

LEGAL NOTICE NO. 43/1998
REGULATIONS ON TELECOMMUNICATIONS
NETWORKS AND SERVICES

Issuing Authority

These Regulations are issued by the Ministry of Transport and Communications pursuant to Article 8 of the Communications Proclamation (Proclamation No. 102/1998).

1. Short Title

These Regulations may be cited as “the Regulations on Telecommunications Networks and Services – Legal Notice No 43/1998”

2. Definitions

The terms defined in Article 2 of the Communications Proclamation (Proclamation No. 102/1998) shall apply to the provisions of these Regulations, and in these Regulations, unless the context otherwise requires:

- (a) “co-location” means shared use of property in the form of premises, masts, cable ducts etc., that are used or will be used for siting telecommunications equipment for use in telecommunications activity;
- (b) “interconnection” means exchange of traffic between operators of public telecommunications networks and services that is based on the physical and logical linking of public telecommunications networks and services to enable end-users, regardless of operators, to communicate with any other end-user and to access public telecommunications networks and services provided by others;
- (c) “leased lines” means a telecommunications service consisting of transmission that does not include user-controlled switching;
- (d) “Proclamation” means the Communications Proclamation (Proclamation No. 102/1998);
- (e) “public payphone” means a service providing access to an operator’s public telephony service;
- (f) “public telephony service” means a public telecommunications service consisting of direct conveyance and switching of real-time voice signals across public switching of real-time voice signals across public switched networks (fixed or mobile networks) enabling an end-user using fixed or mobile terminal equipment to communicate with other end-user using fixed or mobile terminal equipment to communicate with other end-users via a network termination point;
- (g) “relevant standards” means national standards or specifications established or approved by the Department, or international standards or recommendations established by the ITU (International

- Telecommunications Union), ISO (International Organisation for Standardisation) or IEC (International Electrotechnical Commission); and
- (h) “special network access” means access to other network termination points and on other terms that the standardized offers usually made.

3. Scope

These Regulations shall apply to:

- a. public telecommunications networks;
- b. public telecommunications services, including leased lines;
- c. private telecommunications networks; and
- d. private telecommunications services.

4. Obligation to Obtain Permit

- (1) A person desiring:
 - (a) to establish and/or operate a public telecommunications network; and/or
 - (b) to provide a public telecommunications service, including leased line;must obtain an operators permit.
- (2) The Department may specify which information the applicant must provide, including a standardized form to be used for the applications. If required by control considerations or important statistical purposes, the Department may make changes in regard to the information required.
- (3) Changes in information given by the applicant shall be notified to the Department as soon as possible.

5. Exclusive Rights Activities

- (1) Exclusive rights activities shall encompass:
 - (a) the establishment and operation of public telecommunications networks;
 - (b) the provision of domestic and international public telephony services, excluding public cellular radio land mobile telephone services; and
 - (c) the provision of leased lines.

The activities specified in this Article do not include the activities specified in Articles 6 and 7 hereof.

- (2) Exclusive rights activities may only be offered by a person holding a permit pursuant to Article 12 of the Proclamation.

6. Limited Competition Activities

- (1) Limited competition activities shall encompass:
 - (a) the provision of public data transmission services, including electronic mail and internet;
 - (b) the provision of public cellular radio land mobile telephone services;
 - (c) the provision of paging services; and
 - (d) the provision of global mobile satellite personal communications (GMSPC).

The activities specified in this Article do not include the activities specified in Article 7 hereof.

- (2) Limited competition activities may only be offered by persons holding a permit pursuant to Article 12 of the Proclamation.
- (3) A person providing the services specified under this Article shall be entitled to establish and operate his own telecommunications network for this purpose and/or utilize lines leased from the operator of the exclusive rights activities.

7. Open Competition Activities

- (1) Open competition activities shall encompass:
 - (a) the provision of value added services, which for the purpose of these Regulations are defined as telecommunications services other than the services stipulated under Article 5 and 6 hereof. Value added services may only be provided by persons holding a permit pursuant to Article 12 of the Proclamation;
 - (b) the importation, manufacture, sale, lease or installation of telecommunications equipment, including wiring inside users' premises from a network termination point to the users' terminal telecommunications equipment, as provided in Article 23 of the Proclamation. Such activities may only be offered by persons holding a permit pursuant to Article 23 of the Proclamation;
 - (c) the provision of public payphone services. A permit pursuant to Article 12 of the Proclamation is not required if the person who provides such services (i) does not have more than three payphone units (fixed or mobile telephone terminals), or (ii) provides the payphone service in connection with and on the premises of his hotel, restaurant, bar or retail business activities. In all other instances such services may only be provided by persons holding a permit pursuant to Article 12 of the Proclamation;

- (d) internal telecommunications networks for own use as specified in Article 18 of the Proclamation. The services of an installer holding a permit pursuant to Article 23 of the Proclamation shall be used in order to ensure that relevant standards are complied with;
 - (e) telephony and data transmission services for own use, serving a corporate network or a closed user group, and connected to the public telecommunications network. The services of an installer holding a permit pursuant to Article 23 of the Proclamation shall be used in order to ensure that relevant standards are complied with; and
 - (f) private telecommunications networks as specified in Article 19 of the Proclamation.
- (2) A person providing the services specified in items (a), (d), (e) and (f) of this sub-Article shall be entitled to establish his own telecommunications network for this purpose and/or utilize lines leased from the operator of the exclusive rights activities.

Part Two

Obligations Applicable to All Operators

8. Information Requirements

- (1) Operators of public telecommunications networks and services shall each year inform the Department of the following:
- (i) changes in the information given in the application; and
 - (ii) the geographical market in which the operators operate and the Product market in question, including:

For telecommunications services:

- (a) number of users,
- (b) traffic volume, and
- (c) trading conditions;

For leased lines:

- (a) number of lines per category of leased lines.
- (b) Capacity (bits/s), and
- (c) Trading conditions;

For interconnection:

- a. traffic volume; and
 - b. trading conditions.
- (2) The Department may further elaborate the scope of the information requirement and set a deadline for annual reporting. If required by control considerations or important statistical purposes, the Department may make changes in the information requirement.

9. Quality Requirements

- (1) The Department may make requirements as to the quality of public telecommunications networks and services.
- (2) Operators of public telecommunications networks and services shall take steps to define and control the quality of networks and services, which shall include examining:
 - (a) technical quality (noise, brief interruptions/ breaks, capacity, accessibility etc.),
 - (b) delivery time and punctuality,
 - (c) frequency and duration of faults and breaks/interruptions of service, and
 - (d) time taken to restore service after discovery of a fault.
- (3) The Department may establish further guidelines for methods of registration and for reporting information on quality and may require access to the results of executed registrations and calculations.
- (4) Operators shall annually publish the result of the investigations, together with a description of methods applied. Responsibility for laying down further rules in regard to publication rests with the Department.

10. Terms of Delivery

- (1) Operators of public telecommunications networks and services shall prepare and make publicly available delivery terms governing access to such networks and delivery of such services.

The terms of delivery shall include provisions regarding:

- (a) the deadline for connection and delivery (after the agreement has been entered into);
- (b) the quality of the telecommunications network and telecommunications services, in particular transmission quality and performance specifications;

- (c) the price;
 - (d) the associated services;
 - (e) the coverage;
 - (f) the procedures in the event of non-payment;
 - (g) the method of metering usage of a telephony service (charging method);
 - (h) maintenance;
 - (i) time allowance for fault rectification;
 - (j) liability for damages; and
 - (k) compensation and refund schemes.
- (2) The Department may make exceptions from all or parts of this Article if it decides that imposing such requirements on an operator seems unreasonable. Subscription contracts shall be based on the terms of delivery.

11. Safeguarding Users' Telecommunication

- (1) Operators of public telecommunications networks and services shall implement measures to safeguard networks and services against unlawful interception, other unlawful access to information and unlawful intervention in telecommunications networks. Such measures shall also prevent anyone from being wrongfully charged for other parties' use of public telecommunications networks and telephony services.
- (2) Operators of public telephony services are obliged to prevent a user's call number ("A" number) from being displayed at the site of the called user ("B" user), if the "A" user has reserved himself against this. The same obligation applies in relation to users who have by agreement been allocated an unlisted number.

12. Statutory Access to Information

Operators of public telecommunications networks and services shall ensure that information about users and telecommunications traffic required by law is provided.

13. Termination of offers

- (1) Offers of access to public telecommunications networks and services shall be maintained for a reasonable period. They may only be terminated after affected users have been notified. Notification shall contain reasons for termination and provide information on alternative offers. Affected users shall be informed as early as possible, and at least two months before it is planned, to terminate the offer.
- (2) Affected users may refer questions of termination of offers to the Department. The Department may order the operators to maintain the offer until the complaint has been decided.

14. Technical Regulation and Use of Standard

- (1) Relevant technical regulations shall be complied with upon connection of user equipment and upon connection to public telecommunications networks and services. If such regulations have not been established in the area in question, relevant standards shall be employed.
- (2) The Department may impose the use of certain standards if this is called for by essential requirements pursuant to Article 25 (1) of the Proclamation, international obligations or other important social considerations.
- (3) Operators of public telecommunications networks and services shall allow and facilitate the connection of user equipment produced in accordance with relevant standards.

15. Information for Statistical Purposes

Operators of public telecommunications networks and services shall store and surrender to the Department information on public telecommunications networks and services for statistical purposes.

The Department shall prescribe which information shall be provided, including requirements as to what definitions, calculation methods etc., shall be employed.

The Department may further prescribe the manner in which the information shall be provided, and may in this connection, order operators to prepare reports and statistics in electronic form.

Part Three

Delivery of public telephony service

16. Numbering Plan

The Department may order an operator of public telephony services to prepare a proposal for a public telephony numbering plan covering the total Eritrea requirements for a specified period. On approval by the Department, the plan shall form the basis for the public telephony numbering system. The Department must approve any changes of the plan.

17. Metering as the Basis for Issuing Bills

- (1) Operators of public telephony services shall, as far as possible, introduce a uniform metering system as the basis for invoicing and shall, when requested

to do so by the Department, provide evidence that the system functions as intended.

- (2) Where directory enquiry services and telephone directories are offered to the public, names, addresses and assigned telephone numbers shall be given on non-discriminatory terms, except where a user has reserved himself against such information being made available to the public (unlisted telephone number). Operators of directory enquiry services and telephone directories shall ensure that directory enquiry registers are kept up-to-date and that information is not provided in contravention of secrecy requirements. Access to information about other operators' users shall be agreed upon between the parties.

18. Directory Information

- (1) Operators of public telephony services shall provide directory information containing their users' names, addresses and assigned telephone numbers. Public payphones shall be listed with their address. Users shall be entitled to check the information and request that any errors be rectified.
- (2) Where directory enquiry services and telephone directories are offered to the public, names, addresses and assigned telephone numbers shall be given on non-discriminatory terms, except where a user has reserved himself against such information being made available

19. Emergency Services

- (1) Operators of public telephony services shall provide access to and not require payment from users for calls to the emergency call numbers of emergency services (operated by the fire service, police and public health authorities) or to a special emergency call number for text telephone users. The same applies to the transfer of emergency calls between the emergency services and public telecommunications networks and between the individual public telecommunications networks. Emergency calls from a public payphone shall not require the use of coins or cards.
- (2) Operators of public telephony services shall, provided it is technically feasible, without payment enable telephone numbers and information necessary to locate emergency calls (eg. The user's name and address or the caller's position) to accompany all calls to the emergency services, including calls from private telecommunications networks. The same applies where the user has by agreement been allocated an unlisted telephone number.

20. Fault Repair Service

Operators of public telephony services shall establish a fault repair service for their telephony services. Operators shall also receive and pass on notifications of faults in

other operators' public telephony services. The Department may establish a universal number for this purpose.

Part Four

Access to Public Telecommunications Networks.

Delivery of Public Telephony Services and Leased Lines

21. Objective, Transparent and Non-discriminatory Terms and Conditions

- (1) Access to public telecommunications networks, delivery of public telephony services and delivery of leased lines shall be offered to the public on objective, transparent and non-discriminatory terms and conditions.
- (2) Access to public telecommunications networks, delivery of public telephony services and delivery of leased lines shall be offered to other operators on equal and non-discriminatory terms and conditions and with a quality equal to that offered to the operator's own undertaking.

22. Standard Contracts

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall prepare a standard contract on the basis of delivery terms and conditions pursuant to Article 10 hereof, for access to public telecommunications networks, public telephony services and leased lines.
- (2) The standard contract shall be employed in connection with each delivery, unless this has unreasonable effect for the operators or users.

23. Security for Investments

Operators of public telecommunications networks, public telephony services and leased lines may set requirements as to security for investments they undertake in order to meet requests for access to public telecommunications networks, delivery of public telephony services and leased lines. Requirements as to security shall be based on objective, transparent and non-discriminatory criteria.

24. Publication of Offers

- (1) Operators of public telecommunications networks, public telephony services and lease lines shall prepare and publish offers of access to public telecommunications networks, of Article 10 hereof and standard contracts in accordance with the provisions of Article 22 hereof, include all important information, including:
 - (a) geographical supply area;
 - (b) any material constraints on the ability to deliver;

- (c) price elements and services covered by each price element;
- (d) discounts and discount criteria;
- (e) price calculation methods for offers with no fixed price;
- (f) features of a technical and physical nature including technical specifications of interfaces used at network termination points, and standards employed; and
- (g) conditions for connecting telecommunications equipment.

The Department may require changes to be made in an offer.

- (2) Information on new offers shall be made public as soon as possible, and no later than two months before the offer is realised. Changes in existing offers shall be notified to affected users and be made public no later than two months before the change is given effect.
- (3) Operators of public telecommunications networks, public telephony services and leased lines shall distribute and publish the information in a suitable manner and make sure that it is readily available to the public.

25. Delivery Terms for Leased Lines

- (1) Terms for offers of leased lines shall in addition to items mentioned in Article 24 hereof include:
 - (a) the procedure for placing an order for leased lines;
 - (b) the contractual period, i.e., the period to which the contract shall normally apply, and the minimum contractual period which the user is obliged to accept;
 - (c) the normal time allowance for delivery, i.e., the period from the order date to the point at which 95 percent of lines for leased lines of the same type have been connected; and
 - (d) the normal time allowance for fault repair i.e., the period from notification of a fault to the responsible unit of the operators to the point at which 80 percent of faults on lines for leased lines of the same type are rectified and the user, where appropriate, notified thereof. If various categories of fault repair are offered for the same type of leased lines, the normal time allowance for fault repair for the various categories shall be stated.
- (2) The normal time allowance for delivery and fault repair shall be calculated on the basis of statistics prepared by operators of public telecommunications networks. Such calculation must not include cases where the user has requested late delivery or late fault repair. Where new types of leased lines are concerned, the expected time allowance for delivery and fault rectification

shall be published until such time as statistics providing a basis for calculation of normal time allowance for delivery and fault rectification became available.

- (3) Information as mentioned in this Article shall be made publicly available.

26. Pricing

- (1) Access to public telecommunications networks, delivery of public telephony services and leased lines shall be offered to the public at cost-oriented tariffs.
- (2) Prices shall be set on an objective and non-discriminatory basis, and be independent of the purpose for which the user wishes to use a public telecommunications network, public telephony services and leased lines. Prices for offers of access to public telecommunications networks, public telephony services and leased lines, as well as services and functions coming in addition to this, shall be sufficiently unbundled, so that the user is not required to pay for services, functions or outputs not strictly related to the service requested.
- (3) Prices for public telephony services shall normally comprise an initial charge, a periodic subscription charge which may vary with subscription type, and a traffic charge which may vary with usage, peak or off-peak hours, distance and subscription type.
- (4) Prices for leased lines shall normally comprise an initial connection charge and a periodic subscription charge. If other price elements are used, it shall be made clear how these are calculated. Charges for leased lines shall include the functions supplied between the network termination points where the user has access to leased lines. When leased lines are supplied by more than one operator, prices may be calculated for each operator's share on a pro rata basis.
- (5) Discounts may be given provided they reflect cost savings for the telecommunications service concerned. The criteria for discounts may include volume, contract period as well as agreed future deliveries of such telecommunications services.

27. Accounting

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall implement and maintain a cost accounting system as a basis for checking that prices are in accordance with Article 26 hereof.
- (2) Accounts for access to public telecommunications networks, for public telephony services and for leased lines shall be kept separate from other business activities. Interconnection, special network access and co-location pursuant to Part Five hereof shall be separated for accounting purposes.
- (3) Costs in connection with establishment, operation and maintenance, as well as marketing and invoicing of public telecommunications networks, public telephony services and leased lines shall be allocated to the respective

telecommunications networks and telecommunications services, provided they may be defined as direct costs.

- (4) Shared costs, i.e., costs which can not be assigned directly to a particular telecommunications service, shall be distributed as follows:
 - (a) on the basis of an analysis of how the costs arose, and if this is not possible;
 - (b) on the basis of comparison with another cost category by employing comparable cost structures where costs can be assigned directly, and if this is not possible;
 - (c) on the basis of a general distribution formula. This shall be calculated on the basis of the relationship between all costs, which are directly and indirectly assigned respectively to public telecommunications networks, public telephony services and leased lines on the one hand, and other telecommunications services on the other hand.

28. Control and Regulation of Pricing

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall each year provide the Department with information on and documentation of the principles, assessments and data underlying pricing and discount schemes.
- (2) The Department may order the use of certain accounting principles, including a method for calculating and allocating costs. The separate accounts pursuant to Article 27 hereof shall be audited by external auditors and be made publicly available.

29. Registration and Reporting

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall register and store information on public telecommunications networks, public telephony services and leased lines, including:
 - (a) information on how delivery terms are met, particularly in regard to delivery and fault rectification times as well as the frequency of various types of faults; and
 - (b) information on cases where restrictions have been imposed on access to or use of public telecommunications networks or public telephony services, including a description of measures taken and the grounds for them.
- (2) The Department may make exceptions from the registration requirement where the restrictions on access to or use of public telecommunications networks, public telephony services or leased lines are of minor significance.

- (3) The Department may order operators to prepare reports and statistics on the basis of information registered pursuant to the sub-Article (1) hereof. The Department may order particular definitions, calculation methods etc., to be employed and reports and statistics to be prepared in electronic form.

Part Five

Interconnection, Special Network Access and Co-location

30. Negotiation Requirements

Operators of public telecommunications services are entitled to negotiate with operators engaged in exclusive rights activities or limited competition activities on interconnection. The Department may, however, make exceptions from the negotiation requirement, provided technical or financial alternatives to the requested interconnection exist, or if it would be unreasonable to comply with the request. The Department shall give grounds for and publish such exceptions.

31. Agreement on Interconnection

- (1) Operators engaged in exclusive rights activities or limited competition activities shall comply with any reasonable request to enter into or amend an agreement on interconnection.
- (2) Operators engaged in exclusive rights activities or limited competition activities shall offer interconnection at cost-oriented tariffs.
- (3) Operators engaged in exclusive rights activities or limited competition activities shall prepare and publish reference interconnection offers. Such offers shall, at minimum, contain offered standardized interconnection services, prices, points, interfaces and terms. Offers shall be adapted to market demand and be regularly updated. The Department may, in special cases, order changes to be made in such offers.

32. Agreement on Special Network Access

- (1) An agreement on special network access shall be entered into after negotiations between the parties.
- (2) Operators engaged in exclusive rights activities or limited competition activities shall comply with any reasonable request from operators of public telecommunications services for special network access. If the parties fail to agree, Article 13(2) of the Proclamation shall apply.

33. Agreement on Co-location

Operators engaged in exclusive rights activities or limited competition activities shall comply with any reasonable request for co-location from other operators of public telecommunications services. An agreement on co-location shall be entered into after

negotiations between the parties. If the parties fail to agree, the provisions of Article 13(2) of the Proclamation shall apply.

Part Six

Miscellaneous Provisions

34. Supervision

- (1) The Department shall supervise compliance with these Regulations.
- (2) Operators of public telecommunications networks and services shall facilitate the implementation of supervision. This includes giving supervisory personnel unimpeded access, as well as procuring the information and documentation needed to carry out supervision pursuant to Article 41 of the Proclamation.

35. Internal Control and System Supervision

The Department may order operators of public telecommunications networks and services to establish systematic internal control of compliance with these Regulations. Documentation showing that an internal control order has been complied with shall be available. The Department shall undertake inspection of such documentation.

36. Right to Lay Matters Before the Department

A user or other party with a legal interest may request the Department to decide whether an operator of public telecommunications networks and services has acted in contravention of the provisions of these Regulations or decisions rendered pursuant thereto.

The Department may:

- a. decide on the matter and impose one or more of the sanctions under Article 48 of the Proclamation, pursuant to Article 51 (1-2) of the Proclamation; or
- b. refer such disputes, or specified categories of disputes, to an arbitration panel for decision, pursuant to Article 51 (3) of the Proclamation.

37. Exemption

The Department may in justified cases make an exemption with regard to the provisions of these Regulations.

38. Repeal

Any provisions of any regulations, order, legal notice or directive concerning matters provided for in these Regulations are hereby repealed and replaced by these Regulations.

39. Effective Date

These Regulations shall enter into force on the date of their publication in the Gazette of Eritrean Laws.

Done at Asmara, this 17th day of August, 1998

Saleh Kekia,

Minister of Transport and Communications.