

Supporting Document 3.4

Laws and Regulations on Telecommunications

- (1) Proclamation No.49/1996**
A Proclamation to Provide for the Regulation of Telecommunications
- (2) Council of Ministers Regulations**
No.47/1999
Regulations for Telecommunications Services
- (3) Draft Proclamation No. __/2002**
A Proclamation to Amend a Proclamation to Provide the Regulation of Telecommunications

Supporting Document 3.4 (1)

FEDERAL NEGARIT GAZETA OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

PROCLAMATION NO. 49/1996

A PROCLAMATION TO PROVIDE FOR THE REGULATION OF TELECOMMUNICATIONS

WHEREAS, telecommunication service performs an essential role in the Country's economic and social development;

WHEREAS, the establishment of a separate regulatory organ other than the operator and the prescription of regulatory provisions are found necessary to make the telecommunication service more efficient and reliable;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE

General

1. *Short Title*

This proclamation may be cited as the "telecommunication Proclamation No. 49/1996."

2. *Definitions*

In this Proclamation, unless the context requires otherwise:

- 1) "Telecommunication" means the emission, transmission or reception, through the agency of electricity or electromagnetism, of any sounds, signs, signals, writing, images or intelligence of any nature by wire, radio, optical or other electromagnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission or reception;
- 2) "telecommunication line" means any wire cable tower, mast, antenna, pole or any other structure or equipment used or intended to be used in connection with a telecommunication system;
- 3) "basic telecommunication service" means telephone telegram or telex service;
- 4) "telecommunication equipment" includes any appliance, apparatus or accessory used or intended to be used for telecommunication services;
- 5) "TVRO" means an apparatus used only for the reception of satellite television broadcasts;
- 6) "call-back service" means the use of dial tone of a foreign telecommunication operator for international connection without the knowledge of the domestic telecommunication operator;
- 7) "Ministry" and "Minister" means the Ministry and Minister of Transport and communication, respectively;
- 8) "Person" means a natural or a juridical person.

PART TWO

Telecommunication Agency

3. *Establishment*

- 1) Ethiopian Telecommunication Agency (hereinafter "the agency") is hereby established as an autonomous federal agency having its own legal personality.
- 2) The agency shall be accountable to the Ministry.

4. *Head Office*

The Agency shall have its head office in Addis Ababa and may have branch office elsewhere as may be necessary.

5. Objectives

The objectives of the Agency shall be to promote the development of high quality, efficient, reliable and affordable telecommunication service.

6. Power and Duties

The Agency shall have the following power and duties:

- 1) To ensure that telecommunication service are operated in a manner that will best serve and contribute Country's economy and social development.
- 2) To specify technical standards and procedures for the provision of telecommunication services.
- 3) To ensure that telecommunication services conform to the specified standard of quality.
- 4) To regulate tariffs relating to basic telecommunication services;
- 5) To license and supervise operators of telecommunication services;
- 6) To regulate types of telecommunication system;
- 7) To authorize and supervise the use of frequencies allotted to Ethiopia;
- 8) Where authorized by the Minister subject to the appropriate laws and government directions to respect the Government in international conferences and international organizations concerned with telecommunications, and to follow up the implementation of the treaties dealing with telecommunications to which Ethiopia is a party.
- 9) To collaborate with education institutions in order to promote technical education in the fields of telecommunications;
- 10) To collect license fees in accordance with the rate approved by the Ministry;
- 11) To own property to inter in to contracts and to sue and be sued in its own name;
- 12) To perform such other related activities as may be necessary for the attainment of its own name;

7. Management of the Agency

- 1) The Agency shall have a General Manager to be appointed by the Government up to the recommendation of the Minister and the necessary staff;
- 2) The General Manager shall be the chief executive officer of the agency and shall subject to the general directors of the Master director and administer the activities of the Agency;
- 3) Without limiting the generality of sub-Article (2) of this Article the General Manager shall:
 - (a) exercise the powers and duties of the Agency specified under Article 6 of this proclamation;
 - (b) employ and administer the employees of the Agency in accordance with directives approved by the Government following the basic principles of the federal civil service laws;
 - (c) prepare and submit to the Ministry the program and budget of the Agency and implement same up on approval;
 - (d) effect expenditure in accordance with the budget approval for the agency;
 - (e) represent the agency in all its dealings with third parties;
 - (f) prepare and submit to the Ministry the activity and financial reports of the agency;The General manager may delegate part of his power and duties to the employees of the Agency, provided, however, that in the case of an employee who acts on behalf of the General Ministry for more than thirty days, prior approval of the Minister shall be required.

8. Budget

- 1) The budget of the Agency shall be drawn from the following sources:
 - (a) governments subsidy;
 - (b) license fees;
 - (c) any other source;
- 2) The fund referred to in sub-Article (1) of this Article shall be deposited in a bank account opened in the name of the Agency and be expended for the carrying out of the activities of the Agency.

9. *Books of accounts*

- 1) The Agency shall keep complete and other accurate books of account;
- 2) The books of the account and other financial document of the Agency shall be audited annually by the Auditor General or by an auditor designated by him.

PART THREE

Requirement and Conditions of License

10. *Operator's License*

- 1) No person may operate a telecommunication service without obtaining license from the Agency
- 2) No other shall be required for the use of telecommunication systems or telecommunication equipment by the police, the armed forces and any other services directly employed by the State for national security.

11. *Condition of license*

- 1) A license to operate a telecommunication service may subject to such condition as the Agency considers necessary for promoting the objectives stated in Article 5 of this Proclamation.
- 2) Without limiting the generality of sub-Article (1) of this Article, a license may include the following condition.
 - (a) the provision of services to rural or other specified areas;
 - (b) requiring an operator to publish in such manner as may be specified in the license a notice stating the charges and other terms and conditions that are to be applicable to services provided;
 - (c) provision of service on priority basis to the Government or specified organization;
 - (d) criteria for setting tariffs regarding the service;
 - (e) requiring an operator to comply with such technical standards or requirements including service performance standard in the license
- 3) The Agency may modify any condition of a license if it considers it in the public interest to do so.

12. *Tariffs*

The tariffs applicable to basic telecommunication service shall be studied by the Agency and submitted to the Government for approval.

13. *Technical Standards*

- 1) The Agency may determine technical standards regarding telecommunications including customers premises equipment.
- 2) Any directive issues for the determination of standard shall be published in such manner as the Agency may direct.

14. *Approval of Equipment*

- 1) The Agency may, by public notice, specify any telecommunication equipment that requires the Agency's approval before it may be connected to a telecommunication system;
- 2) Without prejudice to sub-Article (1) of this Article the following equipment require the approval of the Agency ;
 - (a) radio communication equipment;
 - (b) TVRO
- 3) The agency shall consider the following criteria in approving types of the telecommunication equipment;
 - (a) safety to life and health;
 - (b) maintenance of the telecommunication network condition regarding data protection;
 - (c) electromagnetic compatibility;
 - (d) appropriate use of electromagnetic frequency spectrum;
 - (e) interpretability between the telecommunication equipment and the telecommunications network;

(f) other considerations which the Agency may determined by directives.

15. *Radio communication*

- 1) The Agency shall be responsible for the management and authorization of the use of frequencies allocated to Ethiopia in accordance with international conventions.
- 2) No person shall, except in accordance with a permit obtained from the Agency, possess, install or operate radio communication apparatus.
- 3) The provision of sub-Article (2) of this Article shall not be applicable to radio apparatus for use by the police, the armed forces and any other services directly employed by the state.

16. *Assignment of Frequency*

- 1) The Agency may assign frequencies to be used for telecommunications, radio communication service and television broadcasting;
- 2) The Agency shall coordinate the use of frequencies both locally and internationally ; and monitor the proper use of same;
- 3) in deciding upon an application for assignment of frequencies regard shall be made to the present use an future needs of the Country.
- 4) Frequency may be assigned to different person on time-sharing basic.

17. *Power to Inspect*

- 1) The Agency may assign inspectors to ascertain that the requirements of this Proclamation and its decision made hereunder are complied with.
- 2) An inspector assigned pursuant to sub-Article (1) of this Article may enter and inspect during working hours the premises of a telecommunication operator or any place on which he believes on reasonable ground there is any radio apparatus.
- 3) An inspector shall have the power to inspection and telecommunication equipment and to examine and make copies of any relevant documents.
- 4) An inspection shall show his identification card before entering any place for inspection.

PART FOUR

Use of Land and Buildings for Telecommunication Lines

The Use of Land and Buildings

- 1) Any telecommunication operator may enter and an perform all acts necessary for the purpose of installing, repairing, improving, examining and altering or removing a telecommunication line.
- 2) Where a telecommunication line is essentially to pass upon and building the telecommunication operator may install such line in such manner the installation shall in no way damage the building.
- 3) Any telecommunication operator may cut down any tree or branch, which may in any way, caused damage to or is likely to impede a telecommunication line.
- 4) Before entering any place for purposes specified in sub-Article (1) or (2) of this Article, an operator shall give a ten-day written notice to the possessor of the land or owner of the building stating the nature of the acts intended to be done.
- 5) If the possessor of the land or owner of the building stating has any objection against the performance of the intended act, he may lodge his objection with the Agency with in the notice period specified under sub-Article.
- 6) The Agency may upon giving each party an opportunity to be heard uphold the objection or authorize, either unconditionally or subjected to such conditions at it thinks fit the performance of the intended acts.

19. *Removal or Alteration of Telecommunication Line*

- 1) The possessor of land or the owner of a building used by an operator or the installation of a telecommunication line pursuant to Article 8 of this Proclamation may, if he has good cause, apply to the Agency requesting the removal or alternatives for the installation of the telecommunication line.

- 2) Upon ascertaining the existence of good cause in submitting an application under sub Article (1) of this Article and existing of alternative for the installation of the telecommunication line, the Agency may order the removal of the line or the alternation of its position.

20. *Compensation*

- 1) A telecommunication operator shall be liable for the payment of fair compensation to the possessor of land or the owner of a building to whom it has inflicted damages in the course of exercising its power to use land or building.
- 2) A person who has caused the removal or alteration of a telecommunication line pursuant to Article 19 of this Proclamation shall be liable for the payment of fair compensation to the telecommunication operator.

21. *Compulsory Acquisition of Land*

An operator may compulsorily acquire any private possessed lands for public use in accordance with the law.

PART FIVE

Miscellaneous Provisions

22. *Town Plans*

- 1) Any town plan shall clearly indicate lines of telecommunication networks.
- 2) Any telecommunication operator shall follow the town plan in installing a telecommunication line.

23. *Other Construction*

- 1) Any construction or excavation work or permanent fixtures of any nature in the vicinity of a telecommunication operator.
- 2) The telecommunication operator shall have the duty to respond, within thirty days, to request submitted to it pursuant to sub-Article (1) of this Article.
- 3) Where the telecommunication operator unduly withholds its consent, the Agency may authorized the carrying out of the activities referred to in sub-Article (1) of this Article where it ascertains that they will not cause damage or any impediment to the telecommunication line.
- 4) Any construction work or fixtures of permanent nature shall be at least two meters away from the installation of telecommunication line;
- 5) When any construction work is hindering an existing telecommunication line, the operator may by giving thirty days notice, request the owner or the possessor to remove it.
- 6) If the owner or possessor fails to remove the construction work, the operator shall have the right to remove it.

24. *Prohibitions*

- 1) No person is allowed to connect or disconnect telecommunication lines other than authorized employees of an operator or a person licensed by the Agency.
- 2) The use of call-back service is prohibited.

25. *Prohibitions*

- 1) Any person who has contravened the provisions of Article 15(2) or 24(2) of this Proclamation shall be punishable with fine not exceeding Birr 10,000.
- 2) With prejudice to the provisions of sub-Article (1) of this Article, any radio communication apparatus a TVRQ or any other telecommunication equipment that authorization of the Agency shall be forfeited to the Agency if found in the possession of a person who has not obtained the necessary approval from the Agency.
- 3) Any person who contravenes other provision of this proclamation shall be punished in accordance with the Penal Code.

26. *Repeal*

The following are hereby repealed:

- 1) the Declaration of telephones Proclamation No.55/1944;
- 2) the Maintenance of Telephones service proclamation No. 114/1950;
- 3) the Imperial Board of Telecommunication establishment Proclamation No.131/1952.

27. *Effective Date*

This Proclamation shall enter into force as the 28th day of November 1996.

Done at Addis Ababa, this 28th day of November 1996.

NEGASO GIDADA (DR.)
PRESIDENT OF THE FEDERAL DEMOCRATIC
REPUBLIC OF ETHIOPIA