand and only contain relevant information about the complaints handling procedures of the provider of the electronic communications service or operator of the electronic communications network;

(b) kept up to date and contain information including

(i) the process for making a complaint;

(ii) the steps to be taken in investigating and resolving a complaint;

(iii) the timeframe within which the dispute will be resolved;

(iv) the contact details for making a complaint which includes a toll-free phone number; and

(v) the contact details for an Alternative Dispute Resolution Scheme approved by the Authority to which the complainant may refer the complaint;

(c) well publicised and readily available, and also easily accessible on the website of the provider of the electronic communications service or operator of the electronic communications network;

(d) provided to a complainant upon request in hard copy or other format as agreed with the complainant;

(e) made available to the subscriber at the time of entering the contract to receive the service; and

(f) contain information, on the right of the complainant to lodge informal or formal complaints to the Authority.

#### Regulation 119—Formal procedure of Authority to deal with complaints

(1) A customer may submit a complaint against an operator to the Authority on forms issued by the Authority for this purpose.

(2) The complainant shall submit three hard copies of the form to the Authority unless the complaint is submitted electronically,

(3) The following information shall be provided on the form:

(a) the name, address, telephone number or email address of the complainant;

(b) the name and other contact details of the operator against who the complainant is made;

(c) a statement of the facts and circumstances of the complaint; and

(d) the relief or remedy sought by the complainant.

(4) The Authority shall within seven days of receipt of the complaint forward one copy of the complaint to the operator.

(5) The operator shall investigate the complaint and shall within thirty days of receipt of the complaint

(a) take the appropriate steps to rectify the complaint and inform the Authority and the complainant of this in writing;

or

(b) give reasons in writing to the Authority and the complainant of its reasons for not addressing the complaint.

(6) Where a complainant is dissatisfied with the response of the operator, the Authority shall encourage the complainant and the operator to have the matter resolved by a mediator approved by the Authority and for this purpose, the Authority shall maintain a list of qualified mediators.

(7) Where the dispute is not resolved by the use of a mediator, the parties may refer the dispute to the Alternative Dispute Resolution Centre established under section 114 of the Alternative Dispute Resolution Act, 2010 (Act 798).

(8) An arbitration award is final and binding as between the parties subject to the right of a party to set aside an award under section 58 of the Alternative Dispute Resolution Act, 2010 (Act 798).

#### Regulation 120—Proceedings before the Dispute Resolution Committee

(1) A complainant who does not wish to use the procedures stipulated in Regulation 117 in respect of the Consumer Complaints Code may submit a complaint directly to the Dispute Resolution Committee of the Authority established under section 85 of the Act and may initiate proceedings by

(a) the filing of two copies of the complainant's claim for settlement with the Committee and the payment of any fee applicable; and

(b) serving the other party to the dispute referred to as the respondent with a copy of the claim.

(2) The claim of the complainant shall contain

(a) the names, addresses and telephone numbers and email addresses of the parties to the dispute,

(b) a statement of the nature of the dispute,

(c) the remedy or relief sought, including an amount claimed, and

(d) any other relevant information.

(3) In a dispute involving multiple parties, the complainant shall, subject to sub-regulation (1), provide copies of documents submitted to the Committee to the other parties immediately after the submission of the documents to the Authority.

#### Regulation 121—Response to claim and counterclaim

- (1) The respondent shall file a response to the claim and serve a copy on the claimant within fourteen days of the receipt of the claim.
- (2) The response shall contain
  - (a) the name, address and other particulars of the respondent;
  - (b) the answer to the claim;
  - (c) a counterclaim, where applicable, against the claimant; and
  - (d) any other relevant information.
- (3) A respondent who makes a counterclaim in the response shall pay a fee determined by the Authority.

#### Regulation 122—Submission of documents

- (1) A written communication submitted by a party to the committee is considered to be filed with the Committee on the date the document is received by the Committee.
- (2) A party who submits a written document to the Committee shall provide five copies of the document where the written document is a hard copy.
- (3) A claim, response or other written document required to be submitted to the Committee may be submitted in any form.

#### Regulation 123—Pre-hearing conference

- (1) The Committee shall, on receipt of the claim, response and counterclaim of both the claimant and the respondent, arrange and hold a pre-hearing conference with the parties or any representatives or both to determine whether or not the claim may be settled without the need for a formal hearing.
- (2) Where it appears to the Committee that the claim may be settled without the need for a formal hearing, the Committee shall assist the parties to settle the claim.
- (3) Where it appears to the Committee that there is a need to hold a formal hearing to resolve the claim, the Committee shall, after ensuring that the documents to be relied upon by the parties at the hearing have been submitted to the Committee, set a date, time and place for the hearing of the claim.
- (4) The Committee in respect of the hearing shall take into consideration the complexity of the issues involved and the likelihood of harm to either party, if the dispute is not promptly resolved.

#### Regulation 124—Amendment of claim or response

- (1) A party who has filed a claim or response may amend the claim or response by filing with the Committee the amendment required and serving a copy on the other party.
- (2) A party served with an amendment may within seven days of the service file a response.

(3) An amendment of a claim or response shall not be permitted by the Committee where it considers that the amendment could prejudice a party or unduly delay the resolution of the dispute.

#### Regulation 125—Extension of time

At the request of a party, the Committee may for good and reasonable cause, grant an extension of time for the taking of an action by a party.

#### Regulation 126—Hearing

(1) Unless otherwise provided in these Regulations, the Committee shall conduct the hearing in a manner that it considers appropriate except that the parties shall be treated equally and fairly and shall each be given full opportunity to present its case.

(2) The Committee may, after consultation with the parties, decide to hear the presentation of evidence by witnesses of the parties including expert witnesses and may call witnesses.

(3) The Committee may, at the request of a party or on its initiative, conduct the hearing on the basis of documents and other material evidence.

(4) A document and other information supplied to the Committee by a party shall at the same time be sent by the party to the other party.

(5) The hearing shall not be open to the public unless the Committee and the parties agree to the hearing being opened to the public.

(6) Where a notice of hearing has been given to the parties, the Committee may proceed with the hearing, despite the absence of a duly notified party or their representative.

(7) A party may represent itself or be represented by a lawyer or other expert or person.

(8) A person who appears before the Committee may be questioned by the parties as well as the Committee and may be examined, cross-examined and re-examined.

#### Regulation 127—Conclusion of hearing

(1) When the Committee is satisfied that the parties have had the opportunity to present their case, the Committee shall declare the hearing closed.

(2) The Committee shall submit its decision, which may be unanimous or by a majority decision, to the Authority and the parties within fourteen days of the close of the hearing.

(3) The decision shall be in writing and shall state the reasons for the decision.

(4) Where there is a dissenting opinion, the Committee shall submit that opinion with reasons together with the majority decision to the parties and the Authority.

#### Regulation 128—Form of relief or remedy

(1) The decision of the Committee may include the grant of the relief or remedy sought in the claim or counterclaim or any other relief or remedy that the Committee considers just, based on the evidence presented before it.

(2) The relief or remedy may include

- (a) damages;
- (b) a relief specified in an agreement between the parties relevant to the dispute;
- (c) an order for specific performance under a relevant agreement; or
- (d) an amendment or revocation of an agreement.

(3) Where the Committee concludes from the hearing that a party has acted in breach of a provision of a licence issued under the Act, these Regulations or other directive of the Authority, the Committee may recommend that the party be dealt with as required by the law.

#### Regulation 129—Effect of a decision of the Committee

A person aggrieved by the decision of the Committee may appeal to the Electronic Communications Tribunal established under section 88 of the Act.

#### Regulation 130—Effort at settlement of dispute

The Committee may only undertake settlement of a dispute between an operator and a subscriber where the subscriber has first made a reasonable effort to resolve the issue or complaint through the Complaint Handling Procedures of the provider of the electronic communications service or network operator.

#### Miscellaneous provisions

##### Regulation 131—Register

(1) The Authority shall establish and maintain a register which shall be available for inspection at its offices, on its website or in a form conducive to the retrieval and copying of the records contained in it.

(2) The register shall contain the following records:

- (a) particulars of licences issued and frequencies assigned by the Authority;
- (b) particulars of suspension and cancellation of licences and frequencies including the grounds for suspension and cancellation;
- (c) pending applications for licences for provision of communications services and frequencies;
- (d) designated standards of communications equipment;
- (e) particulars of interconnection agreement submitted to the Authority;
- (f) frequencies available for allocation; and
- (g) any other record that the Authority considers to be of interest to the public in the provision of communications services,

##### Regulation 132—Records not to be put in register



- (1) The Authority may direct that information that may otherwise be placed in the register shall not be included where it determines that public access in part or in whole is likely to
- (a) endanger national security;
  - (b) constitute an unwarranted intrusion into the personal privacy of a person named or identified in the record;
  - (c) significantly frustrate the implementation of a proposed action, investigation, or decision of the Authority;
  - (d) cause or lead to financial speculation in the securities of an entity identified in the record; or
  - (e) breach an agreement reached between the Authority and a party concerning certain confidential and privileged trade secrets and commercial or financial information obtained from the party.
- (2) A record excluded from the register under sub-regulation (1)(a) shall be disclosed to a member of the public for inspection only on an order of a court.

#### Regulation 133—Public access during business hours

The register shall be open for public inspection during regular business hours and members of the public shall be permitted to examine and copy the record in the register on payment to the Authority of a reasonable fee to cover the cost of processing.

#### Regulation 134—Submission of confidential information

- (1) Where an operator submits to the Authority information that is commercially sensitive or otherwise proprietary, the operator may request in writing for confidential treatment of the information.
- (2) The Authority shall grant the request where it considers that the information is genuinely commercially sensitive or otherwise proprietary and the confidential treatment is consistent with the public interest.
- (3) Where the Authority grants confidential treatment, the information shall be kept under seal and shall not be disclosed to the public, although it may be disclosed to other parties to a proceeding before the Authority who show a need to receive the information and if the context of the proceeding justifies the disclosure.
- (4) A person who receives confidential information under this regulation may be required to enter into a non-disclosure agreement by the owner of the information.

#### Regulation 135—Structural separation requirement

- (1) The Authority may require an operator to structurally separate divisions of its operation that provide different communications services to further competition among operators and the protection of operators.

(2) When the Authority determines that structural separation is necessary, the Authority shall apply provisions to the separated divisions which are referred to in these Regulations as affiliates.

(3) An affiliate shall be a separate legal entity from another affiliate.

(4) An affiliate may be staffed by personnel of another affiliate, housed in existing offices of another affiliate and use the marketing and other services of another affiliate, subject to sub-regulations (6) and (7).

(5) An affiliate shall maintain a separate book of account from another affiliate.

(6) Where an affiliate acquires services from another affiliate and the services are tariffed, the acquiring affiliate shall purchase the services under the tariffed rates, terms, and conditions.

(7) An affiliate may acquire non-tariffed services from another affiliate according to arm's length agreements, and any agreements involving an exchange of more than the equivalent in Cedis of US Dollars \$100,000 shall be disclosed to the Authority.

#### Regulation 136—Fees and charges

(1) The Authority shall print and exhibit lists of fees charged for licences, permits, other authorisation and services rendered by the Authority at its premises, at conspicuous places and on its website.

(2) The Authority may modify the fees and charges as and when it considers appropriate and shall give thirty days' notice of the modification to the operators and the general public before implementing the modification.

#### Regulation 137—Administrative Penalty

(1) Where there is a breach of a provision of these Regulations, the Authority may impose a pecuniary penalty as The Authority may determine, unless a penalty is otherwise provided for in these Regulations.

(2) The Authority shall for the purposes of sub-regulation (1) publish the pecuniary penalties for breaches in a manner as the Authority determines.

#### Regulation 138—Need to provide truthful information

(1) An operator or the holder of a licence or authorisation issued by the Authority and officers, directors, employees or agents of the operator; lawyers or other experts or subscribers, whether in proceedings before the Authority or in any other case, shall provide accurate and truthful statement in

(a) a response to correspondence from the Authority;

(b) an inquiry, application, report or a written statement submitted to the Authority.

(2) A person referred to in sub-regulation (1) who without justifiable excuse wilfully makes a misrepresentation or deliberate omission of material information under sub-regulation (1), commits an offence and is liable on summary conviction to fine of not more than two hundred

and fifty penalty units and the Authority may suspend or cancel a licence or other authorisation where applicable.

#### Regulation 139—Effect of submission by electronic means

Where a document is required to be submitted to the Authority under the Acts or an enactment, this requirement is satisfied if the document is submitted by electronic means.

#### Regulation 140—Authority to provide forms and guidelines

The Authority shall design appropriate forms and provide guidelines for use for applications and authorisations under the Regulation.

#### Regulation 141—Interpretation

In these Regulations unless the context otherwise requires

"Alternative Dispute Resolution" means the collective description of methods of resolving disputes otherwise than through the normal trial process;

"bill" includes an invoice, account, statement or other document of similar character;

"cable service" means the one-way transmission through underground cable or overhead cable networks to subscribers of communications services through video or other programming service with subscriber interaction required for the selection or use of the video or programming service;

"communications", means a transmission, emission or reception of signs, signals, writing, images sounds or intelligence of any nature through communications systems;

"communications equipment", means an equipment or apparatus for the purpose of or intended to be used for communications as part of or comprising communications systems;

"communications systems" means a system for the conveyance through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy or light energy of

(a) speech, music and other sounds,

(b) visual images,

(c) signals that serve to impart whether as between persons and things a matter in the form of sounds or visual images, or

(d) signals that serve for the actuation or control of machinery or apparatus and communications equipment situated in Ghana connected to and comprised in a communications systems which extend beyond the boundaries of Ghana;

"data storage and re-transmission" means a communication service by which message can be exchanged between subscribers using storage and retransmission devices;

"data transmission exchange services" means communications services that enable subscribers who use their own network to establish individual data communication with computers located in different places;

"earth station" means a terrestrial-based transmitting and receiving station used for communication with satellites;

"electronic mail" means a text, voice, sound or image message sent over a public electronic communications network which can be stored in the network or in the recipient's terminal until it is collected by the recipient and includes messages sent using a short message service;

"electronic mail service" means a service by which a subscribers may send a message to one or more addressees and receive messages using a combination of data storage and retransmission techniques so that the final subscribers may recover the message;

"force majeure" means fire, strikes, or other labour action or dispute, acts of God, or any circumstances beyond the reasonable control of the licensee;

"frequency" means radio frequency;

"frequency allocation" means the entry in a table of frequency bank for the purpose of its use by one or more terrestrial or space radio communication services or radio astronomy service under specified conditions;

"frequency assignment" means the process by which the Authority may assign the use of radio frequency to certain persons for specified purposes, in accordance with these and other Regulations of the Authority;

"internet service provider" means an entity that provides access to the internet to the public, regardless of the technology used and regardless of whether the entity provides any additional content to the end users apart from simple access to the internet;

"licence" means the Authority's permission, as evidenced by a certificate to establish and operate a communications service or system, including the terms and conditions relating to the establishment or operation of the communications service or system;

"licensee" means a person to whom the Authority has granted a licence, to provide a specified communications service;

"mobile multichannel services of automatic selection" mean communications services that provide individual means of communication through multiple radio communications channels which are automatically assigned;

"output power" means the power delivered into a test load of appropriate impedance at the output part of a transmitter or in the case of a combined transmitter-antenna system, the peak effective radiated power in any plane of polarization;

"radio frequency" means a discrete portion of electromagnetic wave that lies between 9kHz and 3,000GHz;

"subscriber" means a person who is a party to a contract with a provider of public electronic communications services for the supply of the services;

"telex" means a communication service by which a subscriber can exchange office correspondence in the form of documents that contain the text of telex coded information on an automatic memory to memory base;

"telex services" means communications services that provide for the interactive communications of texts between subscribers through tele-printing devices interconnected by telex network via transmission of codified information;

"telegraph services" means communications services that provide subscribers with the means to transmit telegraphic signals in one or both directions between two points through a communications system;

"tele-text" means a service that involves a two-way information system in which textual and graphic material is gradually conveyed as part of the television broadcast signal;

"tele-action" means a communication service used to send short messages between subscribers and a communication network at a very low transmission speed;

"tele-command" means a communication service by which a supervised communication system is controlled from a remote control device;

"tele-alarm" means a service by which an electric signal is sent to a remote control device each time there is a change of the conditions in the supervised system;

"tele-processing and data processing" means an interactive communication service used for the processing of data and exchange of messages between the terminals of geographically distant subscribers;

"paging services" mean communications services that provide subscribers with radio messages, through portable radio equipment used in a given zone and may be accompanied by a verbal or codified visual message;

"UHF" means ultra high frequency;

"VHF" means very high frequency;

"videotext" means a communication service that involves a two-way interactive computer-base information system, in which a subscribers is linked to a database by telephone line or cable; and

"voice messaging" means a service by which a subscriber transmits a brief message by calling one or more telephone numbers at a given time or by answering the call of another subscriber.

#### Regulation 142—Revocation and Savings

(1) The National Communications Regulations 2003 (L.I. 1719) are hereby revoked.

(2) Despite the revocation of L.I. 1719, any licence, frequency, authorisation, notice, order, direction, appointment or any other act lawfully made or done under the revoked instrument and in force immediately before the commencement of this instrument shall be considered to have been made or done under this instrument and shall continue to have effect until reviewed, cancelled or terminated.

HARUNA IDDRISU MP

Minister responsible for Communications

Date of Gazette Notification: 25th February, 2011.

Entry into force: 31st March, 2011.